

1996
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Business, Employment and Tourism)

Trading Hours Bill 1996

A BILL FOR

An Act relating to the trading hours of certain supermarkets

The Legislative Assembly for the Australian Capital Territory enacts as follows:

PART I—PRELIMINARY

Short title

- 5 1. This Act may be cited as the *Trading Hours Act 1996*.

Commencement

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.
- 10 (2) The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

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(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

5 **Repeal**

3. The Acts set out in the Schedule are repealed.

Interpretation

4. In this Act, unless the contrary intention appears—

10 “applicable trading hours”, in relation to a large supermarket, means the period of time during which, under section 6, that supermarket may be open to the public for the purpose of trading;

“inspector” means a person referred to in subsection 8 (3);

“large supermarket” means a supermarket that—

- 15 (a) exceeds 400 square metres in floor area; and
(b) is situated in a town centre;

“Territory Plan” means the Territory Plan as in effect from time to time under the *Land (Planning and Environment) Act 1991*;

“town centre” means any of the following areas referred to in the Territory Plan:

- 20 (a) the Belconnen Town Centre;
(b) the Civic Centre;
(c) the Woden Town Centre;
(d) the Tuggeranong Town Centre.

Application of Act

25 5. (1) The Minister may, by instrument, declare that this Act does not apply to a part of the Territory specified in the instrument and, while the instrument is in effect, this Act does not apply to that part of the Territory.

(2) An instrument under subsection (1) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

PART II—TRADING HOURS OF LARGE SUPERMARKETS

Trading hours

5 6. (1) The Minister may, by instrument, specify the periods of time during which large supermarkets generally, or large supermarkets included in a specified class of large supermarkets, may be open to the public for the purpose of trading.

(2) An instrument under subsection (1) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

10 (3) Where, at any time, no instrument under subsection (1) is in effect in relation to a large supermarket, the periods of time during which that supermarket may be open to the public for the purpose of trading are—

- (a) from 7 a.m. to 7 p.m. on a day from Monday to Thursday;
- (b) from 7 a.m. to 10 p.m. on a Friday;
- (c) from 7 a.m. to 7 p.m. on a Saturday; and
- 15 (d) from 7 a.m. to 5 p.m. on a Sunday.

No trading outside hours

7. (1) A person shall not keep a large supermarket open to the public for the purpose of trading at a time that is outside the applicable trading hours.

20 Penalty: 200 penalty units.

(2) Subsection (1) shall not be taken to be breached by a trading transaction outside the applicable trading hours with a person who had entered the supermarket during those hours.

PART III—INSPECTORS

25 Inspectors

8. (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
30 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

9. (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.

- 5 (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: 1 penalty unit.

Powers of inspectors

- 10 10. (1) For the purposes of this Act, an inspector may, at any time when it is open, enter and inspect a large supermarket or a place that he or she reasonably believes to be a large supermarket.

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

- 15 Penalty: 200 penalty units.

Production of identity cards

11. An inspector who enters premises for the purposes of this Act is not authorised to remain there if he or she does not produce his or her identity card to the occupier on request.

20 **PART IV—MISCELLANEOUS**

Conduct of directors, servants and agents

12. (1) Where, for the purposes of this Act, it is necessary to establish the state of mind of a body corporate or a natural person in relation to particular conduct, it is sufficient to show—

- 25 (a) that a director, servant or agent of the body, or a servant or agent of the person, had that state of mind; and
(b) that the conduct was engaged in by that director, servant or agent within the scope of his or her actual or apparent authority.

- 30 (2) A reference in subsection (1) to the state of mind of a body or person shall be read as including a reference to—

- (a) the knowledge, intention, opinion, belief or purpose of the body or person; and
(b) the body's or person's reasons for the intention, opinion, belief or purpose.

5 (3) Any conduct engaged in on behalf of a body corporate or a natural person by a director, servant or agent of the body, or a servant or agent of the person, within the scope of his or her actual or apparent authority is to be taken, for the purposes of this Act, to have been engaged in also by the body or person unless the body or person establishes that reasonable precautions were taken and due diligence was exercised to avoid the conduct.

(4) A reference in this section to engaging in conduct shall be read as including a reference to failing or refusing to engage in conduct.

SCHEDULE

Section 3

ACTS REPEALED

Trading Hours Act 1962

Trading Hours Act 1968

Trading Hours Act 1971

Trading Hours Act 1972

Trading Hours (Amendment) Act 1977

Trading Hours (Amendment) Act 1984

NOTE

Penalty units

See section 33AA of the *Interpretation Act 1967*.