

South Australia

## Shop Trading Hours Act 1977

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

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### Contents

1	Short title
4	Interpretation
5	Exemptions
5A	Requirement to close shops
6	Application of Act
7	Inspectors
8	Powers of Inspectors
9	Inspector not to have an interest etc
10	Protection for Inspectors
11	Proclaimed Shopping Districts
12	Variation of Proclaimed Shopping District
13	Hours during which shops may be open
13A	Restrictions relating to Sunday trading
14	Offences
14A	Advertising
15	Certain sales lawful
16	Prescribed goods
17	Licence to sell motor spirit and lubricants
17A	Prohibition notices
17B	Power of delegation
18	Procedures
19	Regulations

Schedule 1—The metropolitan area

Schedule 1A—Plan of Glenelg Tourist Precinct

Schedule 2—Schedule of transitional provisions

Legislative history

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

**1—Short title**

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

#### 4—Interpretation

(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

(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
- (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 that does not exceed 400 square metres; 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
- (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;

***Greater Adelaide Shopping District*** means—

- (a) the Central Shopping District; and
- (b) the Metropolitan Shopping District; and
- (c) the Glenelg Tourist Precinct;

***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;

**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.

## 5—Exemptions

- (1) The Minister may grant or declare exemptions from the operation of this Act, or specified provisions of this Act.
- (2) The Minister may grant or declare an exemption on application to the Minister in a manner and form determined by the Minister, or on the Minister's own initiative.
- (3) An exemption under this section—
- (a) may relate to—
    - (i) a specified shop or class of shops; or
    - (ii) shops generally; and
  - (b) may apply—
    - (i) generally throughout the State (to the extent that this Act applies across the State); or
    - (ii) in specified shopping districts; or
    - (iii) in a specified part of a shopping district; or
    - (iv) in other parts of the State; and
  - (c) may apply with respect to—
    - (i) specified hours; or
    - (ii) a specified day or days; or
    - (iii) trading days generally.

- (4) However, an exemption—
- (a) that relates to—
    - (i) a specified class of shops; or
    - (ii) shops generally; or
  - (b) that applies—
    - (i) generally throughout the State (to the extent that this Act applies across the State); or
    - (ii) to shops (or a specified class of shops) in a specified shopping district or part of a specified shopping district,
- cannot operate in respect of a period greater than 14 days.
- (5) Subsection (4)(b)(ii)—
- (a) does not apply if—
    - (i) the Minister is satisfied (in such manner as the Minister thinks fit) that a majority of interested persons desire the exemption to be declared for a period greater than 14 days (or indefinitely); and
    - (ii) the Minister gives a certificate to that effect; and
  - (b) does not apply if the exemption relates to a group of individual shops where each shopkeeper has made a separate application to the Minister under this section; and
  - (c) does not apply in any case prescribed by the regulations.
- (6) In subsection (5)—
- 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.
- (7) The Minister must not grant or declare an exemption under this section that enables all shops, or a majority of shops, in the Metropolitan Shopping District to open pursuant to that exemption.
- (8) In deciding whether to grant or declare an exemption, the Minister may have regard to such matters as the Minister considers relevant and is to have regard to the following:
- (a) in the case of an application made to the Minister under this section—
    - (i) the extent to which there has been consultation within the community, or the relevant part of the community, on the proposed application, and the outcome of that consultation;
    - (ii) whether the application is being made to enable a shop or shops to be open at an exhibition or show, to facilitate or support a local or special event, or to conduct a special trade event (on the basis that an exemption is more likely to be appropriate in such a case);

- (iii) insofar as may be relevant, the extent to which the application, if granted, would meet the requirements of tourists and other visitors to the area where the relevant shop, or shops, are located;
    - (iv) insofar as may be relevant, the amount and extent of notice that would be given to the community if the application were to be granted;
  - (b) in any case—except where an exemption is being granted in the circumstances described in subsection (5)(a), the policy that exemptions under this section should not be so extensive as to undermine, to any significant degree, the controls on shop trading hours set out in this Act.
- (9) An exemption may be granted or declared—
  - (a) by notice in writing given to the shopkeeper, or each of the shopkeepers, to whom the exemption relates; or
  - (b) by notice in the Gazette.
- (10) An exemption may be granted or declared by the Minister subject to such restrictions or conditions as the Minister thinks fit.
- (11) Without limiting subsection (10), an exemption may be granted or declared subject to a restriction or condition specifying the hours during which, or the day or days on which, the shop or shops to which it relates must be closed.
- (12) The Minister may, at any time, by further notice given in the same manner as notice of the exemption was given—
  - (a) vary or revoke an exemption; or
  - (b) vary or revoke a restriction or condition to which an exemption is subject.
- (13) A shopkeeper who contravenes or fails to comply with a restriction or condition to which an exemption is subject is guilty of an offence.  
Maximum penalty: \$100 000.
- (14) Unless specific provision is made in a notice under section 5A, an exemption under this section cannot operate in a manner contrary to a notice of the Minister under that section.
- (15) An exemption under this section cannot operate with respect to section 13A.
- (16) Subject to this section, an exemption will have effect according to its terms and despite the other provisions of this Act.

