



ANNO NONO

GEORGII VI REGIS.

A.D. 1945.

No. 22 of 1945.

An Act to provide for the protection of persons employed
in factories situated in country areas.

[Assented to 20th December, 1945.]

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

Preliminary.

Short title.

1. This Act may be cited as the "Country Factories Act,
1945."

Application
of Act.

2. (1) This Act shall apply only within those parts of the
State to which the Governor by proclamation declares that
this Act shall apply.

(2) The Governor may, by proclamation, declare that this
Act shall from a day to be specified in the proclamation apply
within any part of the State described in the proclamation and
may revoke or vary any such proclamation and this Act shall
apply according to the tenor of any such proclamation.

(3) No proclamation shall be made applying this Act to
any portion of the State to which Part V. of the Industrial
Code, 1920-1943, applies and if, subsequent to the making of
any such proclamation, Part V. of the Industrial Code, 1920-
1943, applies to any portion of the State described in the
proclamation, this Act shall cease to apply to that portion of the
State.

Interpretation.

3. (1) In this Act, except where the context or subject matter
requires a different construction—

"chief inspector" means the chief inspector appointed
under Part VI. of the Industrial Code, 1920-1943 :

“ factory ” means—

(a) any premises or place within which or the precincts thereof the occupier employs any one person at manual labour which is exercised by way of trade or for purposes of gain in or incidental to—

(i.) any handicraft ;

(ii.) the making of any article or part of any article ; or

(iii.) the altering, repairing, ornamenting, or finishing of any article ; or

(iv.) the adapting for sale of any article, and to or over which premises or place or the precincts thereof the employer of any person so working therein has the right of access or control ;

(b) any clay-pit or quarry within which, or the precincts whereof, the occupier employs any person at manual labour which is exercised by way of trade or for purposes of gain, such clay-pit or quarry being worked or used in connection with any pottery or brickyard occupied by the occupier ;

(c) any premises or place, other than premises of the Municipal Tramways Trust, where electricity is generated for the supply of heat, light, or power, or any or all of them, or where coal gas is made, and within which premises or place, or the precincts thereof, the occupier employs any person at manual labour which is exercised by way of trade or for purposes of gain ;

but does not include—

(i.) any medical dispensary or dentist's or chemist's laboratory ;

(ii.) any premises or place occupied by any farmer, pastoralist, viticulturist, dairy farmer, horticulturist, poultry farmer or apiarist which is used as a factory as hereinbefore defined solely for the purposes of the occupier as a farmer, pastoralist, viticulturist, dairy farmer, horticulturist, poultry farmer, or apiarist, as the case may be :

“handicraft” includes any work whatsoever done in any laundry or dye works, and whether or not done in preparing or manufacturing articles for trade or sale :

“inspector” means an inspector appointed under Part VI. of the Industrial Code, 1920-1943, and includes the chief inspector :

“machinery” includes any driving strap, band, wire, wire-rope, or cable of any kind :

“mill-gearing” includes every shaft, and every wheel, drum, or pulley, or appliance by which the motion of the first moving power is communicated to any machine in a factory :

“Minister” means the Minister of Industry or the Minister of the Crown for the time being discharging the duties of the office of Minister of Industry :

“occupier” means the person, company, corporate body, or association employing persons in a factory, and includes any agent, manager, foreman, or other person acting or apparently acting in the general management or control of any such factory.

(2) For the purpose of registration and the computation of registration fees, any number of adjacent buildings or places used as a factory shall be deemed to be one factory.

Registration of Factories.

Penalty for using unregistered factory.

4. Any person who occupies or uses a factory which is not duly registered as required by this Act shall be guilty of an offence and liable to a penalty not exceeding five pounds for every day during which the unregistered factory is occupied or used.

Registration and renewal thereof.

5. (1) Every person—

(a) who is in occupation of a factory at the commencement of this Act within the part of the State in which the factory is situated ; or

(b) who goes into occupation of a factory after the commencement of this Act within the part of the State in which the factory is situated ; or

(c) who is in occupation of a building or place which is situated in a part of the State to which this Act applies and which becomes for the first time, or, after a period of disuse, again becomes, a factory,

shall register the factory.

