

[CONFIDENTIAL.]  
(Rough Draft for Consideration Only.)

No. , 1942.

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A BILL

To make further provision for and in relation to the supervision and regulation of factories and shops; for these and other purposes to amend the Factories and Shops Acts, 1912-1941, in certain respects; and for purposes connected therewith.

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**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of  
5 the same, as follows :—

1. (1) This Act may be cited as the "Factories and Shops (Amendment) Act, 1942."

Short title, citation and commencement.

(2) The Factories and Shops Acts, 1912-1941, is in this Act referred to as the Principal Act.

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(3) The Factories and Shops Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the Factories and Shops Act, 1912-1942.

(4) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. The Principal Act is amended—

Amendment of Act No. 39, 1912. Sec. 3. (Definitions.)

10 (a) by inserting in section three next after the definition of "Bakehouse" the following new definition:—

15 "Chief Inspector" means the person who for the time being holds the office of Chief Inspector of Factories and Shops or the inspector for the time being acting in the place of such person.

(b) by omitting from the definition of "Child" in the same section the words "under the age of fourteen years" and by inserting in lieu thereof the words "under the school leaving age";

20 (c) (i) by inserting next after paragraph (d) of the definition of "Factory" in the same section the following word and new paragraph:—

; or

25 (e) any building in which sheep are shorn by machinery.

(ii) by omitting from the same definition the words "or any woolshed used for shearing sheep";

30 (d) by inserting at the end of the same section the following new subsection:—

(2) A reference in this Act to the "school leaving age" shall be construed in accordance with subsection four of section 2A of the Public Instruction (Amendment) Act, 1916, as amended by subsequent Acts.

cf. Act No. 48, 1940, s. 2.

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3. (1) The Principal Act is further amended by inserting at the end of subsection one of section five the words—

Further amendment of Act No. 39, 1912.

5 One of such inspectors shall be appointed Chief Inspector of Factories and Shops.

(2) The person who, immediately before the commencement of this Act, held the office of Chief Inspector, Factories and Shops Act, shall be deemed to have been appointed under the Principal Act as amended by this Act as the Chief Inspector of Factories and Shops.

4. The Principal Act is further amended—

Further amendment of Act No. 39, 1912.

(a) by inserting at the end of section twenty-five the following new subsection:—

Sec. 25. (Ventilation, etc., in certain cases.)

15 (2) (a) Where in connection with any process carried on in a factory dust, fumes or other impurities are generated or given off, of such a character or to such an extent that the inhalation thereof would be likely to be injurious or offensive to the persons employed therein, effective measures shall be taken by the occupier to prevent the accumulation in any workroom of such dust, fumes, or impurities and to protect such persons against the inhalation of such dust, fumes or impurities.

20 Where the nature of the process makes it practicable, exhaust appliances shall be provided and maintained, as near as possible to the point of origin of the dust, fumes or impurities, so as to prevent the same entering the air of any workroom.

25 A factory in which there is a contravention of this subsection shall be deemed not to be kept in conformity with this Part of this Act.

35 (b) This subsection shall apply whether or not a notice has been served pursuant to subsection one of this section.

(b) by omitting from subsection two of section thirty-four the word "he" and by inserting in lieu

Sec. 34. (Safe-guards.)

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5 lieu thereof the words "or where a recommendation is made to the Minister by the Factory Welfare Board pursuant to subsection two of section 36c of this Act with respect to any factory or class or description of factories or the persons employed therein, the Minister";

10 (c) (i) by omitting from subsection one of section 36c the words "be appointed for a term of three years" and by inserting in lieu thereof the words "hold office for a term of seven years";

Sec. 36c.  
(Factory Welfare Board.)

(ii) by inserting next after the same subsection of the following new subsection:—

15 (1A) The persons (other than the Chief Inspector of Factories) holding office as members of the Factory Welfare Board at the commencement of the Factories and Shops (Amendment) Act, 1942, shall be deemed to have been validly appointed as such for a term of seven years, and shall continue to hold office for the balance of the term of seven years commencing from the seventeenth day of June, one thousand nine hundred and forty-two.

25 (iii) by inserting at the end of the same section the following new subsection:—

30 (5) The Factory Welfare Board or any member thereof authorised by such Board under the hand of the Chairman may at any reasonable time enter and inspect any premises used as a factory, and any work being carried on there. If any person hinders or obstructs the Factory Welfare Board or any member thereof in the exercise of the powers conferred by this section, or hinders or obstructs a factory welfare officer in exercise of the powers and duties prescribed under subsection four of this section, he shall be liable to a penalty of not exceeding twenty pounds.

cf. Act No. 2, 1940, s. 128.

(d)

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5 (d) (i) by omitting from paragraph (b) of subsection one of section thirty-eight the words "and so disabling any person employed in the factory as to prevent him from returning to his work in the factory within forty-eight hours of the occurrence of the accident";

Sec. 38.  
(Notice of accidents.)

