



Australian Capital Territory

Trading Hours Act 1962

A1962-19

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Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Trading Hours Act 1962* effective 15 December 1994 to 9 September 1996.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.



Australian Capital Territory

TRADING HOURS ACT 1962

This consolidation has been prepared by the ACT Parliamentary Counsel's Office

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SCHEDULE
EXEMPT GOODS



Australian Capital Territory

TRADING HOURS ACT 1962

An Act relating to Trading Hours

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Trading Hours Act 1962*.¹

Commencement

2. This Act shall come into operation on the first day of January, 1963.

Repeal

3. The *Trading Hours Ordinance 1926* and the *Trading Hours Ordinance 1931* are repealed.

Interpretation

5. (1) In this Act, unless the contrary intention appears—

“exempt goods” means—

- (a) goods specified in the Schedule; or
- (b) goods included in a class of goods specified in the Schedule;

“inspector” means an inspector under section 11;

“late-shopping day”, in relation to a shop, means a day that is, in accordance with section 10, a late-shopping day in relation to the shop;

“public holiday”, in relation to the Territory or a part of the Territory, means a day that is observed as a public holiday in the Territory or in the part of the Territory by virtue of the *Holidays Act 1958*;

“shop” means a place, building, stall or tent in which—

- (a) goods are sold or exposed for sale; or
- (b) goods are received for servicing or repair;

“shopkeeper” means a person who directly or indirectly, as principal, occupies a shop;

“week” means the period of 7 days commencing on a Sunday;

“week-day” means a Monday, Tuesday, Wednesday, Thursday or Friday that is not a public holiday.

(2) Where goods are exposed for sale in a part of a building that is separated from the remainder of the building by a substantial partition, that part of the building shall be deemed to be a shop for the purposes of this Act.

Application of Act

6. (1) The Minister may, by notice published in the *Gazette*, declare that this Act shall not apply in a part of the Territory specified in the notice and, while the notice is in force, this Act does not apply in that part of the Territory.

(2) This Act does not apply to or in relation to the sale of exempt goods, or to or in relation to the sale of any other goods—

- (a) by a person otherwise than for the purpose of, or in the course of, carrying on a business;
- (b) by a person, registered as a pharmacist under the *Pharmacy Act 1931*, for the purpose of, and in the course of, carrying on business as a pharmacist;
- (c) by a hawker for the purpose of, and in the course of, carrying on business as a hawker;
- (d) by an organization otherwise than—
 - (i) in the ordinary course of business of the organization; and

- (ii) for the purposes of profit or gain to the individual members of the organization;
- (e) at a show held by The National Agricultural Society; or
- (f) at an exhibition or fair approved by the Minister for the purposes of this paragraph.

(3) This Act does not apply to or in relation to the sale of liquor in accordance with the provisions of the *Liquor Ordinance 1929* or of any other Act relating to the sale or supply of liquor.

(4) In subsection (3), “liquor” has the same meaning as in the *Liquor Ordinance 1929*.

PART II—HOURS FOR THE SALE OF GOODS

Goods other than exempt goods, and goods sold by auction

7. (1) This section does not apply to or in relation to the sale of—

- (a) exempt goods; or
- (b) goods sold by auction.

(2) For the purposes of this section, the sale of goods at a shop is prohibited at any time—

- (a) on a Sunday;
- (b) on a day that is a public holiday in the Territory or in part of the Territory in which the shop is situated;
- (c) on a week-day—before the hour of 6 o’clock in the morning of that day;
- (d) on a week-day that is not a late-shopping day in relation to the shop—after the hour of 6 o’clock in the evening of that day;
- (e) on a week-day that is a late-shopping day in relation to the shop—after the hour of 9 o’clock in the evening of that day;
- (f) on a Saturday that is not a public holiday—before the hour of 6 o’clock in the morning of that Saturday; or
- (g) on a Saturday that is not a public holiday—after the hour of noon on that Saturday.

(3) A person shall not sell goods at a shop at a time when the sale of goods at a shop is prohibited.

Penalty: \$200.

(4) A shopkeeper shall not, at a time when the sale of goods at a shop is prohibited, sell away from his shop goods of a kind that he ordinarily sells at his shop.

Penalty: \$200.

Goods sold by auction

8. (1) A person shall not sell by auction goods—

- (a) at a time when the sale of goods at a shop is prohibited by virtue of any of paragraphs 7 (2) (a) to 7 (2) (f), inclusive; or
- (b) on a Saturday that is not a public holiday—at any time after the hour of 6 o'clock in the evening of that Saturday.

Penalty: \$200.

(2) It is a defence to a prosecution for an offence against section 7 arising out of a sale of goods made between the hours of noon and 6 o'clock in the evening on a Saturday if the person charged satisfies the court before which he is charged that the goods were offered for sale at an auction held between those hours on that Saturday but were not sold at that auction.

