

REPORTS AND ENQUIRIES

The Working of the Eight-Hour Day Act in Belgium

According to section 26 of the Act of 14 June 1921 the Government must make a report to the Chambers every three years on "the working and effects of the Act". The first report which has just been issued under this provision¹ describes the measures taken to meet the requirements of the new system, the difficulties met with, and the way in which they have been settled. The absence of information on the effect of the Act is due to the fact that the commission set up to investigate the economic, social, and moral results of the legal limitation of hour of work has not yet submitted its report.

PRELIMINARY MEASURES

The establishment of special systems and the granting of exemptions was entrusted by the Act to the competent departments of the Council of Industry and Labour, the Superior Public Health Council, and the Superior Council of Industry and Commerce. The most representative organisations of employers and workers concerned had already been consulted beforehand.

In view of the wide scope of the questions to be settled by these various bodies, they were unable to complete their work before 1 October 1921, on which date the Act came into force. Two Ministerial Circulars were consequently issued, one on 21 September 1921 and the other on 30 September 1921, to cope with any difficulties which might arise; these indicated to the officials responsible for supervision "the necessary guiding principles and exemptions" and instructed the local and national industrial joint committees to settle any disputes arising out of the re-adjustment of wages.

The officials responsible for supervising the enforcement of the Act were designated by the Order of 5 September 1921, which defined their functions.

PRELIMINARY CONSULTATIONS

In addition to consulting the bodies prescribed in the Act, the Government made regular application to the local and national industrial

¹ *Journée de huit heures et semaine de quarante-huit heures. Rapport triennal présenté aux Chambres législatives sur l'exécution de la loi du 14 juin 1921 (Session de 1924-1925).* Brussels, F. van Gompel, 1925. 28 pp. The report is given in both French and Flemish.

joint committees, the Factory Inspectorate, the Mines Office, the Medical Factory Inspectorate, and the Superior Public Health Council, with a view to collecting the fullest information possible from those directly concerned. The decisions of these various bodies were confirmed by Orders prescribing exemptions for seasonal industries, industries using perishable goods, those in which the hours of work cannot be specified in detail, for preparatory and accessory work, and an Order defining what persons are to be deemed to occupy confidential positions. The advantage of this system of consultation is that it affords very valuable material on which decisions may be based. The report shows that particular attention was paid to the recommendations made by representatives of employers and workers. Certain unanimous decisions may therefore be considered as representing agreements between the delegates of the employers' and workers' organisations affected.

WORKING OF THE ACT

The report describes the conditions of enforcement of the Act section by section, and the same system will be adopted here in summarising the information given.

Scope

The scope of the Act so far as industry is concerned is that laid down in the Washington Convention on Hours of Work. The Act also covers retail shops, hotels, restaurants, and public houses, and workers and employees in commercial undertakings, for whom a special system was to apply, to be defined in a Royal Order within one year of the date the Act came into force.

Undertakings run by provincial and communal authorities are not subject to the Act unless they are of an industrial nature, such as gas works, waterworks, and electric stations. The provisions do not apply to public health departments, urban and rural police, fire brigades, and the persons responsible for working rescue appliances in communal schools. Office staff in commercial undertakings was placed under the Act as soon as it came into force; that in hotels, restaurants, and public houses on the promulgation of the Royal Order of 10 October 1923; the staff of banks and brokers' offices by the Order of 17 August 1923, and that of travelling agencies by the Order of 10 April 1923. The 8-hour day is being steadily extended to other commercial undertakings.

Hours of Work

Section 2 of the Act lays down the principle of the limitation of the hours of work to 8 a day and 48 a week. Various awards in the courts have made it clear that this section governs only actual working hours. The Act applies to any person working under a contract of service, even to commercial travellers in certain specified cases. On the other hand, home workers are excluded (the employer being prohibited from

employing his workers at home for any kind of work), also persons occupying positions of trust or authority, a list of which was drawn up in the two Royal Orders of 28 February 1922 and 20 January 1923.