10 (ii) by omitting from paragraph (c) of the same subsection the words "as aforesaid" and by inserting in lieu thereof the words "to any person employed in the factory as to prevent him from returning to his work in the factory within forty-eight hours of the occurrence of the accident";

15 (e) by omitting from subsection three of section thirty-nine the words "first floor" and by inserting in lieu thereof the words "ground floor";

Sec. 39.  
(Fire escapes.)

(f) by inserting at the end of section forty-one the following new subsection:—

20 (2) (a) No person shall be employed in any factory to work at any machine to which this subsection applies unless he has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed in connection with the machine, and—

cf. 1 Edw. VIII and 1 Geo. VI, c. 67, s. 21.

(i) has received a sufficient training in work at the machine, or

30 (ii) is under adequate supervision by a person who has a thorough knowledge and experience of the machine.

35 (b) This subsection shall apply to machines of such class or description as may be prescribed by order made by the Minister being machines which, in his opinion, are of such a dangerous character that persons ought not to work at them unless the foregoing requirements are complied with.

(g)

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- (g) (i) by omitting from subsection one of section forty-three the words "any person" and by inserting in lieu thereof the words "any such person";

Sec. 43.  
(Hours of employment may be extended under certain conditions.)
- 5 (ii) by inserting at the end of the same section the following new subsection:—

(7) Nothing in this section shall affect the operation of any award or industrial agreement made under the Industrial Arbitration Act, 1940, as amended by subsequent Acts; but no person shall be entitled to claim benefits under this section as well as under the award or industrial agreement.
- 10 (h) by omitting from subsection one of section forty-nine the word "employed" and by inserting in lieu thereof the word "engaged";

Sec. 49.  
(Hours of employment in certain factories.)
- 15 (i) (i) by omitting from subsection one of section fifty-two the words "and subject to Part IV and Part V of this Act no prosecution shall be instituted without the authority of the Minister";

Sec. 52.  
(No prosecution without consent of Minister.)
- 20 (ii) by inserting next after subsection one of the same section the following new subsection:—

(1A) Proceedings for the recovery of any penalty imposed by this Act or the regulations made thereunder may be taken and prosecuted by an inspector acting with the authority of the Minister, or by the secretary of an industrial union of employers or employees whose members are engaged in the industry concerned.

No such proceedings shall be taken by any other person except where otherwise expressly provided.
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35 (j) by omitting from subsection one of section fifty-four the words "except where otherwise expressly provided";

Sec. 54.  
(Recovery of penalties.)

(k)

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5 (k) by omitting from section fifty-seven the words  
 “liable to a penalty not exceeding two pounds,  
 or if the offence was committed during the night,  
 three pounds for each person so employed”  
 and by inserting in lieu thereof the words  
 “guilty of an offence against this Part of this  
 Act.”

Sec. 57.  
 (Penalty  
 for  
 employing  
 person  
 contrary  
 to Act.)

5. (1) The Principal Act is further amended—

Further  
 amendment  
 of Act No.  
 39, 1912.  
 Sec. 76.  
 (Defini-  
 tions.)

10 (a) (i) by inserting next after the definition of  
 “Australia” in section seventy-six the  
 following new definition:—

“Boots” includes shoes and other foot-  
 wear.

15 (ii) by inserting in the definition of “False  
 trade description” in the same section  
 after the words “upholstered furniture” the  
 words “or boots”;

20 (iii) by omitting from the same section the  
 definition of “Trade description” and by  
 inserting in lieu thereof the following  
 definitions:—

“Trade description,” in relation to any  
 bedding or upholstered furniture or  
 boots (in this definition hereinafter  
 referred to as “goods”), means any  
 description, statement, indication, or  
 suggestion, direct or indirect, as to—

- 25 (a) the nature, number, quantity,  
 quality, purity, class, grade,  
 30 measure, gauge, size, or weight  
 of the goods; or  
 (b) the State, country, or place in  
 or at which the goods, or any  
 portions or constituents  
 35 thereof, were made or pro-  
 duced; or  
 (c) the manufacturer or producer  
 of the goods or the person by  
 whom they were selected,  
 packed,

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packed, graded, or in any way prepared for the market; or

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(d) the mode of manufacturing, producing, selecting, packing, grading or otherwise preparing the goods; or

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(e) the material or ingredients of which the goods are composed or from which they are derived; or

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(f) the goods being the subject of an existing patent, privilege, or copyright;

and includes the use of any figure, word, trade name, trade style, or mark which, according to the custom of the trade, is commonly taken to be in indication of any of the above matters.

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“Upholstered furniture” means any upholstered settee, upholstered chair, upholstered ottoman, upholstered couch and any other article of furniture which is stuffed or filled in a like manner.

