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## FACTORIES, SHOPS, AND OFFICES ACT 1973.

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### ANALYSIS.

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**FACTORIES, SHOPS, AND OFFICES.**

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No. 64 of 1973.

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AN ACT to amend the *Factories, Shops, and Offices Act 1965*. [20 November 1973.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Factories, Shops, and Offices Act 1973*. Short title and citation.

(2) The *Factories, Shops, and Offices Act 1965*, as subsequently amended, is in this Act referred to as the Principal Act.

Amendment of  
long title.

**2** The long title to the Principal Act is amended by inserting therein, after the word “work”, the words “and engaged in rural industries”.

Interpretation.

**3** Section three of the Principal Act is amended—

(a) by omitting from paragraph (b) of the definition of “factory” in subsection (1) the words “carried on as an ancillary to another business or incidentally to the purposes of any public institution or charitable institution or not)” and substituting therefor the words “carried on—

- (i) as an ancillary to another business;
- (ii) incidentally to the purposes of a public or charitable institution; or
- (iii) wholly or partly by the customer, or not”);

(b) by omitting the word “and” at the end of paragraph (j) of that definition;

(c) by omitting paragraph (k) of that definition and substituting therefor the following paragraphs:—

“(k) warehouses; and

“(ka) premises that are not warehouses but in or on which goods are kept—

- (i) by a transport operator while received for carriage, in transit, or awaiting delivery; or
- (ii) for safe keeping or reward, other than a bank or safe deposit,”;

(d) by omitting from the definition of the word “shop” in that subsection the word “or” at the end of paragraph (a) thereof;

(e) by adding at the end of that definition the following word and paragraph:—

“or

“(c) goods are received for treatment or repair in a factory;”; and

(f) by omitting from that subsection the definitions of “motor accessories” and “shopkeeper”.

**4** Section five of the Principal Act is amended by omitting subsection (1) and substituting therefor the following subsection:—

Power of Minister to extend operation of Act to certain classes of premises.

“(1) The Minister, with the approval of the Governor, may, by order, declare that the application of all or any of the provisions of this Act shall extend, either with such modifications (if any) as may be specified in the order or without modifications, to—

(a) premises in which persons are employed or engaged, directly or indirectly, in any process, trade, occupation, or work specified in the order, being premises that are not included within the definition of a factory in section three and not excluded by paragraph (n) of that definition; or

(b) specified parts of premises licensed or registered under the *Licensing Act 1932* in which employees work or which they use,

and thereupon those provisions shall be deemed to apply to those premises accordingly.”.

**5** Section nineteen of the Principal Act is amended—

Registration fees.

(a) by omitting from subsection (1) the word “An” and substituting therefor the words “Subject to this section, an”;

(b) by omitting from paragraph (b) of subsection (4) the words “to be the maximum number to be employed therein at any one time during the year in question” and substituting therefor the words “to be—

(i) in respect of the year in which the factory or shop is first registered, the maximum number to be employed therein at any one time during that year; and

(ii) in respect of a later year, the maximum number employed therein at any one time during the last preceding year”;

(c) by inserting in subsection (7), after the words “proposed factory” (first occurring), the words “(other than a proposed factory of a class referred to in subsection (9) of this section)”;

(d) by omitting from subsection (8) the words “should have been paid” and substituting therefor the words “would have been paid if the fee had been calculated on that number”; and

(e) by adding at the end thereof the following subsection:—

“(9) Notwithstanding the foregoing provisions of this section, no annual fee is payable under this section in respect of the registration of—

(a) a factory that is a sheltered workshop for handi-capped persons; or

(b) a shop conducted by an organization carried on for charitable or religious purposes,

and that is approved by the Secretary.”.

Notice and  
investigations  
of accidents.