The Report points out that hours of work lost for voluntary reasons (fêtes, local fairs, etc.) or owing to an unavoidable stoppage of work (accidents, stoppage of supply of motive power, etc.) may not be made up. On the other hand, hours may be extended on certain weekdays with a view to allowing a Saturday half-holiday, subject to the issue of a permit by Royal Order.

Shift Work

When work is organised in successive shifts, the 8 hours a day and 48 hours a week fixed by the Act may be exceeded (section 3), on condition that the duration of actual work averaged over a period of three weeks or less does not go beyond these limits. The chief purpose of this provision is to facilitate the overlapping of shifts. In no case may the working day exceed 10 hours. Workers employed in direct connection with the shift workers are also covered by this section.

Continuous Processes

The most interesting disputes and important judicial rulings have related to section 4 of the Act. This deals with processes in which, by reason of their nature, work cannot be interrupted, and in which the duration of actual work for each worker must not exceed 56 hours per week, averaged over a period of three weeks.

The first difficulty met with was whether the special system in question should cover the work of loading and unloading in ports. The interpretation given by the Labour Office, and in the last resort by the courts, answered this in the negative "on the ground that section 4 of the Act cannot be so interpreted as to give the head of every undertaking the right to determine whether, in the circumstances in which the work is carried on, it cannot be interrupted".

Seasonal Industries

Section 5, which allows a limitation of working hours equivalent to 8 a day and 48 a week spread over a period greater than a week in industries subject to seasonal fluctuations, etc., has led to the issue of eleven Orders. These define the method of applying the Act to the following industries: those where the sole motive force employed is wind or water; the hiring of horses and motor vehicles; the automobile and bicycle industry; upholstering, hand manufacture of firearms, building, open air quarries, brick making; clothing and subsidiary industries; various food industries; the retting of flax in streams and tanks; biscuit factories and the manufacture of gingerbread and marzipan; manufacture of lemonade and aerated waters; laundries in holiday resorts; electric tramways along the coast.

Two special Orders deal with the manufacture of boots and shoes

during a period of one year, and travelling signal squads on the State Railways.

Special Industries

Under section 6 the Government is empowered to allow overtime in industries where the time necessary for the completion of the process cannot be precisely determined, or where the materials in course of treatment are liable to rapid deterioration. This provision has been applied to certain industries or branches of industry: furniture removal undertakings, taxicab undertakings, carriers, undertakings for conveyance by carriage, lorry, or cart; transportation, loading and unloading of goods, shunting of trucks, weighing of trucks and other vehicles, in so far as these operations are accessory to an industrial undertaking; ice factories; manufacture of certain products or certain operations of a specifically chemical nature (maximum overtime 100 hours a year); stowage operations in the port of Antwerp; fish curing (salting and smoking, 50 hours; sprat curing, 100 hours); preserving of vegetables and fruit (200 hours, with a daily maximum of 12 hours).

Individual Exemptions

The table on the following page shows the number of individual permits issued from 1921 to 1924, in accordance with section 7 of the Act, allowing undertakings to exceed the normal limits of the working day by one or two hours a day and for not more than three months in the year. The issue of the permit is subject to two main conditions: (1) agreement with the employer and the organisation or organisations to which the majority of his workers belong, or in default of an organisation the majority of the workers; (2) the necessity for the management of the undertaking to cope with unusual increases in orders due to unforeseen events.

The table distinguishes between undertakings in which the majority of workers are trade unionists and those where the majority are unorganised. It shows that the number of permits, and consequently the number of workers employed overtime, is considerably lower in the first case.

Night Work

Night work (section 8) is prohibited between 8 p.m. and 6 a.m., but an exception is allowed in the eleven cases specified in the section, including undertakings in which the work is organised in successive shifts. In bakeries the working day may be fixed between 4 a.m. and 9 p.m. The Royal Order of 10 August 1923 laid down that preparatory and accessory work in the bakery trade may be performed either from 2 a.m. or until 10 p.m. Bakeries working on the shift system claimed that they should benefit by the general provisions of the Act on undertakings working in shifts, and therefore asked that the prohibition of night work should be withdrawn in their case. In accordance with various judgments of the Brussels and Ghent Courts of Appeal and the

