

EARLY CLOSING ACT, 1926-1935.

BEING

EARLY CLOSING ACT, No. 1744 OF 1926 [ASSENTED TO 11TH
NOVEMBER, 1926.]

AS AMENDED BY

EARLY CLOSING ACT AMENDMENT ACT, 1931, No. 2024 OF 1931
[ASSENTED TO 19TH NOVEMBER, 1931.]

EARLY CLOSING ACT AMENDMENT ACT, 1932, No. 2079 OF 1932
[ASSENTED TO 15TH NOVEMBER, 1932.]

AND

STATUTE LAW REVISION ACT, 1935, No. 2246 OF 1935
[ASSENTED TO 19TH DECEMBER, 1935.]

An Act to consolidate certain Acts relating to the closing times of shops.

BE IT ENACTED by the Governor of the State of South
Australia, with the advice and consent of the Parliament
thereof, as follows:

PART I.

PART I.

PRELIMINARY.

1. This Act may be cited as the "Early Closing Act, Short title.
1926-1935."

2. This Act is a consolidation of the Acts mentioned in Repeal.
the First Schedule, and the said Acts are hereby repealed.

3. The provisions of this Act are arranged as follows:— Arrangement
of Act.

PART I.—Preliminary.

PART II.—Shopping districts and determination of
day for half-holiday.

PART III.—Administration.

PART IV.—Registration of shops.

PART V.—Provisions as to closing times and work-
ing hours.

DIVISION I.—The closing times:

DIVISION II.—Compulsory closing:

DIVISION III.—Half-holidays in exempted shops:

Administration: The Early Closing Act, 1926-1935, is administered by the Minister of
Industry: *Gazette* 8th February, 1912, p. 225.

PART I.

DIVISION IV.—How a class of shops may cease to be exempted:

DIVISION V.—Alteration of closing times in shops which has ceased to be exempted:

DIVISION VI.—Additional provisions as to the closing of shops:

DIVISION VII.—Limitation of working hours of young persons.

PART VI.—Legal procedure.

PART VII.—Miscellaneous.

Interpretation.

1062, 1911,
s. 4.
1104, 1912,
s. 3.
1572, 1923,
s. 3.
1687, 1925,
s. 3.
Cf. U.K. 2
Geo. 5 c. 3,
s. 19.

4. In this Act, unless inconsistent with the context or some other meaning is clearly intended—

“Chief Inspector” means the Chief Inspector of Shops:

“closing time” means the closing time of the shop, for the particular day, as provided by this Act:

“comes into operation” means comes into operation in the particular shopping district:

“compulsory half-holiday” means the compulsory weekly half-holiday for shops in the particular shopping district, as provided or declared by or under this Act:

“election” means an election of members or a member to serve in the House of Assembly:

“elector” means a person who, at the time, is entitled to vote at an election:

“electoral district” means an electoral district for the election of members or a member to serve in the House of Assembly:

“exempted goods” means any of the goods which are declared to be exempted goods by the second schedule to this Act, and which have not, for the time being, ceased to be exempted goods:

“Exempted shop” means a shop which is registered in the register of shops kept by the registrar of shops pursuant to section 32 of this Act as belonging to a class mentioned in the third schedule to this Act:

“general election” means a Parliamentary general election for the election, pursuant to writs issued on the dissolution or expiry of the House of Assembly, of members to serve in the said House:

“inspector” means an inspector of shops appointed under this Act, and includes the Chief Inspector:

“newspaper” means any public print for the circulation of news, advertisements, intelligence as to public matters, or remarks or observations thereon, published for sale periodically or in parts or numbers, at intervals not exceeding seven days between the publication of any two of such papers, parts, or numbers:

“public holiday” means any day, other than the day after Good Friday, which is by or under the Holidays Act, 1910, declared to be a public holiday:

Inserted by
2079, 1932,
s. 2.

“quorum of the electors” means at least five hundred or one-tenth, whichever is the smaller number, of the electors:

“registrar” means registrar of shops appointed under this Act or the Acts repealed by this Act:

“Saturday closing district” means a shopping district in which the compulsory half-holiday is Saturday:

“shop” means and includes—

(a) the whole or any portion of a building, stall, tent, vehicle, platform, ship, boat, or pack, or any place whatsoever, in which goods are offered or exposed for sale by retail or by auction: and

Of U.K. 2
Geo. 5 c. 3,
s. 9;
26 Geo. 5
and 1 Edw. 8
c. 28, s. 1.

(b) a building or place in which the business of a hairdresser, of a pawnbroker, of an undertaker, or of an auctioneer is carried on;

but, as regards a vendor of newspapers, does not include a public street or way, or any part thereof, where he sells newspapers: Provided that such newspapers are not sold in or from or exposed for sale in or on any building, stall, tent, vehicle, or platform.

As regards a publisher of newspapers, the term “shop” does not include any building or place used exclusively for the publication and sale of newspapers:

“shop assistant” means and includes—

i. a person employed in or about a shop, whether for hire or reward or not—

(a) in selling or supplying, or assisting in selling or supplying, goods to the public; or

(b) as a clerk; or

(c) as a messenger; and

ii. a person engaged in delivering goods from a shop:

“shopkeeper” means the person, firm, company, corporate body, or association who or which directly or indirectly, as principal occupies a shop, and includes a

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hawker, and also includes a person who manages a shop or acts, or apparently acts, in the general management or control of a shop:

“shopping district” means a shopping district constituted by or under this Act or the Acts repealed by this Act:

“week day” does not include Sunday.

Application of Act.

1062, 1911,
s. 5.
1572, 1923,
s. 30.
Of U.K.
18 & 19
Geo. 5 c. 33,
s. 5 (1).

5. (1) Part II., so far as it deals with the determination or change of the day for the compulsory half-holiday, and Divisions I. and II. of Part V., do not apply to or in respect of exempted shops, but the other provisions of this Act apply to and in respect of exempted shops.

(2) The provisions of this Act shall not apply in respect of any shop erected and carried on at any industrial exhibition, agricultural, horticultural, or other similar show, so long as no goods other than goods of the prescribed kind are sold at that shop.

Suspension of operation of Act as to closing times.
1062, 1911,
s. 6.

6. (1) The Governor may by proclamation temporarily suspend the operation of this Act in so far as it applies to the closing times for shops.

(2) Such suspension shall—

- (a) apply to the whole of the State or to such shopping district or districts as are specified in the proclamation;
- (b) be in respect of all shops or of shops of such class or classes as are so specified; and
- (c) be absolute or only upon certain conditions so specified.

(3) The period of such suspension shall be set out in the proclamation, and shall in no case exceed one week.

Hours of the clock.
Ibid., s. 7.

7. The hours by the clock mentioned in this Act refer to hours *post meridiem*.

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PART II.

SHOPPING DISTRICTS AND DETERMINATION OF DAY FOR HALF-HOLIDAY.

8. (1) The Metropolitan Shopping District, the Murray Bridge Shopping District, and all other shopping districts in existence at the commencement of this Act are hereby continued in existence.

Existing Shopping Districts.
Of, 1062,
1911, s. 10.
1687, 1925.
s. 5.

(2) The Murray Bridge Shopping District shall consist of the Hundreds of Burdett and Mobilong.

(3) The Metropolitan Shopping District shall consist of—

Amended by
S.L.R. Act,
1935.

(a) the Municipalities of Adelaide, Brighton, Burnside, Glenelg, Henley and Grange, Hindmarsh, Kensington and Norwood, Port Adelaide, Prospect, St. Peters, Thebarton, Unley, and Woodville;

(b) the District Council Districts of Campbelltown, Marion, Mitcham, Payneham, Walkerville, West Torrens, Yatala North, and Yatala South;

(c) the Garden Suburb.

(4) The mention of particular matters in this section shall not affect the applicability to this Act of any provision of the Acts Interpretation Act, 1915.

9. (1) The compulsory weekly half-holiday for shops in the Metropolitan Shopping District shall be Saturday.

Half-holidays
in certain
Districts.

(2) The compulsory weekly half-holiday for shops in the Murray Bridge Shopping District shall, subject to sections 20 to 26 inclusive, be Saturday.

1062, 1911,
s. 11.
1104, 1912,
s. 5.

10. (1) A petition may be presented to the Minister praying that the area therein defined may be constituted a shopping district under this Act: Provided that such area—

Petition for
constitution
of a shopping
district.

i. shall not include any place within any shopping district existing at the time of the presentation of the petition, nor within any proposed shopping district as defined by any petition previously presented and not finally dealt with under this Act;

1062, 1911,
s. 12.
1104, 1912,
s. 7.
1572, 1923,
s. 5.
1687, 1925,
s. 5.
Of, U.K. 2
Geo. 5 c. 3,
s. 7.

s. 8. The name of the district council district of Yatala South was altered to "Enfield" by proclamation, *Gazette* 11th July, 1935, p. 38, and the word "Enfield" has been substituted for "Yatala South" in s. 8, pursuant to the Acts Republication Act, 1934.

s. 10. The Renmark Irrigation Trust Act, 1936, has repealed and superseded the Renmark Irrigation Trust Act, 1893, and its amending Acts.

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ii. shall be a continuous territory, and shall, unless it consists of or comprises a municipality or municipalities, be at least thirty-six square miles in extent: Provided that no area consisting of part only of a municipality or comprising part only of a municipality, shall be constituted a shopping district.

(2) Every such petition shall—

- (a) be in the prescribed form;
- (b) be signed by a quorum of the electors residing in the proposed shopping district;
- (c) define the boundaries of the proposed shopping district; and
- (d) state what weekday it is desired shall be the compulsory half-holiday.

(3) A petition shall not be presented under this section with regard to any proposed shopping district within three years of the day of the presentation of any other petition under this section with regard to the same proposed shopping district, or a proposed shopping district with substantially the same boundaries.

Limitation of period within which certain petitions may be presented.

Inserted by 2079, 1932, s. 3.

(3A) A petition under this section with regard to any proposed shopping district which comprises the whole or any part of the area contained in any shopping district previously abolished pursuant to this Part shall not be presented until after the expiration of three years from the date upon which the proclamation abolishing such shopping district came into effect.

(4) For the purpose of this Part of this Act, any district constituted under the Renmark Irrigation Trusts Act, 1893, and the Acts amending that Act, shall be deemed to be a district council district, and may be constituted a shopping district under this Act, notwithstanding that it is less than thirty-six square miles in area.

Petition to be referred to Returning Officer for examination. 1062, 1911, s. 13. 1104, 1912, s. 8.

11. (1) Upon the presentation of a petition complying with subsection (1) and subdivisions (a), (c), and (d) of subsection (2) of section 10, the Minister shall refer the same to the Returning Officer for the State.

(2) If the said Returning Officer is of opinion that the petition has been duly signed as required by section 10, he shall certify to the Minister in writing that it has been so signed.

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12. If the Returning Officer certifies as mentioned in section 11, the Minister shall publish in the *Gazette*—

- (a) the Returning Officer's certificate, and
- (b) a notice in the prescribed form, fixing a time, being not less than four weeks from the date of the publication of the notice, within which a counter-petition praying that the proposed shopping district be not constituted, or that a weekday other than the day stated in the petition shall be the compulsory half-holiday therein, may be presented to the Minister, and shall forthwith upon the publication in the *Gazette* of the said certificate and notice publish in two newspapers circulating in the proposed shopping district an advertisement in the prescribed form calling attention to the publication in the *Gazette* of the said certificate and notice and specifying the time fixed by the notice within which a counter-petition may be presented as mentioned in the notice.

Publication of date for counter-petition.

1062, 1911,
s. 14.
1572, 1923,
s. 6.

13. (1) A counter-petition, as mentioned in section 12, signed by a quorum of the electors residing in the proposed shopping district and in the prescribed form, may be presented to the Minister within the time fixed under that section.

Provisions as to counter-petition.

1062, 1911,
s. 15.
1104, 1912,
s. 9.