### **5A—Requirement to close shops**

- (1) The Minister may, by notice in the Gazette, require shops to be closed at times when it would otherwise be lawful to open those shops.
- (2) A notice under this section—
  - (a) must stipulate the times during which shops must be closed; and
  - (b) may relate to—
    - (i) a specified shop or class of shops; or
    - (ii) shops generally; and

- (c) may apply—
  - (i) generally throughout the State; or
  - (ii) in specified shopping districts; or
  - (iii) in a specified part of a shopping district; or
  - (iv) in other parts of the State; and
- (d) may apply with respect to—
  - (i) specified hours; or
  - (ii) a specified day or days.
- (3) A requirement under this section cannot operate in respect of a period greater than 14 days.
- (4) The Minister may, by further notice in the Gazette, vary or revoke a requirement under this section.
- (5) Subject to this section, a requirement under this section will have effect according to its terms and despite the other provisions of this Act.
- (6) A shopkeeper who contravenes a requirement under this section is guilty of an offence.  
Maximum penalty: \$100 000.

## **6—Application of Act**

- (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
  - (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.

## **7—Inspectors**

- (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.

## **8—Powers of Inspectors**

- (1) For the purposes of ascertaining whether a provision of this Act has been complied with, an Inspector may—
  - (a) enter and inspect 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) require a person to produce any book, paper, document or record; or
  - (ca) inspect or take copies of any book, paper, document or record or, for that purpose, remove any book, paper, document or record; or
  - (cb) take measurements, or make notes and records; or
  - (cc) take photographs, films or video or audio recordings; or
  - (d) require any person to answer any question put by the Inspector (whether directly or through an interpreter); or
  - (e) give such directions as are reasonably necessary for, or incidental to, the effective exercise of a power under this section.
- (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—
- (a) hinder or obstruct an Inspector, or a person assisting an Inspector, in the exercise of a power under this section; or
  - (b) use abusive or threatening language to an Inspector, or a person assisting an Inspector, in the exercise of a power under this section; or
  - (c) refuse or fail to answer, to the best of that person's knowledge, information and belief, a question put to the person under subsection (1)(d); or
  - (d) refuse or fail to comply with any other requirement or direction under this section.

Maximum penalty: \$25 000.

- (4) A person is not obliged to answer a question as required under subsection (1)(d) if to do so might tend to incriminate the person or make the person liable to a penalty.
- (5) A person is not obliged to provide information under this section that is privileged on the ground of legal professional privilege.

### **9—Inspector not to have an interest etc**

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.

Maximum penalty: \$5 000.

### **10—Protection for Inspectors**

- (1) No personal liability attaches to an Inspector for an honest act or omission in the exercise or discharge, or purported exercise or discharge, of a power, function or duty under this Act.
- (2) A liability that would, but for subsection (1), lie against an Inspector lies instead against the Crown.

### **11—Proclaimed Shopping Districts**

- (1) Subject to subsection (2), the Governor may by proclamation—
- (a) declare any area other than the area comprised in the Greater Adelaide Shopping District 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.

## 12—Variation of Proclaimed Shopping District

- (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.

## 13—Hours during which shops may be open

- (1) Subject to 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
  - (b) until 5.00 p.m. on a Saturday; and
  - (c) from 11.00 a.m. to 5.00 p.m. on a Sunday.