NUMBER OF OVERTIME PERMITS ISSUED AND WORKERS INVOLVED, 1921-1924

Trade union position	1921 8 Nov. - 31 Dec. (34 days)		1922		1923		1924 1 Jan. - 30 Sept. (9 months)	
	Total permits issued	In firms report- ing number of workers involved	Total permits issued		Total permits issued		Total permits issued	In firms reporting number of workers involved
			Number of permits	Number of workers	Number of permits	Number of workers		Number of workers
Majority of workers unorganised	7	7	209	12,660	303	15,506	249	11,069
Majority of workers organised	3	2	58	1,531	59	3,358	56	4,944
Total	10	9	340	14,191	362	18,864	305	16,013

Court of Cassation, the courts tend definitely to interpret section 8 of the Act as prohibiting night work in bakeries working on the shift system, as in others.

The limits of the working day may be altered for industries subject to seasonal fluctuations. Under this provision the Royal Order of 20 June 1924 laid down, in order to remove the necessity for working during the heat of the day, that work might begin at 5 a.m. and end at 7 p.m.

Preparatory and Accessory Work

Under section 9 of the Act the limits fixed for the beginning and end of the working day may be exceeded for preparatory or accessory work which must of necessity be performed outside the time assigned for the general process of production (work to be defined by Royal Order). Only one Order, that of 10 August 1923, has been issued in pursuance of this provision of the Act. For the benefit of preparatory and accessory work in the bakery trade it allows a shifting of the hours of work, which in this industry, as already explained, should normally fall between 4 a.m. and 9 p.m.

This section also allows a shifting of the limits fixed for the working day in the event of urgent work required on machinery or work imposed by *force majeure* or unforeseen necessity in so far as its performance outside the normal hours of work is indispensable to avoid serious hindrance to the normal working of the undertaking. Any employer who made an application under this section, whether to extend the hours of work, or to employ his workers outside the limits fixed for the working day, had to estimate on his own responsibility whether in the case in question the special conditions laid down in the provision had really been fulfilled. If his views were not shared by the factory inspectors, a report was drawn up and submitted to the courts for decision.

Limits to Exemptions

Under section 10, if a Saturday half-holiday is granted, the hours of work on other days of the week may not exceed 9. If an extension is allowed either to facilitate overlapping of shifts or to ensure the performance of certain preparatory or accessory work, the working day may not exceed 10 hours. Again, persons engaged in certain preparatory or accessory work are entitled to a compensatory rest period to be fixed by Royal Order, without prejudice to the rest periods defined in the Sunday Rest Act of 17 July 1905. These compensatory holidays must correspond in length to the overtime required and must be not less than 26 full days in the year for workers who have to work two hours' overtime a day. The report states that this provision on compensatory holidays is more elastic than that contained in section 4 of the Act; this latter entitles workers who have to work an average of 56 hours per week in undertakings where the processes cannot be interrupted on Sundays to 26 days' compensatory holiday a year, while section 10 is limited to workers employed 56 hours a week on an

average. Persons employed in undertakings with continuous processes whose working week exceeds 48 hours, but is not as much as 56 hours, are not entitled to a compensatory holiday in proportion to their overtime. This disadvantage is overcome by section 10.

Remuneration

Section 13 deals with wages. It first lays down that the reduction in hours of work due to the enforcement of the Act may in no case involve a reduction of wages, and, secondly, fixes the rates of overtime pay, namely, 25 per cent. increase for the first two hours' overtime and 50 per cent. for subsequent hours (100 per cent. on Sundays). A question to be settled by the factory inspectorate was whether the 50 per cent. overtime pay should be granted for hours in excess of the normal working day, or for those in excess of the normal working week. In other words, was the worker entitled to the 50 per cent. increase after the 10th hour of the day or the 51st hour of the week. The second solution would appear to be preferred. The 100 per cent. overtime pay for work on Sundays is subject to such work being abnormal and exceptional. It has been decided that normally this increase shall be paid for Sunday work which involves exceeding the weekly limit of 48 hours. It applies also to Sunday work which in exceptional cases exceeds the 8-hour limit, even if the weekly maximum of 48 hours is not exceeded.