(2) Any such counter-petition so presented shall be referred by the Minister to the Returning Officer for the State who shall certify to the Minister in writing the number of electors residing in the proposed shopping district who have signed such counter-petition.

(3) The Returning Officer's certificate shall be published by the Minister in the *Gazette*.

14. (1) Unless within the time fixed under section 12 there is duly presented to the Minister such a counter-petition as mentioned in that section in the prescribed form and signed by a larger number of electors residing in the proposed shopping district than the number who signed the petition, the Governor may by proclamation constitute the proposed shopping district a shopping district under this Act and assign a name thereto and declare—

If sufficient counter-petition not presented district may be proclaimed.

1062, 1911,
s. 16.
1104, 1912,
s. 10.

- i. that in that shopping district the compulsory half-holiday shall be the day specified in the petition; and

s. 14. Particulars of the proclamations in force on 22nd March, 1937, under this section are given in the table of proclamations, notices and regulations at the end of this Act.

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- ii. the date upon which this Act shall come into operation in the said shopping district, which shall not be earlier than one month from the date of the publication of the *Gazette* containing such proclamation;

and the said shopping district shall be duly constituted as from that date, and the compulsory half-holiday therein shall be the day declared by the proclamation; and this Act shall come into operation in the said shopping district on the date so declared.

(2) When under the foregoing provisions of this section the Governor is empowered to make a proclamation, the petition shall be deemed to have been finally dealt with—

- (a) upon the publication of the proclamation, or
- (b) if no such proclamation is published within the period of two months from the expiration of the time fixed under section 12, then at the close of the said period of two months.

Counter-petitions,
1104, 1912,
s. 11.

15. (1) If within the time fixed under section 12 there is duly presented to the Minister such a counter-petition as mentioned in that section, in the prescribed form, signed by a larger number of electors residing in the proposed shopping district than the number of electors who signed the petition, and praying that the proposed shopping district be not constituted, then the petition shall not be granted, and shall be deemed to have been finally dealt with.

(2) If no such counter-petition, signed as mentioned in subsection (1) hereof, and praying that the proposed shopping district be not constituted, is duly presented to the Minister within the time fixed under section 12 but within that time there is duly presented to him such a counter-petition, signed as mentioned in subsection (1) hereof, and praying that a weekday therein specified other than the day stated in the petition be the compulsory half-holiday, then the Governor may, by proclamation, constitute the proposed shopping district a shopping district under this Act, and assign a name thereto, and declare—

- i. subject to subsection (3) hereof, that in the said shopping district the compulsory half-holiday shall be the day specified in the counter-petition, and
- ii. the date upon which this Act shall come into operation in the said shopping district, which shall not

s. 15. Particulars of the proclamation in force on 22nd March, 1937, under this section are given in the table of proclamations, notices and regulations at the end of this Act.

be earlier than one month from the date of the publication of the *Gazette* containing the proclamation;

and the said shopping district shall be duly constituted as from the date declared, the compulsory half-holiday therein shall be the day declared by the proclamation, and this Act shall come into operation in the said shopping district on the date so declared.

(3) If, in such a case as provided for in subsection (2) hereof, two or more counter-petitions, each signed as therein mentioned, are duly presented as therein mentioned, and such counter-petitions specify different days for the compulsory half-holiday, then the day specified in such one of the said counter-petitions as is most numerous signed shall, in the proclamation under subsection (2) hereof, be declared to be the compulsory half-holiday.

16. When under the provisions of subsection (2) of section 15 the Governor is empowered to make a proclamation, the petition shall be deemed to have been finally dealt with—

When petition finally dealt with.
1104, 1912, s. 17.

- (a) upon the publication of the proclamation; or
- (b) if no such proclamation is published within the period of two months from the expiration of the time fixed under section 12, then at the close of the said period of two months.

17. When a person has signed a petition under section 10 as to a proposed shopping district, he shall not thereby be disqualified from signing a counter-petition praying that a day other than the day stated in such petition shall be the compulsory half-holiday in such shopping district.

Person signing a petition under section 11 may sign counter-petition as to half-holiday.
1062, 1911, s. 22.

18. (1) In any case where, in the opinion of the Minister, it is desirable that any area adjoining a shopping district should be annexed to that shopping district, the Minister—

Power of Minister to annex outlying area to shopping district.
Ibid., s. 22A.
1572, 1923, s. 7.

- (a) shall publish in the *Gazette* a notice, in the prescribed form of such his opinion, fixing a time, being not less than six weeks from the date of the publication of the notice, within which a petition praying that the area concerned be not annexed to the district may be presented to the Minister; and
- (b) shall, forthwith upon the publication in the *Gazette* of the said notice, publish in two newspapers circulating in the area concerned an advertisement, in the prescribed form, calling attention to the publication in the *Gazette* of the said notice

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and specifying the time fixed by the said notice within which a petition may be presented as mentioned in the said notice.

(2) Unless, within the time fixed under subsection (1) hereof, there is duly presented to the Minister a petition as mentioned in that subsection, in the prescribed form and signed by a majority of the electors residing in the area concerned, the Governor may, by proclamation, annex that area to the shopping district mentioned in the notice published by the Minister in the *Gazette*, and thereupon the said area shall be annexed to and form part of the said shopping district.

(3) If, within the time fixed under subsection (1) hereof, there is duly presented to the Minister a petition as mentioned in that subsection, in the prescribed form, and signed by a majority of the electors residing in the area concerned, then subsection (2) hereof shall not apply.

(4) The Minister shall refer any petition presented under this section if such petition is in the prescribed form, to the Returning Officer for the State. The said Returning Officer shall certify in writing to the Minister whether or not the petition has been signed by a majority of the electors residing in the area concerned, and the Minister shall publish the certificate in the *Gazette*.

Change of compulsory half-holiday when outlying area annexed. 1062, 1911, s. 22B. 1572, 1929, s. 7. Cf. U.K. 2 Geo. 5 c. 3, s. 4 (4).

19. (1) A petition may be presented to the Minister, praying that the compulsory half-holiday for shops in a shopping district to which an adjoining area has been annexed under section 18 be changed to the weekday specified in the petition.

(2) A petition under this section may be presented at any time within six months after the making of the proclamation annexing the adjoining area to the shopping district.

(3) Every such petition—

(a) shall be in the prescribed form; and

(b) shall be signed by a majority of the electors residing in the said shopping district.

(4) Upon the presentation of a petition under subsection (1) hereof the Minister shall refer the same to the Returning Officer for the State.

(5) If the Returning Officer is satisfied that the petition has been duly signed as required by subsection (3) hereof he shall certify to the Minister in writing that it has been so signed.

(6) If the Returning Officer certifies as mentioned in subsection (5) hereof the Minister shall by notice in the

prescribed form and published in the *Gazette* and in two newspapers circulating in the shopping district, declare that from the time specified in the notice the compulsory half-holiday shall be changed as prayed by the petition.

(7) Nothing in this section shall affect the right of any person to present a petition under section 20.

Change of Day for Half-Holiday.

20. (1) A petition may be presented to the Minister praying that the compulsory weekly half-holiday for shops in a shopping district, other than the Metropolitan Shopping District, be changed to the week day specified in such petition.

Petition for change of day for half-holiday.

1062, 1911,
s. 23.
1104, 1912,
s. 12.
1572, 1923,
s. 8.
1687, 1925,
s. 7.
Cf. U.K. 2
Geo. 5 c. 3,
s. 4 (4).

(2) Every petition under this section—

- (a) shall be in the prescribed form;
- (b) shall be signed by a quorum of the electors residing in the said shopping district; and
- (c) shall not be presented within three years of the day of the presentation of any other petition which has been presented with regard to such shopping district under this section or under section 19, and which has been granted, nor within one year of the day of the presentation of any other petition which has been presented with regard to such district under this section or under section 19, and which has not been granted.

21. (1) Upon the presentation of a petition under section 20 the Minister shall refer the petition to the Returning Officer for the State.

Petition to be referred to Returning Officer for examination.

1062, 1911,
s. 24.
1104, 1912,
s. 9.

(2) If the Returning Officer is of opinion that the petition has been duly signed as required by section 20, he shall certify to the Minister in writing that it has been so signed.

22. If the Returning Officer certifies as mentioned in section 21, the Minister shall publish in the *Gazette* and in two newspapers circulating in the shopping district—

Minister to publish date for counter-petition.

Ibid., s. 25.
Ibid., s. 13.
1687, 1925,
s. 8.

- (a) the Returning Officer's certificate, and
- (b) a notice in the prescribed form fixing a time, being not less than one month from the date of the latest of such publications, within which a counter-petition may be presented praying that the half-holiday be not changed, or that the half-holiday be changed to some day other than the day mentioned in the petition.

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If no counter-petition, half-holiday to be changed.
1062, 1911,
s. 26.

23. (1) Unless within the time fixed under section 22 there is presented to the Minister such a counter-petition as mentioned in section 22, in the prescribed form and signed by as large a number of electors residing in the shopping district as the number who signed the petition, the compulsory half-holiday shall be changed as prayed by the petition.

(2) Such change shall come into force on a date to be declared by the Minister, by notice in the prescribed form published in the *Gazette* and in two newspapers circulating in the shopping district.

(3) Such date shall be not earlier than fourteen days from the date of the publication of the *Gazette* containing such notice.

Counter-petition to be referred to Returning Officer.
Ibid., s. 27.

24. The provision of section 13, *mutatis mutandis*, shall apply to and in respect of a counter-petition under section 23 and the Returning Officer's certificate with regard thereto.

Effect of counter-petition.
Ibid., s. 28,
1104, 1912,
s. 28.

25. (1) If within the time fixed under section 22 there is duly presented to the Minister a counter-petition in the prescribed form signed by as large a number of electors residing in the shopping district as the number who signed the petition, praying that the half-holiday be not changed, then the petition shall not be granted.

(2) If no such counter-petition signed as mentioned in subsection (1) hereof, and praying that the half-holiday be not changed, is duly presented to the Minister within the time fixed under section 22, but within that time there is duly presented to him a counter-petition signed by a greater number of electors than the number who signed the petition praying that the half-holiday be changed to some other day than the day mentioned in the petition, the compulsory half-holiday shall be changed as prayed by the counter-petition.

(3) Such change shall come into force on a date to be declared by the Minister by notice in the prescribed form published in the *Gazette* and in two newspapers circulating in the shopping district. The date declared under this subsection shall be not earlier than fourteen days from the date of the publication of the *Gazette* containing such notice.

(4) If in such a case as provided for in subsection (2) hereof two or more counter-petitions each signed as therein mentioned are duly presented as therein mentioned, and such counter-petitions specify different days to which the half-holiday should be changed, then the day specified in such one of the said counter-petitions as is most numerously signed shall be the compulsory half-holiday.

s. 23. Particulars of the notices in force under this section on 22nd March, 1937, are given in the table of proclamations, notices, and regulations at the end of this Act.

Abolition of Shopping District.

25a. (1) A petition may be presented to the Minister praying that any shopping district may be abolished.

Petition for abolition of shopping district.

(2) Every such petition shall—

Inserted by 2079, 1932, s. 4.

(a) be in the prescribed form; and

(b) be signed by a quorum of the electors residing in the shopping district.

25b. (1) Upon the presentation of a petition complying with section 25A, the Minister shall refer the same to the Returning Officer for the State.

Reference of petition to the Returning Officer for examination.

(2) If the said Returning Officer is of opinion that the petition has been duly signed as required by section 25A, he shall certify to the Minister in writing that it has been so signed.

Inserted by 2079, 1932, s. 4.

25c. If the said Returning Officer certifies as mentioned in section 25B, the Minister shall—

Notice of petition and date for counter-petition.

(a) publish in the *Gazette* the Returning Officer's certificate; and

Inserted by 2079, 1932, s. 4.

(b) publish in the *Gazette* and in two newspapers circulating in the shopping district to which the petition refers, a notice setting forth that the Minister has received a petition for the abolition of the shopping district and fixing a date, being not less than four weeks from the date of the last publication of the notice, within which a counter-petition praying that the shopping district be not abolished may be presented to the Minister.

