



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 11 May 1989 to 14 December 1994.

### **Kinds of republications**

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- 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

*Reprinted as at 31 August 1991*

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Australian Capital Territory

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## 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*.<sup>1</sup>

#### 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 The *Trading Hours Ordinance 1926* and the *Trading Hours Ordinance 1931* are repealed.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 a person appointed in pursuance of section 11 to be an inspector;

“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**

#### **Appointment of inspectors**

11. The Minister may, by writing under his hand, appoint such persons as he thinks necessary to be inspectors for the purposes of this Act.

#### **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.

**Issue and production of certificate of identity**

**13. (1)** The Minister shall issue to an inspector a certificate stating that he is an inspector.

**(2)** An inspector who enters a shop or place in pursuance of this Act is not authorized to remain in the shop or place if, on request by the occupier of the shop or place for production of the certificate so issued to him, the inspector does not produce the certificate.

**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.

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**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 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)	—

- (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
Ss. 5, 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. 12 .....	am. No. 19, 1966; No. 32, 1977
Ss. 14, 15.....	am. No. 19, 1966; No. 32, 1977

**NOTE**—continued

**Table of Amendments**—continued

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 = repealed    rs. = repealed and substituted

Provision	How affected
S. 18 .....	am. No. 38, 1989
The Schedule.....	am. No. 19, 1966; No. 23, 1972
	rep. No. 32, 1977
Schedule .....	ad. No. 32, 1977

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