# CHAPTER 69.

An Act to regulate the hours of employment of persons under the age of eighteen years employed in certain occupations; to amend the Shops Act, 1934, with respect to the regulation of the hours of employment of persons under the age of sixteen years, and with respect to the determination of the number of working hours of persons under the age of eighteen years; and for purposes connected with the matters aforesaid. [29th July 1938.]

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BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

## PART I.

## EMPLOYMENT OF PERSONS UNDER THE AGE OF EIGHTEEN YEARS.

### *Hours and Holidays.*

Conditions of employment.

**1.**—(1) The total number of hours worked by a young person to whom this Part of this Act applies, exclusive of intervals allowed for meals and rest, shall,—

(*a*) in the case of a person who has attained the age of sixteen years, not exceed forty-eight in any week;

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(*b*) in the case of a person who has not attained the age of sixteen years, not exceed, during one year from the commencement of this Act, forty-eight in any week, and thereafter, forty-four in any week:

Provided that, a person who has attained the age of sixteen years may, on occasions of seasonal or other special pressure or in cases of emergency, work overtime, that is to say, in excess of the permitted weekly hours, so, however, that the number of hours overtime that may be worked by that person shall not exceed six in any week or fifty in any year, and where in any year, in connection with a business carried on at any premises, overtime employment of any young persons to whom this Part of this Act applies under an employer has taken place in twelve weeks (whether consecutive or not), no further overtime employment of any such persons under that employer or under any person succeeding to his business shall, during the remainder of that year, take place in connection with the business carried on at those premises.

(2) A young person to whom this Part of this Act applies shall not be employed continuously for more than five hours without an interval of at least half an hour for a meal or rest, and where the hours of employment include the hours from half-past eleven in the morning to half-past two in the afternoon, an interval of not less than three-quarters of an hour shall be allowed between those hours for dinner.

(3) On at least one weekday in each week, to be notified in the prescribed form and manner, a young person to whom this Part of this Act applies shall not be employed after one o'clock in the afternoon.

(4) A young person to whom this Part of this Act applies shall, in every period of twenty-four hours between midday on one day and midday on the next day, be allowed an interval of at least eleven consecutive hours which shall include the hours from ten o'clock in the evening until six o'clock in the morning.

(5) A young person to whom this Part of this Act applies shall not be employed on a Sunday unless he receives in respect of his employment on that Sunday

a whole holiday on a weekday either in the week beginning with that Sunday or in the previous week, being a weekday other than that on which under subsection (3) of this section he is not to be employed after one o'clock in the afternoon.

(6) The Secretary of State may by regulations prescribe further conditions for the purpose of safeguarding the welfare and interests of young persons to whom this Part of this Act applies or any class of them, including, if he thinks fit, conditions with respect to the daily period of employment of those persons, and no such person shall be employed otherwise than in accordance with those conditions.

(7) The Secretary of State may by regulations increase, as respects any class or description of business, the number of hours overtime that may be worked in any week by a young person to whom this Part of this Act applies, or the number of weeks in any year in which overtime employment can take place in connection with a business carried on at any premises under an employer or any person succeeding to his business, if he is satisfied that owing to the exigencies of businesses of that class or description the increase is necessary.

(8) In the case of any contravention of, or failure to comply with, the foregoing provisions of this section, the employer shall be liable on summary conviction to a fine not exceeding ten pounds.

(9) Any regulations made under this section may contain such supplemental and consequential provisions as the Secretary of State considers requisite for giving full effect to the regulations, and shall be laid before Parliament as soon as may be after they are made, and if either House of Parliament within the next subsequent twenty-eight days on which that House has sat after any such regulations have been laid before it resolves that the regulations shall be annulled, the regulations shall forthwith be void, but without prejudice to the validity of anything previously done thereunder or to the making of new regulations.

Records and notices.

**2.**—(1) The employer of any young persons to whom this Part of this Act applies shall, in the prescribed form and in the prescribed manner, keep a record of the

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prescribed particulars as to those persons, including particulars of the hours worked by them, and of the intervals allowed for rest and meals to them; and particulars of all employment overtime shall be separately entered on the record.

(2) The employer of any young persons to whom this Part of this Act applies shall, in the prescribed form and in the prescribed manner, keep exhibited on the premises a notice setting forth the number of hours in the week during which those persons may, in accordance with the provisions of this Part of this Act, be employed, and such other particulars as may be prescribed.

(3) In the case of any contravention of, or failure to comply with, the foregoing provisions of this section, the employer shall be liable on summary conviction to a fine not exceeding five pounds for every day on which the contravention or failure to comply occurs or continues.

(4) If any person with intent to deceive makes, or causes or allows to be made, in any such record or notice as aforesaid an entry which is to his knowledge false in any material particular, or wilfully omits or causes or allows to be omitted from any such record or notice an entry required to be made therein, he shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding twenty pounds, or to both such imprisonment and fine.