25d. (1) A counter-petition, as mentioned in section 25c, signed by a quorum of the electors residing in the shopping district proposed to be abolished, and in the prescribed form, may be presented to the Minister within the time fixed under that section.

Provisions as to counter-petition.

Inserted by 2079, 1932, s. 4.

(2) Any such counter-petition so presented shall be referred by the Minister to the Returning Officer for the State, who shall certify to the Minister in writing the number of electors residing in the shopping district who have signed such counter-petition.

(3) The Returning Officer's certificate shall be published by the Minister in the *Gazette*.

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Power of Governor if no counter-petition is presented.

Inserted by 2079, 1932, s. 4.

25e. (1) Unless within the time fixed by section 25c there is duly presented to the Minister a counter-petition as mentioned in that section in the prescribed time and signed by a larger number of electors in the shopping district than the number who signed the petition, the Governor may by proclamation abolish the shopping district, and thereupon the area comprised within the shopping district shall from the date fixed in the proclamation cease to be a shopping district.

(2) When under the foregoing provisions of this section the Governor is empowered to make a proclamation, the petition shall be deemed to have been finally dealt with—

(a) upon the publication of the proclamation; or

(b) if no such proclamation is published within the period of two months from the expiration of the time fixed under section 25c, then at the close of the said period of two months.

Counter-petitions.

Inserted by 2079, 1932, s. 4.

25f. If within the time fixed under section 25c there is duly presented to the Minister such a counter-petition as mentioned in that section, in the prescribed form, signed by a larger number of electors residing in the shopping district proposed to be abolished than the number of electors who signed the petition, and praying that the shopping district be not abolished, then the petition shall not be granted, and shall be deemed to have been finally dealt with.

Limitation of times for presentation of petition for abolition of shopping district.

Inserted by 2079, 1932, s. 4.

25g. A petition for the abolition of a shopping district shall not be presented—

(a) within three years of the day upon which the shopping district is constituted:

(b) within three years of the presentation of any previous petition to the Minister for the abolition of such shopping district.

Reference of petitions to town clerks and district clerks.

Heading inserted by 2079, 1933, s. 5.

Town and district clerks to assist the Returning Officer in preparing his certificate.

1104, 1912, s. 16.
Amended by 2079, 1932, s. 6.

26. (1) The Returning Officer for the State may refer any petition presented under this Part to the town clerk or district clerk of any municipality or district council district, which, or part of which, is comprised within the proposed shopping district defined in the petition, or is comprised within the shopping district which by the petition is proposed to be abolished, with a request that such clerk will certify what signatories to the petition reside in the municipality or district council district or part, and the total number of electors who reside therein.

s. 25e. Particulars of the notice in force under this section on 27th March, 1937, are given in the table of proclamations, notices and regulations at the end of this Act.

(2) Thereupon it shall be the duty of the said clerk to furnish the Returning Officer, as soon as practicable, with a statement, certifying as requested by the Returning Officer, to the best of his information and belief, and the Returning Officer may, for the purpose of any certificate required of him by the principal Act, assume that the information contained in the statement is correct.

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PART III.

ADMINISTRATION.

27. The Governor shall appoint a registrar of shops for each shopping district: Provided that—

Registrar of shops.

1062, 1911, s. 30.

Cf. U.K. 2 Geo. 5 c. 3, s. 13.

- i. the Chief Inspector shall be the registrar for the Metropolitan Shopping District until some (if any) other person is appointed to be such registrar; and

- ii. any inspector may be appointed to the office of registrar for a shopping district.

28. (1) The Chief Inspector of Factories, appointed under the Industrial Code, 1920, shall be Chief Inspector of Shops.

Inspectors.

Ibid., s. 31.

1453, 1920.

Cf. U.K.

1 Ed. 7 c. 22, s. 118.

(2) The Governor may appoint so many inspectors of shops as he deems necessary.

29. (1) Every inspector and every member of the police force may—

Powers of inspectors.

Ibid., s. 32.

Cf. U.K.

1 Ed. 7 c. 22, s. 119.

- (a) enter, inspect, and examine—

- i. any shop at any time when he has reasonable cause to believe that any person is employed therein:

- ii. at all reasonable times any place which he has reasonable cause to believe to be a shop; and

- (b) question with respect to matters under this Act any person found therein.

(2) No person shall be bound to answer a question on such an occasion if the answer might incriminate him.

30. No person shall—

Penalty for obstruction, etc.

Ibid., s. 33.

Cf. U.K.

1 Ed. 7 c. 22, s. 119 (4).

- (a) obstruct or interfere with or wilfully delay an inspector or a member of the police force in the execution of any of his duties or powers under this Act;

PART III.

- (b) subject to subsection (2) of section 29, omit to truly answer or reply to a question asked by an inspector or member of the police force under the authority of section 29; or
- (c) directly or indirectly prevent or dissuade, or attempt to prevent or dissuade, any person from appearing before or being questioned by an inspector or a member of the police force acting under the authority of section 29.

Penalty—Five pounds.

PART IV.

PART IV.

REGISTRATION OF SHOPS.

Registration
of shops.

1062, 1911,
ss. 34, 35, 36
1572, 1923,
s. 9.
1687, 1925,
s. 12.

31. (1) Every person—

- (a) who is in occupation of a shop when this Act comes into operation; or
- (b) who, after this Act comes into operation, goes into occupation of a shop; or
- (c) who is in occupation of a building or place when it becomes a shop, or when, after a period of disuse, it again becomes a shop,

shall apply to have his shop registered, and so long as he continues to occupy the shop, apply annually as hereinafter provided for renewal of the registration thereof: Provided that any shop registered under any of the Acts repealed by this Act at the time of the commencement of this Act shall be deemed to be registered under this Act.

(2) Application for registration shall be made—

- (a) in the prescribed manner; and
- (b) within the times following:—

- i. under subdivision (a) of subsection (1), within twenty-one days after this Act comes into operation:
- ii. under subdivision (b) of the said subsection, within three days after such going into occupation:
- iii. under subdivision (c) of the said subsection, within three days after such building or place becomes or again becomes a shop

and shall be accompanied by the fee required by this Act.

(3) Application for renewal of registration shall be made—

(a) in the prescribed manner; and

(b) not later than the thirty-first day of July in each year;

and shall be accompanied by the fee required by this Act.

(4) Every applicant for registration or renewal of registration of a shop shall furnish the registrar with such particulars as the registrar requires or as are prescribed, in order to enable the registrar to determine to what class the shop belongs; and the registrar shall register every shop as belonging to the class so determined.

(5) The determination of the registrar as to the class to which any shop belongs shall be final; and a document purporting to be a certificate under the hand of the registrar stating the class to which any shop mentioned in the certificate belongs shall be conclusive evidence of the facts certified.

Of. U.K.
2 Geo. 5 c. 3,
s. 10;
26 Geo. 5 and
1 Edw. 8
c. 53, s. 4.

32. Registration or renewal of registration shall be effected by the registrar's entering the prescribed particulars in a register to be kept by him: Provided that the registrar shall not effect the registration or the renewal of the registration of any shop until the fees required by this Act are paid.

Registration—
how effected.
1062, 1911,
s. 35.
1572, 1923,
s. 10.

33. The fees payable in respect of registration and annual renewal of registration shall be those prescribed by the fourth schedule to this Act.

Fees for
registration
and renewal
of registration.
Ibid., s. 35A.
Ibid., s. 11.

34. (1) No person shall occupy or use any shop after the expiration of the time applicable to the particular case, as prescribed by subsection (2) of section 31, unless that shop is duly registered under this Act.

Penalties for
occupation of
unregistered
shops.
Ibid., s. 36.
Ibid., s. 12.

Penalty—Two pounds for every day during which the unregistered shop is occupied or used.

(2) No person shall occupy or use any shop after the expiration of the time for renewal of the registration of that shop, unless the registration is duly renewed under this Act.

Penalty—Two pounds for every day during which the shop is occupied or used without renewal as aforesaid after the time for such renewal.

PART V.

PART V.

PROVISIONS AS TO CLOSING TIMES AND
WORKING HOURS.

DIVISION I.

DIVISION I.—THE CLOSING TIMES.

Closing times.
1962, 1911,
s. 37,
1572, 1923,
s. 13,
1616, 1924,
s. 4,
Of. U.K.
2 Geo. 5
c. 3, s. 4.

35. (1) The closing times in every week for all shops except tobacconists' shops shall be as follows:—

(a) In a Saturday Closing District—
six o'clock on Monday, Tuesday, Wednesday, and Thursday:
nine o'clock on Friday:
one o'clock on Saturday;

(b) In a shopping district other than a Saturday Closing District—
one o'clock on the compulsory weekly half-holiday:
nine o'clock on Saturday:
six o'clock on every other weekday.

(2) The closing times in every week for tobacconists' shops shall be as follows:—

(a) In a Saturday Closing District—
eight o'clock on Monday, Tuesday, Wednesday, Thursday, and Saturday:
nine o'clock on Friday;

(b) In a shopping district other than a Saturday Closing District—
nine o'clock on Saturday:
eight o'clock on every other weekday.

Of. U.K.
26 Geo. 5 and
1 Edw. 8
c. 30, s. 1.

(3) With respect to butchers' shops within the Metropolitan Shopping District, subsection (1) of this section shall be read as if the words "six o'clock" were substituted for the words "nine o'clock" in paragraph (a) thereof.

Closing times
when public
holidays
occur.

1962, 1911,
s. 38,
1572, 1923,
s. 5,
1616, 1924,
s. 5,
1687, 1925,
s. 13,
Of. U.K.
2 Geo. 5, c. 3,
s. 4 (5).

36. (1) Subject to subsections (2) and (3) hereof, whenever a public holiday occurs the following alterations in the closing times shall apply in the case of every shopkeeper, namely:—

A. In a Saturday Closing District—

i. when such holiday is kept on a Monday—

(a) the compulsory half-holiday need not be kept or allowed in the preceding week; and

(b) the closing times in such preceding week shall be six o'clock on the Saturday, but on other days shall remain as provided by section 35;

- ii. when such holiday is kept on a weekday other than a Monday the compulsory half-holiday need not be kept or allowed in the week in which such holiday is kept;
- iii. when such holiday is kept on a Tuesday, Wednesday, or Thursday, the closing times in such week shall be six o'clock on the Saturday, but on other days shall remain as provided by section 35; and
- iv. when such holiday is kept on a Friday, the closing times in such week shall be nine o'clock on the Thursday and six o'clock on the Saturday, but on other days shall remain as provided by section 35.

B. In a shopping district other than a Saturday Closing District—

- i. the compulsory half-holiday need not be kept or allowed in the week in which such holiday is kept;
- ii. when such holiday is kept on a Saturday, the closing times in such week shall be six o'clock on the usual day for the compulsory half-holiday, and nine o'clock on the Friday, but on other days shall remain as provided by section 35; and
- iii. when such holiday is kept on a day other than a Saturday but not on the usual day for the compulsory half-holiday, the closing times in such week shall be six o'clock on the usual day for the compulsory half-holiday, but on other days shall remain as provided by section 35.

(2) With respect to tobacconists' shops, subsection (1) hereof shall be read as if the words "eight o'clock" were substituted for the words "six o'clock" wherever such last-mentioned words are mentioned therein.

Of. U.K.
18 & 19
Geo. 5 c. 33,
s. 3.

(3) With respect to butchers' shops within the Metropolitan Shopping District subsection (1) hereof shall be read as if the words "six o'clock" were substituted for the words "nine o'clock" in paragraph iv. thereof, and so far as the said butchers' shops are concerned every reference in the said subsection to section 35 shall be deemed a reference to that section as construed with respect to butchers' shops within the Metropolitan Shopping District.

DIVISION II.

DIVISION II.—COMPULSORY CLOSING.

