

South Australia

**SHOP TRADING HOURS ACT 1977**

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An Act to provide for and regulate the opening and closing times for shops; and for other purposes.

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*This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at **21 December 2000**.*

*It should be noted that the Act has not been revised (for obsolete references, etc.) by the Commissioner of Statute Revision since the reprint published on 2 May 1988.*

**SHOP TRADING HOURS ACT 1977**

being

Shop Trading Hours Act 1977 No. 35 of 1977  
[Assented to 1 December 1977]<sup>1</sup>

as amended by

Shop Trading Hours Act Amendment Act 1980 No. 115 of 1980 [Assented to 18 December 1980]<sup>2</sup>

Shop Trading Hours Act Amendment Act 1983 No. 120 of 1983 [Assented to 22 December 1983]<sup>3</sup>

Shop Trading Hours Act Amendment Act 1985 No. 48 of 1985 [Assented to 2 May 1985]<sup>4</sup>

Statutes Amendment (Shop Trading Hours and Landlord and Tenant) Act 1990 No. 50 of 1990 [Assented to 22 November 1990]<sup>5</sup>

Shop Trading Hours (Meat) Amendment Act 1994 No. 81 of 1994 [Assented to 8 December 1994]

Shop Trading Hours (Miscellaneous) Amendment Act 1995 No. 48 of 1995 [Assented to 22 June 1995]

Shop Trading Hours (Miscellaneous) Amendment Act 1998 No. 77 of 1998 [Assented to 17 December 1998]<sup>6</sup>

**Shop Trading Hours (Glenelg Tourist Precinct) Amendment Act 2000 No. 77 of 2000 [Assented to 14 December 2000]<sup>7</sup>**

<sup>1</sup> Came into operation 1 December 1977: s. 2.

<sup>2</sup> Came into operation 2 March 1981: *Gaz.* 27 February 1981, p. 536.

<sup>3</sup> Came into operation 22 February 1984: s. 2.

<sup>4</sup> Came into operation 26 May 1985: *Gaz.* 16 May 1985, p. 1535.

<sup>5</sup> Came into operation 22 November 1990: *Gaz.* 22 November 1990, p. 1581.

<sup>6</sup> Came into operation 8 June 1999: *Gaz.* 25 March 1999, p. 1462.

<sup>7</sup> **Came into operation 21 December 2000: *Gaz.* 21 December 2000, p. 3689.**

**NOTE:**

- Asterisks indicate repeal or deletion of text.
- Entries appearing in bold type indicate the amendments incorporated since the last reprint.
- For the legislative history of the Act see Appendix.

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**The Parliament of South Australia enacts as follows:**

\* \* \* \* \*

**Short title**

1. This Act may be cited as the *Shop Trading Hours Act 1977*.

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**Interpretation**

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

"**building**" includes part of a building;

"**caravan**" means a caravan as defined for the purposes of the *Motor Vehicles Act 1959*;

"**the Central Shopping District**" means the portion of the municipality of the City of Adelaide that lies within the Hundred of Adelaide;

"**closing time**" in relation to a shop, means the time at which the shop is required to be closed under this Act;

"**council**" means a municipal or district council;

"**exempt shop**" means—

(a) a shop—

- (i) the floor area of which does not exceed 200 square metres; and
- (ii) which does not adjoin, and is not adjacent to, a building, with a floor area exceeding one-half the floor area of the shop, that is used as a storeroom for the purposes of the shop; and
- (iii) in which not more than four persons are physically present at any time outside normal trading hours for the purpose of carrying on, or assisting in carrying on, the business of the shop; or

(b) subject to subsection (2), a shop the business of which is the retail sale of all or any of the goods set out in any one of the following subparagraphs:

- (i) antiques (other than coins or stamps); or
- (ii) live fish, fish food, aquariums, accessories for aquariums; or
- (iii) paintings, reproductions, drawings, etchings, pottery, sculptures, artifacts, wood carving, leatherware, weavings, hand-made goods of glass, iron, copper or silver; or
- (iv) newspapers, books, periodicals, greeting cards, posters, wrapping paper, stationery; or
- (v) pharmaceutical preparations, cosmetic and toilet requisites, first aid requisites, medical and surgical appliances; or

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- (vi) fresh flowers, living plants, floral arrangements, wreaths; or
  - (vii) non-alcoholic drinks, ice-cream, confectionery, light refreshments; or
  - (viii) household pets, pet foods or accessories; or
  - (ix) garden supplies; or
  - (x) food—
    - for consumption on the shop premises; or
    - prepared on the shop premises for consumption off those premises; or
  - (xi) souvenirs of a time, place or occasion, identified as such by inscription, stamping or marking; or
  - (xii) cigarettes, cigars, tobacco, smoker's requisites; or
  - (xiii) caravans; or
  - (xiv) trailers; or
  - (c) a hairdresser's shop; or
  - (d) subject to subsection (2), a shop—
    - (i) the business of which is the sale of foodstuffs; and
    - (ii) which has a floor area—
      - (A) that does not exceed 200 square metres; or
      - (B) that does not exceed 400 square metres and in which not more than four persons are physically present at any time outside normal trading hours for the purpose of carrying on, or assisting in carrying on, the business of the shop; and
    - (iii) which does not adjoin, and is not adjacent to, a building, with a floor area exceeding one-half the floor area of the shop, that is used as a storeroom for the purposes of the shop; or
  - (e) a shop in relation to which a certificate of exemption, issued by the Minister, is in force; or
  - (f) subject to subsection (2), a shop within the premises of a squash centre, ten pin bowling alley or golf club, the business of which is the retail sale of sporting goods of a kind used in the sport carried on in or about those premises; or
  - (g) a garden shop of the kind referred to in subsection (3),

but does not include any shop the business of which is solely or predominantly the retail sale of—

