



ANNO SEXTO

GEORGI V REGIS.

A.D. 1915.

No. 1234.

An Act to further amend the Factories Act, 1907,
and for other purposes.

[*Assented to, December 23rd, 1915.*]

BE it Enacted by the Governor of the State of South Australia,
with the advice and consent of the Parliament thereof, as
follows :

1. (1) This Act may be cited alone as the " Factories Act Further Amendment Act, 1915." Short title.

(2) The Factories Acts, 1907 to 1910, and this Act may be cited together as the " Factories Acts, 1907 to 1915." No. 945 of 1907.
No. 961 of 1908.
No. 1020 of 1910.

(3) The Factories Act, 1907, is hereinafter referred to as " the principal Act."

2. This Act is incorporated with the other Acts mentioned in section 1 of this Act, and those Acts and this Act shall be read as one Act. Incorporation with other Acts.

Amendments.

3. Section 93 of the principal Act is amended by inserting at the end of subdivision IV. thereof the following :— Amendment of section 93—
Functions of Board.

and

(a) may fix the times of beginning and ending work upon each day : Provided that this power shall not be exercised in the case of bakers or pastrycooks ; and Cf. Vic., 2558, 1914, s. 28 (1).

(b) if any times are so fixed, may fix a higher rate to be paid for any hour, or fraction of an hour, worked outside the times so fixed ; and

(c) may fix special rates for work to be done on a Sunday or public holiday.

4. Section

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Amendment of
section 95 (1)—
Principles of
determination by
Boards.

Cf. Vic. 2386, 1912,
s. 141 (part).

4. Section 95 of the principal Act is amended—

- (a) by striking out subdivision (d) of subsection (1) thereof, and
(b) by adding after subdivision (c) of the said subsection the following subdivisions :—

- (d) The place or locality where the work is to be done ;
(e) The hour of the day or night when the work is to be done ;
(f) Whether more than six consecutive days' work is to be done ;
(g) Whether the work is casual as defined by the Board ;
(h) Any recognised usage or custom in the manner of carrying out the work ; and
(i) Any matter or thing prescribed.

Amendment of
section 129—
Reference by
Minister to Court.
Cf. *ibid.*, s. 176 (2)

5. Section 129 of the principal Act is amended so as to read as follows :—

129. The Minister may at any time refer any determination of a Board to the Court for consideration.

Additional Provisions.

Employers to keep
time-book.
Cf. Vic. 2386, 1912,
s. 130.

6. (1) Every employer who is subject to the determination of any Board shall keep, or cause to be kept, a time-book wherein shall be entered from day to day by every employee of such employer to whom such determination applies such employee's times of beginning and of ending work on every day.

(2) Every such employer shall produce such time-book for inspection whenever production thereof is demanded by any inspector, and shall allow him to take a copy of any entry in such time-book.

(3) Every person who is guilty of any contravention of this section shall be liable to a penalty not exceeding Ten Pounds.

Limit to period in
which claim for
overtime may be
made.

7. Notwithstanding anything contained in any Act with which this Act is incorporated, no sum of money which is alleged to be payable to an employee as wages prices or rates of payment in respect of time worked by such employee above the maximum number of hours fixed by the Board pursuant to section 93 of the principal Act, or before the time of beginning, or after the time of ending, work upon any day (if such times have been fixed by the Board), shall be recoverable by legal proceedings unless a claim for such sum is made by the employee within one month after the day when such sum first became payable, and legal proceedings to recover the same have been commenced within six months from the date when such sum first became payable.

Power to extend
scope of Board.
Cf. Vic., 2386, 1912,
s. 135.

8. (1) The Governor may, by an order published in the *Gazette*, extend the powers under any Act with which this Act is incorporated of any Board so that such Board may fix the lowest prices or rates
of

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of payment, or piecework prices or rates, for any process, trade, business, occupation, or calling, or group or part, which, in the opinion of the Governor, is of the same class or character as that for which the Board was appointed, or of a similar class or character, and the Board shall, as regards the process, trade, business, occupation, or calling, or group or part, mentioned in the order, have all the powers conferred on a Board by any such Act as aforesaid.

(2) A copy of the *Gazette* containing an order so extending the powers of a Board shall be conclusive evidence of the making of such order, and such order shall not be liable to be challenged or disputed or otherwise called in question in any Court on any ground whatever.