- (2) Subject to this section, the shopkeeper of a shop situated in the Metropolitan Shopping District may open the shop—
- (a) until 9.00 p.m. on every weekday; and
  - (b) until 5.00 p.m. on a Saturday; and
  - (c) from the commencement of the period of South Australian summer time commencing in 2003 (being a period commencing on the last Sunday in October 2003 or, if a different date is prescribed for the commencement of the relevant period under the *Daylight Saving Act 1971*, commencing on the date so prescribed)—from 11.00 a.m. to 5.00 p.m. on any Sunday (whether or not occurring during a period of South Australian summer time).
- (5) Subject to this section, the shopkeeper of a shop situated in a shopping district outside the Greater Adelaide Shopping District 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 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 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 5.00 p.m. on a Saturday.
- (5d) Nothing in subsections (1) or (2) entitles the shopkeeper of a shop referred to in subsection (5a) or (5b) that is situated in the Greater Adelaide Shopping District to open the shop for additional hours prescribed by those subsections, or on a Sunday.
- (5e) Subject to 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), (2) 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.
- (6) Subject to this section, shops in shopping districts (other than shops within the ambit of subsection (5e)) must be closed—
- (a) on 1 January, Easter Sunday, 25 December and 26 December in any year; and
  - (b) on all other days that are public holidays in any year.
- (7) The shopkeeper of a shop in the Greater Adelaide Shopping District may open the shop until 5.00 p.m. on the day after Good Friday in each year.
- (8) For the purposes of this section, a reference to a period of South Australian summer time is a reference to the prescribed period within the meaning of the *Daylight Saving Act 1971*.

### 13A—Restrictions relating to Sunday trading

- (1) Subject to subsection (2), a term of a retail shop lease or collateral agreement in respect of a shop situated in a shopping district 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) A person who is employed to work in a shop in any shopping district is entitled to refuse to work on Sundays unless he or she has agreed with the shopkeeper to work on a particular 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*.

### 14—Offences

- (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.

Maximum penalty: \$100 000.

- (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.  
Maximum penalty: \$100 000.
- (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.  
Maximum penalty: \$100 000.
- (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.  
Maximum penalty: \$100 000.
- (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.

- (12) 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 the defendant was acting within the ambit of an exemption under section 5.

#### **14A—Advertising**

- (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.  
Maximum penalty: \$100 000.
- (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.

#### **15—Certain sales lawful**

- (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.

#### **16—Prescribed goods**

- (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.  
Maximum penalty: \$100 000.

**17—Licence to sell motor spirit and lubricants**

- (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).

**17A—Prohibition notices**

- (1) If the Minister has reason to believe, on reasonable grounds, that a person has contravened a provision of this Act in circumstances that make it likely that the contravention will be repeated, the Minister may issue a notice requiring the person to refrain from an act, or course of action, specified by the Minister.
- (2) A notice under subsection (1) must—
  - (a) state that the Minister is of the opinion that the person has contravened a provision of this Act in circumstances that make it likely that the contravention will be repeated; and
  - (b) state the grounds of the Minister's opinion.

- (3) A person who contravenes or fails to comply with a notice under this section is guilty of an offence.

Maximum penalty: \$100 000 plus \$20 000 for each day on which the offence is committed.

- (4) A person to whom a notice is directed may, within 14 days after service of the notice, appeal to the Administrative and Disciplinary Division of the District Court against the issuing of the notice.

### **17B—Power of delegation**

- (1) The Minister may delegate to a person (including a person for the time being holding or acting in a specified office or position) a function or power of the Minister under this Act.
- (2) A delegation under this section—
  - (a) must be by instrument in writing; and
  - (b) may be absolute or conditional; and
  - (c) does not derogate from the power of the Minister to act in any matter; and
  - (d) is revocable at will.
- (3) A function or power delegated under this section may, if the instrument of delegation so provides, be further delegated.

### **18—Procedures**

- (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) a specified shop is within a specified shopping district; or
  - (b) a specified shop has a floor area of a specified size,will be accepted as proof in the absence of proof to the contrary.

