

## SHOP TRADING HOURS BILL

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### EXPLANATORY NOTE

THIS Bill alters the basis upon which the permissible trading hours of retail shops are determined, by removing the present reliance upon the provisions of the awards and agreements relating to shop employees.

*Clause 1* relates to the Short Title and commencement. The Act is to come into force on 1 October 1977.

*Clause 2* relates to interpretation.

*Clause 3* provides that the Act is not to apply to hotels or restaurants except to the extent that there may be a shop within a hotel.

*Clause 4* relates to markets. Every stall within a market is declared to be a shop. The person running a market must allocate a number to the occupier of each shop in the market, and keep an accurate record (which is to be made available to an Inspector upon demand) of the name and address of, and number allocated to, each occupier.

*Clause 5* creates 2 special categories of goods—"approved goods" and "special goods". Approved goods correspond to the present exempted goods, and subject to the conditions specified in *clause 6 (3)* may be sold at any time. Special goods are goods that may be sold outside normal trading hours, but only at specified times (for example on Saturday mornings). At those times special goods are treated as if they are approved goods, but at all other times they fall into the category of "restricted goods", which are goods that are not approved goods.

The lists of approved goods and special goods will be formulated by Order in Council, on the recommendation of the Minister, but until Orders in Council are made the goods specified in the First Schedule are to be approved goods, and the goods specified in the Second Schedule are to be special goods.

*Clause 6* sets out the hours during which, and the days on which, shops must (unless they obtain authority from the Shop Trading Hours Commission) either be closed, or be open only for the sale of approved goods, or of special goods during the hours when they are to be treated as if they were approved goods.

Ordinary shop trading hours are to be between 7 a.m. and 9 p.m. on weekdays that are not statutory holidays. *Subclause (3)* provides that a shop may be open outside those hours for the sale of approved goods if all restricted goods are out of sight or closed off. *Subclause (4)* provides that during the hours they are authorised to be sold, special goods are deemed not to be restricted goods.

*Clause 7* relates to pharmacies. A pharmacy may be opened at any time for the sale of urgently needed goods, but in that case the door must be opened only to let the purchaser in and out, and locked the rest of the time. Provision is also made for the authorisation by the Secretary of Labour of urgent pharmacies, which may be open for all purposes during specified hours. It may be a condition of such an authorisation that the urgent pharmacy be run on a roster basis by a number of pharmacists.

*Clause 8* allows shops that contain Post Office facilities to be open at any time for their use, on the same basis as the opening of pharmacies for urgently needed goods.

*Clause 9* empowers the Secretary of Labour to authorise bookstalls at passenger transport stations to remain open for longer hours than those generally authorised.

*Clause 10* exempts bazaars and similar activities from the requirements of the Act.

*Clause 11* provides that the Act is not to apply to commercial travellers.

*Clause 12* establishes the Shop Trading Hours Commission. The Commission is to comprise a Commissioner, appointed by the Governor-General on the recommendation of the Minister for a renewable term of 3 years. The Commissioner must be a barrister and solicitor of at least 3 years' practice.

*Clause 13* provides for the appointment of one associate member of the Commission, and the appointment of a temporary associate member if the Commissioner or associate member is unable to carry out his functions. Associate members will hold office at the pleasure of the Governor-General.

*Clause 14* provides for the Commissioner, associate member, and any temporary associate member to be paid in accordance with the Fees and Travelling Allowances Act 1951.

*Clause 15* provides that the Department of Labour is to service the Commission.

*Clause 16* requires the Commissioner to submit an annual report (including any recommendations he may have about trading hours or approved or special goods) to the Minister.

*Clause 17* relates to applications to the Commission for authority to open shops for extended hours. Every application must be filed in the nearest Magistrate's Court, and specify the applicant's name, the name and location of the shop, the extended hours applied for, and the reasons for the application. The Registrar of the Court is required to give the applicant at least 14 days' notice of the hearing; and within 3 days of receiving notice the applicant must publish in a newspaper, and send to an Inspector, the relevant unions, and the relevant employers' organisations, details of the application.

*Clause 18* allows the majority of shop-owners in a district or area, or a local authority, to apply for authority to open all the shops in a district or area.

*Clause 19* relates to the hearing of applications for extended opening, and to the orders that may be made by the Commission.

*Subclause (1)* provides that the applicant, any Inspector, the local authority, other shop owners, and interested organisations, may appear at the hearing.

*Subclause (2)* empowers the Commission to refuse any application, or to grant it, either wholly or partially, and subject to conditions if it thinks fit.

*Subclause (3)* provides that it may be a condition of an order that the shop or shops concerned close at some other time; and *subclause (4)* requires that time to be chosen so as to enable workers to have 2 consecutive days off unless the union concerned agrees otherwise or there are special circumstances.