9. (1) One month at least prior to the expiry of any Board the Minister shall publish in the *Gazette* a notice which shall—

New Boards to be reconstituted without delay.

(a) specify the process, trade, business, occupation, or calling, or group or part, in respect of which such Board was appointed; and

(b) fix a date, not being later than twenty-one days after such publication, on or before which every employer engaged in such process, trade, business, occupation, or calling, or group or part, shall forward to the Chief Inspector such a return as mentioned in section 84 of the principal Act, for the purpose of appointing a new Board.

(2) The Minister shall also do or cause to be done all things necessary to secure without unnecessary delay the appointment of a new Board.

10. (1) Upon the expiry of a Board and pending the appointment of a new Board the Minister, or an employer, or group of employers, of not less than twenty employees in the particular process, trade, business, occupation, or calling, or group or part, or not less than twenty employees therein, may apply to the Industrial Court to exercise and discharge all or any of the powers and duties which such new Board might have exercised and discharged if it had been appointed.

Application to Industrial Court pending appointment of new Board.

Cf. 1020, 1910, s. 22; 1110, 1912, s. 13.

(2) Upon such application the Court shall inquire and determine whether the subject matter of the application, or any part thereof, is urgent or should stand over until the appointment of the new Board.

(3) If the Court determines that such subject matter or any part thereof is urgent, it shall proceed to exercise and discharge, as regards the same, all the powers and duties which such Board might have exercised and discharged with regard thereto if it had been appointed.

(4) The Court shall embody its decision in a report which shall be forwarded to the Minister, who shall forthwith publish the same in the *Gazette*, and the decision shall come into force on the fourteenth day after such publication or on a later day (if any) fixed by the Court,

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Court, of which date notice is given in the *Gazette* at the time of the publication; and the decision shall thereafter be deemed to be, and shall have the same force and effect and application as if it were, the determination of the Board the appointment of which was pending.

Provision for matters of urgency arising pending appointment of new Board.

11. (1) Whenever any Board, by reason of not being properly constituted, is not competent to act, the Minister, pending the appointment of a properly constituted Board, may, if in his opinion the matter is one of urgency, refer to the Court any matter arising for determination which, if a properly constituted Board were in existence, such Board would be competent to determine, and in such case the Court, in respect of the matter so referred and so far as the Court considers necessary for dealing therewith, may exercise and shall discharge the powers and duties which the Board, if properly constituted, might exercise and discharge.

(2) The Court shall embody its determination in a report which shall be forwarded to the Minister, who shall forthwith publish the same in the *Gazette*, and such determination shall come into force on the fourteenth day after such publication or on a later date (if any) fixed by the Court, of which date notice is given in the *Gazette* at the time of the publication; and the determination shall thereafter be deemed to be, and shall have the same force and effect and application as if it were, the determination of a Board.

Additional powers of Hotels and Coffee Palaces and Restaurants Boards.

Cf. Vic., 2447, 1912, s. 2.

12. (1) Any Board charged with the duty of determining the lowest prices or rates of payment which may be paid to employees in hotels and coffee palaces, or to employees in restaurants, and any Board appointed for any trade, business, occupation, or calling of a similar nature, may, in addition to exercising any power conferred on such Board by any Act with which this Act is incorporated—

(a) fix prices or rates of payment to be paid to such employees without taking into consideration either board or lodging; or

(b) fix prices or rates of payment to be paid to such employees varying according to whether full or partial board or lodging is received by the employee.

(2) It shall be an offence for any employer to accept, while any determination whereby any such prices or rates as mentioned in subsection (1) hereof are fixed is in force, any payment for either board or lodging from any employee to whom such determination applies.

Extension of powers of Carriers and Drivers Board.

Cf. *ibid.*, s. 160.

13. (1) Notwithstanding any thing contained in any Act with which this Act is incorporated, the Carriers and Drivers Board, or any Board appointed in succession to, or in substitution for, such Board, is hereby given power to determine the lowest prices or rates of payment which may be paid to any employee, or class of employees, employed in, or in connection with, any stable (other than a livery stable) in which are stabled the horses used in his business, trade, occupation, or calling by any employer subject to the determination of the said Board.

(2) Such

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(2) Such Board, or any Board appointed as aforesaid, may exercise, with respect to any employees employed as aforesaid, any or all of the powers which it has or may exercise with respect to any employees employed in the trade, business, occupation, or calling for which the Board is appointed.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

H. L. GALWAY, Governor. .