(2) The registration of a factory shall be renewed every five years.

(3) Application for registration or for renewal of registration shall be in writing in the prescribed form, served upon or posted in a letter addressed to the chief inspector at his office.

(4) Every such application shall contain—

- (a) the full name of the person making the application ;
- (b) a description of the factory ;
- (c) the place where the factory is situated ;
- (d) the nature of the work carried on or to be carried on therein ;
- (e) a description of the motive power (if any) therein ;
- (f) the trade name (if any) under which the business of the factory is carried on ; and
- (g) such further particulars as may be prescribed.

(5) Applications for registration shall be served or posted within the times following :—

- (a) Under paragraph (a) of subsection (1) of this section, within three months after the commencement of this Act within the part of the State in which the factory is situated ;
- (b) Under paragraph (b) of subsection (1) of this section within twenty-one days of such going into occupation ;
- (c) Under paragraph (c) of subsection (1) of this section within twenty-one days of the building or place becoming or again becoming a factory.

(6) Every application for registration or renewal of registration shall be accompanied by the prescribed fee.

6. (1) No building or place which—

- (a) is about to become for the first time ; or
- (b) after a period of disuse is about to again become a factory,

shall be registered until the chief inspector has in writing certified—

- (i.) that the building or place is suitable for a factory ; and
- (ii.) that the prescribed requirements have been complied with.

(2) Except in the circumstances referred to in paragraph (b) of subsection (1) of this section, this section shall not apply to

Approval of
chief
inspector.

any premises or place which by reason of the application of this Act to the part of the State in which it is situated, becomes for the first time a factory.

Registration.

7. Registration or renewal of registration shall be effected by the entering of the prescribed particulars in a register to be kept by the chief inspector for that purpose.

Fee for registration.

8. (1) An annual fee shall be paid in respect of the registration or renewal of registration of every factory. The fee to be so paid—

- (a) shall be the prescribed fee ;
- (b) shall, in the year when the factory is first registered, accompany the application for registration ; and
- (c) shall in every year thereafter be paid by the occupier of the factory on or before the thirty-first day of January.

(2) When any factory is opened during any year after the thirtieth day of June the fee to be paid on registration for that year shall be one-half of the fee which otherwise would be payable.

(3) Any factory in respect of which any annual registration fee has not been paid shall be deemed to be not duly registered.

Notice of closing of factory.

9. (1) The occupier of a factory who intends to close and cease to use it shall give the chief inspector seven days' previous notice in writing of that intention.

(2) Any person who fails to give any such notice shall be guilty of an offence and liable to a penalty not exceeding five pounds.

Protection of Machinery.

Traversing carriage of self-acting machine.

10. (1) The occupier of a factory shall not permit the traversing carriage of any self-acting machine therein to run out within a distance of eighteen inches from any fixed structure not being part of the machine, if the space over which it runs so out is a space through which any person is likely to pass.

(2) A factory in which the provisions of this section are not observed shall be deemed to be not kept in conformity with this Act.

Dangerous machinery to be fenced.

11. (1) The occupier of a factory shall securely fence or safeguard—

- (a) all dangerous parts of the machinery therein ;
- (b) every hoist or teagle near to which any person is liable to pass or to be employed, and every fly-wheel

connected with the steam, gas, oil, electric, water or other mechanical power, whether in the engine-house or not, and every part of a steam-engine and water wheel ; and

(c) every wheel-race, unless the same is securely fenced close to the edge of the wheel-race ; and

(d) every part of the mill gearing, unless it is in such position or of such construction as to be equally safe to every person employed in the factory.

(2) The occupier of a factory shall cause all fencing and safeguards to be constantly maintained in an efficient state while the parts required to be fenced or safeguarded are in motion or are in use for the purpose of any manufacturing process.

(3) A factory in which the provisions of this section are not observed shall be deemed to be not kept in conformity with this Act.

12. (1) An inspector shall serve on the occupier of a factory a notice in writing requiring him to fence or safeguard, and keep fenced or safeguarded—

(a) any vat, pan, or structure ; and

(b) any stairway, staging, or place,

over, on, or near to which any person is liable to be or pass, and which, in the opinion of the inspector, is dangerous.