Supervision

Sections 18-25 of the Act relate to the supervision of its enforcement. According to the report 8,408 undertakings were inspected in 1921 and 67 reports drawn up (26 convictions, in 10 of which the execution of the sentence was suspended). In 1922 the number of visits was 38,757, of reports 327 (175 convictions, 124 suspended sentences); in 1923 the number of visits was 33,924, of reports 197 (112 convictions, 63 suspended sentences). Finally, in 1924 there were 28,718 visits and 218 reports (17 convictions, 9 suspended sentences).

Administration of Dominion Labour Laws in Canada in 1923-1924¹

As in the previous year, the Canadian Department of Labour reports fully on the operation of the Industrial Disputes Investigation Act, 1907 (pp. 5-7, 9-46), the Employment Offices Co-ordination Act, 1918 (pp. 79-85), and the Government Annuities Act, 1908 (pp. 125-126). The report

¹ CANADA. DEPARTMENT OF LABOUR: *Report for the Fiscal Year ending 31 March 1924*. Ottawa, King's Printer, 1925. 136 pp.

also contains notes on conciliation in industrial disputes (pp. 47-50), the administration of the Fair Wages Order of 1922 (pp. 51-60), statistics of wages, hours of work, cost of living, and fatal industrial accidents (pp. 61-76), technical education in the various Provinces (pp. 86-124), the Combines Investigation Act, 1923 (pp. 77-78), and the International Labour Conference (pp. 127-136).

Applications for boards of conciliation and investigation were made in 22 (39)¹ cases, and six cases were carried over from the preceding year; boards were established in 13 cases, and direct negotiations continued in seven cases after departmental mediation, while no strikes occurred in any of the cases submitted for investigation during the year (pp. 9-21). In the course of the year the Toronto Electric Commissioners obtained an interim injunction against the board appointed under the Industrial Disputes Investigation Act on the application of the trade unions concerned in a dispute with the Commissioners. The validity of the Act was disputed in this connection, and the case has finally been referred to the Judicial Committee of the Privy Council (pp. 22-41). Meanwhile, as in 1922-1923, a Bill was introduced by the Government to amend certain provisions the interpretation of which was disputed; but disagreement between the Senate and the House of Commons caused the abandonment of the Bill, as in 1923 (pp. 41-46).

Strikes and lockouts occurred in 91 (85) cases, involving 32,868 (41,050) persons, during the calendar year 1923 (p. 64). The principal strike was that of the steelworkers of Sydney, N.S., for improved wages and hours and recognition of the union; this resulted in sympathetic strikes of coal miners elsewhere in the same Province and in Alberta, which were called by way of protest against the stationing of the militia and provincial police in the original strike area (pp. 48-50, 62). Other disputes were caused in most cases by demands for higher wages or resistance to wage reductions (p. 63). As regards wages on government contracts, the Fair Wages Order of 7 June 1922 was amended by an Order of 9 April 1924, which rendered it clearer and more definite (p. 51). The report contains a table of contracts under the Order (pp. 53-57) and complaints respecting wages paid by government contractors (pp. 57-60). Statistics are also given of index numbers of rates of wages for ten industrial groups in each year from 1901 to 1923 (p. 68) and of percentage changes in the cost of various necessities of life annually from 1914 to 1920 and quarterly from March 1921 to March 1924 (p. 70).

Fatal industrial accidents in 1923 are tabulated by Provinces and by months under 38 industrial groups. Accidents of this kind were recorded in 1,412 (1,107) cases; the largest proportion (26.4 per cent. as against 24.7 per cent. in 1922) occurred in the transportation and public utility services, nearly half of this group being due to steam railways. Logging gave rise to 13.8 (13.7) per cent., and mining and quarrying to 13.3 (15.2) per cent. of the fatalities. In all 220 deaths were caused by falling objects, 184 by falls of persons, and 147 by drowning (pp. 72-76).

Under the Employment Offices Co-ordination Act there were 67

¹ The figures in brackets are those for 1922-1923. For summary of the 1922-1923 report see *International Labour Review*, Vol. IX, No. 5, May 1924, pp. 758-759.