

**FACTORIES AND SHOPS**  
**(No. 3).**

5° Elizabeth II., No. LXXXIV.

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No. 84 of 1956.

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**AN ACT to amend the Factories and Shops  
Act, 1920-1954.**

[Assented to 18th January, 1957.]

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title  
and citation

1. (1) This Act may be cited as the *Factories and Shops Act Amendment Act (No. 3), 1956.*

Reprinted as  
approved for  
reprint 19th  
June, 1956.

(2) In this Act the Factories and Shops Act, 1920-1954,

Act No. 44 of 1920 as reprinted with amendments to and including Act No. 27 of 1954 incorporated pursuant to the Amendments Incorporation Act, 1938,

is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Factories and Shops Act, 1920-1956.

2. Section one hundred of the principal Act is repealed and re-enacted as amended as follows—

Section 100  
repealed and  
re-enacted  
as amended.

100. (1) In this section unless the context requires otherwise—

Trading  
hours for sale  
motor vehicle  
reculsites.

“extraordinary trading hours” means any time other than ordinary trading hours;

“ordinary trading hours” means—

- (a) from seven o'clock in the forenoon to seven o'clock in the afternoon of each Monday, Tuesday, Wednesday, Thursday and Friday, whether a public holiday or not, except Christmas Day, Good Friday and Anzac Day;
- (b) from seven o'clock in the forenoon to one o'clock in the afternoon of each Saturday, whether a public holiday or not, except Christmas Day and Anzac Day; and
- (c) from nine o'clock in the forenoon to twelve o'clock noon on each Sunday, whether a public holiday or not, except Christmas Day, and Anzac Day;

“recommendation” means a recommendation made by the representative body, or where that body does not make a recommendation, means a recommendation made by the Minister;

“representative body” means the corporate body representative of proprietors of shops having requisites for sale, and known as Western Australian Automobile Chamber of Commerce Incorporated, or if that body is dissolved or becomes defunct, such body as the Governor appoints in its place;

“requisite” means anything necessary, or required, for equipping or operating a vehicle, which is a motor vehicle according to the interpretation given to that expression by the Traffic Act, 1919, and includes, without derogation from the generality of the foregoing, fuel in any form, lubricant in any form, tyre, tube, battery, part, and accessory;

“shop” without derogation from the generality of the interpretation given to that expression by section four of this Act, means a shop where requisites are for sale, and includes any pump or contrivance for supplying fuel necessary or required for operating a motor vehicle;

“zone” means a portion of the State prescribed by the regulations as a zone for trading during extraordinary trading hours.

(2) This section shall come into operation on a day to be fixed by proclamation.

(3) The shopkeeper of a shop in a zone prescribed under subsection (4) of this section having any requisite for sale at or in the shop, or at or in part of the shop, shall keep the shop,

or that part of the shop closed, and shall not sell, and shall not allow to be sold any requisite except during ordinary trading hours, unless authorised and required under subsection (7) of this section to do so, and then only as so authorised; but this section does not preclude a shopkeeper of a shop which is not in a zone so prescribed from keeping the shop open during any hours he thinks fit.

Penalty: Twenty pounds.

(4) (a) The Governor on recommendation may from time to time prescribe any part of the State as a zone for the purposes of subsection (5) of this section.

(b) In exercising the power conferred by paragraph (a) of this section, the Governor shall have regard to the area of the proposed zone and the facilities for the supply of requisites in that area during extraordinary trading hours.

(5) Where a zone is so prescribed, the Governor on recommendation may prescribe—

(a) what shop or shops may be opened, and the days and times during which the prescribed shop, or respective days and times, during which the respective prescribed shops, if more than one, may be opened, for the sale of requisites during extraordinary trading hours; and

(b) whether all requisites, or any requisite only, or class of requisite only, may be sold by the shopkeeper of the prescribed shop or the shopkeepers of the prescribed shops during the prescribed times;

but shall exercise the power conferred by this subsection to such extent only that requisites will be available at such shop or shops only as are necessary in order to cater for requirements

during extraordinary trading hours, and may prescribe a shop, the owner of which is not a member of the representative body notwithstanding that the representative body has not recommended such shop for prescription under the subsection if he sees fit.

Provided that in the case of a shopkeeper who gives notice in writing to the Minister that he does not desire to keep open his shop during extraordinary trading hours, such shopkeeper shall not be required or liable to keep open his shop during those hours.

(6) If the representative body, after having been requested in writing to do so by the Minister does not, within the time specified in the request or within such extended time as the Minister allows and is hereby authorised to allow, make a recommendation to the Minister in respect of any of the matters mentioned in subsection (4) or subsection (5) of this section, the Minister may make the recommendation and the Governor may exercise any power conferred by those subsections in respect of the matter, as if the recommendation were made by the representative body and approved by the Minister.

(7) (a) The shopkeeper of any shop prescribed under subsection (5) of this section shall keep the shop open and shall on tender of the price ordinarily charged, if required, sell such requisites, during such times in extraordinary trading hours, as are prescribed in respect of the shop.

Penalty: Twenty pounds.

(b) Proof that the proprietor, through no fault on his part, was unable, when required, to supply for sale any requisites, is a valid defence to a prosecution of a complaint under paragraph (a) of this subsection for failing to sell the requisite when required.

(8) In each zone the shopkeeper of each shop having requisites for sale shall while the shop is closed during extraordinary trading hours cause to be displayed in a conspicuous place facing the street in which the shop is situated a notice in white letters not less than two inches in height on a black board stating the hours during which his shop is closed and if requested by the proprietor or the proprietors of the shop or shops which are required under subsection (7) of this section to be kept open during those hours for the sale of requisites and upon payment by such shopkeeper or shopkeepers of the cost thereof, a further like notice stating such shop or shops are open and the location of the same.

Penalty: Twenty pounds.

(9) If the representative body is dissolved or becomes defunct the Governor may by regulation appoint in its place such body as he thinks fit to be the representative body.

(10) (a) Where an agreement—

- (i) was made prior to the coming into operation of this section;
- (ii) is current on the coming into operation of this section;
- (iii) relates to a lease, letting, or license to occupy, or the sale and purchase of, premises, the whole or part of which are used or intended by the parties to be used for the sale of any requisite;

the agreement shall be deemed to include provision that if any party to the agreement claims that because of any of the provisions of this section, any of the provisions of the agreement

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should be reviewed and adjusted; and that if the parties cannot agree in respect of the adjustment; their differences shall be settled on reference to arbitration under the Arbitration Act, 1895.

S. 113 am.

3. Section one hundred and thirteen of the principal Act is amended by adding after the word, "Schedule" being the last word in subsection (2) the passage, "or to any shop where requisites mentioned in section one hundred of this Act are for sale".

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