Duty to close
at closing
time.

1062, 1911,
s. 33.
1687, 1925,
s. 14.
Of. U.K.
2 Geo. 5. c. 3,
s. 1.
Of. U.K.
18 & 19
Geo. 5 c. 33,
s. 1.

37. (1) Every shopkeeper shall, on each day, close and fasten his shop at the closing time, and keep the same closed and fastened against the admission of the public for the remainder of the day, and, in case such day is a Saturday, shall keep the same so closed and fastened until the following Monday morning.

Penalty—For first offence, ten pounds; for any subsequent offence, twenty-five pounds.

(2) Whenever a public holiday occurs, every shopkeeper shall keep his shop closed and fastened against the admission of the public from the closing time on the day preceding the public holiday, or if the public holiday falls on a Monday from the closing time on the previous Saturday, until the morning of the day following the public holiday.

Penalty—For first offence, ten pounds; for any subsequent offence, twenty-five pounds.

Penalty for
selling goods
after closing
time.

Ibid., s. 40.
1104, 1912,
s. 19.
1687, 1925,
s. 16.

38. (1) Subject to section 42, no shopkeeper shall, on any day after closing time or on Sunday, or on any public holiday, in, about, or from any shop, sell any goods or offer or expose any goods for sale or, except as permitted by subsection (3) hereof or section 41, deliver any goods or cause or permit any goods to be delivered.

Penalty—For first offence, ten pounds; for any subsequent offence, twenty-five pounds.

(2) While a shop is closed in accordance with section 37, goods exposed in a window thereof, and the only access to which goods is from the inside of the shop, shall not, for the purposes of this section, be deemed to be exposed for sale.

(3) Notwithstanding anything in this section, any shopkeeper may, within one hour after the closing time on any day, deliver to customers, elsewhere than at his shop, goods bought by such customers before the closing time.

assistants to
be allowed
half-holiday.

Ibid., s. 41.
Of. U.K.
2 Geo. 5 c. 3,
s. 1.

39. Every shopkeeper shall, on the compulsory half-holiday in every week, allow such half-holiday from one o'clock to each shop assistant employed in or about or engaged in connection with the shop.

Penalty—For first offence, ten pounds; for any subsequent offence, twenty-five pounds.

s. 38. *ELLIS v. GUERIN* (1925) S.A.S.R. 282; 10 Austn. Digest 1451. The person buying non-exempt goods sold in contravention of the Act, held not to be the aider and abettor of the seller in committing an offence against s. 38.

PART V.
DIVISION II.

Suspension of
s. 39 of this
Act.
1062, 1911,
s. 41A.
1572, 1923,
s. 18.

40. (1) The Minister, or any officer authorised by the Minister to grant suspensions under this section, may on the application of any shopkeeper in the Metropolitan Shopping District, suspend the operation of section 39 for one Saturday in any year in respect of such shopkeeper's shop: Provided that—

- (a) no suspension under this section shall be granted unless the Minister, or such officer as aforesaid, is satisfied that the suspension is required only for the purpose of permitting shop assistants to engage or assist in stocktaking;
- (b) every suspension granted under this section shall be void unless the shop in respect of which the same is granted is kept closed on the morning of the Saturday for which the suspension is issued;
- (c) every suspension shall be subject to such conditions, if any, as the Minister or officer granting the same imposes, either by the notice of suspension or by subsequent notice signed by him; and
- (d) every such suspension shall be, and be deemed always to have been, void unless the shopkeeper of the shop in respect of which the suspension is granted pays any shop assistants employed by him after the closing time at a rate not less than one and a half times the ordinary rates of wages paid to those shop assistants: Provided that no shop assistant so employed after the closing time shall receive less than five shillings as payment for such employment on any day.

(2) A fee of two shillings and sixpence for every suspension under this section shall be paid to the Minister or officer granting the same.

41. No shopkeeper shall—

- (a) require or, subject to section 42, permit or suffer any shop assistant to work for him, either in or about the shop or elsewhere, after the closing time on any day:
- (b) require or permit or suffer any shop assistant to be or remain in or about the business portion of the shop after thirty minutes after the closing time on any day: Provided that any shopkeeper may, on any day, permit or suffer any shop assistant who is engaged in delivering goods carried from his

Assistant not
to be required
to work or
remain after
fixed time.
Ibid., s. 42.
1104, 1912,
s. 20.

PART V.
DIVISION II.

shop, and who has left such shop with such goods not later than one hour before the closing time for such day, to be engaged, within one hour after such closing time, in the delivery to customers, elsewhere than at such shop, of goods bought by such customers before such closing time, and in returning to the shop and stabling or putting away any animal, vehicle, or thing used by him for the purposes of such delivery.

Penalty—For first offence, ten pounds; for any subsequent offence, twenty-five pounds.

Quarter hour's
grace for cer-
tain purposes
on half-holi-
day.

1062, 1911,
s. 43.
1104, 1912,
s. 21.
Of. U.K.
2 Geo. 5 c. 8,
s. 1 (4).

42. Notwithstanding anything in this Act, it shall be lawful for a shopkeeper or shop assistant to be engaged on any day for fifteen minutes after the closing time in—

- i. serving customers actually inside the shop at the closing time; or
- ii. adjusting goods in the shop; or
- iii. closing the shop.

Restrictions
upon assis-
tants.

Ibid., s. 44.
Ibid., s. 22.

43. No shop assistant shall—

- (a) work for his employer, either in or about the shop or elsewhere, after the closing time on any day, except when and as allowed by section 42; or
- (b) be or remain in or about the business portion of the shop after thirty minutes after the closing time on any day.

Penalty—Two pounds.

Power to
suspend
operation of
sections 41
and 43.

Ibid., s. 45.
Ibid., s. 23.
1572, 1923,
s. 17.
Of. U.K.
18 & 19
Geo. 5 c. 39,
ss. 5, 6, 7.

44. (1) The Minister, or any officer authorised by the Minister to grant suspensions under this section, may, on being satisfied of the necessity therefor, by notice signed by him, suspend the operation of sections 41 and 43—

- (a) as regards any shop; or
- (b) as regards all shops of a particular class situated in any particular shopping district; or
- (c) as regards any person or persons.

(2) No such suspension shall apply in respect of any period exceeding six consecutive week days.

(3) Every such suspension shall be subject to such conditions, if any, as the Minister or officer granting the same imposes, either by the notice of suspension or by subsequent notice signed by him.

(4) The Minister, or any officer authorised by the Minister to revoke suspensions granted under this section, may, upon being satisfied that a breach of any condition to which any such suspension is subject has taken place in or in connection with any shop, or with respect to any person, revoke the suspension as regards that shop or person by notice delivered or posted to the shopkeeper or person concerned.

(5) Any person who commits a breach of any condition to which any such suspension is subject, shall be guilty of an offence against this Act.

Penalty—In the case of a shopkeeper, ten pounds; in the case of any other person, two pounds.

(6) When any suspension is granted under this section as regards any particular shop or shops or as regards any particular person or persons, a fee of two shillings and sixpence for every such suspension shall be paid to the Minister or officer granting the same.

45. No person shall enter any shop on any weekday after closing time or on Sunday or any public holiday for the purpose of buying or receiving goods therein.

Penalty—Five pounds.

Penalty for entering shop after closing time.

1002, 1911, s. 46.
1572, 1923, s. 18.
1687, 1925, s. 16.
Of. U.K.
26 Geo. 5 and 1 Edw. 8 c. 53, s. 9.

46. (1) No shopkeeper shall upon any Sunday or any public holiday—

(a) carry on any business in any shop; or

(b) open or keep open any shop for the purpose of carrying on any business.

Penalty—For first offence, ten pounds; for any subsequent offence, twenty-five pounds.

Sunday trading.

Ibid., s. 47.
Ibid., s. 19.
Ibid., s. 17.
Of. U.K.,
29 Car. 2 c. 7, s. 1;
20 & 21 Geo. 5 c. 35, s. 1;
26 Geo. 5 and 1 Edw. 8 c. 53, s. 1.

(2) The presence in any shop on a Sunday or a public holiday of any person other than the shopkeeper of such shop or a member of his family shall be conclusive evidence of a breach by such shopkeeper of the provisions of this section.

(3) The provisions of this section are in addition to, and shall not be deemed to derogate from, the provisions of any other enactment or any other law as to Sunday trading or Sunday observance.

47. (1) The Chief Inspector upon being satisfied that a proper case exists for the exercise of the power hereby conferred upon him, may grant a licence—

1. permitting the exposing for sale and the sale and delivery of goods the proceeds whereof are to be

Licences for trading after closing time for certain purposes.

1104, 1912, s. 24.

devoted to any benevolent, charitable, religious, or public purpose, or in aid of any friendly or benefit society; or

ii. permitting a *bona fide* commercial traveller or agent representing a wholesale house to expose samples for purposes merely of securing wholesale orders for goods, but for no other purpose; or

iii. permitting the sale and delivery of goods for provisioning any ship;

after the closing times.

(2) Every licence so granted shall state the purpose for which it is granted, and shall be subject to such conditions as are set out therein and may be for any term not exceeding one year.

(3) A fee of two shillings and sixpence shall be paid for every such licence.

(4) Any such licence may provide that the provisions of Part IV. of this Act, as to the registration of shops, shall not apply in respect of the place in which goods are offered or exposed for sale pursuant to such licence.

(5) Any such licence shall render lawful anything done or omitted in accordance with the terms thereof: Provided that if anything is done or omitted in excess of such terms or in any way contrary to any condition thereof, such licence shall immediately become, and continue to be, of no effect.

(6) The holder of a licence granted under this section shall produce the same for examination whenever demanded by an inspector or any member of the police force, and any person acting, or purporting to act, under the authority of a licence so granted, who fails to produce such licence when demanded as aforesaid shall be deemed to be unlicensed.

Auctioneer
may obtain
licence to sell
after hours in
country dis-
tricts.
1572, 1923,
s. 28.
Cf. U.K.
2 Geo. 5 c. 3,
s. 9 (b).

48. (1) The Chief Inspector, on being satisfied that a proper case exists for the exercise of the power hereby conferred upon him, may grant a licence permitting any goods to be sold, offered or exposed for sale by auction at any time after the closing time fixed by Division I. of Part V. of this Act for shops other than tobacconists' shops.

(2) Every licence so granted shall be subject to such conditions as are set out therein, and shall specify the time or times, the day or days, and the goods, in respect of which it is granted. Such goods may be so specified either generally or particularly.

(3) A fee of two shillings and sixpence shall be paid for every such licence.

(4) Any such licence shall render lawful anything done or omitted in accordance with the terms thereof: Provided that if anything is done or omitted in excess of such terms or in any way contrary to any conditions thereof, such licence shall immediately become, and continue to be, of no effect.

(5) The holder of a licence granted under this section shall produce the same for examination whenever demanded by an inspector or any member of the police force, and any person acting or purporting to act under a licence so granted, who fails to produce the licence when demanded as aforesaid, shall be deemed to be unlicensed.

(6) The provisions of this section shall not apply within the Metropolitan Shopping District.

49. (1) The Minister may, upon the application of any shopkeeper, grant a licence to such shopkeeper permitting him to sell motor spirit and lubricants for motor vehicles on week-days after the closing time and on Sunday.

Licences to
sell petrol and
oil after hours.
1572, 1923,
s. 29.

(2) Every such licence shall specify the shop in respect of which it is granted and shall be subject to such restrictions as to the hours and place of sale, and the employment of shop assistants in connection with such sale, and to such other conditions as to payment of fees and otherwise as are prescribed for licences under this section, and shall in all cases upon failure to observe or breach of any of the restrictions or conditions thereof forthwith be and be deemed always to have been void.

(3) Notwithstanding anything contained in this Act it shall be lawful for the holder of any such licence to offer and expose for sale and to sell motor spirit and lubricants at the hours mentioned in the licence, and to keep his shop open at those hours, and to employ shop assistants at those hours, according to the tenor of the licence.