(2) The occupier may, within seven days after the receipt of the notice, serve on the inspector a requisition to refer the matter to arbitration ; and thereupon the matter shall be referred to arbitration, to be conducted in manner prescribed.

(3) If the arbitrators or their umpire decide that it is unnecessary or impossible to comply with the notice—

(a) they shall cancel the notice ; and

(b) the occupier need not comply therewith ; and

(c) the Minister shall pay the expenses of the arbitration.

(4) If the occupier—

(a) does not within the said seven days serve on the inspector a requisition to refer the matter to arbitration ; or

(b) does not appoint an arbitrator within the time prescribed,

or if neither the arbitrators nor the umpire decide that it is unnecessary or impossible to comply with the notice, the

Fencing of
other
dangerous
machinery
and structures
upon notice
given by
inspector

occupier shall comply therewith, or with the notice as modified by the award.

(5) The expenses of the arbitration in the case mentioned in subsection (4) shall be paid by the occupier, and shall be recoverable from him by the inspector in any court of competent jurisdiction: Provided that if the award modifies the notice, the expenses of the arbitration shall be in the discretion of the arbitrators or umpire.

(6) A factory in which the provisions of this section are not observed shall be deemed to be not kept in conformity with this Act.

Clear space in vicinity of machinery.

13. (1) Every occupier of a factory shall cause to be kept clear in the vicinity of any engine, machine, or machinery therein such space as is sufficient to enable any person to work, attend to, and clean the same without risk of injury to himself or any other person.

(2) Any occupier of a factory who commits any contravention of this section shall be guilty of an offence and liable to a penalty not exceeding twenty pounds.

Hoists and lifts to be protected.

14. (1) Every occupier of a factory shall, at each floor thereof, protect the opening of every hoistway, elevator, lift, well, hold, or stairway with good and sufficient trapdoors or self-closing hatches and safety catches, or such safeguards as an inspector may approve.

(2) Any occupier of a factory who commits any contravention of this section shall be guilty of an offence and liable to a penalty not exceeding twenty pounds.

Unsafe or dangerous elevator or lift.

15. Any occupier of a factory who uses or permits to be used therein an elevator or lift which an inspector—

(a) considers dangerous; and

(b) has given written notice to the occupier not to use,

shall be guilty of an offence and liable to a penalty not exceeding twenty pounds.

Dangerous machinery.

16. (1) Any occupier of a factory who uses or permits to be used therein any machine—

(a) which in the opinion of the Minister cannot be used without danger to life or limb; and

(b) the use whereof he has prohibited by notice in writing given to the occupier,

shall be guilty of an offence and liable to a penalty not exceeding fifty pounds

(2) The Minister shall, by notice in writing given to the occupier, withdraw any such prohibition when the machine has been repaired or altered to his satisfaction.

17. (1) An inspector shall serve on the occupier of a factory a notice in writing requiring him to replace or to properly fix any grindstone worked by mechanical power, which is so faulty or so fixed as to be dangerous.

Fixing of grindstones securely and replacing faulty grindstones.

(2) The provisions of section 12 shall, with the necessary modifications, apply hereto.

Notification of Accidents.

18. (1) The occupier of a factory shall send notice in writing to the nearest inspector when an accident occurs therein which—

Notice of accidents in factories.
Cf. U.K.
1 Edw. 8 and
1 Geo. 5,
c 87, s. 64.

- (a) causes loss of life to a person employed in that factory ; or
- (b) disables any such person for more than three days from earning full wages at the work at which he was employed.

(2) Every such notice shall—

- (a) in case of death, be sent forthwith thereafter ;
- (b) in case of such disablement, be sent immediately after the expiration of such three days ;
- (c) state the cause of death, or the nature and extent of the injury, as the case may be, and the residence of the person killed or injured, or the place to which he has been removed.

(3) Where any accident causing disablement is notified under this section, and after notification thereof, results in the death of the person disabled, the occupier of the factory shall send notice in writing of the death to the nearest inspector as soon as the death comes to his knowledge.

(4) Any occupier of a factory who fails to send any notice required to be sent by this section shall be guilty of an offence and liable to a penalty not exceeding five pounds.