### **19—Regulations**

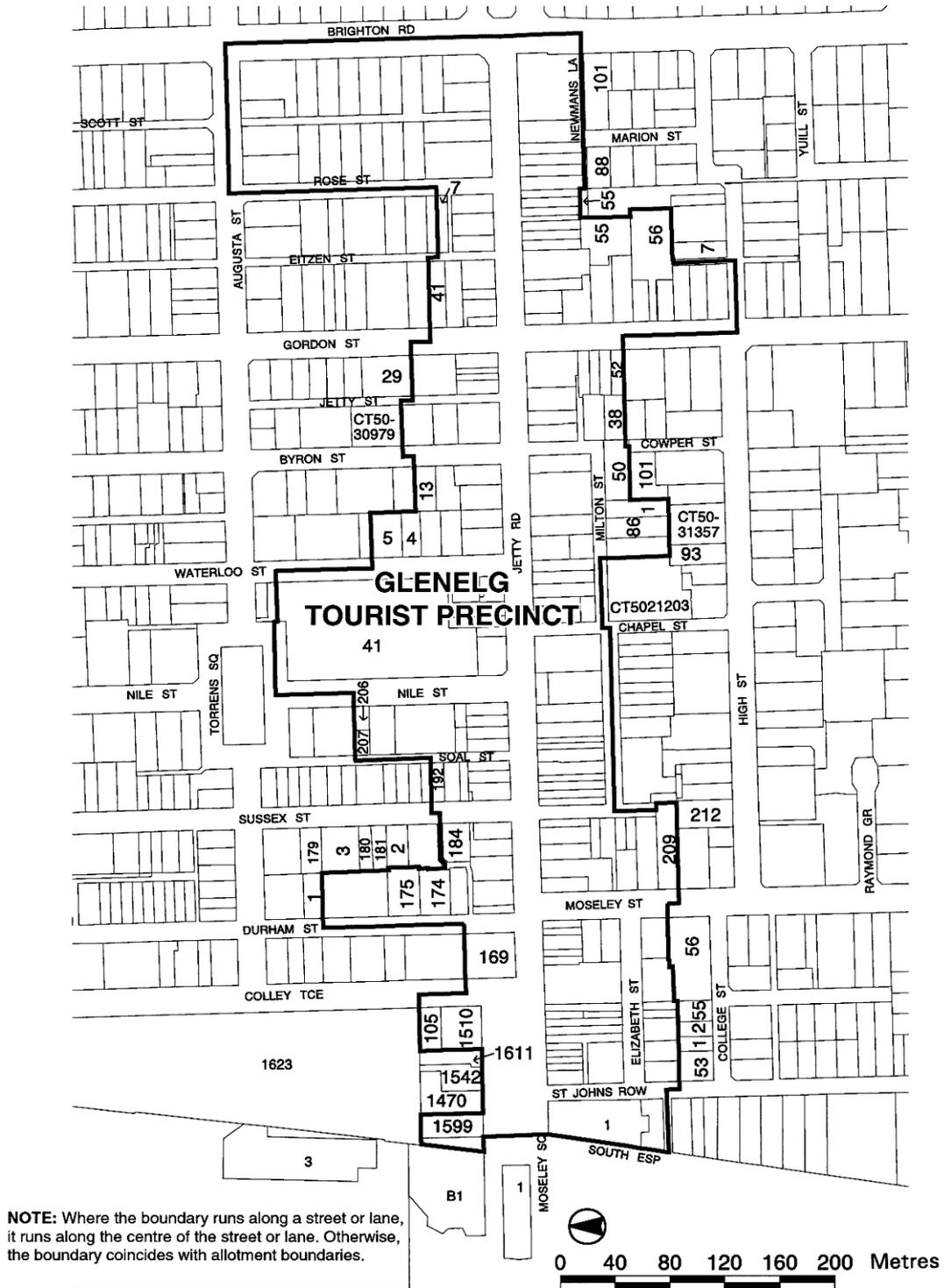
- (1) The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), the Governor may make regulations—
  - (a) prescribing the manner in which a shop or class of shops is to be closed and fastened against the admission of the public; and
  - (ab) prescribing the manner in which a notice or other document under this Act may be given, issued or served; and
  - (b) prescribing penalties (not exceeding \$10 000) for a breach of, or non-compliance with, any regulation.

## **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



## **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.

## Legislative history

### Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Legislation amended by principal Act

The *Shop Trading Hours Act 1977* amended the following:

*Industrial Code 1967*

### Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1977	35	<i>Shop Trading Hours Act 1977</i>	1.12.1977	1.12.1977: s 2
1980	115	<i>Shop Trading Hours Act Amendment Act 1980</i>	18.12.1980	2.3.1981 ( <i>Gazette 26.2.1981 p536</i> )
1983	120	<i>Shop Trading Hours Act Amendment Act 1983</i>	22.12.1983	22.2.1984: s 2
1985	48	<i>Shop Trading Hours Act Amendment Act 1985</i>	2.5.1985	26.5.1985 ( <i>Gazette 16.5.1985 p1535</i> )
1990	50	<i>Statutes Amendment (Shop Trading Hours and Landlord and Tenant) Act 1990</i>	22.11.1990	22.11.1990 ( <i>Gazette 22.11.1990 p1581</i> )
1994	81	<i>Shop Trading Hours (Meat) Amendment Act 1994</i>	8.12.1994	8.12.1994
1995	48	<i>Shop Trading Hours (Miscellaneous) Amendment Act 1995</i>	22.6.1995	22.6.1995
1998	77	<i>Shop Trading Hours (Miscellaneous) Amendment Act 1998</i>	17.12.1998	8.6.1999 ( <i>Gazette 25.3.1999 p1462</i> )
2000	77	<i>Shop Trading Hours (Glenelg Tourist Precinct) Amendment Act 2000</i>	14.12.2000	21.12.2000 ( <i>Gazette 21.12.2000 p3689</i> )
2003	19	<i>Shop Trading Hours (Miscellaneous) Amendment Act 2003</i>	19.6.2003	Pt 2 (ss 4—19)—7.7.2003 ( <i>Gazette 19.6.2003 p2598</i> )