Delivery of goods at shop

9. A shopkeeper, a person acting in the management of a shop or a person employed in a shop shall not deliver at the shop—

- (a) any goods sold at the shop; or
- (b) any serviced or repaired goods,

at a time when a sale of those goods at the shop would be prohibited under section 7 or 8.

Penalty: \$200.

Late-shopping days

10. (1) For the purposes of this Act, each Friday is, subject to this section, a late-shopping day in relation to a shop.

(2) The Minister may, by notice published in the *Gazette*, fix the day (other than a Friday) of a week which shall be a late-shopping day in relation to a shop, or to shops included in a class of shops, specified in the notice and, while the notice is in force, subsection (1) does not apply in relation to that shop or to those shops but, subject to the succeeding provisions of this section, the day so fixed is, in each week, the late-shopping day in relation to that shop or those shops, as the case may be.

(3) Whenever the day in a week which, by virtue of a previous provision of this section, is the late-shopping day in relation to a shop is a public holiday, that day shall not be a late-shopping day in relation to the shop but the day (if any) in that week (not being a Sunday or a public holiday) which last precedes that day is, subject to the succeeding provisions of this section, a late-shopping day in relation to the shop.

(4) Whenever Christmas Eve or New Year's Eve falls on a day of a week other than a Sunday, a Saturday or a public holiday and is not, by virtue of a previous provision of this section, a late-shopping day in relation to a shop, Christmas Eve or New Year's Eve, as the case may be, shall, if the shopkeeper of the shop so determines, be the late-shopping day in that week in relation to the shop in the place of the day in that week which, but for this subsection, would be the late-shopping day in relation to the shop.

(5) The Minister may, by notice published in the *Gazette*, specify a particular day as a late-shopping day in relation to a shop, or to shops included in a class of shops, specified in the notice and, in the week in which that day falls, the day so specified shall be deemed to be the late-shopping day in relation to that shop or those shops in the place of the day in that week which, but for this subsection, would be the late-shopping day in relation to that shop or those shops.

PART III—INSPECTORS

Inspectors

11. (1) There may be 1 or more inspectors for the purposes of this Act.

(2) The Chief Executive shall create and maintain 1 or more offices in the Government Service the duties of which include performing the functions of an inspector.

(3) An inspector shall be any public servant for the time being performing the duties of a Government Service office referred to in subsection (2).

Identity cards

11A. (1) The Chief Executive shall issue to an inspector an identity card that specifies the inspector's name and office, and on which appears a recent photograph of the inspector.

(2) Upon ceasing to occupy, or to act in, an office of inspector, a person shall not, without reasonable excuse, fail to return his or her identity card to the Chief Executive.

Penalty: \$100.

Powers of inspectors and members of Police Force

12. (1) For the purposes of this Act, an inspector or a member of the Police Force of the Territory may at any time enter and inspect a shop or a place which he has reason to believe is used as a shop.

(2) A person shall not obstruct, molest or hinder an inspector or a member of the Police Force in the exercise of his powers under this section.

Penalty for a contravention of this subsection: \$200.

Production of identity cards

13. An inspector who enters a shop or place for the purposes of this Act is not authorised to remain there if the inspector does not produce his or her identity card to the occupier on request.

PART IV—MISCELLANEOUS**Advertisements**

14. A shopkeeper, a person acting in the management of a shop or a person employed in a shop shall not, by advertisement, notice or otherwise, state or indicate that he is prepared to sell goods in contravention of a provision of this Act.

Penalty: \$200.

Shopkeepers and managers of shops

15. Where goods are sold in contravention of a provision of this Act, the shopkeeper and the person acting in management of the shop shall each be deemed to have committed an offence and each is punishable, upon conviction, by a fine not exceeding \$200.

Defence where goods sold after hours

16. Where it is an offence against a provision of this Act to sell goods at a shop on a day after an hour specified in the provision and a person is charged with an offence against the provision arising out of a sale of goods in contravention of the provision, it is a defence to the prosecution for the offence if the person charged satisfies the court before which he is charged—

- (a) that the person to whom the goods were sold was in the shop being served, or waiting to be served, immediately before the hour so specified; and
- (b) that the goods were sold to that person within half an hour after the hour so specified.

Defence where act done by another person

17. Where a shopkeeper or person apparently acting in the management of a shop is charged with an offence against a provision of this Act and the Court before which he is charged is satisfied that the act or omission constituting the offence was done or omitted to be done by another person, it is a defence to the charge if the person charged satisfies the court—

- (a) that he used due diligence to enforce the provision of this Act; and
- (b) that the act or omission was done or omitted to be done by that other person without his knowledge, consent or connivance.