**6** Section thirty-three of the Principal Act is amended—

(a) by omitting subsection (1) and substituting therefor the following subsections:—

“(1) Subject to subsection (1A) of this section, where an accident occurs in a factory to an employee which causes injuries resulting in—

(a) his death;

(b) his permanent disability; or

(c) his inability to work for a period of at least one full day or one full shift at any time after the day or shift on or during which the accident occurs,

the occupier of the factory shall forthwith give to the Secretary written notice of the accident.

“(1A) Paragraph (c) of subsection (1) of this section applies to a period of inability of an employee to work in a factory, whether or not he would, apart from that inability, have been required to work in that factory for the whole or part of that period.”; and

(b) by inserting at the beginning of paragraph (a) of subsection (3) the words “if he considers it necessary.”.

The Factory  
Welfare Board.

**7** Section thirty-four of the Principal Act is amended by omitting paragraphs (b) and (c) of subsection (2) and substituting therefor the following paragraphs:—

“(b) one shall be a person appointed to represent the occupiers of factories, shops, and offices and persons undertaking constructional works; and

“(c) one shall be a person appointed to represent employees and persons employed in constructional works.”.

**8** Section thirty-five of the Principal Act is amended—

Duties and powers of the Board and its members.

- (a) by inserting in paragraph (b) of subsection (1), after the word “factories”, the words “, shops, and offices and during the carrying out of constructional works”;
- (b) by omitting from subsection (2) the words “and inspect a factory” and substituting therefor the words “a factory, shop, or office or the site of any constructional works and inspect it”;
- (c) by omitting from subsection (3) the words “or the occupier of a factory” and substituting therefor the words “, shop, or office or any constructional works, the occupier of a factory, shop, or office, or a person undertaking any constructional works”; and
- (d) by adding at the end thereof the following subsection:—  
 “(4) In this section, ‘employees’ includes persons employed in constructional works.”.

**9** Section fifty of the Principal Act is amended —

Application of certain provisions to shops and offices.

- (a) by omitting from subsection (1) the words “section thirty-one” and substituting therefor the words “sections thirty-one and thirty-two”; and
- (b) by omitting subsection (3) and substituting therefor the following subsection:—  
 “(3) Nothing contained in Division IV of Part IV applies to shops in which not more than three persons (including the occupier) work at any one time, if those persons are members of the same family, whether by kindred, marriage, adoption, or otherwise.”.

**10** After Part VII of the Principal Act the following Part is inserted:—

New Part VIIA.

## “PART VIIA.

## “RURAL INDUSTRIES.

“51A In this Part, unless the contrary intention appears—

Interpretation.

‘advisory committee’ means an advisory committee established under section fifty-one c;

‘rural industries’ includes the business of—

- (a) agriculture, pastoral work, grazing, dairy farming, fruit growing, and vegetable growing;
- (b) producing, getting, or transporting timber;

- (c) producing, getting, or transporting primary products other than minerals, metals, or fish; and
- (d) producing fish in a fish farm on land.

Power to make regulations with respect to rural industries.  
Cf. No. 43 of 1962 (N.S.W.), s. 63.

“51B—(1) The Governor may, on the recommendation of the appropriate advisory committee, make regulations prescribing all matters necessary or convenient to be prescribed for securing the health, safety, and welfare of persons engaged in rural industries for hire or reward and whether as employees or otherwise.

“(2) Without affecting the generality of the foregoing provisions of this section, the Governor may, in relation to rural industries, make regulations—

- (a) regulating or prohibiting the use of any machinery, plant, structure, equipment, or appliance, the carrying on of any operation, or the use of any process;
- (b) imposing requirements with respect to the construction, installation, examination, repair, maintenance, alteration, adjustment, and testing of machinery, plant, equipment, or appliances and the safeguarding of dangerous parts thereof and prohibiting the sale or letting on hire of any machinery, plant, equipment, or appliance which does not comply with the requirements of the regulations;
- (c) requiring the giving of instructions with respect to the proper manner of using any machinery, plant, equipment, or appliance, carrying on any operation, or using any process;
- (d) prohibiting the engagement in any prescribed process or description of work of females of any age, males under the age of eighteen years, or males or females under such age, being less than eighteen years, as may be prescribed—
  - (i) absolutely; or
  - (ii) except upon the condition that those persons have previously received a sufficient training in the process or work or are, while they are engaged in the process or work, subject to such supervision as may be prescribed;
- (e) requiring the taking of such steps as may be prescribed for the purpose of bringing the provisions of the regulations to the notice of persons engaged in rural industries for hire or reward and whether as employees or otherwise;