(4) If the Minister considers that any licence granted under this section has been abused in any way or to any extent, he may in the exercise of his absolute and uncontrolled discretion, by notice signed by him and delivered personally to or served by post on the holder thereof cancel the licence and thereupon the licence shall be absolutely void.

(5) The provisions of sections 39, 41, and 43 of this Act shall not apply to any shop in respect of which a licence under this section is granted: But section 50 of this Act shall apply to every such shop as if the same were an exempted shop.

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DIVISION II.

(6) Any person alleged in any complaint to be the holder of a licence under this section shall for all purposes connected with and in all proceedings under or upon such complaint be deemed to be the holder of such licence unless he, at the hearing of such complaint, satisfies the Special Magistrate or Justices to the contrary.

DIVISION III.

DIVISION III.—HALF-HOLIDAYS IN EXEMPTED SHOPS.

Half-holiday
in exempted
shops.

1062, 1911,
s. 48.

1572, 1923,
s. 20.

Cf. U.K.

2 Geo. 5 c. 3,

s. 1;

2 & 3 Geo. 5

c. 24, s. 1;

26 Geo. 5 and

1 Edw. 8

c. 53, s. 11.

50. The following provisions as to a compulsory half-holiday shall apply as regards exempted shops and tobacconists' shops:—

(1) Every shopkeeper shall on some one weekday in each week allow to each shop assistant employed by him a half-holiday from one o'clock.

Penalty—For first offence, ten pounds; for any subsequent offence, twenty-five pounds.

(2) No such shopkeeper shall require or permit or suffer any shop assistant, after one o'clock on the half-holiday of such assistant—

(a) to work for him either in or about the shop or elsewhere; or

(b) to be or remain in or about the business portion of the shop.

Penalty—For first offence, ten pounds; for any subsequent offence, twenty-five pounds.

(3) No such shop assistant shall, after one o'clock on his half-holiday—

(a) work for his employer either in or about the shop or elsewhere; or

(b) be or remain in or about the business portion of the shop.

Penalty—Two pounds.

(4) In this section "shop assistant" includes any person engaged in or in connection with the business of or carried on in the shop.

(5) For the purposes of this Division of this Part any person engaged in the business of milk-seller shall be deemed to be a shopkeeper, notwithstanding that he does not carry on such business in or in connection with any shop as defined by section 4.

Petition for
adoption of
the general
half-holiday
as regards
exempted
shops.

Ibid., s. 49.

51. (1) A petition may be presented to the Minister by a majority of the aggregate number of shopkeepers of, and shop assistants employed in or about or engaged in connection with, any class of exempted shops specified in such

petition which are situated in the shopping district specified in such petition, praying —

(a) that the provisions of section 50 shall cease to apply to shops of the specified class; and

(b) that the compulsory half-holiday for shops other than exempted shops in the shopping district shall be a compulsory half-holiday as regards shops of the said class.

(2) Every such petition shall be in the prescribed form and be verified in the prescribed manner.

(3) No petition shall be presented under this section, with regard to any class of shops, within three years of the presentation of a petition under this section with regard to the same class of shops situated in the same shopping district.

52. (1) Upon the presentation of a petition under section 51, the Minister shall refer the same to the registrar for the shopping district, who shall examine the signatures thereto.

Reference of petition to registrar for examination.
1062, 1911,
s. 50.

(2) If the Registrar is of opinion that the petition has been signed by a majority of the shopkeepers of the class of shops specified therein which are situated in the shopping district, he shall certify to the Minister in writing that it has been so signed.

(3) If the registrar is of opinion that the petition has not been signed, as mentioned in subsection (2) hereof, but that it has been duly signed as required by section 51, he shall certify to the Minister in writing that it has been so signed.

53. (1) If the registrar certifies as mentioned in subsection (2) of section 52, the Minister shall, by a notice in the prescribed form published in the *Gazette* and in two newspapers circulating in the shopping district, declare that, in every week after a date fixed by the notice, all shops of such class situated in that shopping district shall be closed at one o'clock on the day specified in the notice (being the compulsory half-holiday for shops other than exempted shops), and that that day shall be a compulsory weekly half-holiday as regards the said shops.

Effect of petition if signed by majority of shopkeepers.
Ibid., s. 51.

(2) The date fixed by the notice shall be not earlier than fourteen days after the publication of the *Gazette* containing the notice.

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DIVISION III.

Procedure
when petition
not signed by
majority of
shopkeepers.
1062, 1911,
s. 52.
1104, 1912,
s. 25.

54. If the Registrar certifies as mentioned in subsection (3) of section 52, the Minister shall publish in the *Gazette* and in two newspapers circulating in the shopping district—

- (a) the registrar's certificate, and
- (b) a notice in the prescribed form fixing a time, being not less than one month from the date of the latest of such publications, within which a counter-petition, signed by shopkeepers of the class of shops specified in the petition which are situated in the shopping district, and praying that the petition be not granted, may be presented to the Minister.

Procedure if
counter-peti-
tion presented.
Ibid., s. 53,
54.
Ibid., s. 26.

55. (1) If within the time fixed by the notice under section 54 a counter-petition as mentioned in that section, and in the prescribed form, is presented to the Minister, he shall refer such counter-petition to the registrar.

(2) The registrar shall thereupon examine the signatures to the counter-petition, and shall certify in writing to the Minister whether it has, or has not, been signed by at least three-fifths of the shopkeepers of shops of the class specified in the petition, which are situated within the shopping district.

(3) If the registrar certifies that the counter-petition has been signed as mentioned in subsection (2) of this section, the petition shall not be granted.

(4) If the registrar certifies that the counter-petition has not been so signed, or if no counter-petition as mentioned in section 54, and in the prescribed form, is presented to the Minister within the time fixed by the notice under that section, the Minister shall, by a notice in the prescribed form published in the *Gazette* and in two newspapers circulating in the shopping district, declare as provided by section 53.

(5) The date fixed by the last-mentioned notice shall be not earlier than fourteen days after the publication of the *Gazette* containing the notice.

Effect of
notice.
Ibid., s. 55.

55— 56. From the date fixed by a notice under section 53 or

- (a) section 50 shall cease to apply to shops of the class mentioned in the notice situated in the shopping district mentioned in the notice;
- (b) one o'clock shall in every week be the closing time of the said shops on the compulsory half-holiday mentioned in the notice; and

(c) sections 37 to 45 inclusive, shall apply to and in respect of the said shops on the said half-holiday in every week.

DIVISION IV.—HOW A CLASS OF SHOPS MAY CEASE TO BE
EXEMPTED.

DIVISION IV.

57. (1) A petition may be presented to the Minister by a majority of the aggregate number of shopkeepers of, and shop assistants employed in or about or engaged in connection with, any class of exempted shops specified in the petition, which are situated in the shopping district specified in the petition, praying—

Petition for class of shops to cease to be exempted.

1062, 1911,
s. 56,
1572, 1923,
s. 21.

- (a) that shops of the class specified shall cease to be exempted shops; and
- (b) that the closing times of those shops shall be the times specified in the petition; and
- (c) that the goods specified in the petition shall cease to be exempted goods.

(2) Every such petition shall be in the prescribed form and shall state the proposed closing times of the shops for the various weekdays, and the goods which strictly pertain to the principal business carried on in the shops, and shall be verified in the prescribed manner.

(3) No petition shall be presented under this section, with regard to any class of shops, within three years of the presentation of a petition under this section with regard to the same class of shops situated in the same shopping district.

58. (1) Upon the presentation of a petition under section 57 the Minister shall refer the same to the registrar for the shopping district, who shall examine the signatures thereto.

Procedure on presentation of petition.
Ibid., s. 57.

(2) If the registrar is of opinion that the petition has been signed by a majority of the shopkeepers of the class of shops specified therein which are situated in the shopping district, he shall certify to the Minister in writing that it has been so signed.

(3) If the registrar is of opinion that the petition has not been signed as mentioned in subsection (2) hereof, but that it has been duly signed as required by section 57, he shall certify to the Minister in writing that it has been so signed.

PART V.
DIVISION IV.

If petition
signed by
majority of
shopkeepers,
effect to be
given thereto.

1082, 1911,
s. 58.
1572, 1923,
s. 22.

59. If the registrar certifies as mentioned in subsection (2) of section 58, the Minister shall, by a notice in the prescribed form published in the *Gazette* and in two newspapers circulating in the shopping district, declare—

- (a) that from a date fixed by such notice, shops of the class specified in the petition which are situated in the said shopping district, shall cease to be exempted shops within the meaning and for the purposes of this Act; and
- (b) the closing times for the said shops on the various weekdays, which times shall be those stated in the petition; and
- (c) that, from the said date fixed by the notice, the goods specified in the notice shall cease to be exempted goods, which goods shall be such of the goods specified in the petition as the Minister is satisfied strictly pertain to the principal business carried on in shops of the class specified in the petition.

Procedure
when petition
not signed by
majority of
shopkeepers.
Ibid., s. 59.
1104, 1912,
s. 27.

60. If the registrar certifies as mentioned in subsection (3) of section 58, the Minister shall publish in the *Gazette* and in two newspapers circulating in the shopping district—

- (a) the registrar's certificate; and
- (b) a notice in the prescribed form, fixing a time, being not less than one month from the date of the latest of such publications, within which a counter-petition, signed by shopkeepers of the class of shops specified in the petition, which are situated in the shopping district, and praying that the petition be not granted, may be presented to the Minister.

Procedure if
counter-peti-
tion presented.
Ibid., s. 60.
Ibid., s. 28.

61. (1) If within the time fixed by the notice under section 60 a counter-petition as mentioned in that section, and in the prescribed form, is presented to the Minister, he shall refer the counter-petition to the registrar.

(2) The registrar shall thereupon examine the signatures to the counter-petition, and shall certify in writing to the Minister whether it has, or has not, been signed by at least three-fifths of the shopkeepers of shops of the class specified in the petition, which are situated within the shopping district.

s. 59. Particulars of the notice in force under this section on 22nd March, 1937, are given in the table of proclamations, notices and regulations at the end of this Act.

PART V.
DIVISION IV.

62. (1) If the registrar certifies that the counter-petition has been signed as mentioned in subsection (2) of section 61, the petition shall not be granted.

Effect of
counter-peti-
tion.1062, 1911,
s. 61.
1104, 1912,
s. 28.

(2) If the registrar certifies that the counter-petition has not been so signed, or if no counter-petition as mentioned in section 60 and in the prescribed form, is presented to the Minister within the time fixed by the notice under that section, the Minister shall, by a notice in the prescribed form, published in the *Gazette* and in two newspapers circulating in the shopping district, declare as provided by section 59.

(3) The date fixed by the last-mentioned notice shall be not earlier than fourteen days after the publication of the *Gazette* containing the notice.

63. From the date fixed by a notice under section 59 or 62—

Effect of
notice.Ibid., s. 62.
1062, 1911,
1923, s. 28.

(a) all shops of the class mentioned in the notice, which are situated in the shopping district, shall cease to be exempted shops within the meaning and for the purposes of this Act; and

(b) the closing times of such shops shall be the times declared in the notice; and

(c) the goods specified in the notice shall cease to be exempted goods within the meaning and for the purposes of this Act, at all times when shops of the class mentioned in the notice which are situated in the shopping district are required to be kept closed and fastened against the admission of the public.

64. (1) Where any class of shops which are situated in any shopping district ceased to be exempted before the twenty-third day of December, nineteen hundred and eleven (being the date of the passing of The Early Closing Act, 1911), the Minister may, by notice in the prescribed form published in the *Gazette* and in two newspapers circulating in the shopping district, declare the goods which strictly pertain to the principal business carried on in the said shops, and that, from a date fixed by the notice, the said goods shall cease to be exempted goods.

Provision with
respect to
shops ceasing
to be exempted
before passing
of Act 1062,
1911.
1572, 1923,
s. 24.