- (h) motor vehicles (other than caravans or trailers) or boats; or

- (i) motor spirit or lubricants;

**"floor area"** in relation to a shop means the sum of—

- (a) the area in which goods are displayed for inspection by the public; and
- (b) the area to which the public has access for the purpose of inspecting and purchasing goods; and
- (c) the floor area of any other shop (other than the floor area attributed to that shop by reason of this paragraph) that adjoins or is adjacent to the shop where—
  - (i) both shops sell substantially the same classes of goods, or the classes of goods sold by the shops are such as are usually available from a single shop; and
  - (ii) the businesses of both shops are owned by the same person or by different persons who conduct the businesses as one business or substantially as one business;

**"garden supplies"** means seeds, plants, fertilisers, pesticides, weedicides, fungicides, flower or shrub pots, garden stakes, garden tools, machinery or equipment or garden ornaments or accessories;

**"Glenelg Tourist Precinct"** means that part of the State delineated and marked *Glenelg Tourist Precinct* in the plan in Schedule 1A;

**"hardware and building materials"** has the meaning prescribed by the regulations;

**"Inspector"** means an Inspector appointed under section 7;

**"the metropolitan area"** means that part of the State comprising the areas, or the parts of the areas, of the councils referred to in Schedule 1;

**"the Metropolitan Shopping District"** means that part of the metropolitan area that does not include the Central Shopping District or the Glenelg Tourist Precinct;

**"motor vehicle"** means a motor vehicle as defined for the purposes of the *Motor Vehicles Act 1959*;

**"motor spirit"** means—

- (a) a distillate of crude oil commonly used as fuel for motor vehicles;
- (b) liquid petroleum gas or compressed natural gas that is sold, or is intended to be sold, as fuel for motor vehicles;

**"normal trading hours"** in relation to an exempt shop means the hours during which the shopkeeper would be entitled to open the shop under section 13 or under a proclamation made under that section if the shop were not an exempt shop;

**"Proclaimed Shopping District"** means an area of the State for the time being declared by proclamation under section 11 to be a proclaimed shopping district;

"**public holiday**" means a day that is designated as a public holiday by or under the *Holidays Act 1910* but does not include a Sunday;

"**retail sale**" means a sale of goods in the reasonable expectation that the goods will be used or consumed and not resold;

"**sell**" includes offer or expose for sale and "**sale**" and "**sold**" have corresponding meanings;

"**shop**" means the whole or any portion of a building, yard, place, structure, stall, tent or vehicle—

- (a) in which goods are sold by retail (including sale by auction); or
- (b) in which the business of a hairdresser or pawnbroker is carried on;

"**shopkeeper**" means the person, or body of persons, whether corporate or unincorporate, that carries on the business of a shop, or acts or apparently acts in the general management or control of the business of a shop;

"**shopping district**" means—

- (a) the Central Shopping District; or
- (b) the Metropolitan Shopping District; or
- (ba) the Glenelg Tourist Precinct; or
- (c) any Proclaimed Shopping District;

"**trading day**" in relation to a shop means a day on which the public has access to the shop for the purpose of purchasing goods;

"**trailer**" means a trailer as defined for the purposes of the *Motor Vehicles Act 1959*;

"**weekday**" means a Monday, Tuesday, Wednesday, Thursday or Friday.

(2) A shop is not an exempt shop by virtue of paragraph (b), (d) or (f) of the definition of "**exempt shop**" in subsection (1) unless during the immediately preceding period of seven consecutive trading days of the shop the aggregate price of all goods sold at the shop and that fall within any one or more of the classes of goods referred to in those paragraphs is 80 per cent or more of the aggregate price of all goods sold at the shop during that period.

(2a) The floor area of a shop from which motor spirit is sold does not include—

- (a) areas in which the only goods displayed for inspection by the public are motor spirit or lubricants;
- (b) areas to which the public has access for the purpose of inspecting or purchasing motor spirit or lubricants but not any other class or classes of goods.

(2b) When determining whether a shop from which motor spirit is sold is an exempt shop, any area used for the storage of motor spirit will not be taken into account.

(3) If the business carried on at a shop that is not an exempt shop includes the retail sale of garden supplies that are displayed in a separate area of the shop (the "**garden shop**"), that area of the shop (but not any other part of the shop) will be taken to be an exempt shop if the following requirements are satisfied:

- (a) the aggregate price of all garden supplies selected from goods displayed at the garden shop and purchased during the immediately preceding period of seven consecutive trading days of the garden shop must be 80 per cent or more of the aggregate price of all goods selected from goods displayed at the garden shop and purchased during that period; and
- (b) the public must not have access to any other part of the shop at any time at which that part of the shop must be closed under this Act.