*Supplementary.*

Enforcement.

**3.**—(1) It shall be the duty of the local authority to enforce within its area the provisions of this Part of this Act, and for that purpose to institute and carry on such proceedings in respect of contraventions of, or failures to comply with, those provisions as may be necessary to secure the observance thereof, and to appoint inspectors; and an inspector so appointed shall for the purposes of his powers and duties have in relation to any premises in connection with a business carried on at which young persons to whom this Part of this Act applies are employed all the powers conferred on inspectors in relation to factories by section one hundred and twenty-three of the Factories Act, 1937, and that section and section one hundred and twenty-five of that

1 Edw. 8. & 1 Geo. 6. c. 67.

Act shall have effect accordingly; and an inspector may, if so authorised by the local authority, institute and carry on any proceedings on behalf of the local authority:

Provided that, for the purpose of the enforcement of the provisions of this Part of this Act in their application to young persons employed as mentioned in the two following subsections, the provisions of those subsections respectively shall have effect to the exclusion of the provisions of this subsection.

(2) An inspector appointed under the Factories Act, 1937, shall have the same powers and duties for the purpose of the enforcement of the provisions of this Part of this Act in their application to young persons employed by a railway company elsewhere than at a residential hotel, or employed in the employment mentioned in paragraph (*d*) or (*h*) of subsection (1) of section seven of this Act, as he would have if those provisions were provisions of that Act, and as if the premises in connection with the business carried on at which those persons are employed were a factory.

(3) Inspectors appointed under the Coal Mines Act, 1911, and the Metalliferous Mines Regulation Act, 1872, respectively, shall have the same powers and duties for the purpose of the enforcement of the provisions of this Part of this Act in their application to young persons employed in or in connection with a coal mine, or metalliferous mine or quarry, as the case may be, as they would have if those provisions were provisions of those Acts respectively.

1 & 2 Geo. 5. c. 50.
35 & 36 Vict. c. 77.

**4.** Sections one hundred and thirty-six, one hundred and thirty-seven, one hundred and forty except subsections (3), (4) and (6) thereof, one hundred and forty-one and subsection (2) of section one hundred and forty-two of the Factories Act, 1937 (which relate to offences against and proceedings under that Act), and section one hundred and forty-four of that Act (which relates to the service and sending of documents), shall apply with respect to the provisions of this Part of this Act as they apply with respect to the provisions of that Act, and accordingly in the application of the said sections with respect to the provisions of this Part of this Act,

Provisions as to offences.

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references therein to factories shall be deemed to include references to premises in connection with a business carried on at which young persons to whom this Part of this Act applies are employed, and references to the occupier or owner of a factory shall be deemed to include references to the employer of those persons.

Provisions as to birth certificates.

**5.** Where the age of any person is required to be ascertained or proved for the purposes of this Part of this Act, any person shall, on presenting a written requisition in such form and containing such particulars as may be from time to time prescribed by the Registrar-General and on payment of a fee of sixpence, be entitled to obtain a certified copy under the hand of a registrar or superintendent registrar of the entry in the register under the Births and Deaths Registration Acts, 1836 to 1929, of the birth of that person; and such a form of requisition shall on request be supplied without charge by every registrar or superintendent registrar of births, deaths and marriages.

Provisions as to local authorities.

**6.**—(1) The local authority for the purposes of this Part of this Act shall be—

(*a*) as respects the City of London, the Common Council;

(*b*) as respects any municipal borough, the council of the borough;

(*c*) as respects any urban district with a population according to the last published census of twenty thousand or more, the district council;

(*d*) elsewhere, the council of the county.

(2) The expenses under this Part of this Act of the Common Council of the City of London shall be defrayed out of the general rate.

(3) The expenses under this Part of this Act of the council of a county shall be defrayed as expenses for special county purposes.

Young persons to whom Act applies.

**7.**—(1) Except as provided by subsection (3) of this section, this Part of this Act shall apply to a young person employed by an employer in any of the following employments, where his employment by that employer

is wholly or mainly in that employment or in two or more of those employments taken together, that is to say :—

(*a*) employment in the collection or delivery of goods, or in any carrying, loading or unloading of goods incidental to the collection or delivery thereof;

(*b*) employment in connection with a business carried on at any premises in carrying messages or running errands, being employment wholly or mainly outside the premises;

(*c*) employment at a residential hotel or club in carrying messages or running errands, or in connection with the reception of guests or members thereat;

(*d*) employment in connection with the business carried on at any premises where a newspaper is published, in carrying messages or running errands;

(*e*) employment at a place of public entertainment or amusement, or at a public swimming bath, bathing place or turkish bath, in carrying messages or running errands, or in the reception of or attendance upon persons resorting thereto;

(*f*) employment elsewhere than in a private dwelling-house, in the operation of a hoist or lift connected with mechanical power;

(*g*) employment in, or in connection with, the operation of cinematograph apparatus;

(*h*) employment at any premises occupied for the purposes of the business of a laundry, dyeing or cleaning works or other factory, in receiving or despatching goods.

