



Shops Act 1950

1950 CHAPTER 28

PART V

GENERAL

68 Option to apply either this Act or the Young Persons (Employment) Act, 1938, in certain cases

- (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 Act or the provisions of Part I of the Young Persons (Employment) Act, 1938, would apply, may give notice that he elects that the provisions 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 Part I of the Young Persons (Employment) Act, 1938, 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 Act or of Part I of the Young Persons (Employment) Act, 1938, 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 said Part I of the Act of 1938 or of this Act, as the case may be:

Provided that, where the provisions that are to apply are the provisions of this Act—

- (a) those provisions shall have effect with the substitution in section seventeen of, and Part II of the Third Schedule to, this Act for references to half-past one o'clock of references to one o'clock ; and
- (b) section twenty-five of this Act 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 (1) of section thirty-four of this Act.

- (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.
- (4) In this section the expression "prescribed" means prescribed by order of the Secretary of State which may be varied or revoked by a subsequent order, and the power of making orders under this subsection shall be exercisable by statutory instrument.
- (5) For the purposes of this section—
 - (a) 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;
 - (b) 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.

69 Regulations

- (1) The Secretary of State may make regulations—
 - (a) for prescribing anything which under this Act is to be prescribed by regulations ; and
 - (b) as to the mode of ascertaining the opinion of occupiers of shops; and
 - (c) as to conduct of local inquiries and matters incidental thereto ; and
 - (d) as to the procedure for obtaining the revocation of a closing order; and
 - (e) generally for carrying into effect the following provisions of this Act, that is to say, Part I, in Part II sections seventeen to twenty-one and section thirty-seven, Part III and, so far as it applies in relation to those provisions, Part V.
- (2) The power of making regulations under this section shall be exercisable by statutory instrument.

70 Proof and revocation of orders of local authorities

- (1) Any order made by a local authority under Parts I or III of this Act may be proved by the production of a copy thereof certified to be a true copy by a person purporting to be the clerk of the local authority by whom the order was made.
- (2) Any order made by a local authority under this Act may, unless some other method of revocation is provided by this Act, be revoked by an order made in the like manner and subject to the like approval, if any, as the original order.

71 Enforcement

- (1) It shall be the duty of every local authority to enforce within their district the provisions of this Act and of the orders made under those provisions, and for that purpose to institute and carry on such proceedings in respect of contraventions of the said provisions and such orders as aforesaid as may be necessary to secure observance thereof.
- (2) For the purpose of their duties under the foregoing subsection, it shall be the duty of every local authority to appoint inspectors, and an inspector so appointed shall, for the purposes of his powers and duties, have in relation to shops all the powers conferred in relation to factories on inspectors by section one hundred and twenty-three of the

Factories Act, 1937, and that section and section one hundred and twenty-five of the same Act shall apply accordingly.

An inspector may, if so authorised by the local authority, institute and carry on any proceedings under this Act on behalf of the authority.

- (3) The following enactments in the Factories Act, 1937, that is to say—
- subsection (1) of section one hundred and forty (which provides for the summary prosecution of offences),
 - subsection (2) of section one hundred and forty (which relates to the terms of an information in proceedings under the Act),
 - subsection (7) of section one hundred and forty (which disqualifies certain interested persons from acting as members of a court trying an offence),
 - section one hundred and forty-one (which provides for an appeal from an order made by a court of summary jurisdiction in England or Wales),
 - subsection (2) of section one hundred and forty-two (which in proceedings with respect to a young person imposes on the defendant the onus of proving that the young person is not below a given age),
 - subsection (7) of section one hundred and fifty-six (which confers on certain courts in Scotland power to deal with minor offences under the Act),
 - subsection (9) of section one hundred and fifty-six (which enables a prosecutor in Scotland to give evidence in the proceedings), and
 - subsection (10) of section one hundred and fifty-six (which renders a person convicted in Scotland of an offence against the Act liable in expenses),
- shall, so far as they are applicable, have effect as if re-enacted in this Act and in terms made applicable thereto.
- (4) All fines imposed in any proceedings instituted by or on behalf of a local authority in pursuance of their powers and duties under this Act shall be paid to the local authority:
- Provided that in England and Wales this subsection shall cease to have effect upon the coming into operation of section twenty-seven of the Justices of the Peace Act, 1949.
- (5) Where an offence for which the occupier of a shop is liable under this Act has, in fact, been committed by some manager, agent, servant or other person, the manager, agent, servant or other person shall be liable to the like penalty as if he were the occupier.
- (6) Where the occupier of a shop is charged with an offence under this Act, he shall be entitled upon information duly laid by him to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, he proves to the satisfaction of the court that he has used due diligence to enforce the execution of this Act and that the said other person has committed the offence in question without his knowledge, consent or connivance, the said other person shall be summarily convicted of such offence, and the occupier shall be exempt from any fine.
- (7) The expression "shop" in this section—
- (a) so far as it relates to the enforcement of any other provision of this Act, has the same meaning as in that other provision; and
 - (b) so far as it relates to the enforcement of any provision in Part II or Part IV of this Act which applies to retail trade or business carried on at any place not being a shop, includes a reference to any such place.