**Certificate as to exempt shop**

**5.** (1) The Minister may issue a certificate of exemption to a shopkeeper in relation to a shop specified in the certificate.

(2) A certificate issued under this section will be subject to such restrictions and conditions as are specified in the certificate.

(2a) Without limiting subsection (2), a certificate may be issued subject to a restriction or condition specifying the hours during which the shop to which it relates must be closed.

(3) Where, in the opinion of the Minister—

- (a) there has been a breach of a restriction or condition to which a certificate is subject; or
- (b) it is desirable for any other reason to revoke the certificate,

the Minister may, by notice in writing served personally or by post on the holder of the certificate, revoke the certificate.

(4) A shopkeeper who contravenes or fails to comply with a restriction or condition attached to a certificate issued under this section is guilty of an offence.

Penalty: \$10 000.

**Application of Act**

**6.** (1) Subject to this section, this Act applies to and in relation to—

\* \* \* \* \*

(b) any shop situated within a shopping district.

(2) This Act does not apply to or in relation to—

- (a) any shop conducted at an agricultural or horticultural exhibition or show; or
- (b) any shop conducted at an exhibition or show approved of by the Minister; or
- (c) any shop conducted for a period not exceeding one week, if the proceeds from sales made from that shop are devoted to a charitable, religious or benevolent purpose.



**Inspectors**

7. (1) For the purposes of this Act the Governor may appoint as many Inspectors as appear necessary or desirable.

(2) Every Inspector will be furnished by the Minister with a certificate of appointment which the Inspector must produce on request.

**Powers of Inspectors**

8. (1) For the purposes of ascertaining whether a provision of this Act has been complied with, an Inspector may—

- (a) enter at any time any building, yard, place, structure, stall or tent; or
- (b) require the driver of a vehicle, suspected by the Inspector, on reasonable grounds, to be used as a shop or in connection with the business of a shop to stop the vehicle, and enter and inspect the vehicle or anything drawn by it; or
- (c) inspect or take copies of any book, paper, document or record; or
- (d) require any person to answer any question put by the Inspector (whether directly or through an interpreter).

(2) In the exercise of powers under subsection (1), an Inspector may be accompanied by such other persons as seem necessary or desirable in the circumstances.

(3) A person must not refuse or fail to do all things necessary to facilitate the exercise by an Inspector of the powers conferred by this section.

Penalty: \$500.

(4) A person to whom a question is put pursuant to subsection (1)(d), must not refuse or fail to answer that question to the best of that person's knowledge, information and belief.

Penalty: \$500.

**Inspector not to have interest, etc.**

9. An Inspector must disclose to the Minister any direct or indirect financial interest in a shop that is or may be subject to his or her inspection.

Penalty: \$500.

**Protection for Inspectors**

10. No criminal liability attaches to an Inspector for any act or omission in good faith and in the exercise or purported exercise of powers or functions, or in the discharge or purported discharge of duties, under this Act.

**Proclaimed Shopping Districts**

11. (1) Subject to subsection (2), the Governor may by proclamation—

- (a) declare any area other than the area comprised in the Central Shopping District, the Metropolitan Shopping District or the Glenelg Tourist Precinct to be a Proclaimed Shopping District; or
- (b) vary the area comprising any Proclaimed Shopping District; or

(c) abolish a Proclaimed Shopping District.

(2) A proclamation under subsection (1) cannot be made except to give effect to an application, made in accordance with section 12.

**Variation of Proclaimed Shopping District**

**12.** (1) Subject to this section, a council may, by instrument in writing under its common seal, make application to the Minister that—

- (a) the whole or any part of the area of the council be declared to be a Proclaimed Shopping District; or
- (b) the area of a Proclaimed Shopping District be varied so that it includes or ceases to include the whole or any part of the area of the council; or
- (c) a Proclaimed Shopping District comprising the whole or a part of the area of the council be abolished.

(2) An application for the declaration of a Proclaimed Shopping District cannot be made unless the proposed Proclaimed Shopping District would comprise—

- (a) a municipality; or
- (b) an area of not less than 90 square kilometres.

(3) An application to vary the area of a Proclaimed Shopping District cannot be made unless the area, as varied, would comprise—

- (a) a municipality; or
- (b) an area of not less than 90 square kilometres.

(4) An application under this section may only be made in pursuance of a resolution of the council.

\* \* \* \* \*

(6) A council must not make an application to the Minister under this section unless it has first given interested persons an opportunity to express their views to the council on the proposal and has had regard to the views expressed to it by interested persons.

(7) In subsection (6)—

**"interested persons"** means persons resident in the area of the council, and shopkeepers and shop assistants resident outside the area, but employed or engaged in shops within it.

(8) If an unsuccessful application is made to the Minister under this section, a period of one year must elapse before the same, or a substantially similar, application is made.