### Provisions amended

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.

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Long title	amended by 48/1995 s 2	22.6.1995
<i>Heading</i>	<i>deleted in pursuance of the Acts Republication Act 1967</i>	2.5.1988
<i>ss 2 and 3</i>	<i>deleted in pursuance of the Acts Republication Act 1967 as their function is now exhausted</i>	2.5.1988
s 4		
s 4(1)	s 4 redesignated as s 4(1) by 115/1980 s 3(n)	2.3.1981
building	inserted by 115/1980 s 3(a)	2.3.1981
caravan	inserted by 50/1990 s 4(a)	22.11.1990
closing time	substituted by 115/1980 s 3(b)	2.3.1981
<i>declared shop</i>	<i>deleted by 115/1980 s 3(c)</i>	2.3.1981
exempt shop	amended by 115/1980 s 3(d)—(k)	2.3.1981
	amended by 81/1994 s 2(a)	8.12.1994
	amended by 48/1995 s 3(a)—(f)	22.6.1995
	amended by 77/1998 s 3(a), (b)	8.6.1999
	(a)(iii) deleted by 19/2003 s 4(1)	7.7.2003
	amended by 19/2003 s 4(2)	7.7.2003
	(e) deleted by 19/2003 s 4(3)	7.7.2003
floor area	inserted by 115/1980 s 3(l)	2.3.1981
garden supplies	inserted by 48/1995 s 3(g)	22.6.1995
Glenelg Tourist Precinct	inserted by 77/2000 s 3(a)	21.12.2000
Greater Adelaide Shopping District	inserted by 19/2003 s 4(4)	7.7.2003
hardware and building materials	inserted by 115/1980 s 3(l)	2.3.1981
<i>meat</i>	<i>deleted by 81/1994 s 2(b)</i>	8.12.1994
the metropolitan area	amended by 115/1980 s 3(m)	2.3.1981
	(c) deleted in pursuance of the <i>Acts Republication Act 1967</i> as its contents are now obsolete	2.5.1988
	substituted by 77/1998 s 3(c)	8.6.1999
the Metropolitan Shopping District	substituted by 77/2000 s 3(b)	21.12.2000
motor spirit	inserted by 50/1990 s 4(b)	22.11.1990
<i>normal trading hours</i>	<i>inserted by 48/1995 s 3(h)</i>	22.6.1995
	<i>deleted by 19/2003 s 4(5)</i>	7.7.2003
public holiday	substituted by 48/1995 s 3(i)	22.6.1995
shopping district	amended by 77/2000 s 3(c)	21.12.2000
trading day	inserted by 48/1995 s 3(j)	22.6.1995