72 Further provision for enforcement

(1) It shall be the duty of the local authority having power under the Children and Young Persons Act, 1933, to enforce the provisions of that Act as to street trading, to enforce as part of their duties under that Act the provisions of Part II of this Act (other than section twenty-two) in their application to street trading, and the last foregoing section shall not apply with respect to the provisions to be enforced under this subsection, except that offences under those provisions shall be punishable on summary conviction.

(2) It shall be the duty of the sanitary authority for every district, as part of their duties under the Public Health Acts, to enforce the provisions of section thirty-eight of this Act which relate to ventilation and temperature of shops and to sanitary conveniences, and the last foregoing section shall not apply with respect to the said provisions, except that offences under those provisions shall be punishable on summary conviction.

Any inspector appointed by such a sanitary authority as aforesaid shall, for the purposes of his powers and duties, have in relation to shops (within the meaning assigned to that word by the said section thirty-eight) all the powers conferred in relation to factories on inspectors by section one hundred and twenty-three of the Factories Act, 1937, and that section and section one hundred and twenty-five of the same Act shall apply accordingly.

(3) Notwithstanding that certain provisions of section thirty-eight of this Act are not enforceable by local authorities under the last foregoing section, it shall, nevertheless, be the duty of inspectors appointed under this Act to take note of and if necessary report to the sanitary authority for the district any contravention of the said provisions of section thirty-eight, and for that purpose subsection (2) of the last foregoing section shall apply accordingly.

(4) In the application of this section to Scotland—

- (a) subsection (1) shall have effect as if for the local authority and the provisions of the Children and Young Persons Act, 1933, therein mentioned there were respectively substituted references to the local authority for the purposes of this Act, and the provisions of this Act, and the last foregoing section shall apply accordingly;
- (b) subsections (2) and (3) shall have effect as if for references to the Public Health Acts and the sanitary authority there were respectively substituted references to the Public Health (Scotland) Acts, 1897 to 1907, and the local authority for the purposes of this Act.

73 Local authorities

(1) In this Act the expression " local authority " means—

- as respects the city of London, the common council;
- as respects any municipal borough, the council of the borough ;
- as respects any urban district with a population according to the returns of the last published census for the time being of twenty thousand or upward, the district council;
- elsewhere, the county council.

(2) A county council may, with the approval of the Secretary of State, make arrangements with the council of an urban district in the county with a population of less than twenty thousand, or with the council of a rural district, for the exercise by the council of that

district as agents for the county council, on such terms and subject to such conditions as may be agreed on, of any powers of the county council under this Act within the district, and the council of the district may, as part of the agreement, undertake to pay the whole or any part of the expenses incurred in connection with the exercise of the powers delegated to them; and the London County Council may, with the like approval, make similar arrangements with the council of any metropolitan borough.

- (3) The expenses of a county council under this Act shall be defrayed as expenses for special county purposes.
- (4) In Scotland, the foregoing provisions of this section shall not apply ; and the expression " local authority " in the application of this Act to Scotland means a county or town council.