**Hours during which shops may be open**

**13.** (1) Subject to this section and to any proclamation under this section, the shopkeeper of a shop situated in the Central Shopping District or the Glenelg Tourist Precinct may open the shop—

- (a) until 9.00 p.m. on every weekday; and

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\* \* \* \* \*

- (c) until 5.00 p.m. on a Saturday; and
- (d) from 11.00 a.m. until 5.00 p.m. on a Sunday.

(2) Subject to subsections (3) and (4) and to any proclamation under subsection (12), a shop that is not an exempt shop and that is situated in the Central Shopping District or the Glenelg Tourist Precinct may remain open in accordance with this section for a limited number of hours (to be prescribed by regulation) during any week (being the period from midnight on a Saturday to midnight on the following Saturday) and must then be closed for the rest of that week.

(3) Subsection (2) does not apply to a shop referred to in subsection (5e).

\* \* \* \* \*

(4) If a shopkeeper of a shop referred to in subsection (2) is entitled to open the shop by virtue of a proclamation under subsection (9) during a period when it would otherwise be unlawful to open the shop, the hours that the shop is open during that period will not be counted for the purposes of subsection (2).

(4a) Subject to this section and to any proclamation under this section, the shopkeeper of a shop situated in the Metropolitan Shopping District may open the shop—

- (a) until 7.00 p.m. on every weekday other than a Thursday; and
- (b) until 9.00 p.m. on a Thursday; and
- (c) until 5.00 p.m. on a Saturday; and
- (d) from 11.00 a.m. until 5.00 p.m. on each of the four Sundays immediately preceding Christmas day in each year.

(5) Subject to this section and to any proclamation under this section, the shopkeeper of a shop situated in a shopping district other than the Central Shopping District, the Metropolitan Shopping District or the Glenelg Tourist Precinct may open the shop—

- (a) until 6.00 p.m. on every weekday other than a Thursday; and
- (b) until 9.00 p.m. on a Thursday; and
- (c) until 5.00 p.m. on a Saturday.

(5a) Subject to subsection (5g) and to any proclamation under this section, the shopkeeper of a shop situated in a shopping district the business of which is solely or predominantly the retail sale of boats may open the shop—

- (a) until 6.00 p.m. on a Monday, Tuesday and Wednesday; and
- (b) until 9.00 p.m. on a Thursday and Friday; and
- (c) until 5.00 p.m. on a Saturday.

(5b) Subject to subsection (5g) and to any proclamation under this section, the shopkeeper of a shop situated in a shopping district the business of which is solely or predominantly the retail sale of motor vehicles (other than caravans and trailers) may open the shop—

- (a) until 6.00 p.m. on a Monday, Tuesday and Wednesday; and
- (b) until 9.00 p.m. on a Thursday and Friday; and
- (c) until 1.00 p.m. on a Saturday or such later time on a Saturday (not being later than 5.00 p.m.) as is fixed by proclamation made by the Governor under this subsection.

(5c) A proclamation under subsection (5b)(c) must apply to all shops of the class referred to in subsection (5b) and may be revoked by subsequent proclamation made by the Governor.

(5d) Neither subsection (1)(d) nor subsection (4a)(d) entitles the shopkeeper of a shop referred to in subsection (5a) or (5b) that is situated in the Central Shopping District, the Metropolitan Shopping District or the Glenelg Tourist Precinct to open the shop on a Sunday.

(5e) Subject to subsection (5f) and to any proclamation under this section, the shopkeeper of a shop situated in a shopping district the business of which is the retail sale of—

- (a) hardware and building materials; or
- (b) furniture; or
- (c) floor coverings; or
- (d) motor vehicle parts and accessories,

may, in addition to the hours prescribed by subsection (1), (4a) or (5) (depending on the shopping district in which the shop is situated), open the shop from 9.00 a.m. until 5.00 p.m. on a Sunday or public holiday (but not on Good Friday or Christmas Day).

(5f) Subsection (5e) only applies to a shop if, during the immediately preceding period of seven consecutive trading days of the shop—

- (a) the aggregate price of all goods sold at the shop that fall within any one or more of the classes of goods referred to in paragraphs (a), (b), (c) and (d) of that subsection is 80 per cent or more of the aggregate price of all goods sold at the shop during that period; and
- (b) the aggregate price of all hardware and building materials of a kind prescribed by regulation for the purposes of this paragraph sold at the shop during that period does not exceed the percentage (prescribed by regulation) of the aggregate price of all hardware and building materials sold at the shop during that period.

(5g) Subject to subsections (5e) and (5h) and to any proclamation under this section, shops situated in shopping districts must be closed on public holidays.

(5h) Subject to any proclamation under this section, the shopkeeper of a shop situated in the Central Shopping District or the Glenelg Tourist Precinct may open the shop until 5.00 p.m. on the day after Good Friday in the year 2000 and until 5.00 p.m. on the day after Good Friday in each subsequent year.

(6) Subject to subsection (7), the Governor may, by proclamation, order that the opening or closing times specified in the proclamation apply, as from a time specified in the proclamation, in any shopping district or part of a shopping district specified in the proclamation and those opening or closing times will apply accordingly—

- (a) until the date (if any) specified in the proclamation as the date at which the proclamation is to cease to have effect; or
- (b) until the publication in the *Gazette* of a proclamation revoking that proclamation,

whichever occurs first.

