



Western Australia.

ANNO PRIMO ET SECUNDO

EDWARDI VII. REGIS.

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No. XXIV.

AN ACT for the Early Closing of Shops, and to regulate the Hours of Employment in Shops and other Places of Business.

[Assented to, 19th February, 1902.]

BE it enacted by the King'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:—

PART I.—PRELIMINARY.

1. THIS Act may be cited as the Early Closing Act, 1902.

Short title.

2. IN this Act, unless the context otherwise requires,—

Interpretation.

“Closed” means closed to the admission of the public for purposes of trade.

“District” means a municipality or other area declared by proclamation to be a district for the purposes of this Act.

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“Minister” means the Minister of the Crown charged with the administration of this Act.

“Proclamation” means a proclamation by the Governor published in the *Government Gazette*.

“Shop” means place, building, stall, tent, vehicle, or boat in which goods are offered or exposed for sale, or in which the business of a hairdresser is carried on, in any district; or portion of a building separated from the rest of the building by a substantial partition, and in which goods are offered or exposed as aforesaid, or in which any such business as aforesaid is carried on.

“Shop assistant” means person employed in or in connection with the sale of goods in a shop, not being a carter, and includes any clerk employed in a shop, but does not include any person who is employed by the shopkeeper when the shop is closed only.

“Shopkeeper” means person, partnership, or corporation occupying a shop directly or indirectly as principal, and any agent or other person acting or apparently acting in the management or control of a shop.

“Week-day” means any day of the week except Sunday.

PART II.—THE CLOSING OF SHOPS.

Districts.

3. THE Governor may from time to time, by proclamation, declare any municipality to be, or cease to be, a district for the purposes of this Act; and may in like manner define the boundaries of any other area, and declare the same to be, or cease to be, a district.

Closing times.

4. (1.) THE closing time for all shops (except those mentioned in Schedule One) situate in any district shall be, in every week:—

On one week-day, One o'clock;

On one week-day, Ten o'clock;

On the four other week-days, Six o'clock;

and all such shops shall close on those days not later than the hours above-mentioned, which shall be the hours after the hour of noon in each day, and shall continue closed until eight o'clock, or such earlier hour as may be mentioned in the proclamation, in the morning of the week-day next following.

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(2.) (a.) Until altered in pursuance of this Act, the days on which all such shops shall close at one o'clock and ten o'clock respectively shall be Wednesday and Saturday, according to the choice of the shopkeeper.

(b.) The choice of the shopkeeper shall be made by sending to the Minister, or to any person authorised by the Minister in that behalf, a notice in the form in Schedule Two. Until he makes such choice in the manner aforesaid, the shopkeeper shall be deemed to have chosen one o'clock as the closing time on Wednesday and ten o'clock as the closing time on Saturday.

When a shopkeeper has made any such choice, he shall not make another choice until after the expiration of three months from the day when the former choice was made.

(c.) Where in any district a shopkeeper occupies two or more shops, not being shops mentioned in Schedule One, all such shops shall, on each day, close at the same time.

(3.) Where any such shop is closed during the whole of any week-day set apart in any week as a bank holiday or public holiday, and the shop assistants are not employed therein during such day, such shop may be kept open until six o'clock in the evening of the day of such week on which the closing time is one o'clock; and where such holiday as aforesaid is Christmas Day or New Year's Day, such shop may also be kept open until ten o'clock in the evening of the week-day next preceding.

5. A MAJORITY of shopkeepers of shops (not being shops mentioned in Schedule One) situate within any district may present to the Minister a memorial under their hands, in the form of Schedule Three, asking that the days appointed for closing at one o'clock and ten o'clock respectively may be altered to the days specified in the memorial; whereupon the days in each week for the closing of shops in such district at one o'clock and ten o'clock respectively may be altered accordingly by proclamation.

Memorial for alteration of days.

6. THE closing time for all hairdressers' shops in any district shall be not later than half-past six o'clock in the evening of all week-days, except Saturdays, and the week-days next preceding Christmas Day and New Year's Day, and ten o'clock in the evening of Saturday, and of the week-days next preceding Christmas Day and New Year's Day.

Closing time for hairdressers' shops.

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Penalties for not closing shops.

7. IF any shop is not closed at the closing time fixed, chosen, or deemed to be chosen, for such day in respect of such shop by or under this part, and kept closed until the opening time in the morning of the next following week-day, the shopkeeper shall be guilty of an offence against this Act:

Provided that no such shopkeeper shall be guilty of the said offence by reason only that within one half-hour after the said closing time goods have been offered or sold to customers, or customers have been attended to, who at the said closing time were in the shop being served or attended to, or waiting to be served or attended to.