(2) Upon the publication of the notice, the declaration shall, *mutatis mutandis*, have the same force and effect as if it had been made in the notice under section 59 or section 62 of this Act with respect to the said class of shops.

**PART V.
DIVISION IV.**

Prescribed medicines may be dispensed in any case.

1062, 1911, s. 63.
Ct. U.K.
2 Geo. 5 c. 8, s. 4 (7) proviso.

65. Notwithstanding any notice under section 53, 55, 59, or 62, or any provision of this Act, when any such notice applies to chemists' and druggists' shops, it shall be lawful for the shopkeeper of any such shop, or his accredited representative, situated in the shopping district, at any time and on any weekday or Sunday, to dispense and sell medicine and to open his shop for that purpose, and for any person to enter the shop for the purpose of obtaining medicine: Provided that—

- i. nothing else is sold or delivered on such occasion;
- ii. the shop is not kept open or unfastened after the delivery of the medicine.

Petition under section 57 may apply for re-opening and re-closing times, as well as for closing times.
1104, 1912, c. 29.

66. (1) The times set out in any petition under section 57 of this Act may make provision for re-opening times and re-closing times, as well as for closing times; and in such case, if, under Division IV. of Part V. of this Act, shops of the class specified in the petition which are situated in any shopping district, cease to be exempted shops, sections 37, 38, 41, 43, and 45 of this Act shall cease to apply in respect of those shops at and from any such re-opening time for any day, but shall again apply at and from any such re-closing time for such day.

(2) Any such petition may also as regards chemists' and druggists' shops make provision for opening and closing and re-opening and re-closing times on Sundays; and in such case, if, under the said Division IV., shops of the class specified in the petition which are situated in any shopping district, cease to be exempted shops, sections 37 and 46 of this Act shall cease to apply in respect of those shops at and from any such opening or re-opening time on Sundays, but shall again apply at and from any such closing or re-closing time on Sundays.

DIVISION V.

DIVISION V.—ALTERATION OF CLOSING TIMES IN SHOPS WHICH HAVE CEASED TO BE EXEMPTED.

Petition for change of closing time in shops which have ceased to be exempt.
1687, 1925, s. 18.

67. (1) When any class of shops has ceased to be exempted pursuant to Division IV. of Part V. of this Act, and closing times with or without re-opening and re-closing times have been fixed for those shops pursuant to the said Part, a petition may be presented to the Minister by a majority of the aggregate number of shopkeepers of and shop assistants employed in or about or engaged in connection with those shops praying that the closing times and if desired the re-opening and re-closing times shall be altered to those mentioned in the petition.

(2) Every such petition shall be in the prescribed form and shall be verified in the prescribed manner.

(3) If a petition presented under this section with regard to any class of shops is granted no further petition with regard to the same class of shops situated in the same shopping district shall be presented within three years of the presentation of the petition presented as aforesaid.

(4) If a petition presented under this section with regard to any class of shops is not granted no further petition with regard to the same class of shops situated in the same shopping district shall be presented within one year of the date of the petition as aforesaid.

(5) Except so far as is necessary to enable the day of the weekly half-holiday to be changed the closing times specified in a petition under this section shall not be later than those in force in the shopping district to which the petition relates at the time of the presentation of such petition.

Amended by
2024, 1934,
s. 2.

68. (1) Upon the presentation of a petition under the next preceding section the Minister shall refer the same to the registrar for the shopping district, who shall examine the signatures thereto.

Procedure
when petition
presented.
1687, 1925,
s. 19.

(2) If the registrar is of opinion that the petition has been signed by a majority of the shopkeepers of the class of shops specified therein which are situated in the shopping district, he shall certify to the Minister in writing that it has been so signed.

(3) If the registrar is of opinion that the petition has not been signed as mentioned in subsection (2) hereof, but that it has been signed as required by the next preceding section, he shall certify to the Minister in writing that it has been so signed.

69. (1) If the registrar certifies as mentioned in subsection (2) of the next preceding section, the Minister shall, by a notice in the prescribed form published in the *Gazette* and in two newspapers circulating in the shopping district declare that the closing times, and if the case requires, the re-opening and re-closing times of the shops mentioned in the petition shall be altered as prayed by the petition.

Effect of
petition.
Ibid., s. 20.

(2) If the registrar certifies as mentioned in subsection (3) of the next preceding section the Minister shall publish in the *Gazette* and in two newspapers circulating in the shopping district—

- (a) the registrar's certificate; and
- (b) a notice in the prescribed form,

s. 69. Particulars of the notice in force under this section on 22nd March, 1937, are given in the table of proclamations, notices and regulations at the end of this Act.

PART V.
DIVISION V.

fixing a time, being not less than one month from the latest of such publications, within which a counter-petition, signed by shopkeepers of the class of shops specified in the petition, which are situated in the shopping district, and praying that the petition be not granted, may be presented to the Minister.

Procedure on
and effect of
counter-peti-
tion.
1687, 1925,
s. 21.

70. (1) If within the time fixed by the notice under the next preceding section a counter-petition as mentioned in that section, and in the prescribed form, is presented to the Minister, he shall refer such counter-petition to the registrar.

(2) The registrar shall thereupon examine the signatures to the counter-petition, and shall certify in writing to the Minister whether it has, or has not been signed by at least three-fifths of the shopkeepers of shops of the class specified in the petition, which are situated within the shopping district.

(3) If the registrar certifies that the counter-petition has been signed as mentioned in subsection (2) the petition shall not be granted.

(4) If the registrar certifies that the counter-petition has not been so signed, or if no counter-petition as mentioned in the next preceding section, and in the prescribed form, is presented to the Minister within the time fixed by the notice under that section, the Minister shall, by a notice in the prescribed form, published in the *Gazette* and in two newspapers circulating in the shopping district, declare as provided by the next preceding section.

Persons en-
titled to sign
petitions
under this
Act.
Ibid., s. 22.

71. The provisions of section 74 of this Act shall apply with respect to petitions and counter-petitions under sections 68 and 70 of this Act.

DIVISION VI.

DIVISION VI.—ADDITIONAL PROVISIONS AS TO THE CLOSING OF SHOPS.

Only exempted
goods to be
sold after
hours.
Of, 1572,
1923 s. 4.

72. (1) If in, about, or from any shop any goods, not being exempted goods, are sold or offered or exposed for sale on any weekday after the closing time fixed by this Act for shops other than tobacconists' shops, or on Sunday, the shopkeeper of such shop shall be guilty of an offence against this Act.

Penalty—For first offence, ten pounds; for any subsequent offence, twenty-five pounds.

s. 72. GREENBERG V. BRAUNACK (1936) S.A.S.R. 55. Held that goods in a passage six feet from a shop were exposed for sale "about" the shop; and that butter and cheese were exempted goods in the sense that after ordinary trading hours they could be sold, but not exposed for sale.

ELLIS V. NORTHCOTE LIMITED (1929) S.A.S.R. 40; 10 Austn. Digest 1452; *semble* that an employee cannot commit an offence against this section.

(2) In the case of any shop, the last preceding subsection shall be construed relatively to the shopping district in which that shop is situate.

(3) In any proceedings for an offence against this section, evidence—

- (a) that the shop was open; and
- (b) that goods were exposed to view in the shop or in a window thereof, or were in a cupboard, show-case, or other container, which window, cupboard, show-case, or container was not locked, or were covered or screened merely with a cloth, paper, or other similar material,

shall be conclusive evidence that such goods were exposed for sale.

73. For the purpose of any certificate required by section 52, 55, 58, or 61 of this Act, the registrar shall have regard only to the shopkeepers of such shops as are, at the time, registered under Part IV. of this Act, and to the shop assistants employed in or about or engaged in connection with the shops so registered.

For purpose
of certificate
only registered
shops to be
regarded.
1104, 1912,
s. 30.

74. (1) No shopkeeper shall be entitled to sign a petition or counter-petition under section 51, 54, 57, or 60 of this Act, unless he has, by notice signed by him and in the prescribed form, and delivered to the registrar for the shopping district in which his shop is situated, stated to which class of exempted shops his shop belongs.

Petition as to
exempted shops
only to be
signed by
person who
has notified
his class of
shop.
Ibid., s. 31.
1687, 1925,
s. 11.

(2) Notices delivered by a shopkeeper under subsection (1) of this section may state different classes of shops: Provided that—

- (a) not more than one class is stated in respect of one and the same shop; and
- (b) the shops to which the notices relate are not situated in the same building nor in adjoining buildings.

(3) When a shopkeeper has by a notice under this section stated that any shop belongs to a class of exempted shops, no notice under this section whereby he states that such shop belongs to another class of exempted shops shall be valid, if the last-mentioned notice is delivered within a period of three years—

- (a) from the date of the delivery of the notice first mentioned in this subsection; or

- (b) from the presentation of a petition under section 51 or 57 of this Act with respect to shops of the class mentioned in the said first-mentioned notice, which are situated in the same shopping district as such shop:

Provided that this subsection shall not apply to any person who has delivered a notice stating that his shop belongs to the class of (heretofore) exempted shops consisting of tobacconists' shops.

(4) No shop assistant shall be entitled to sign a petition under section 51 or 57 of this Act, unless he has by notice signed by himself and in the prescribed form, and delivered to the registrar for the shopping district in which the shop in or in connection with which he is employed, is situated, stated in which, or in connection with which, of the classes of exempted shops he is employed.

(5) When a shop assistant has by a notice under this section declared that he is employed in, or in connection with, a shop of any class, no notice under this section whereby he states that he is employed in, or in connection with, a class of exempted shops other than that mentioned in the first-mentioned notice shall be valid, if the last-mentioned notice is delivered within a period of three years—

(a) from the date of the delivery of the notice first mentioned in this subsection, or

(b) from the presentation of a petition under section 51 or 57 of this Act with respect to shops of the class mentioned in the said first-mentioned notice which are situated in the same shopping district as the shop in or in connection with which he was employed at the time of the delivery of the said first-mentioned notice.

(6) The registrar for each shopping district shall note in the register kept by him all statements made by valid notices under this section, and for the purposes of any certificate required by section 52, 55, 58, or 61 of this Act the Registrar shall not have regard to any shopkeeper or shop assistant who, under the provisions of this section, is not entitled to sign the petition or counter-petition to which such certificate relates.

(7) For the purposes of this section, each of the divisions of the third schedule to this Act, numbered 1 to 13 respectively, shall be deemed to refer to one class of exempted shops.

PART V.
DIVISION VI.

(8) No person shall sign any petition or counter-petition which, by reason of the provisions of this section he is not entitled to sign, nor shall any person sign any petition or counter-petition unless he is under the provisions of section 51, 54, 57, or 60 of this Act (according to the circumstances of the case), qualified to sign such petition or counter-petition.

Penalty—Twenty pounds.

75. Whenever, under Division IV. of Part V. of this Act any shop ceases to be an exempted shop, and the closing times for that shop do not provide for the closing thereof at or before one o'clock on some weekday in every week and for keeping such shop closed for the remainder of such day, the provisions of section 50 of this Act shall, notwithstanding anything in this Act, apply to that shop in the same manner as if it were still an exempted shop.

Preservation of half-holiday when shop ceases to be exempt pursuant to petition.
1104, 1912, s. 32.

76. Notwithstanding anything in this Act, it shall be lawful for shop assistants, whose ordinary employment, or part of whose ordinary employment, is the preparation or serving of meals or refreshments, to be so employed until two o'clock on any day, and as regards any such case, sections 50 and 75 of this Act shall be read as if "two o'clock" were substituted for "one o'clock" wherever "one o'clock" is mentioned.

Half-holiday for assistants in restaurants, etc., may commence at 2 o'clock.
Ibid., s. 33.
Of. U.K.
2 & 3 Geo. 5 c. 24, s. 1.

77. On any weekday from the closing time for shops other than exempted shops until the closing time for tobacconists' shops, the goods mentioned in the fifth schedule shall be deemed to be exempted goods within the meaning of and for the purposes of this Act.