(7) A proclamation under subsection (6) cannot be made unless the Minister—

- (a) is satisfied that a majority of interested persons desire that the proposed proclamation be made; and
- (b) gives a certificate to that effect.

(8) In subsection (7)—

**"interested persons"** means—

- (a) persons resident in the relevant shopping district, or part of a shopping district; and
- (b) shopkeepers and shop assistants who work in shops within that shopping district or part of a shopping district.

(9) The Governor may, by proclamation, authorise the opening of shops during hours, specified in the proclamation, when it would otherwise be unlawful to open those shops.

(10) A proclamation under subsection (9)—

- (a) may relate to shops generally or to a specified shop or to specified classes of shops; and
- (b) may apply generally throughout the State or in specified shopping districts or in a specified part of a shopping district or in other parts of the State; and
- (ba) is subject to such restrictions and conditions as are specified in the proclamation; and
- (c) cannot operate in respect of a period greater than one month; and
- (d) may be revoked by subsequent proclamation.

(10a) The Governor must not, by proclamation under subsection (9), authorise the opening of shops in the Metropolitan Shopping District or any part of the Metropolitan Shopping District on more than two Sundays in any calendar year.

(11) Notwithstanding any other provision of this Act, it is lawful for a shop to be open in accordance with a proclamation under subsection (9).

(12) The Governor may, by proclamation, require shops to be closed at times when it would otherwise be lawful to open those shops.

- (13) A proclamation under subsection (12)—
- (a) will stipulate the times during which shops must be closed; and
  - (b) may relate to shops generally or to a specified shop or to specified classes of shops; and
  - (c) may apply—
    - (i) generally throughout the State;
    - (ii) in specified shopping districts;
    - (iii) in a specified part of a shopping district;
    - (iv) in other parts of the State; and
  - (d) may be revoked by subsequent proclamation.

(14) Notwithstanding any other provision of this Act, it is unlawful for a shop to be open in contravention of a proclamation under subsection (12).

#### **Restrictions relating to Sunday trading**

**13A.** (1) Subject to subsection (2), a term of a retail shop lease or collateral agreement in respect of a shop situated in the Central Shopping District, the Metropolitan Shopping District or the Glenelg Tourist Precinct that requires the shop to be open on a Sunday is void to the extent of that requirement.

(2) Subsection (1) does not apply to a term of a retail shop lease or collateral agreement that has been authorised by an exemption granted under the *Landlord and Tenant Act 1936* or the *Retail and Commercial Leases Act 1995*.

(3) Subject to an industrial agreement or an enterprise agreement to the contrary, a person who is employed in the business of a shop situated in the Central Shopping District, the Metropolitan Shopping District or the Glenelg Tourist Precinct is entitled to refuse to work at the shop on a particular Sunday unless he or she has agreed with the shopkeeper to work on that Sunday.

(4) In this section—

"**collateral agreement**" includes a guarantee under which the guarantor guarantees the performance of the obligations of a lessee under a retail shop lease;

"**retail shop lease**" has the same meaning as in the *Retail and Commercial Leases Act 1995*.

#### **Offences**

**14.** (1) A shopkeeper must cause his or her shop to be closed and fastened against the admission of the public at all times except those at which he or she is entitled to open the shop under this Act.

Penalty: \$10 000.

(2) Subject to this section, a person must not sell, or cause or permit to be sold, any goods in or about a shop at a time when the shop is required by subsection (1) to be closed.

Penalty: \$10 000.

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\* \* \* \* \*

(7) Where, at a time when a shop is required by this Act to be closed, a person (other than the shopkeeper or an employee or agent of the shopkeeper) is in the shop for the purpose of—

- (a) purchasing goods; or
- (b) inspecting goods; or
- (c) taking delivery of goods purchased,

the shopkeeper is guilty of an offence.

Penalty: \$10 000.

(7a) In proceedings for an offence under subsection (7), an allegation in the complaint that a person was in a shop for the purpose of—

- (a) purchasing goods; or
- (b) inspecting goods; or
- (c) taking delivery of goods purchased,

will be accepted as proved in the absence of proof to the contrary.

(7b) It is a defence to a charge of an offence under subsection (7) to prove that the defendant did not know, and could not reasonably be expected to have known, that a person was in the shop for the purpose of—

- (a) purchasing goods; or
- (b) inspecting goods; or
- (c) taking delivery of goods purchased.

(8) Subject to this section a person must not carry on the business of pawnbroking, or cause or permit that business to be carried on, in or about a shop at a time when the shop is required by subsection (1) to be closed.

Penalty: \$10 000.

(8a) Where a court imposes a penalty for an offence against this section it may fix, by way of additional penalty, an amount determined or estimated by the court as the amount by which the convicted defendant benefited from trading that was, by virtue of this Act, unlawful on the day on which the offence was committed.

(9) No offence is committed under this section by reason only of the fact that a shopkeeper, or a person employed or engaged in the shop, is engaged within a period of 30 minutes after closing time—

- (a) in serving customers who were in the shop at closing time; or

\* \* \* \* \*

(11) In any proceedings for an offence against this section, it is a defence for the defendant to prove that at the time of the alleged offence, and—

- (a) throughout the period of seven days immediately preceding that time; or
- (b) in the case of a shop that was established within that period of seven days, throughout the period immediately preceding that time during which the business of that shop was carried on,

the shop, in relation to which it is alleged the offence was committed, was an exempt shop.