**Shop Trading Hours Act 1977—7.7.2003 to 1.4.2012**  
 Legislative history

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trailer	inserted by 50/1990 s 4(c)	22.11.1990
s 4(2)	inserted by 115/1980 s 3(n)	2.3.1981
	substituted by 77/1998 s 3(d)	8.6.1999
s 4(2a) and (2b)	inserted by 50/1990 s 4(d)	22.11.1990
s 4(3)	inserted by 115/1980 s 3(n)	2.3.1981
	substituted by 48/1995 s 3(k)	22.6.1995
s 5	substituted by 115/1980 s 4	2.3.1981
	amended by 48/1995 s 4	22.6.1995
	substituted by 19/2003 s 5	7.7.2003
s 5A	inserted by 19/2003 s 5	7.7.2003
s 6		
s 6(1)	amended by 115/1980 s 5	2.3.1981
	(a) deleted by 81/1994 s 3	8.12.1994
s 6(2)	(b) deleted by 19/2003 s 6	7.7.2003
s 8		
s 8(1)	amended by 19/2003 s 7(1)—(3)	7.7.2003
s 8(3) and (4)	substituted by 19/2003 s 7(4)	7.7.2003
s 8(5)	inserted by 19/2003 s 7(4)	7.7.2003
s 9	amended by 19/2003 s 8	7.7.2003
s 10	substituted by 19/2003 s 9	7.7.2003
s 11		
s 11(1)—see Sch 2		
s 11(1)	s 11(2) redesignated as s 11(1) in pursuance of the <i>Acts Republication Act 1967</i>	2.5.1988
	amended by 77/2000 s 4	21.12.2000
	amended by 19/2003 s 10	7.7.2003
s 11(2)	s 11(3) amended by 115/1980 s 6	2.3.1981
	s 11(3) redesignated as s 11(2) in pursuance of the <i>Acts Republication Act 1967</i>	2.5.1988
	substituted by 77/1998 s 4	8.6.1999
s 12		
s 12(5)	<i>deleted by 50/1990 s 5</i>	22.11.1990
s 12(6)	substituted by 50/1990 s 5	22.11.1990
s 13		
s 13(1)	substituted by 115/1980 s 7(a)	2.3.1981
	amended by 50/1990 s 6(a)	22.11.1990
	substituted by 48/1995 s 5(a)	22.6.1995
	amended by 77/1998 s 5(a)	8.6.1999
	amended by 77/2000 s 5(a)	21.12.2000
	substituted by 19/2003 s 11(1)	7.7.2003
s 13(2)	substituted by 115/1980 s 7(a)	2.3.1981
	amended by 50/1990 s 6(b)	22.11.1990
	substituted by 48/1995 s 5(a)	22.6.1995

	amended by 77/2000 s 5(b)	21.12.2000
	substituted by 19/2003 s 11(1)	7.7.2003
<i>s 13(3)</i>	<i>substituted by 115/1980 s 7(a)</i>	2.3.1981
	<i>substituted by 50/1990 s 6(c)</i>	22.11.1990
	<i>substituted by 48/1995 s 5(a)</i>	22.6.1995
	<i>deleted by 19/2003 s 11(1)</i>	7.7.2003
<i>s 13(3a)</i>	<i>inserted by 50/1990 s 6(c)</i>	22.11.1990
	<i>deleted by 48/1995 s 5(a)</i>	22.6.1995
<i>s 13(4)</i>	<i>amended by 115/1980 s 7(b)</i>	2.3.1981
	<i>substituted by 120/1983 s 3</i>	22.2.1984
	<i>substituted by 48/1985 s 3</i>	26.5.1985
	<i>amended by 50/1990 s 6(d)</i>	22.11.1990
	<i>deleted by 81/1994 s 4</i>	8.12.1994
	<i>inserted by 48/1995 s 5(a)</i>	22.6.1995
	<i>deleted by 19/2003 s 11(1)</i>	7.7.2003
<i>s 13(4a)</i>	<i>inserted by 77/1998 s 5(b)</i>	8.6.1999
	<i>deleted by 19/2003 s 11(1)</i>	7.7.2003
<i>s 13(5)</i>	<i>deleted by 115/1980 s 7(c)</i>	2.3.1981
	<i>inserted by 120/1983 s 3</i>	22.2.1984
	<i>deleted by 48/1985 s 3</i>	26.5.1985
	<i>inserted by 48/1995 s 5(a)</i>	22.6.1995
	<i>amended by 77/1998 s 5(c)</i>	8.6.1999
	<i>amended by 77/2000 s 5(c)</i>	21.12.2000
	<i>amended by 19/2003 s 11(2)</i>	7.7.2003
<i>s 13(5a)</i>	<i>inserted by 120/1983 s 3</i>	22.2.1984
	<i>deleted by 48/1985 s 3</i>	26.5.1985
	<i>inserted by 48/1995 s 5(a)</i>	22.6.1995
	<i>amended by 77/1998 s 5(d)</i>	8.6.1999
	<i>amended by 19/2003 s 11(3)</i>	7.7.2003
<i>s 13(5b)</i>	<i>inserted by 120/1983 s 3</i>	22.2.1984
	<i>deleted by 48/1985 s 3</i>	26.5.1985
	<i>inserted by 48/1995 s 5(a)</i>	22.6.1995
	<i>amended by 19/2003 s 11(4), (5)</i>	7.7.2003
<i>s 13(5c)</i>	<i>inserted by 120/1983 s 3</i>	22.2.1984
	<i>deleted by 48/1985 s 3</i>	26.5.1985
	<i>inserted by 48/1995 s 5(a)</i>	22.6.1995
	<i>deleted by 19/2003 s 11(6)</i>	7.7.2003
<i>s 13(5d)</i>	<i>inserted by 120/1983 s 3</i>	22.2.1984
	<i>deleted by 48/1985 s 3</i>	26.5.1985
	<i>inserted by 48/1995 s 5(a)</i>	22.6.1995
	<i>substituted by 77/1998 s 5(e)</i>	8.6.1999
	<i>amended by 77/2000 s 5(d)</i>	21.12.2000
	<i>substituted by 19/2003 s 11(7)</i>	7.7.2003