Special provision for tobacconists' goods between six o'clock and eight o'clock.
1572, 1923, s. 27.

DIVISION VII.—LIMITATION OF WORKING HOURS OF YOUNG PERSONS.

DIVISION VII.

78. (1) No shopkeeper shall employ in or about, or engage in connection with, any shop a person under the age of sixteen years—

Limitation of hours of employment of young persons.

- (a) for more than fifty-two hours in any week; or
- (b) for more than nine hours in any day except on one day in a week, when such employment may extend to eleven hours.

1062, 1911, s. 64.
Of. U.K.
2 Geo. 5 c. 3, s. 2.
Of. U.K.
23 Geo. 5 c. 12, ss. 18, 19.
Of. U.K.
24 & 25 Geo. 5 c. 42, s. 1.

Penalty—For first offence, ten pounds; for any subsequent offence, twenty-five pounds.

(2) The Minister may, by writing under his hand, as regards any person named therein, extend the limit fixed by

Of. U.K.
26 Geo. 5 and 1 Edw. 8 c. 24.

PART V.
DIVISION VII.

subdivision (b) of subsection (1) to twelve hours, but no such extension shall apply in respect of more than forty days in any year.

(3) Where any shop is a factory within the meaning of the Industrial Code, 1920, and the limitations upon the hours of employment fixed by this section conflict with or differ from the limitations upon the hours of employment of persons under sixteen years of age fixed by or under the said Act, the last-mentioned limitations shall prevail.

PART VI.

PART VI.

LEGAL PROCEDURE.

Offences to be reported to Minister, who may direct prosecution. 1062, 1911, s. 65.

79. (1) Every offence against this Act shall be reported to the Minister.

(2) No proceedings for any such offence shall be taken without the consent in writing of the Minister.

(3) Such consent may be proved by the production of a document in the form in the sixth schedule, or to the like effect, purporting to be signed by the Minister.

(4) Proceedings may be taken by an inspector or by a member of the police force.

Evidentiary provisions. Ibid., s. 66. 1104, 1912, s. 34. 1572, 1923, s. 25. Cf. U.K. 1 Edw. 7 c. 22, s. 146.

80. (1) In proceedings in respect of offences against this Act the onus shall be on the defendant to prove—

- i. that the person, firm, company, corporate body, or association named in the complaint is not the shop-keeper:
- ii. that the goods alleged in the complaint to have been sold, or offered, or exposed for sale, were not sold, or offered, or exposed for sale:
- iii. that a person named in the complaint as being a shop assistant of the defendant, or of any other person, was not such an assistant:
- iv. that a shop mentioned in the complaint as being within a specified shopping district is not therein:
- v. that the complainant is not an inspector or a member of the police force:
- vi. that any place alleged to be or to have been a shop is not or was not a shop within the meaning of this Act.

(2) The allegations contained in the complaint for an offence against this Act shall be deemed proved in the absence of satisfactory proof by the defendant to the contrary.

(3) In any proceedings for an offence against section 38 or section 46 the presence at the time of the alleged offence in or on any building or premises, of which the shop mentioned in the complaint forms a part, of any person (other than the shopkeeper of the said shop or a member of his family) who has in his possession any goods of a class usually sold in, about, or from such shop, under such circumstances as to raise in the mind of the court a reasonable suspicion that the goods were sold or delivered in or on such building or premises shall be sufficient evidence of the offence alleged in the complaint so as to support a conviction unless the court is satisfied that the goods were not sold or delivered in or on the building or premises in contravention of the provisions of this Act.

81. If a person is shown to have been employed or to have been present at, in, or about a shop or place, or to have been engaged in connection with a shop or place, under such circumstances as in the opinion of the court adjudicating raise a suspicion that such employment or engagement was contrary to this Act, the offence charged shall be deemed proved in the absence of satisfactory proof by the defendant to the contrary.

Presumption
in certain
cases.
1062, 1911,
s. 67.
Cf. U.K.
1 Edw. 7
c. 22, s. 147.

82. Where an offence for which a shopkeeper is liable to a penalty under this Act has in fact been committed by another person, that other person shall be liable to the same penalty as if he were the shopkeeper.

Responsibility
of persons
actually com-
mitting
offences.
1062, 1911,
s. 68.

83. (1) A shopkeeper charged with an offence against this Act, may, upon complaint laid by him, have any person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge.

Exemption of
shopkeeper
from penalty
on conviction
of actual
offender.

(2) If, after the commission of the offence has been proved, the shopkeeper satisfies the court—

Ibid., s. 69.
Cf. U.K.
2 Geo. 5 c. 3,
s. 14 (2),
(3).

(a) that he has used due diligence to enforce the provisions of this Act; and

Cf. U.K.
22 & 23
Geo. 5 c. 46,
s. 53 (2),
(3).

(b) that, without his knowledge, consent, or connivance, the said other person committed the offence in question,

Cf. U.K.
23 Geo. 5
c. 12, s. 21.

s. 83. *ELLIS V. NORTHCOTE LIMITED* (1929) S.A.S.R. 40; 10 Austn. Digest 1452. The court should not be satisfied of the absence of knowledge, consent or connivance, unless the principal testifies to the court of such absence, or the circumstances make it unlikely that he knew, consented or connived. Effect of conviction of employee charged under subsection (1) discussed.

the said other person shall be summarily convicted of the offence, and the shopkeeper shall be exempt from any penalty.

Proceedings
against sup-
posed actual
offender in
first instance.
1062, 1911,
s. 70.

84. The complainant shall, in the first instance, proceed against the person whom he believes to be the actual offender, without proceeding against the shopkeeper, whenever it is made to appear to his satisfaction at the time of discovering the offence—

- (a) that the shopkeeper has used all due diligence to enforce the observance of this Act; and
- (b) by whom the offence was committed; and
- (c) that the offence was committed without the knowledge, consent, or connivance of the shopkeeper, and in contravention of his orders.

Disqualifica-
tion of cer-
tain Justices.
Ibid., s. 72.

85. No complaint in respect of an offence against this Act shall be heard before a justice who is a shopkeeper, or an assistant or employee in a shop.

Summary
proceedings.
Ibid., s. 73.

86. All proceedings for offences against this Act shall be heard and determined in a summary way by a Special Magistrate or two justices.

Inspectors
and members
of police force,
etc., not
accomplices.
1572, 1928,
s. 32.
Cf. 2102,
1932, s. 268.

87. No member of the police force or inspector who purchases any goods, and no person who purchases any goods at the request of a member of the police force or an inspector, shall be deemed an accomplice or guilty of an offence against this Act where any complaint has been laid for such offence, nor shall the evidence of such member of the police force or inspector or of such person be deemed, on the hearing of such complaint, to be the evidence of an accomplice.

Magistrates
may act on
evidence of
accomplices
without cor-
roboration.
1572, 1928,
s. 33.
Cf. 2102,
1932, s. 269.

88. The Special Magistrate or justices sitting at or on the hearing of any complaint under this Act may, if in the circumstances of the case they deem it proper, convict the person accused upon the uncorroborated evidence of an accomplice; nor shall he or they acquit the person accused merely on the ground that the only evidence against him is the uncorroborated evidence of an accomplice, unless, in the circumstances of the case, he or they suspect the truth of such evidence; and there shall be no appeal from any conviction merely on the ground that the only evidence against the accused was the uncorroborated evidence of an accomplice.

PART VII.

PART VII.

MISCELLANEOUS.

89. No person shall—

- (a) wilfully make a false entry in any book, register, certificate, list, record, declaration, notice, or document by this Act required to be kept, made, served, or sent; or
- (b) wilfully make or sign a false declaration or return under this Act; or
- (c) make use of any such entry, declaration, or return, knowing the same to be false.

False entries, declarations, etc.
1062, 1911,
s. 77.

Penalty—One hundred pounds, or imprisonment for one year.

90. Any petition under this Act shall be deemed to be duly presented if delivered, at the Minister's office, to the Minister or the secretary or acting secretary to the Minister.

Mode of presenting petitions.
Ibid., s. 78.

91. (1) Every signature to a petition or counter-petition presented under this Act shall be verified by the declaration of some person who witnesses the signature; and any signature not so verified shall be regarded as null and void.

Signatures to petitions to be verified by declarations of witnesses.
1104, 1912,
s. 86.

(2) Every such declaration shall be in the prescribed form, and shall be made before a justice.

(3) Any such declaration may, for all purposes except in proceedings for offences under this section, be accepted as conclusive evidence that all signatures purporting to be thereby verified are the signatures of the persons whose signatures they are thereby declared to be.

(4) No person shall wilfully make any false statement in any declaration under this section.

Penalty—One hundred pounds, or imprisonment for one year.

92. (1) Where any person has signed any petition under this Act, and the same person has signed a counter-petition relating to the same matter as the petition, the signature of such person to the counter-petition shall be regarded as a nullity for all purposes: Provided that if the person signing the counter-petition as aforesaid appends to his signature the word "reversing" then in such a case the signature of such person to the petition shall be regarded as a nullity for all purposes.

Restriction on persons who signed petition signing counter-petition.

(2) This section shall not apply where the counter-petition is one presented under section 12 of this Act praying that a week day other than the day stated in the petition shall be the compulsory half-holiday in a proposed shopping district.

PART VII.

Conclusiveness
of electoral
rolls.

1062, 1911,
s. 79.
1104, 1923,
s. 35.

93. For the purpose of any petition, certificate, or statement under this Act the electoral rolls in force at the time of the presentation of such petition, or of the signing of such certificate or statement, as the case may be, shall be accepted as correct, and their correctness shall not be inquired into by any court, tribunal, or person whatsoever.

Evidence that
petition duly
signed.

1062, 1911,
s. 80.
1104, 1912,
s. 37.

94. The production of the *Gazette* containing what purports to be a copy of a certificate of the Returning Officer for the State or of a registrar, that a petition or counter-petition has been duly signed as required by any provision of this Act shall be conclusive evidence that it has been so signed, and, if the number is stated, of the number of persons being entitled to do so who signed the petition or counter-petition.

Fee for peti-
tion and coun-
ter-petition.

1572, 1923,
s. 31.

Amended by
2079, 1932,
s. 7.

95. There shall be payable to the Minister on the presentation of every petition or counter-petition under this Act the fee of three pounds three shillings and no such petition or counter-petition shall be deemed duly presented nor shall it be acted upon unless and until such fee is paid to the Minister: Provided that in the case of a petition presented pursuant to section 25a the fee payable shall be five pounds five shillings.

Gazette to be
evidence of
published
documents.

Cf. U.K.
2 Geo. 5 c. 3,
s. 18.

96. The production of the *Gazette* containing what purports to be a copy of a proclamation, declaration, notice, or other document purporting to be made under the authority of this Act shall be conclusive evidence of the making of that proclamation, declaration, notice, or other document, and of the contents thereof, unless the Minister, or the person by whom the same purports to have been made, by writing under his hand, certifies the contrary.

Regulations.

Cf. U.K.
2 Geo. 5 c. 3,
s. 17.

97. The Governor may make regulations prescribing all matters which are by this Act required or permitted to be prescribed, or the prescribing of which is contemplated by this Act, or which may be necessary or convenient for carrying out the provisions or objects of this Act.

Expenses to be
paid out of
moneys pro-
vided by
Parliament.

98. All moneys required for the purposes of this Act shall be paid out of moneys provided by Parliament for the purpose of this Act.

SCHEDULES.

THE FIRST SCHEDULE.

Section 2.

Number of Act.	Short Title.	Extent of Repeal.
1062 of 1911..	The Early Closing Act, 1911	The whole
1104 of 1912..	The Early Closing Act Amendment Act, 1912	The whole
1572 of 1923..	Early Closing Act Amendment Act, 1923	The whole
1616 of 1924..	Early Closing Act Amendment Act, 1924	The whole
1643 of 1924..	Early Closing (Renmark) Act, 1924 ..	The whole
1687 of 1925..	Early Closing Act Amendment Act, 1925	The whole

THE SECOND SCHEDULE.