Closing of exempted shops carrying on other trades.

8. EVERY shop mentioned in Schedule One, in which is carried on any class of trade not usually carried on in shops mentioned in the said Schedule, shall be closed at the closing time fixed by or under this Act for shops not mentioned in the said Schedule.

PART III.—SHOP ASSISTANTS.

Employment of assistants in shops not mentioned in Schedule One.

9. NO shop assistant shall be employed in any shop or about the business of any shop (not being a shop mentioned in Schedule One) situate within any district, for more than one half-hour next after any closing time fixed, appointed, chosen, or deemed to be chosen in pursuance of this Act for such shop, until the opening time in the morning of the week-day next following.

Provided that the shopkeeper may employ any shop assistant on any twelve week days in any half-year (not being days on which the shop closes at one or ten o'clock, or any public or bank holiday allowed within the district as a holiday), for a period not exceeding three hours (exclusive of the hour to be allowed for refreshment under this section) after the closing hour on the said days; but during any such period the shop shall be closed, and the assistants so employed shall be allowed by the shopkeeper one hour for refreshment.

Half-holidays in exempted shops.

10. ALL shop assistants employed in any shop exempted from the operation of Part II., and all assistants employed in any wholesale or commission agent's place of business, shall be allowed a half-holiday from half-past one o'clock in the afternoon on some one week-day of every week, except a week in which there is a public or bank holiday allowed to such assistants as a holiday or half-holiday.

Provided that, in the case of shop assistants employed in public houses, hotels, restaurants, or eating-houses, the half-holiday may be allowed from half-past two o'clock in the afternoon.

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In the case of assistants employed in hairdressers' shops, the half-holiday shall be allowed on one of the days upon which shops which are not exempted from the operation of Part II. are required to be closed within the district.

11. EVERY shop assistant employed in any shop, or about the business of any shop in any district, shall be allowed one hour, Meal hours. between the hours of twelve o'clock, noon, and three o'clock in the afternoon, for dinner, and on every evening when the shop is open after half-past six o'clock, one hour between the hours of five and seven o'clock for tea.

12. NO shopkeeper shall, in or about his shop, employ any woman, or any young person under the age of sixteen years, for a longer period than nine hours, excluding meal times, in any one day, Limitation of hours of employment of women and young persons. except on one day in each week, when the period may be twelve hours, nor for a longer period than fifty-three hours excluding meal times in any one week.

PART IV.—SUPPLEMENTAL.

13. THE Minister may from time to time appoint and dismiss inspectors to carry out the provisions of this Act, and shall supply each inspector with a certificate of his appointment. Appointment of inspectors.

14. AN inspector, on producing a certificate of his appointment, may— Powers of inspectors.

- (a.) Enter at any reasonable hour any shop or any place which he has reason to believe is used as a shop ;
- (b.) Make such inquiries as he thinks necessary to ascertain whether the provisions of this Act have been complied with; and for that purpose ask questions of any shopkeeper or any person employed in or about a shop, and require him to truthfully answer such questions; and
- (c.) Exercise such powers as may be necessary for carrying out the provisions of this Act.

15. ANY person who wilfully obstructs an inspector in the exercise of any power conferred by this Act, or who fails to comply with a lawful requirement made by an inspector, shall be guilty of an offence against this Act. Obstruction of inspectors.

16. IN every shop there shall be kept by the shopkeeper a record of— Record to be kept by shop.

- (a.) The trading name of the shopkeeper ;
- (b.) The closing time of such shop ;

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- (c.) The hours during which the shop assistants are employed ;
- (d.) The extra hours of employment under section nine ;
- (e.) The day on which the shop assistants are entitled to a half-holiday under the provisions of section ten where applicable.

Such record shall at all times be exposed in some position visible and accessible to all shop assistants, and shall be produced to any inspector on demand.

*Primâ facie* evidence of employment in shop.

17. IN any prosecution of a shopkeeper for an offence against this Act, proof that at any time a shop assistant is in a shop shall be *primâ facie* evidence that at the same time he was employed in the shop by such shopkeeper.

Exemption of shopkeeper from penalty upon proof of another being the real offender.