(f) empowering an authorized officer to issue directions prohibiting the use of any machinery, plant, structure, equipment, or appliance, the carrying on of any operation or the use of any process where it appears to the officer that the use of that machinery, plant, structure, equipment, or appliance, the carrying on of that operation, or the use of that process, as the case may be, would be dangerous to human life or limb or that in relation thereto the provisions of the regulations are not being complied with; and

(g) requiring the notification, by and to such persons as are prescribed and in the prescribed form and manner, of the occurrence of accidents of such classes and the contraction of such diseases as may be prescribed; and the keeping of prescribed records in relation to the occurrence of accidents and the contraction of diseases,

and with respect to the foregoing matters imposing obligations on persons so engaged, their employers, and persons of other prescribed classes.

“(3) Regulations made under this section may be made so as to apply—

- (a) to all rural industries or to any specified kind or class thereof;
- (b) to all premises or places in or on which rural industries are carried on or to any specified kind or class of those premises or places;
- (c) to all types of machinery, plant, structures, equipment, or appliances used in those industries or to any specified type thereof; and
- (d) to all processes used, or work done, in those industries or to any specified process or work, or any specified kind of process or work, used or done therein.

“51c—(1) There shall be established two advisory committees, to be known respectively as ‘ the Rural Industries Safety Advisory Committee ’ and ‘ the Forest Industries Advisory Committee ’. Advisory committees.

“(2) The function of the Rural Industries Safety Advisory Committee is to recommend to the Governor the regulations to be made with respect to rural industries, other than those connected with the business of producing, getting, or transporting timber.

“(3) The function of the Forest Industries Advisory Committee is to recommend to the Governor the regulations to be made with respect to the rural industries connected with the business of producing, getting, or transporting timber.

“(4) The Rural Industries Safety Advisory Committee shall consist of eight members appointed by the Minister, of whom—

- (a) one shall be the Secretary for Labour, who shall be Chairman;
- (b) one shall be an officer of the Department of Agriculture;
- (c) one shall be a person appointed to represent the Tasmanian Farmers' Federation;
- (d) one shall be a person appointed to represent the Tasmanian Farmers', Stockowners', and Orchardists' Association;
- (e) one shall be a person appointed to represent the Apple and Pear Growers' Federation;
- (f) one shall be a person appointed to represent the Fire and Accident Underwriters' Association;
- (g) one shall be a person appointed to represent the organization known as the Rural Youth Organization; and
- (h) one shall be a person appointed to represent the Australian Workers' Union.

“(5) The Forest Industries Advisory Committee shall consist of seven members appointed by the Minister, of whom—

- (a) one shall be the Secretary for Labour, who shall be Chairman;
- (b) one shall be an officer of the Forestry Department;
- (c) one shall be a representative of companies engaged in industries for the manufacture of wood chips, wood pulp, paper, and other products of wood pulp;
- (d) one shall be a representative of the Fire and Accident Underwriters' Association;
- (e) one shall be a representative of the Timber Workers' Union;
- (f) one shall be a member of the Tasmanian Timber Association; and
- (g) one shall be a member of the Tasmanian Timber and Log Hauliers Association.

“(6) A member of an advisory committee who is an officer of the Department of Agriculture or the Forestry Department as the case may be shall be a person who appears to the Minister to have substantial knowledge of the appropriate rural industries referred to in subsection (2) or subsection (3) of this section, as the case may require.