Section 4.

Amended by
S.L.R. Act,
1935.

THE FOLLOWING GOODS ARE HEREBY DECLARED TO BE EXEMPTED GOODS:—

1. Cooked food, butter and cheese in quantities not exceeding two ounces of either in any one purchase, tea, coffee, or cocoa, in solution, cooked meat (not being tinned meat in unopened tins), bread, rolls, cake, tarts, pies, fresh fish, smoked fish, and cooked fish (not being tinned fish in unopened tins), oysters, spirituous and fermented liquors, as allowed by licence under the Licensing Act, 1932, and not otherwise, and non-alcoholic drinks.
2. Confectionery, sweetmeats, biscuits.
3. Non-alcoholic drinks, milk, cream, ice, and ice cream.
4. Fruit (other than preserved fruit in unopened tins or in airtight packages).
5. Flowers and living plants.
6. Vegetables of every description (other than vegetables in unopened tins or in airtight packages).
7. Wines as allowed by licence under the Licensing Act, 1932, and not otherwise.
8. Drugs, medicines, medical and surgical instruments and appliances, including veterinary medicines, implements, and appliances, perfumery, antiseptics, tooth, hair, and skin brushes, sponges, face powders and puffs, infants' foods, hair oils, hair washes, and shaving soaps.
9. Printed books, newspapers, magazines, and journals.
10. Coffins and coffin furniture.

Cf. U.K.
2 Geo. 5 c. 3,
2nd Sch.
Cf. U.K.
18 & 19
Geo. 5 c. 33,
s. 2 and
1st Sch.;
26 Geo. 5 and
1 Edw. 8
c. 53, 1st Sch.

THE THIRD SCHEDULE.

Section 4

EXEMPTED SHOPS.

1. Chemists' and druggists' shops.
2. Restaurants and eating houses.
3. Cooked meats other than tinned meats, bakers' small goods and bread, fish and oyster shops.
4. Confectionery shops.
5. Non-alcoholic drink shops.
6. Fruit shops.
7. Flower shops.
8. Vegetable shops.
9. Book shops, newsvendors' shops, and book-stalls.
10. Undertakers' shops or places of business.
11. Public-houses and licensed wine shops.
12. Milk shops.
13. Hairdressers' shops and saloons.

Second Schedule, 1. GREENBERG V. BRAUNACK (1936) S.A.S.R. 55. Held that the second schedule makes butter and cheese exempted goods in the sense that they can be sold after ordinary trading hours, but not exposed for sale.

Section 33.

THE FOURTH SCHEDULE.

In lieu of the fourth schedule, the following regulation made under The Fees Regulation Act, 1927, on the 22nd November, 1927, is in force:—

A. The fees payable, pursuant to section 33 of the Early Closing Act, 1926, in respect of the registration and annual renewal of registration of shops, shall, in lieu of those prescribed by the fourth schedule to the said Early Closing Act, 1926, be those set out hereunder:—

	£	s.	d.
1. Where proprietor has no assistance	0	5	0
2. Where there is more than one proprietor but no other person employed	0	10	0
3. Where not more than 4 persons are employed	0	10	0
4. Where more than 4 and not more than 10 persons are employed	1	0	0
5. Where more than 10 and not more than 20 persons are employed	2	0	0
6. Where more than 20 and not more than 30 persons are employed	3	0	0
7. Where more than 30 and not more than 50 persons are employed	4	0	0
8. Where more than 50 and not more than 100 persons are employed	5	0	0
9. Where more than 100 persons are employed	10	0	0

Provided that, in the case of a shop registered between the 31st day of January and the 31st day of July in any year, the fees shall be at half the above rates.

NOTE.—In computing the number of persons employed as provided in lines numbered 3 to 9 inclusive, one working proprietor, if any, need not be counted.

B. The fees for renewal of registration shall be at the same rates as above, payable annually.

Section 72.

THE FIFTH SCHEDULE.

GOODS DEEMED TO BE EXEMPTED GOODS FROM THE CLOSING TIME FOR SHOPS OTHER THAN EXEMPTED SHOPS UNTIL THE CLOSING TIME FOR TOBACCONISTS' SHOPS:—

1. Tobacco, cigars, cigarettes, cigarette papers, snuff, tobacco pipes, cigar and cigarette holders and cases, matches, matchboxes, and tobacco pouches.

Section 74.

THE SIXTH SCHEDULE.

“Early Closing Act, 1926.”

Consent of Minister.

I, the Hon. _____, the Minister of the Crown administering the “Early Closing Act, 1926,” hereby consent to proceedings being taken by (1) _____, against (2) _____, for an alleged offence under the “Early Closing Act, 1926 ”

- (1) Here insert the name of the proposed informant, and state whether a member of the Police Force or an inspector of shops.
- (2) Here insert full name, address, and occupation of proposed defendant.

Regulations.

The following regulations were in force under this Act on 22nd March, 1937:—

GENERAL REGULATIONS—

Gazette—2nd June, 1927, p. 1217.

1st December, 1932, p. 1038.

Table of Proclamations, Notices, and Regulations.

1. The following proclamations were in force on 22nd March, 1937, under section 14, creating shopping districts and fixing compulsory half-holidays:—

Gazette Reference.		Shopping District.	Day of Half-Holiday.
Date.	Page.		
15th August, 1912	376	Peterborough	Saturday
15th January, 1914	127	Quorn	Saturday
19th February, 1914 ...	449	Gawler	Saturday
9th April, 1914	858	Pinnaroo	Saturday
30th July, 1914	262	Port Augusta	Saturday
20th August, 1914	488	Angaston	Saturday
27th August, 1914	533	Burra	Saturday
27th August, 1914	534	Hanson	Saturday
10th September, 1914 ..	624	Mount Crawford	Saturday
3rd December, 1914 ...	1187	Port Lincoln	Saturday
17th December, 1914 ..	1267	Mount Bryan	Saturday
21st January, 1915	127	Cowell	Saturday
6th May, 1915	1089	Walleroo-Kadina	Saturday
10th June, 1915	1333	Mount Barker	Saturday
19th August, 1915	691	Streaky Bay	Saturday (Day of half-holiday changed from Saturday to Wednesday, then back to Saturday, by notice under section 23, <i>Gazette</i> 18/10/28, p. 903)
20th January, 1916	93	Waikerie	Saturday
27th July, 1916	125	Tailem Bend	Saturday
1st May, 1919	798	Mount Gambier	Saturday (Day of half-holiday changed from Wednesday to Saturday by notice under Section 23 in <i>Gazette</i> 17/6/26, p. 1514)
11th December, 1919 ..	1461	Kapunda	Saturday
15th April, 1920	1061	Grace	Saturday
10th June, 1920	1399	Mannum	Saturday
4th November, 1920 ...	1168	Balaklava	Saturday
11th November, 1920 ..	1199	Woodside	Saturday
25th August, 1921	382	Port Wakefield	Saturday
1st September, 1921 ...	442	Goolwa	Saturday
22nd September, 1921 ..	633	Georgetown	Saturday
10th November, 1921 ...	1105	Laura	Saturday
15th December, 1921 ..	1388	Jamestown	Saturday
15th December, 1921 ...	1388	Port Pirie	Saturday
22nd December, 1921 ...	1458	Booleroo Centre	Saturday
2nd February, 1922 ...	472	Crystal Brook	Saturday
16th February, 1922 ...	568	Gladstone	Saturday
23rd February, 1922 ...	640	Upper Wakefield ...	Saturday
9th March, 1922	787	Blyth	Saturday
15th June, 1922	1487	Caltowie	Saturday
6th July, 1922	1	Bute	Saturday
27th July, 1922	165	Melrose	Saturday
28th June, 1923	1375	Spalding	Saturday
19th July, 1923	107	Berri	Saturday
23rd August, 1923	414	Wilmington	Saturday
11th October, 1923	834	Millicent	Saturday
21st February, 1924	457	Mintaro	Saturday
11th September, 1924 ..	654	Morgan	Saturday
8th January, 1925	26	Port Broughton	Wednesday (Day of half-holiday changed from Saturday to Wednesday by notice under Section 23 in <i>Gazette</i> 24/12/25, p. 1665)

TABLE OF PROCLAMATIONS, NOTICES, AND REGULATIONS—*continued.*

Gazette Reference.		Shopping District.	Day of Half-Holiday.
Date.	Page.		
5th February, 1925	195	Loxton	Saturday
29th October, 1925	1161	Yorke Peninsula	Saturday
12th August, 1926	372	Minlaton	Saturday
2nd December, 1926 ...	1401	Cobdogla.....	Saturday (Day of half-holiday changed from Saturday to Thursday then to Saturday, by notice under Section 23 in Gazette 21/5/36, p. 1054)
2nd December, 1926 ...	1402	Penola	Saturday
20th January, 1927	121	Lameroo	Saturday
27th October, 1927	1007	Binnun.....	Saturday
12th April, 1928	773	Clare	Saturday

2. The following proclamation was in force on 22nd March, 1937, under section 15, creating a shopping district and fixing the compulsory half-holiday:—

Gazette Reference.		Shopping District.	Day of Half-Holiday.
Date.	Page.		
13th August, 1914.....	425	Moonta	Saturday

3. The following notices were in force on 22nd March, 1937, under section 23, changing the compulsory half-holiday:—

Gazette Reference.		Shopping District.	Change of Day of Half-Holiday.
Date.	Page.		
17th June, 1926.....	1514	Mount Gambier	From Wednesday to Saturday.
24th December, 1925. .	1665	Port Broughton	From Saturday to Wednesday.
18th October, 1928. ...	903	Streaky Bay.....	From Wednesday to Saturday.
21st May, 1936.	1054	Cobdogla.....	From Thursday to Saturday.

4. The following notice was in force on 22nd March, 1937, under section 25E, abolishing a shopping district:—

Gazette Reference.		Shopping District Abolished.
Date.	Page.	
10th August, 1935.	242	Yankalilla.

5. The following notices were in force on 22nd March, 1937, under section 59, declaring that classes of shops should cease to be exempted, and fixing closing times:—

Gazette Reference		District.	Class of Shop.	Closing Times.	Remarks.
Date.	Page.				
1st October, 1914	769	Gawler	Hair-dressers	Monday to Thursday, 8 p.m. ; Friday, 9 p.m. ; Saturday 1 p.m.	Closing times varied by notice under section 69, Gazette 26th May, 1932, p. 967
2nd January, 1936	3	Port Augusta	Hair-dressers	Monday to Thursday, 8 p.m. ; Friday, 9 p.m. ; Saturday, 1 p.m.	—
6th October, 1927	855	Port Pirie ..	Hair-dressers	Monday to Thursday, 6 p.m. ; Friday, 8 p.m. ; Saturday, 1 p.m.	—
29th May, 1913	1148	Metropolitan	Chemists	Monday to Thursday, 9 p.m. ; Friday, 10 p.m. ; Saturday, 1.30 p.m., also open 6.30-10 p.m. ; Sunday open 10 a.m.-1 p.m., 7 p.m.-9 p.m. ; Holidays closing time 1 p.m., also open 7-9 p.m.	—
14th August, 1913	428	Metropolitan	Hair-dressers	Monday to Thursday, 8 p.m. ; Friday, 9 p.m. ; Saturday, 1 p.m.	—
20th March, 1924	715	Metropolitan	Hair-dressers	—	Notice declaring goods to have ceased to be exempted goods
20th March, 1924	715	Metropolitan	Chemists	—	Notice declaring goods to have ceased to be exempted goods

6. The following notice was in force on 22nd March, 1937, under section 69, altering closing times for a class of shops which has ceased to be exempted:—

Gazette Reference.		District.	Class of Shop.	Closing Times as Altered.
Date.	Page.			
1st October, 1914	769	Gawler .	Hairdressers ..	Monday to Thursday 8 p.m., Friday 9 p.m., Saturday 1 p.m.