### Advertising

**14A.** (1) Subject to this section, a person who publishes, or causes to be published, an advertisement that—

- (a) a shop will be open during any period when the shop is required by this Act to be closed; or
- (b) goods will be offered for sale at a shop that is an exempt shop by virtue of paragraph (b) of the definition of "**exempt shop**", at a time when those goods could not lawfully be sold if the business of the shop was solely or predominantly the sale of those goods,

is guilty of an offence.

Penalty: \$10 000.

(2) Subsection (1) does not apply to the proprietor or publisher of a newspaper or magazine or to the holder of a licence under the *Broadcasting and Television Act 1942* of the Commonwealth.

### Certain sales lawful

**15.** (1) It is lawful for the shopkeeper of a shop situated in a shopping district outside the metropolitan area at any time—

- (a) to sell or deliver goods, not being prescribed goods within the meaning of section 16, to any person who resides at least 8 kilometres from the shop; and
- (b) to keep the shop open for so long as is necessary to effect that sale or delivery.

(2) The distance between the place at which the person is resident and the shop will, for the purposes of this section, be calculated according to the shortest practicable route.

(3) It is lawful for a shopkeeper at any time to sell or deliver spare parts for agricultural machinery and to keep the shop open for so long as is necessary to effect that sale or delivery.

(4) It is lawful for a shopkeeper at any time to sell by auction (and deliver) fine art on commission and to keep the shop open for so long as is necessary to effect the sale and delivery.

\* \* \* \* \*



**Prescribed goods**

16. (1) In this section—

"prescribed goods" means—

\* \* \* \* \*

- (b) motor vehicles (other than caravans and trailers) and boats; and
- (c) motor spirit and lubricants.

(2) Subject to section 17, but notwithstanding any other provision, a shopkeeper must not sell prescribed goods or cause or permit prescribed goods to be sold in or about the shop at any time when those goods could not lawfully be sold from that shop if its business were solely or predominantly the retail sale of such goods.

(3) A person who contravenes subsection (2) is guilty of an offence.

Penalty: \$10 000.

**Licence to sell motor spirit and lubricants**

17. (1) The Minister may, upon the application of a shopkeeper, grant a licence permitting that shopkeeper to sell and deliver motor spirit and lubricants on any day after closing time and on Sundays and public holidays.

(2) The licence may be subject to such limitations, restrictions and conditions as are prescribed.

(3) The licensee must pay to the Minister such fees as may be prescribed.

(4) A shopkeeper who holds a licence granted under subsection (1) may open the shop to which the licence relates during the hours specified in the licence for the purpose of selling and delivering motor spirit and lubricants in accordance with the licence.

(4a) During those hours a shopkeeper referred to in subsection (4) may also sell in accordance with the licence any other goods that are normally sold at the shop subject to the following restrictions:

- (a) the aggregate price of motor spirit and lubricants sold at the shop during the immediately preceding period of seven consecutive trading days of the shop must be equal to or greater than the percentage (prescribed by regulation) of the aggregate price of all goods sold at the shop during that period; and
- (b) the shop must be a shop that would fall within the definition of "exempt shop" in section 4 if the business carried on at the shop did not include the retail sale of motor spirit and lubricants.

(5) The Minister, if of the opinion that a licence under this section has been abused in any way, may, by notice in writing addressed to the holder of the licence, cancel the licence (and the licence thereupon becomes void).

\* \* \* \* \*

**Summary procedure**

**18.** (1) An offence against this Act is a summary offence.

(2) In any proceedings for an offence against this Act, an allegation in the complaint that a specified shop is within a specified shopping district will be accepted as proved in the absence of proof to the contrary.

**Regulations**

**19.** (1) The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of subsection (1), the Governor may make regulations—

- (a) prescribing the manner in which a shop or class of shops is to be closed and fastened against the admission of the public; and
- (b) prescribing penalties (not exceeding \$500) for a breach of, or non-compliance with, any regulation.

**Shop Trading Hours Act 1977**

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**SCHEDULE 1**

*The Metropolitan Area*

Corporation of the City of Adelaide

That part of the area of the Adelaide Hills Council formerly comprising the areas of the District Council of East Torrens and the District Council of Stirling

Corporation of the City of Burnside

Corporation of the City of Campbelltown

City of Charles Sturt

Corporation of the Town of Gawler

City of Holdfast Bay

Corporation of the City of Marion

Corporation of the City of Mitcham

City of Norwood, Payneham and St. Peters

City of Onkaparinga

City of Playford

City of Port Adelaide Enfield

Corporation of the City of Prospect

Corporation of the City of Salisbury

Corporation of the City of Tea Tree Gully

Corporation of the City of Unley

Corporation of the Town of Walkerville

City of West Torrens

**SCHEDULE 1A**  
*Plan of Glenelg Tourist Precinct*

**Shop Trading Hours Act 1977**

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**SCHEDULE 2**

*Schedule of Transitional Provisions*

For the purposes of this Act, each area of the State (other than the metropolitan area) that was, immediately before the commencement of this Act, a shopping district for the purposes of Part 15 of the Industrial Code 1967 will be taken to have been declared by proclamation under section 11 to be a Proclaimed Shopping District.