(5) Where any accident to which this section applies occurs to a person employed and the occupier of the factory is not the actual employer of the person killed or injured, the actual employer shall, if he fails to report the accident to the occupier immediately, be guilty of an offence and liable to a penalty not exceeding five pounds.

Inquiry and report by inspector.

19. The inspector—

- (a) shall, immediately on receiving a notice such as is referred to in section 18, proceed to the factory and inquire into the cause of the accident ;
- (b) may question the occupier and all persons employed in the factory.

Injury in consequence of neglect of occupier of factory.

20. (1) If a person is killed or suffers bodily injury in consequence of the occupier of a factory having neglected—

- (a) to fence machinery required by or in pursuance of this Act to be securely fenced ; or
- (b) to fence any vat, pan, or other structure required by or in pursuance of this Act to be securely fenced ; or
- (c) to maintain any such fencing,

the occupier shall be guilty of an offence and liable to a penalty not exceeding one hundred pounds.

(2) The whole or any part of any such penalty may be applied for the benefit of the injured person or his family or otherwise, as the Minister determines.

(3) No occupier shall be liable to a penalty under this section if a complaint against him for not fencing the part of the machinery, or the vat, pan, or other structure by which the death occurred or bodily injury was inflicted has been heard and dismissed within one month previous to the time when death occurred or bodily injury was inflicted.

(4) This section shall not deprive the injured person or his representatives of any right of action to recover damages.

Fire Protection.

Doors, etc., to be kept clear of obstructions.

21. (1) The occupier of a factory shall keep all doors, passages, and staircases thereof—

- (a) clear and free from obstruction ; and
- (b) in such manner as to be always available as a means of escape.

(2) Any person who in any way whatever obstructs or permits to be obstructed any such door, passage, or staircase, shall be guilty of an offence and liable for the first offence to a penalty not exceeding five pounds, and for every subsequent offence, to a penalty not exceeding twenty pounds.

22. (1) The occupier of a factory shall keep all prescribed appliances (including fire-buckets full of water) for the prevention or extinction of fire in a constant state of repair, and available for immediate use.

Fire prevention appliances to be kept ready for use.

(2) A factory in which such appliances are not so kept shall be deemed to be not kept in conformity with this Act.

Ventilation.

23. (1) If the chief inspector is satisfied—

Provision as to mechanical ventilation in factories.

- (a) that any process is carried on in a factory, by which dust is generated and that such dust is inhaled or liable to be inhaled by the workers ; and
- (b) that such inhalation, or the liability to inhale dust, would be to a great extent thereby prevented by the provision of a fan or other properly constructed mechanical means,

the chief inspector may, by notice in writing given to the occupier of the factory, require the occupier to provide a fan or other properly constructed mechanical means for preventing inhalation of dust by workers in the factory.

(2) The notice shall specify—

- (a) the mechanical means to be provided ; and
- (b) the time allowed for providing the same.

(3) A factory in which any such notice is not complied with shall be deemed to be not kept in conformity with this Part of this Act.

24. (1) A factory shall be ventilated so as to render harmless, so far as practicable, all the gases, vapours, dust, and impurities generated therein, and which are injurious to health.

Ventilation of factories.

(2) A factory which is not so ventilated shall be deemed to be not kept in conformity with this Act.

Sanitary Arrangements.

25. (1) A factory shall be provided with proper closet accommodation in the proportion of—

Sanitary arrangements.

- (a) one closet at least for every twenty or fraction of twenty persons of the male sex employed in the factory ; and
- (b) one closet at least, separate from the closets for the male sex, for every twenty or fraction of twenty persons of the female sex employed in the factory.

(2) If closet accommodation as aforesaid is not so provided, the factory shall be deemed to be not kept in conformity with this Act.

Powers of Inspectors.

Powers of
inspector.

26. Any inspector may—

(a) enter, inspect, and examine—

(i.) any factory at any time when he has reasonable cause to believe that any person is employed therein ; and

(ii.) at all reasonable times any place which he has reasonable cause to believe to be a factory ;

(b) take with him a constable into a factory in which he has reasonable cause to apprehend any serious obstruction in the execution of his duty ;

(c) inspect and examine machinery in any factory ;

(d) make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act are complied with as regards the factory ;

(e) exercise such powers and authorities as may be prescribed.