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(b) by inserting in subsection one of section seventy-seven after the words “upholstered furniture” the words “or boots”;

Sec. 77.  
(Trade description to be appended.)

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(c) (i) by inserting in subsection one of section eighty-two after the words “upholstered furniture” the words “or boots”;

Sec. 82.  
(Offences.)

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(ii) by inserting in subsection two of the same section after the words “upholstered furniture” wherever occurring the words “or boots”;

(iii) by omitting from the same subsection the words “unless he proves that he acted without intent to deceive or defraud”;

(d)



*Factories and Shops (Amendment).*

- 5 (d) (i) by inserting in section eighty-three after the words "upholstered furniture" where firstly occurring the words "or boots"; Sec. 83.  
(Sale with false trade description.)

(ii) by omitting from the same section all words after the word "Act" where firstly occurring;
- 10 (e) (i) by inserting in subsection one of section eighty-four after the word "upholstered furniture" wherever occurring the words "or boots"; Sec. 84.  
(Offence in course of business.)

(ii) by omitting from the same subsection all words after the word "Act" where secondly occurring;
- 15 (f) (i) by omitting from section eighty-seven the words "any two or more justices of the peace" and by inserting in lieu thereof the words "an industrial magistrate appointed under the Industrial Arbitration Act, 1940, as amended by subsequent Acts"; Sec. 87.  
(Who may prosecute.)

20 (ii) by inserting at the end of the same section the following new subsection:—

(2) The provisions of subsection two of section fifty-four of this Act shall extend to and in respect of proceedings under this section.
- 25 (g) by inserting at the end of paragraph (a) of section ninety the following words:— Sec. 90.  
(General penalty.)

and for a second offence to imprisonment for a term not exceeding twelve months or to a penalty of not less than twenty-five pounds and not exceeding one hundred pounds; and for a third or subsequent offence to imprisonment for a term not exceeding two years or to a penalty of not less than fifty pounds and not exceeding two hundred pounds.
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40 (h) (i) by inserting in subsection one of section ninety-five after the words "upholstered furniture" wherever occurring the words "or boots"; Sec. 95.  
(Powers of inspectors.)

(ii)

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(ii) by inserting at the end of paragraph (d) of subsection one of the same section the words "or may take samples of materials used in the manufacture of the same."

5 (2) Subsection one of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette:

10 Provided that in respect of bedding, upholstered furniture and boots in the possession of any person at such commencement, the Governor may, from time to time, by proclamation published in the Gazette, suspend the operation of all or any of the amendments made by that subsection in their application to and in respect of bedding, or upholstered furniture, or boots generally, 15 or to and in respect of any particular bedding or upholstered furniture or boots; and any such suspension may be absolute or may be subject to such conditions as the Governor may determine and notify in the proclamation.

6. The Principal Act is further amended—

20 (a) by inserting at the end of subsection two of section ninety-seven the following word and new paragraph:—

; or

(e) made verbally.

25 (b) by omitting from subsection three of the same section all words after the word "falsity".

7. The Principal Act is further amended—

30 (a) by inserting next after subsection four of section one hundred and five the following new subsection:—

35 (4A) Where, at the commencement of the Factories and Shops (Amendment) Act, 1942, the closing time fixed by or under this Act for any class of shops (other than shops of any of the classes specified in Schedule Eight to this Act) in a shopping district is later than six o'clock

Further amendment of Act No. 39, 1912. Sec. 97. (False advertisements.)

Further amendment of Act No. 39, 1912. Sec. 105. (Closing times for shops.)

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o'clock in the afternoon then, as from such commencement, the closing time for such class of shops shall be six o'clock in the afternoon.

5 (b) (i) by omitting from paragraph (a) of subsection one section 105A the words "seven o'clock in the evening" and by inserting in lieu thereof the words "six o'clock in the afternoon"; Sec. 105A.  
(Closing time for shops for sale of motor spirit, etc.)

10 (ii) by omitting from the same paragraph the words "or late shopping night";

(iii) by omitting from the same paragraph the words "and on the day on which such late shopping night is so observed be nine o'clock in the evening";

15 (c) by inserting at the end of section one hundred and seven the following words:— Sec. 107.  
(Matters to be dealt with in awards.)

20 The time fixed by any such award for the cessation of the ordinary hours of work by employees in shops (other than shops of any of the classes specified in Schedule Eight to this Act) in any shopping district or by employees in shops for the sale of motor spirit, motor oils, or motor accessories shall not be later than six o'clock in the afternoon.

25 (d) by inserting next after Schedule Seven the following new Schedule:— New Schedule Eight.

SCHEDULE EIGHT.

Secs. 105, 107.

- 30 Chemists' shops.  
Confectioners' shops.  
Cooked provision shops.  
Fish shops.  
Fruit and vegetable shops.  
Refreshment shops.  
Restaurants.