## APPENDIX

### LEGISLATIVE HISTORY

#### Amendments

The *Shop Trading Hours Act 1977* Schedule amended the *Industrial Code 1967*.

#### Legislative History

Certain textual alterations were made to this Act by the Commissioner of Statute Revision when preparing the reprint of the Act that incorporated all amendments in force as at 2 May 1988. A schedule of these alterations was laid before Parliament on 16 August 1988.

*(entries in bold type indicate amendments incorporated since the last reprint)*

Long title:	amended by 48, 1995, s. 2
Heading:	deleted in pursuance of the <i>Acts Republication Act 1967</i>
Sections 2 and 3:	deleted in pursuance of the <i>Acts Republication Act 1967</i> as its function is now exhausted
<b>Section 4(1):</b> (previously section 4)	redesignated as s. 4(1) by 115, 1980, s. 3(n) definition of "building" inserted by 115, 1980, s. 3(a) definition of "caravan" inserted by 50, 1990, s. 4(a) definition of "closing time" substituted by 115, 1980, s. 3(b) definition of "declared shop" repealed by 115, 1980, s. 3(c) definition of "exempt shop" amended by 115, 1980, s. 3(d)-(k); 81, 1994, s. 2(a); 48, 1995, s. 3(a)-(f); 77, 1998, s. 3(a), (b) definition of "floor area" inserted by 115, 1980, s. 3(l) definition of "garden supplies" inserted by 48, 1995, s. 3(g) <b>definition of "Glenelg Tourist Precinct" inserted by 77, 2000, s. 3(a)</b> definition of "hardware and building materials" inserted by 115, 1980, s. 3(l) definition of "meat" repealed by 81, 1994, s. 2(b) definition of "the metropolitan area" amended by 115, 1980, s. 3(m); paragraph (c) deleted in pursuance of the <i>Acts Republication Act 1967</i> as its contents are now obsolete; substituted by 77, 1998, s. 3(c) <b>definition of "the Metropolitan Shopping District" substituted by 77, 2000, s. 3(b)</b> definition of "motor spirit" inserted by 50, 1990, s. 4(b) definition of "normal trading hours" inserted by 48, 1995, s. 3(h) definition of "public holiday" substituted by 48, 1995, s. 3(i) <b>definition of "shopping district" amended by 77, 2000, s. 3(c)</b> definition of "trading day" inserted by 48, 1995, s. 3(j) definition of "trailer" inserted by 50, 1990, s. 4(c)
Section 4(2):	inserted by 115, 1980, s. 3(n); substituted by 77, 1998, s. 3(d)
Section 4(2a) and (2b):	inserted by 50, 1990, s. 4(d)
Section 4(3):	inserted by 115, 1980, s. 3(n); substituted by 48, 1995, s. 3(k)
Section 5:	substituted by 115, 1980, s. 4
Section 5(2a):	inserted by 48, 1995, s. 4(a)
Section 5(4):	inserted by 48, 1995, s. 4(b)
Section 6(1):	amended by 115, 1980, s. 5
Section 6(1)(a):	repealed by 81, 1994, s. 3
Section 11(1):	being a transitional provision has been transferred to the Schedule of Transitional Provisions
<b>Section 11(1):</b> (previously section 11(2))	redesignated as s. 11(1) in pursuance of the <i>Acts Republication Act 1967</i> ; <b>amended by 77, 2000, s. 4</b>
Section 11(2): (previously section 11(3))	amended by 115, 1980, s. 6; redesignated as s. 11(2) in pursuance of the <i>Acts Republication Act 1967</i> ; substituted by 77, 1998, s. 4
Section 12(5):	repealed by 50, 1990, s. 5
Section 12(6):	substituted by 50, 1990, s. 5
<b>Section 13(1):</b>	substituted by 115, 1980, s. 7(a); amended by 50, 1990, s. 6(a); substituted by 48, 1995, s. 5(a); <b>amended by 77, 1998, s. 5(a); 77, 2000, s. 5(a)</b>
Section 13(1)(b):	repealed by 77, 1998, s. 5(a)