Occupiers to
allow entry
and inspection.

27. The occupier of a factory shall at all reasonable times furnish the means required by an inspector necessary for the exercise of his duties and powers in relation to the factory.

Orders, etc.,
to be in
writing.

28. Every order, requisition, or determination made by an inspector in relation to a factory shall be in writing, and served on the occupier.

Certificates of
appointment
of inspectors.

29. Every inspector—

(a) shall be furnished with a certificate of his appointment ;
and

(b) on applying for admission to a factory, or any place which he has reason to believe to be a factory, shall, if required, produce that certificate to the occupier.

Miscellaneous.

Obstruction a
breach of this
Act.

30. Any person who—

(a) obstructs or wilfully delays an inspector in the execution of his duties or powers ; or

- (b) omits to comply with the requirements of section 27, or of any direction which the inspector is authorized to give pursuant to this Act,

shall be guilty of an offence and liable to a penalty not exceeding ten pounds.

31. (1) Written notice shall be given by the chief inspector to the occupier of a factory which, or any part of which, is not kept in conformity with this Act. Notice and removal of defects in factory.

(2) The notice shall specify—

- (a) in what regard the factory is not kept in conformity with this Act ;
- (b) the repairs, alterations, or improvements required to be made ; and
- (c) the time within which the repairs, alterations, or improvements are to be completed.

(3) Unless the repairs, alterations, or improvements are completed within the period in that behalf specified in the notice, the occupier of the factory shall be guilty of an offence and liable to a penalty not exceeding twenty pounds and to a further penalty not exceeding two pounds for every day during which the breach continues.

32. Where an offence for which an employer is liable under this Act to a penalty has in fact been committed by some agent, servant, workman, or other person, that agent, servant, workman, or other person shall be liable to the same penalty as if he were the employer. Penalty on persons committing offence for which employer is liable.

33. (1) An employer charged with an offence against this Act may, upon complaint duly laid by him, have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge. Exemption of employer from penalty on conviction of the actual offender.

(2) If, after the commission of the offence has been proved, the employer satisfies the court that he has used due diligence to enforce the execution of this Act, and that the said other person had committed the offence in question without his knowledge, consent, or connivance, the said other person shall be summarily convicted of the offence, and the employer shall be exempt from any penalty.

(3) The complainant shall proceed against the person whom he believes to be the actual offender in the first instance, without first proceeding against the employer, whenever it is

made to appear to his satisfaction at the time of discovering the offence—

- (a) that the employer has used all due diligence to enforce the observance of this Act ; and
- (b) by whom the offence has been committed ; and
- (c) that the offence has been committed without the knowledge, consent, or connivance of the employer, and in contravention of his orders.

• Service of notices.

34. (1) Any notice required by this Act to be given to or served upon an occupier of a factory may be given or served—

- (a) by delivering the same to him personally ; or
- (b) by forwarding the same by prepaid post addressed to him at his usual place of business or abode.

(2) Any notice required by this Act to be given to or served upon an inspector may be given or served—

- (a) by delivering the same to him personally ; or
- (b) by forwarding the same by prepaid post addressed to him at his usual place of business.

Regulations.

35. The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed, or which may be necessary or convenient for giving effect to this Act, and without limiting the generality of the foregoing provisions of this section may make regulations prescribing with respect to any class of factory the manner in which any fence or safeguard required by this Act to be provided shall be provided, may make regulations modifying or extending with respect to any class of factory any provisions of this Act imposing requirements as to safety, and may by any regulation impose a penalty not exceeding ten pounds for breach of the same or any other regulation.

Evidentiary provisions.

36. In any proceedings for an offence against this Act, the allegation in the complaint—

- (a) that any premises or place is situated within a part of the State to which this Act applies ;
- (b) that any premises or place is not registered under this Act as a factory,

shall, in the absence of proof to the contrary, be sufficient evidence of the fact alleged.

37. All proceedings for offences against this Act shall be disposed of summarily. Summary disposal of proceedings.

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

C. W. M. NORRIE, Governor.