*Subclause (5)* specifies the matters to which the Commission must have regard in deciding whether to grant or refuse an application. These are the public demand, the nature of the area, the interests of other shop-owners, and the public interest generally, including the interests of people living near the shop.

*Subclause (6)* provides that an order may be amended or revoked by the Commission on the application of the applicant or any other shop-owner affected, or, where the shop-owner has been convicted of an offence under the Act, on the application of an Inspector.

*Subclause (7)* provides that notwithstanding any change of ownership, an order continues to apply to a shop until the occupier starts to carry on a different class of business from that at the time of the order.

*Subclause (8)* gives the Commission the powers of a Magistrate's Court in hearing any application.

*Subclause (9)* requires judicial notice to be taken of the signature of members of the Commission.

*Subclause (10)* provides that proceedings before the Commission are not to be held bad for want of form, and cannot be reviewed except for lack of jurisdiction.

*Subclause (11)* requires a shop authorised to stay open for extended hours to display a notice setting out the terms of the order so authorising it.

*Subclause (12)* allows the Commission to make recommendations to the Minister that a class of goods be declared to be approved goods or special goods.

*Clause 20* relates to Inspectors. They are given power to enter shops and places they believe to be or contain shops, with or without a constable, and to examine persons found there. In the case of a private dwelling-house, the power of entry may be exercised only by warrant. Every Inspector must produce a certificate of appointment if so required; and no Inspector may divulge information acquired pursuant to the Act except for the purposes of the Act.

*Clause 21* relates to offences and penalties. It is an offence to be the occupier of a shop that is open illegally, to sell restricted goods outside normal trading hours otherwise than pursuant to an authority under *clause 19*, and to act in contravention of or fail to comply with the requirements of the Act. Persons committing an offence are liable on summary conviction to a fine not exceeding \$500.

*Clause 22* relates to the procedure in respect of offences.

*Clause 23* specifies the effects of the Act on awards and agreements. The Act overrules awards and agreements with respect to the hours a shop may be open, but does not affect the provisions of awards and agreements relating to the working hours of and holidays due to shop employees.

*Clause 24* provides that the Act is to be administered in the Labour Department.

*Clause 25* protects existing exemptions and applications for exemption.  
*Clause 26* relates to amendments and repeals.

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*Hon. Mr Gordon*

## SHOP TRADING HOURS

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### ANALYSIS

Title	
1. Short Title and commencement	15. Administrative and secretarial services
2. Interpretation	16. Annual report
3. Act not to apply to hotels or restaurants	17. Authority for extended opening of specified shop
4. Special provisions relating to markets	18. District and group applications
5. Approved and special goods	19. Applications and orders
6. Opening of shops	20. Inspectors
7. Pharmacies	21. Offences and penalties
8. Postal business	22. Procedure
9. Bookstalls	23. Effect of Act on awards and agreements
10. Bazaars, etc., not affected	24. Act administered in Department of Labour
11. Commercial travellers	25. Savings
12. Shop Trading Hours Commission	26. Consequential amendments and repeals
13. Associate members	Schedules
14. Remuneration of Commission	

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### A BILL INTITULED

#### **An Act to regulate the trading hours of retail shops**

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same,  
5 as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Shop Trading Hours Act 1976.

(2) This Act shall come into force on the 1st day of October 1977.

**2. Interpretation**—(1) In this Act, unless the context otherwise requires,—

“Approved goods” means goods declared to be approved goods pursuant to section 5 (1) of this Act:

“Associate member” means an associate member of the Commission, appointed pursuant to section 13 (1) of this Act, and includes a temporary associate member of the Commission appointed pursuant to section 13 (3) of this Act: 5

“Commission” means the Shop Trading Hours Commission established by section 12 (1) of this Act: 10

“Goods” includes all personal chattels other than money or things in action:

“Inspector” means an Inspector of Factories appointed under the Factories Act 1946: 15

“Market” means a place or building in which goods are sold or exposed for sale in barrows, stalls, or other such subdivisions, whether or not the dimensions or situations of those subdivisions are fixed, and whether or not the lease of, or licence or permission to use, those subdivisions is granted by one or more of the operators thereof or by some other person: 20

“Minister” means the Minister of Labour:

“Occupier”, in relation to any building or place used or intended to be used as a shop, or that an Inspector has reasonable cause to believe to be used as a shop or to have a shop within its premises, means the person occupying that building or place; and includes any agent, manager, foreman, or other person acting or apparently acting in the general management or control of any such building or place; and where any such building or place is occupied by a body of persons, whether incorporated or not, also extends to the working manager; and the term “occupier” also has the extended meaning assigned to it by subsection (2) of this section: 25 30 35