(2) Except as provided by the next following subsection, this Part of this Act shall apply to a young person employed by an employer in any of the employments mentioned in the foregoing subsection, and, at a residential hotel or in or about a theatre, in connection with a retail trade or business carried on therein, where his employment by that employer is wholly or mainly in those employments taken together.

(3) Nothing in this Part of this Act shall apply—

(*a*) with respect to the employment of a young person whose hours of employment are

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regulated by or under the Factories Act, 1937, the Coal Mines Act, 1911, and the Acts amending that Act, the Metalliferous Mines Regulation Acts, 1872 and 1875, or (except in the case of a young person to whom this Part of this Act applies by virtue of an election made under subsection (1) of the next following section) the Shops Acts;

(*b*) with respect to the employment of any young person in or in connection with agriculture or in a ship.

Option to apply either this Act or the Shops Acts in certain cases.

**8.**—(1) An employer who employs young persons at, or in connection with the business carried on at, a residential hotel, a place of public entertainment or amusement, or a public swimming bath, bathing place or turkish bath, being young persons to whom apart from this section the provisions of this Part of this Act would apply or the provisions of the Shops Acts would apply, may give notice that he elects that the provisions of this Part of this Act shall apply to all such young persons as aforesaid for the time being so employed by him as aforesaid or may give notice that he elects that the provisions of the Shops Acts shall apply to all of them.

(2) When a notice given under the foregoing subsection has taken effect, then, until another notice withdrawing that notice takes effect, the provisions of this Part of this Act or of the Shops Acts, as the case may be, shall apply to all the young persons aforesaid, and, in the case of young persons to whom apart from this section those provisions would not have applied, shall apply to them subject to the prescribed adaptations and to the exclusion of the provisions of the Shops Acts or of this Part of this Act, as the case may be:

Provided that, where the provisions that are to apply are the provisions of the Shops Acts,—

(*a*) those provisions shall have effect with the substitution in subsection (5) of section nine of the Shops Act, 1934, and in section one of the Shops Act, 1912, for references to half-past one o'clock of references to one o'clock; and

24 & 25 Geo. 5. c. 42. 2 & 3 Geo. 5. c. 3.

(*b*) section five of the Shops Act, 1934, shall have effect only in the case of young persons employed at, or in connection with the business carried on

at, a residential hotel, and in the case of those persons shall have effect notwithstanding anything in subsection (6) of that section (which enacts that the provisions of the Shops Act, 1934, shall not apply to any person employed in a residential hotel who is not such a shop assistant as is therein mentioned).

(3) A notice to be given under subsection (1) of this section, and a notice withdrawing such a notice, shall be given to the local authority in such form, in such manner and subject to such conditions as may be prescribed, and any such notice shall have effect as from such date after it is given as may be prescribed.

Interpretation of Part I.

**9.**—(1) In this Part of this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

"agriculture" has the same meaning as in the Agricultural Wages (Regulation) Act, 1924; 14 & 15 Geo. 5. c. 37.

"premises" means premises occupied by the employer of a young person to whom this Act applies for the purposes of the business in connection with which that person is employed, and includes the site of any building operation or work of engineering construction, and "building operation", "work of engineering construction" and "factory" have the same meaning as in the Factories Act, 1937;

"prescribed" means prescribed by order of the Secretary of State;

"residential hotel", "retail trade or business", "theatre", "week" and "year" have the same meaning as in the Shops Act, 1934;

"ship" means a ship or boat registered in the United Kingdom as a British ship, or a British fishing-boat entered in the fishing-boat register;

"young person" does not include a child whose employment is regulated by section eighteen of the Children and Young Persons Act, 1933, but save as aforesaid means a person who has not attained the age of eighteen years. 23 & 24 Geo. 5. c. 12.

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(2) Where a young person who is employed as mentioned in subsection (1) or (2) of section seven of this Act, is also employed by the same employer in any other employment (not being employment mentioned in subsection (3) of that section), any reference in section one or two of this Act to employment or to hours worked shall, in relation to that young person, include a reference to that other employment and to hours worked therein.

(3) For the purposes of this Part of this Act, the carrying on of a club shall be deemed to be a business notwithstanding that the club is not carried on for the purpose of profit.

(4) For the purposes of this Part of this Act, a young person shall be deemed to be employed by the person for whom he works, notwithstanding that he receives no wages for his work.

(5) For the purposes of this Part of this Act, employment shall be deemed to be continuous unless interrupted by an interval of at least half an hour.