**Shop Trading Hours Act 1977—7.7.2003 to 1.4.2012**  
Legislative history

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s 13(5e)	inserted by 48/1995 s 5(a)	22.6.1995
	amended by 77/1998 s 5(f), (g)	8.6.1999
	amended by 19/2003 s 11(8), (9)	7.7.2003
s 13(5f)	inserted by 48/1995 s 5(a)	22.6.1995
s 13(5g)	<i>inserted by 48/1995 s 5(a)</i>	22.6.1995
	<i>amended by 77/1998 s 5(h)</i>	8.6.1999
	<i>deleted by 19/2003 s 11(10)</i>	7.7.2003
s 13(5h)	<i>inserted by 77/1998 s 5(i)</i>	8.6.1999
	<i>amended by 77/2000 s 5(e)</i>	21.12.2000
	<i>deleted by 19/2003 s 11(10)</i>	7.7.2003
s 13(6)	substituted by 115/1980 s 7(d)	2.3.1981
	amended by 50/1990 s 6(e)	22.11.1990
	amended by 48/1995 s 5(b), (c)	22.6.1995
	substituted by 19/2003 s 11(10)	7.7.2003
s 13(7)	substituted by 19/2003 s 11(10)	7.7.2003
s 13(8)	substituted by 115/1980 s 7(e)	2.3.1981
	substituted by 19/2003 s 11(10)	7.7.2003
s 13(9)	<i>inserted by 115/1980 s 7(e)</i>	2.3.1981
	<i>deleted by 19/2003 s 11(10)</i>	7.7.2003
s 13(10)	<i>inserted by 115/1980 s 7(e)</i>	2.3.1981
	<i>amended by 48/1995 s 5(d)</i>	22.6.1995
	<i>deleted by 19/2003 s 11(10)</i>	7.7.2003
s 13(10a)	<i>inserted by 77/1998 s 5(j)</i>	8.6.1999
	<i>deleted by 19/2003 s 11(10)</i>	7.7.2003
s 13(11)—(14)	<i>inserted by 115/1980 s 7(e)</i>	2.3.1981
	<i>deleted by 19/2003 s 11(10)</i>	7.7.2003
s 13A	inserted by 115/1980 s 8	2.3.1981
	amended by 50/1990 s 7	22.11.1990
	substituted by 48/1995 s 6	22.6.1995
s 13A(1)	amended by 77/1998 s 6(a)	8.6.1999
	amended by 77/2000 s 6(a)	21.12.2000
	amended by 19/2003 s 12(1)	7.7.2003
s 13A(2)	amended by 77/1998 s 6(b)	8.6.1999
s 13A(3)	amended by 77/1998 s 6(a)	8.6.1999
	amended by 77/2000 s 6(b)	21.12.2000
	substituted by 19/2003 s 12(2)	7.7.2003
s 13A(4)		
retail shop lease	amended by 77/1998 s 6(b)	8.6.1999
s 14		
s 14(1)	substituted by 48/1995 s 7(a)	22.6.1995
	amended by 19/2003 s 13(1)	7.7.2003
s 14(2)	deleted by 115/1980 s 9(c)	2.3.1981
	inserted by 48/1995 s 7(a)	22.6.1995