18. WHERE any act or default constituting an offence against this Act, or a breach of any regulation thereunder, for which any shopkeeper is liable to a penalty has in fact been done or committed by some other person, such other person shall be liable to the penalties imposed.

Where such shopkeeper is charged with any such act or default so done or committed by some other person, the said shopkeeper shall be exempt from any penalty upon proving that he supplied proper means and issued proper orders for the observance, and used diligence to enforce the observance of this Act, and that the said act or default was actually done or committed by some other person without his connivance.

Where an inspector is satisfied, before instituting a proceeding for any such offence against the said shopkeeper, that such shopkeeper, if such proceedings were instituted against him, would, under the foregoing provisions of this section, be exempt from any penalty, and the said shopkeeper gives all facilities in his power for proceeding against and convicting the person whom the inspector believes actually to have been guilty of the act or default constituting the offence, the inspector shall proceed against that person in the first instance without first proceeding against the said shopkeeper.

Offences and penalties.

19. (1.) IF any shopkeeper or other person shall, in any particular, make default in compliance with any provisions of this Act, he shall be guilty of an offence against this Act.

Penalty for offence against this Act.

(2.) Any person who is guilty of an offence against this Act shall be liable, for the first offence, to a penalty not exceeding Five pounds, and on a second or subsequent conviction to a penalty not exceeding Fifty pounds.

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20. THE Governor may from time to time make such regulations as may be deemed necessary to carry out the object and purposes of this Act, and may in those regulations authorise any penalty not exceeding Five pounds to be imposed for any breach of the same.

Regulations.

21. IN any proceedings for an offence against this Act, or for breach of any regulation :

Informations for offences.

- (a.) The information may be laid in the name of an inspector or police officer, or of any shop assistant aggrieved.
- (b.) The information shall be laid within one month from the committing of the offence or breach, and shall be heard and determined in a summary way by a Court of Petty Sessions.
- (c.) It shall be sufficient to allege in the information that the shop was a shop within the meaning of the Act.
- (d.) The production of a copy of the record mentioned in section sixteen, and certified in writing by the inspector, shall be *prima facie* evidence of the facts recorded therein.
- (e.) Judicial notice shall be taken of every proclamation issued under this Act and of the appointment of every inspector.
- (f.) An appeal shall lie from any conviction for any such offence or breach.

22. NOTHING in this Act shall apply to any bazaar or fair where goods are sold or exposed for sale in order that the net proceeds of the sale of the goods may be devoted to religious, charitable, or public purposes only.

Exemption of bazaars, etc.

23. THE Governor may, by proclamation, temporarily suspend the operation of this Act in so far as it applies to the closing time fixed or appointed for any shop or shops.

Governor may suspend operation of Act as to closing time.

In the name and on behalf of the King I hereby assent to this Act.

ARTHUR LAWLEY, Governor.

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Section 4.

Schedule One.

Chemists or Druggists. Restaurants, Eating Houses, and Refreshment Shops. Cooked Meat Shops. Confectioners. Butchers' Shops. Fish and Oyster Shops. Bakers' Shops. Fruit Shops. Vegetable Shops. Milkshops or Dairies. Hairdressers. (Section 6.)	Tobacconists. Newspaper and Newsagents' Shops. Stationers and Booksellers. Railway Bookstalls. Florists. Undertakers. Public Houses in respect of which a Publican's General License or Wayside House License, a Wine and Beer License or Hotel License has been granted.
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Section 4.

Schedule Two.

THE EARLY CLOSING ACT, 1902.

*Notice of Choice by Shopkeeper of Closing Time on Wednesday and Saturday.*

To [the Minister charged with the administration of the Act].

I (or we) hereby give notice that I (or we) have chosen one o'clock, p.m., on Wednesday (or Saturday), and ten o'clock, p.m., on Saturday (or Wednesday) as the closing times for my (or our) shop, situate at [name of street] in the [name of Municipality or District] District.

Dated the                      day of                      19                      .

[Signature of shopkeeper.]  
[Description of shop.]

Section 5.

Schedule Three.

THE EARLY CLOSING ACT, 1902.

*Memorial.*

To [the Minister charged with the administration of the Act].

We, the undersigned, being a majority of the shopkeepers in the Municipality (or District) of                      , ask that the days in every week for the closing of shops in the said Municipality (or District) at one o'clock and ten o'clock respectively, may be altered to the days following:—

Days.	Closing time.
.....	Six o'clock.
.....	Ten o'clock.

Dated the                      day of                      , 19

Signature of shopkeeper,                      Address