(6) Where a young person to whom this Part of this Act applies, who in any week is employed in connection with a business carried on at any premises and in that week is employed by the same employer in connection with a business carried on at other premises, works overtime, the overtime employment of that person shall be deemed to have taken place at the premises in connection with the business carried on at which he was mainly employed.

(7) References in this Part of this Act to any enactment shall, except where the context otherwise requires, be construed as references to that enactment as amended by any subsequent enactment including this Act.

(8) An order under this Part of this Act may be varied or revoked by a subsequent order.

Application of Part I to Scotland.

**10.**—(1) The provisions of this section shall have effect for the purpose of the application of this Part of this Act to Scotland.

(2) The local authority for the purposes of this Part of this Act shall be the county council in a county

and the town council in a burgh, and any expenses incurred by a county or a town council shall be defrayed in like manner as expenditure for the purposes of the Public Health (Scotland) Act, 1897. 60 & 61 Vict. c. 38.

(3) References to provisions of the Factories Act, 1937, shall be construed as references to those provisions as applied to Scotland; for references to the Registrar-General and the Births and Deaths Registration Acts, 1836 to 1929, there shall be substituted respectively references to the Registrar-General for Scotland and the Registration of Births, Deaths and Marriages (Scotland) Acts, 1854 to 1934; and for references to the Agricultural Wages (Regulation) Act, 1924, and to section eighteen of the Children and Young Persons Act, 1933, there shall be substituted respectively references to the Agricultural Wages (Regulation) (Scotland) Act, 1937, and to section twenty-eight of the Children and Young Persons (Scotland) Act, 1937. 1 Edw. 8. & 1 Geo. 6. c. 53. 1 Edw. 8. & 1 Geo. 6. c. 37.

(4) An offence against any provision of this Part of this Act which is directed to be enforced by a county or town council may be prosecuted by the council of the county or town in which such offence was committed, and any such council may appear in any proceedings instituted by them under this Part of this Act by their clerk or other officer duly authorised in that behalf.

(5) It shall not be an objection to the competency of an inspector or of any person prosecuting in pursuance of the power conferred by the last foregoing subsection to give evidence as a witness in any prosecution for an offence against this Part of this Act that the prosecution is brought at his instance or conducted by him.

(6) Any offence against this Part of this Act for which the maximum penalty that may be imposed does not exceed ten pounds may be prosecuted in any court of summary jurisdiction within the meaning of the Summary Jurisdiction (Scotland) Act, 1908, having jurisdiction in the place where the offence was committed. 8 Edw. 7. c. 65.

## PART II.

### AMENDMENTS RELATING TO SHOPS.

**11.**—(1) As from the expiration of the first year after the commencement of this Act, subsection (1) of section one of the Shops Act, 1934, shall have effect, in the Hours of employment of young

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case of a young person who has not attained the age of sixteen years, with the substitution for the reference to forty-eight working hours of a reference to forty-four working hours.

persons under sixteen employed in shops.

(2) The following section shall be inserted after section one of the Shops Act, 1934, and shall have effect as from the expiration of the first year after the commencement of this Act:—

"1A. The occupier of a shop may, by exhibiting a notice to that effect, secure that the provisions of this section shall be applicable to the shop during the week within which Christmas Day falls and either the week before or the week after that week, as may be specified in the notice; and when such a notice has been duly exhibited in the prescribed form and in the prescribed manner and at such time before the period therein specified as may be prescribed, then, in relation to a young person employed about the business of the shop, who has not attained the age of sixteen years, the normal maximum working hours shall, as respects the period specified in the notice, be neither more than forty-eight in either week of that period nor more than eighty-eight throughout that period, and section one of this Act shall have effect accordingly."

Determination of number of working hours of young persons employed in shops.

**12.** Subsection (3) of section one of the Shops Act, 1934, shall have effect as if the reference therein to employment in a factory or workshop included a reference to employment in any of the employments mentioned in subsection (1) of section seven of this Act.

Hours of young persons employed in retail trade from factory.

**13.** Employment wholly or mainly outside a factory in collecting, carrying or delivering goods, carrying messages or running errands, being employment for the purposes of retail trade or business carried on from the factory, shall, for the purposes of subsection (5) of section fifteen of the Shops Act, 1934, be deemed not to be employment in the business of the factory and accordingly the Shops Acts shall apply with respect to that employment.

Short title, interpretation,

**14.**—(1) This Act may be cited as the Young Persons (Employment) Act, 1938.

(2) In this Act the expression "the Shops Acts" means the Shops Acts, 1912 to 1936, and those Acts and Part II of this Act may be cited together as the Shops Acts, 1912 to 1938.

citation, commencement and extent.

(3) This Act shall come into operation on the first day of January nineteen hundred and thirty-nine.

(4) This Act shall not extend to Northern Ireland.

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