	amended by 19/2003 s 13(2)	7.7.2003
s 14(3)	<i>amended by 115/1980 s 9(a)</i>	2.3.1981
	<i>deleted by 48/1995 s 7(a)</i>	22.6.1995
s 14(4)	<i>deleted by 115/1980 s 9(c)</i>	2.3.1981
s 14(5)	<i>amended by 115/1980 s 9(b)</i>	2.3.1981
	<i>deleted by 48/1995 s 7(a)</i>	22.6.1995
s 14(6)	<i>substituted by 115/1980 s 9(c)</i>	2.3.1981
	<i>deleted by 48/1995 s 7(a)</i>	22.6.1995
s 14(7)	substituted by 115/1980 s 9(c)	2.3.1981
	amended by 19/2003 s 13(3)	7.7.2003
s 14(7a) and (7b)	inserted by 115/1980 s 9(c)	2.3.1981
s 14(8)	substituted by 115/1980 s 9(c)	2.3.1981
	substituted by 48/1995 s 7(b)	22.6.1995
	amended by 19/2003 s 13(4)	7.7.2003
s 14(8a)	inserted by 115/1980 s 9(c)	2.3.1981
s 14(9)	(b) deleted by 48/1995 s 7(c)	22.6.1995
s 14(10)	<i>deleted by 48/1995 s 7(d)</i>	22.6.1995
s 14(12)	inserted by 19/2003 s 13(5)	7.7.2003
s 14A	inserted by 115/1980 s 10	2.3.1981
s 14A(1)	amended by 19/2003 s 14	7.7.2003
s 15		
s 15(1) and (2)	<i>deleted by 19/2003 s 15</i>	7.7.2003
s 15A	<i>inserted by 115/1980 s 11</i>	2.3.1981
	<i>deleted by 50/1990 s 8</i>	22.11.1990
s 15B	<i>inserted by 115/1980 s 11</i>	2.3.1981
	<i>deleted by 50/1990 s 9</i>	22.11.1990
s 16		
s 16(1)	amended by 115/1980 s 12(a)	2.3.1981
prescribed goods	(a) deleted by 81/1994 s 5	8.12.1994
	amended by 77/1998 s 7	8.6.1999
s 16(2)	amended by 115/1980 s 12(b), (c)	2.3.1981
s 16(3)	substituted by 115/1980 s 12(d)	2.3.1981
	amended by 19/2003 s 16	7.7.2003
s 17		
s 17(1)	amended by 115/1980 s 13	2.3.1981
	amended by 48/1995 s 8(a)	22.6.1995
s 17(4)	substituted by 48/1995 s 8(b)	22.6.1995
s 17(4a)	inserted by 48/1995 s 8(b)	22.6.1995
s 17(6)	<i>deleted in pursuance of the Acts Republication Act 1967 as its function is now exhausted</i>	2.5.1988
ss 17A and 17B	inserted by 19/2003 s 17	7.7.2003
s 18		
s 18(1)	s 18 redesignated as s 18(1) by 115/1980 s 14	2.3.1981

s 18(2)	inserted by 115/1980 s 14	2.3.1981
	substituted by 19/2003 s 18	7.7.2003
s 19	substituted by 115/1980 s 15	2.3.1981
s 19(2)	amended by 19/2003 s 19	7.7.2003
<i>Sch</i>	<i>deleted in pursuance of the Acts Republication Act 1967 as its function is now exhausted</i>	2.5.1988
Sch 1	inserted by 77/1998 s 8	8.6.1999
Sch 1A	inserted by 77/2000 s 7	21.12.2000
Sch 2	s 11(1) redesignated as Schedule of transitional provisions	.5.1988
	heading inserted by 77/1998 s 9	8.6.1999

## **Transitional etc provisions associated with Act or amendments**

### ***Shop Trading Hours (Miscellaneous) Amendment Act 2003***

#### **3—Transitional provision**

Despite subsection (2)(a) of section 13 of the *Shop Trading Hours Act 1977*, as inserted into that Act by this Act, until a day fixed by the Governor by proclamation under this clause, the times at which the shopkeeper of a shop situated in the Metropolitan Shopping District under that Act may open the shop will remain as:

- (a) until 7.00 p.m. on every weekday other than a Thursday; and
- (b) until 9.00 p.m. on a Thursday.

#### **4—Review of Act**

- (1) The Minister must, as soon as practicable after the third anniversary of the commencement of section 11 of this Act, appoint an independent person to carry out an investigation and review concerning the operation of the *Shop Trading Hours Act 1977* (as amended by this Act).
- (2) The person appointed under subclause (1) must present to the Minister a report on the outcome of the investigation and review within 6 months after his or her appointment.
- (3) The Minister must, within 12 sitting days after receipt of a report under this clause, cause a copy of the report to be laid before both Houses of Parliament.

## **Historical versions**

2.5.1988

Reprint No 1—15.1.1992

Reprint No 2—8.12.1994

Reprint No 3—22.6.1995

Reprint No 4—8.6.1999

Reprint No 5—21.12.2000