Regulations

18. The Executive may make regulations, not inconsistent with this Act, prescribing all matters necessary or convenient to be prescribed for carrying out or giving effect to this Act.

SCHEDULE

Section 5

EXEMPT GOODS

1. Foodstuffs and non-alcoholic beverages
 2. Flowers
 3. Garden requisites
 4. Goods for use in the decoration, renovation or repair of domestic premises
 5. Hardware
 6. Hobby and handicraft goods
 7. Ice
 8. Motor vehicles and parts for motor vehicles and engines
 9. Newspapers, books and periodicals
 10. Paints
 11. Plants, trees, shrubs, seeds and turf
 12. Petrol, fuel-oils and lubricants
 13. Second-hand goods
 14. Soap, toothpaste, tooth-brushes, shaving-cream and lotions, cosmetics, razors and razor blades, adhesive bandages and toilet paper and tissues
 15. Souvenirs, postcards, stationery, art works and reproductions of art works
 16. Timber and goods for use in wood-working
 17. Tobacco, cigars, cigarettes, cigarette-papers, cigarette-holders, matches, pipes and pipe-cleaners
 18. Tyres and tubes
 19. Wallpaper
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NOTE

1. The *Trading Hours Act 1962* as shown in this reprint comprises Act No. 19, 1962 amended as indicated in the Tables below.

Citation of Laws—The *Self-Government (Citation of Laws) Act 1989* (No. 21, 1989) altered the citation of most Ordinances so that after Self-Government day they are to be cited as Acts. That Act also affects references in ACT laws to Commonwealth Acts.

Table 1

Table of Ordinances

| Ordinance | Number and year | Date of notification in <i>Gazette</i> | Date of commencement | Application, saving or transitional provisions |
|--|-----------------|--|---|--|
| <i>Trading Hours Ordinance 1962</i> | 19, 1962 | 19 Dec 1962 | 1 Jan 1963 | |
| <i>Ordinances Revision (Decimal Currency) Ordinance 1966</i> | 19, 1966 | 23 Dec 1966 | 23 Dec 1966 | — |
| <i>Trading Hours Ordinance 1968</i> | 6, 1968 | 28 Mar 1968 | 28 Mar 1968 | — |
| <i>Trading Hours Ordinance 1971</i> | 35, 1971 | 16 Dec 1971 | 16 Dec 1971 | — |
| <i>Trading Hours Ordinance 1972</i> | 23, 1972 | 3 Aug 1972 | 3 Aug 1972 | — |
| <i>Trading Hours (Amendment) Ordinance 1977</i> | 32, 1977 | 19 July 1977 | 19 July 1977 | — |
| <i>Trading Hours (Amendment) Ordinance 1984 (a)</i> | 66, 1984 | 2 Nov 1984 | 2 Nov 1984 | — |
| <i>Self-Government (Consequential Amendments) Ordinance 1989</i> | 38, 1989 | 10 May 1989 | Ss. 1 and 2: 10 May 1989 Remainder: 11 May 1989 (see s. 2 (2) and <i>Gazette</i> 1989, No. S164) | — |

Self-Government day 11 May 1989

NOTE—continued

Table 2
Table of Acts

| Act | Number and year | Date of notification in <i>Gazette</i> | Date of commencement | Application, saving or transitional provisions |
|--|-----------------|--|--|--|
| <i>Statutory Offices (Miscellaneous Provisions) Act 1994</i> | 97, 1994 | 15 Dec 1994 | Ss. 1 and 2: 15 Dec 1994 Remainder: 15 Dec 1994 (see <i>Gazette</i> 1994, No. S293) | Part III (ss. 4-9) |

- (a) Ordinance No. 66, 1984; notified in *Commonwealth of Australia Gazette* on 2 November 1984; disallowed by the Senate on 16 May 1985.

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision | How affected |
|-------------------|--|
| S. 4 | rep. No. 32, 1977 |
| S. 5 | am. No. 32, 1977; Act No. 97, 1994 |
| S. 6 | am. No. 32, 1977 |
| S. 7 | am. No. 19, 1966; No. 35, 1971; No. 23, 1972; No. 32, 1977 |
| Ss. 8, 9..... | am. No. 19, 1966; No. 32, 1977 |
| S. 10 | am. No. 32, 1977 |
| S. 11 | rs. Act No. 97, 1994 |
| S.11A | ad. Act No. 97, 1994 |
| S. 12 | am. No. 19, 1966; No. 32, 1977 |
| S. 13 | rs. Act No. 97, 1994 |
| Ss. 14, 15..... | am. No. 19, 1966; No. 32, 1977 |
| S. 18 | am. No. 38, 1989 |
| The Schedule..... | am. No. 19, 1966; No. 23, 1972 rep. No. 32, 1977 |
| Schedule..... | ad. No. 32, 1977 |