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<b>Section 13(2):</b>	substituted by 115, 1980, s. 7(a); amended by 50, 1990, s. 6(b); substituted by 48, 1995, s. 5(a); <b>amended by 77, 2000, s. 5(b)</b>
Section 13(3):	substituted by 115, 1980, s. 7(a); 50, 1990, s. 6(c); 48, 1995, s. 5(a)
Section 13(3a):	inserted by 50, 1990, s. 6(c); repealed by 48, 1995, s. 5(a)
Section 13(4):	amended by 115, 1980, s. 7(b); substituted by 120, 1983, s. 3; 48, 1985, s. 3; amended by 50, 1990, s. 6(d); repealed by 81, 1994, s. 4; inserted by 48, 1995, s. 5(a)
Section 13(4a):	inserted by 77, 1998, s. 5(b)
<b>Section 13(5):</b>	repealed by 115, 1980, s. 7(c); inserted by 120, 1983, s. 3; repealed by 48, 1985, s. 3; inserted by 48, 1995, s. 5(a); <b>amended by 77, 1998, s. 5(c); 77, 2000, s. 5(c)</b>
Section 13(5a):	inserted by 120, 1983, s. 3; repealed by 48, 1985, s. 3; inserted by 48, 1995, s. 5(a); amended by 77, 1998, s. 5(d)
Section 13(5b) and (5c):	inserted by 120, 1983, s. 3; repealed by 48, 1985, s. 3; inserted by 48, 1995, s. 5(a)
<b>Section 13(5d):</b>	inserted by 120, 1983, s. 3; repealed by 48, 1985, s. 3; inserted by 48, 1995, s. 5(a); substituted by 77, 1998, s. 5(e); <b>amended by 77, 2000, s. 5(d)</b>
Section 13(5e):	inserted by 48, 1995, s. 5(a); amended by 77, 1998, s. 5(f), (g)
Section 13(5f):	inserted by 48, 1995, s. 5(a)
Section 13(5g):	inserted by 48, 1995, s. 5(a); amended by 77, 1998, s. 5(h)
<b>Section 13(5h):</b>	inserted by 77, 1998, s. 5(i); <b>amended by 77, 2000, s. 5(e)</b>
Section 13(6):	substituted by 115, 1980, s. 7(d); amended by 50, 1990, s. 6(e); 48, 1995, s. 5(b), (c)
Section 13(8):	substituted by 115, 1980, s. 7(e)
Section 13(9):	inserted by 115, 1980, s. 7(e)
Section 13(10):	inserted by 115, 1980, s. 7(e); amended by 48, 1995, s. 5(d)
Section 13(10a):	inserted by 77, 1998, s. 5(j)
Section 13(11) - (14):	inserted by 115, 1980, s. 7(e)
Section 13A:	inserted by 115, 1980, s. 8; amended by 50, 1990, s. 7; substituted by 48, 1995, s. 6
<b>Section 13A(1):</b>	<b>amended by 77, 1998, s. 6(a); 77, 2000, s. 6(a)</b>
Section 13A(2):	amended by 77, 1998, s. 6(b)
<b>Section 13A(3):</b>	<b>amended by 77, 1998, s. 6(a); 77, 2000, s. 6(b)</b>
Section 13A(4):	definition of "retail shop lease" amended by 77, 1998, s. 6(b)
Section 14(1):	substituted by 48, 1995, s. 7(a)
Section 14(2):	repealed by 115, 1980, s. 9(c); inserted by 48, 1995, s. 7(a)
Section 14(3):	amended by 115, 1980, s. 9(a); repealed by 48, 1995, s. 7(a)
Section 14(4):	repealed by 115, 1980, s. 9(c)
Section 14(5):	amended by 115, 1980, s. 9(b); repealed by 48, 1995, s. 7(a)
Section 14(6):	substituted by 115, 1980, s. 9(c); repealed by 48, 1995, s. 7(a)
Section 14(7):	substituted by 115, 1980, s. 9(c)
Section 14(7a) and (7b):	inserted by 115, 1980, s. 9(c)
Section 14(8):	substituted by 115, 1980, s. 9(c); 48, 1995, s. 7(b)
Section 14(8a):	inserted by 115, 1980, s. 9(c)
Section 14(9)(b):	repealed by 48, 1995, s. 7(c)
Section 14(10):	repealed by 48, 1995, s. 7(d)
Section 14A:	inserted by 115, 1980, s. 10
Section 15A:	inserted by 115, 1980, s. 11; repealed by 50, 1990, s. 8
Section 15B:	inserted by 115, 1980, s. 11; repealed by 50, 1990, s. 9
Section 16(1):	amended by 115, 1980, s. 12(a) definition of "prescribed goods" paragraph (a) repealed by 81, 1994, s. 5; amended by 77, 1998, s. 7
Section 16(2):	amended by 115, 1980, s. 12(b), (c)
Section 16(3):	substituted by 115, 1980, s. 12(d)
Section 17(1):	amended by 115, 1980, s. 13; 48, 1995, s. 8(a)
Section 17(4):	substituted by 48, 1995, s. 8(b)
Section 17(4a):	inserted by 48, 1995, s. 8(b)
Section 17(6):	deleted in pursuance of the <i>Acts Republication Act 1967</i> as its function is now exhausted
Section 18:	redesignated as s. 18(1) by 115, 1980, s. 14
Section 18(2):	inserted by 115, 1980, s. 14
Section 19:	substituted by 115, 1980, s. 15
Schedule:	deleted in pursuance of the <i>Acts Republication Act 1967</i> as its function is now exhausted
Schedule 1:	inserted by 77, 1998, s. 8

(Reprint No. 5)

APPENDIX

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## Shop Trading Hours Act 1977

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**Schedule 1A:**

Schedule 2 heading:

Schedule of Transitional Provisions:  
(now designated as Schedule 2)

inserted by 77, 2000, s. 7

inserted by 77, 1998, s. 9

transferred from s. 11 where it was designated as s. 11(1)