“(7) A member of an advisory committee, other than a member who is an officer of a Department, shall be appointed by the Minister from two persons nominated by the appropriate organization, union, or companies.

“(8) The chairman or other person presiding at a meeting of an advisory committee has a deliberative vote only and, in the event of an equality of votes on any matter before a meeting of the committee, the matter stands adjourned to the next meeting of the committee.

“(9) At any meeting of an advisory committee, a quorum is constituted, if at least half of the members are present.

“(10) Subject to this Act, an advisory committee may regulate its own proceedings.

“(11) The members of an advisory committee may be paid such travelling and other allowances as the Governor may approve.

“51D—(1) Subject to this section, the provisions of this Act enumerated hereunder, so far as they are applicable, apply, subject to such modifications, if any, as may be prescribed to rural industries, namely:—

Application of Act to rural industries.

(a) Sections ten and thirty-two; and

(b) Part IX.

“(2) In their application to a rural industry, the provisions specified in subsection (1) of this section have effect as if—

(a) the place or premises where the rural industry is carried on were a factory; and

(b) in the case of—

(i) a person engaged as an employee in the rural industry, his employer; or

(ii) a person so engaged otherwise than as an employee, that person,

were the occupier of a factory,

and with such other adaptations and modifications, if any, as may be prescribed.”.

Amendments of Part VIII.

**11** Part VIII of the Principal Act is amended—

(a) by omitting therefrom the heading “SHOPS’ TRADING HOURS.” and substituting therefor the heading “PETROL FILLING STATIONS’ HOURS.”; and

(b) by omitting therefrom the headings to the Divisions thereof.

Transposition of section.

**12** Section fifty-two of the Principal Act is transposed to follow section sixty-one of the Principal Act and is renumbered as section sixty-one A.

Interpretation.

**13** Section sixty-one of the Principal Act is amended—

(a) by omitting therefrom the word “Division ” and substituting therefor the word “Part ”;

(b) by omitting from the definition of “ordinary closing hours ” the words “any area ” and substituting therefor the words “a roster area ”;

(c) by omitting from that definition the words “permit or licence is in force under this section and to which section sixty-six does not apply,” and substituting therefor the words “permit is in force under section sixty-four ”; and

(d) by adding at the end thereof the following definition:—

“ ‘roster area ’ means an area declared to be a roster area under section sixty-two.”.

**14** Section sixty-two of the Principal Act is repealed and the following section is substituted therefor:—

Roster areas and general opening hours of petrol filling stations in those areas.

“62—(1) Where the Minister is satisfied that it is necessary or desirable to regulate the opening of petrol filling stations in any area, he may declare that area to be a roster area for the purposes of this Part.

“(2) The Minister may revoke or vary any declaration made under this section.

“(3) A declaration, or a revocation or variation of a declaration, under this section is of no effect unless—

- (a) notice thereof is published in the *Gazette*; or
- (b) notice thereof is served on the proprietor of each petrol filling station that is situated within the area to which the declaration relates.

“(4) A notice under paragraph (b) of subsection (3) of this section may be served on the proprietor of a petrol filling station by sending it by post to that petrol filling station addressed to him by name or to the proprietor of that petrol filling station without further description.

“(5) A petrol filling station in a roster area may be kept open during the following hours, namely:—

- (a) Between the hours of half-past six o'clock in the morning and half-past seven o'clock in the afternoon on any day that is not a Friday, Saturday, or Sunday, or a public holiday;
- (b) Between the hours of half-past six o'clock in the morning and half-past nine o'clock in the afternoon on any Friday that is not a public holiday;
- (c) Between the hours of half-past six o'clock in the morning and half-past twelve o'clock in the afternoon on any Saturday that is not a public holiday and on any public holiday other than Good Friday, Christmas Day, or Anzac Day; and
- (d) Between the hours of two and six o'clock in the afternoon of Anzac Day,

and, except as may otherwise be authorized by a permit under section sixty-four, shall remain closed at any other time.”.