74 Interpretation

- (1) In this Act, save where the context otherwise requires—

" bank holiday " includes any public holiday or day of public rejoicing or mourning ;

" butcher's meat " means beef, mutton, veal, lamb or pork (including livers, heads, feet, hearts, lights, kidneys or sweetbreads), whether fresh, chilled, frozen or salted, and includes Kosher meat;

" closing order " has the meaning assigned to it by section eight of this Act;

" contravention ", in relation to any provision, includes any failure to comply with that provision ;

" enactment " includes any Act, and any rule, regulation, bye-law or order made under any Act;

" factory " has the same meaning as in the Factories Act, 1937;

" general closing hours " means the hours fixed by or under section two of this Act or the hours substituted therefor by or under any other provision of this Act;

" Kosher meat " means butchers' meat killed and prepared by the Jewish ritual method ;

" local authority " has the meaning assigned to it by the last foregoing section;

" owner ", in relation to any premises, has the same meaning as in the Public Health Act, 1936 ;

" prescribed " means prescribed by regulations made under section sixty-nine of this Act;

" Public Health Acts " means the Public Health Act, 1936, or the Public Health (London) Act, 1936, as the case may be;

" residential hotel " means premises used for the reception of guests and travellers desirous of dwelling or sleeping therein;

" retail trade or business " includes the business of a barber or hairdresser, the sale of refreshments or intoxicating liquors, the business of lending books or periodicals when carried on for purposes of gain, and retail sales by auction, but does not include the sale of programmes and catalogues and other similar sales at theatres and places of amusement;

" sanitary authority " means, save as respects London, the council of a borough or urban or rural district, and as respects London, the sanitary authority for the purposes of the Public Health (London) Act, 1936;

" shop " includes any premises where any retail trade or business is carried on ;

" shop assistant " means any person wholly or mainly employed in a shop in connection with the serving of customers or the receipt of orders or the despatch of goods;

" theatre " includes any place used for the exhibition of pictures or other optical effects by means of a cinematograph or other suitable apparatus and any music hall or other similar place of entertainment; and " performance " has a corresponding meaning ;

" week " means the period between midnight on Saturday night and midnight on the succeeding Saturday night;

" weekly half-holiday " has the meaning assigned to it by section one of this Act;

" wholesale shop " means premises occupied by a wholesale dealer or merchant where goods are kept for sale wholesale to customers resorting to the premises ;

" the winter months " means the period beginning with the first Sunday in November in any year and ending with the day before the first Sunday in March in the succeeding year;

" working hours " means the time during which the persons employed are at the disposal of the employer, exclusive of any intervals allowed for rest and meals; and " hours worked " has a corresponding meaning ;

" young person " does not include a child whose employment is regulated by section eighteen of the Children and Young Persons Act, 1933, or section twenty-eight of the Children and Young Persons (Scotland) Act, 1937, but save as aforesaid means a person who has not attained the age of eighteen years.

- (2) For the purposes of this Act, a person shall be deemed to be between any two ages therein mentioned if he has attained the first-mentioned age but has not attained the second-mentioned age.
- (3) Any reference in this Act to any enactment shall, except where the context otherwise requires, be construed as a reference to that enactment as amended by any subsequent enactment.

75 General application to Scotland

In the application of this Act to Scotland—

for any reference to a county court there shall be substituted a reference to the sheriff;

for any reference to intoxicating liquor there shall be substituted a reference to exciseable liquor;

for any reference to the Public Health Act, 1936, there shall be substituted a reference to the Public Health (Scotland) Act, 1897.

76 Repeal

- (1) The enactments set out in the Eighth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

- (2) Nothing in this repeal shall affect any instrument made or other thing whatsoever done under any enactment repealed by this Act or under any enactment repealed by the Shops Act, 1912, and every such instrument or other thing shall continue in force and, so far as it could have been made or done under this Act, shall have effect as if made or done under the corresponding provision of this Act.
- (3) Any document referring to any Act or enactment repealed by this Act shall be construed as referring to this Act or the corresponding enactment in this Act.
- (4) Where under any Act passed before this Act there is power to affect Acts passed or in force before a particular time and that power would, but for the passing of this Act, have included power to change the law which is reproduced in this Act, then that power shall include power to make such provision as will secure the like change in the law as reproduced in this Act notwithstanding that this Act is not an Act passed or in force before that time and notwithstanding that the terms of this Act, apart from this subsection, are not such as to render that power applicable.
- (5) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section thirty-eight of the Interpretation Act, 1889, with regard to the effect of repeals.

77 Short title, extent and commencement

- (1) This Act may be cited as the Shops Act, 1950.
- (2) This Act shall not extend to Northern Ireland.
- (3) This Act shall come into operation on the first day of October, nineteen hundred and fifty.