**15** Sections sixty-four and sixty-five of the Principal Act are repealed and the following section is substituted therefor:—

“64—(1) Where the Minister is satisfied that it would be in the public interest for a petrol filling station in a roster area to be allowed to be kept open during the ordinary closing hours, he may, on an application by the proprietor of the petrol filling station, grant a permit authorizing and requiring that petrol filling station to be kept open during ordinary closing hours at such times and on such days as may be specified in the permit.

Permits authorizing the opening of petrol filling stations during ordinary closing hours.

“(2) The Minister may revoke or vary a permit granted under this section.

“(3) A permit shall not be granted under this section in respect of a petrol filling station for the first time, unless the prescribed annual fee is paid and, unless a further prescribed annual fee is paid, no permit shall be granted in respect of that petrol filling station after the expiration of twelve months from the date on which a permit, in respect of which a prescribed annual fee was paid, was last granted under this section in respect of that petrol filling station.

“(4) A permit shall not be granted under this section in respect of a petrol filling station, unless the Minister is satisfied that the proprietor can and will provide at least the services prescribed under this Act or approved by the Minister.

“(5) In the exercise of his powers under this section the Minister shall endeavour to secure that no greater number of petrol filling stations are allowed to be kept open in a roster area at any time during ordinary closing hours than are, in his opinion, reasonably necessary to meet the needs of the public in that area at that time.

“(6) Subject to subsection (7) of this section, the Minister, in so far as he considers it practicable so to do, shall exercise his powers under this section in respect of any one roster area in a manner that is agreed upon by the proprietors of the petrol filling stations situated in that area in respect of which permits are in force and the proprietors of any other petrol filling stations in that area who desire to obtain permits, but otherwise shall endeavour to secure that no undue preference is given to, or any undue detriment suffered by, any of those proprietors by reason of the exercise of those powers.

“(7) In any roster area the proprietor of a petrol filling station that is not permitted to open under this section shall display, so the public can easily read it, a notice stating which and where is the nearest petrol filling station permitted to open thereunder.

“(8) The proprietor of a petrol filling station shall, while his station is permitted to be open under this section, affix his permit in some conspicuous place at his station.”.

Mixed  
businesses.

**16** Section sixty-six of the Principal Act is amended—

- (a) by omitting therefrom the word “ Division ” and substituting therefor the word “ Part ”;
- (b) by omitting therefrom the words “ and motor accessories ” and the words “ or motor accessories ”.

**17** Section sixty-eight of the Principal Act is amended by omitting subsection (2) thereof. Offences.

**18** Section seventy-four of the Principal Act is amended—

Notice to  
remedy defect.  
&c.

(a) by omitting from subsection (1) the word “Where” and substituting therefor the words “Subject to subsection (1A) of this section, where”; and

(b) by inserting after that subsection the following subsection:—

“(1A) Where a building forms part of a factory, shop, or office or a factory, shop, or office is situated within a building, the Secretary may, instead of giving notice to the occupier under subsection (1) of this section, give the notice to the owner of the building or the person receiving the rent for the building, whether on his own account or on account of any other person, and thereupon that owner or person shall be deemed to be the occupier of the factory, shop, or office for the purposes of this section.”.

**19** The second schedule of the Principal Act is repealed and the following schedule is substituted therefor:— New second  
schedule.

“ THE SECOND SCHEDULE.

(Section 19.)

“ REGISTRATION FEES.

Number of persons employed.	Fee for factories.	Fee for shops.
	\$	\$
1—5	3	3
6—10	9	8
11—20	16	10
21—40	25	17
41—60	35	25
61—80	50	35
81—100	70	50
101—200	100	75
201—300	135	100
301—400	170	125
401—500	205	150
501—600	240	175
601—700	275	200
701—800	310	225
Over 800	345	250.”.