“Pharmacist” and “pharmacy” have the meanings assigned to them by the Pharmacy Act 1970:

“Place” includes a barrow, a boat, a caravan, a trailer, and a vehicle: 40

“Restricted goods” means goods that are not approved goods:

“Secretary” means the Secretary of Labour:

“Shop” means any building, place, or part thereof, where goods are kept, exposed, or offered for sale by retail, and includes an auction mart, but does not include—

5 (a) A private dwelling in which the household effects of the owner or occupier are being sold by auction or otherwise; or

(b) A building or place in which is carried on exclusively the business of selling by auction agricultural or pastoral products, including livestock; or

10 (c) A warehouse;  
and also has the extended meaning assigned to it by section 4 (1) of this Act:

15 “Special goods” means goods declared to be special goods pursuant to section 5 (3) of this Act:

“Warehouse” means any building or place in which is carried on exclusively the business of selling goods to persons who are dealers therein and who buy to sell again.

20 (2) For the purposes of this Act, whenever a hawker or other person who carries on business by selling or exposing goods for sale by retail otherwise than in a shop so sells or offers for sale, or delivers to a customer, any goods, he shall be deemed to keep a shop open and to be the occupier  
25 thereof.

Cf. 1921–22, No. 46, ss. 2, 28, 29, 36; 1927, No. 53, s. 29; 1936, No. 11, ss. 2, 12; 1951, No. 11, s. 2; 1955, No. 32, s. 2

30 **3. Act not to apply to hotels or restaurants**—Subject to section 292 (6) of the Sale of Liquor Act 1962, this Act shall not apply to hotels or restaurants.

Cf. 1921–22, No. 46, s. 37; 1936, No. 11, s. 11; 1945, No. 38, s. 2 (a); 1955, No. 32, s. 19

35 **4. Special provisions relating to markets**—(1) Every barrow, stall, or other such subdivision within a market is hereby declared to be a shop.

(2) The person by whom leases of, or licences or permissions to use, barrows, stalls, or other such subdivisions within a market are granted shall allocate a different number to  
40 each person to whom he has granted any such lease, licence, or permission, and shall keep an accurate record of the name and address of, and the number allocated to, each such per-

son; and upon demand by an Inspector shall forthwith make that record available to him for inspection and the taking of extracts.

(3) The occupier of every such barrow, stall, or other such subdivision shall display prominently thereon, so that it may conveniently be read by any member of the public, accurate details of his name and address and the number allocated to him pursuant to subsection (2) of this section. 5

**5. Approved and special goods**—(1) On the recommendation of the Minister, the Governor-General may, by Order in Council, declare that goods of any class are approved goods; and may in like manner amend or revoke any such Order in Council. 10

(2) Until an Order in Council is made pursuant to subsection (1) of this section, goods belonging to the classes specified in the First Schedule to this Act shall be deemed to be approved goods. 15

(3) On the recommendation of the Minister, the Governor-General may, by Order in Council, declare that goods of any class are special goods and may be sold during hours and on days specified therein; and may in like manner amend or revoke any such Order in Council. 20

(4) Until an Order in Council is made pursuant to subsection (3) of this section, goods belonging to any class specified in the first column of the Second Schedule to this Act shall be deemed to be special goods that may be sold during the hours specified opposite that class in the second column of that Schedule on the days specified opposite that class in the third column of that Schedule. 25

Cf. 1955, No. 32, s. 6

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**6. Opening of shops**—(1) Subject to the provisions of this Act, no shop shall be open between the hours of 9 p.m. and 7 a.m., or on any day that is a Saturday, a Sunday, New Year's Day, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, Labour Day, Christmas Day, Boxing Day, or the day observed in the locality in which the shop is situated as Anniversary Day: 35

Provided that if Christmas Day or New Year's Day falls on a Saturday or a Sunday, the foregoing reference to that day shall be deemed to be a reference to the following 40



Monday; and if Boxing Day falls on a Saturday or a Sunday, the foregoing reference to that day shall be deemed to be a reference to the day after the day following that day.

(2) For the purposes of subsection (1) of this section, a shop shall be deemed to be open if it is not locked or otherwise effectually closed against the admission of the public; or if any person therein is engaged in the sale of goods, canvassing for orders, or delivering goods to customers:

Provided that where a shop has a common entrance with a factory or warehouse it shall be sufficient if the entrance is closed but not locked:

Provided also that a shop that is an auction mart shall not be deemed to be open by reason only of the fact that it is open for the admission of the public to attend a sale by auction of property other than goods.

(3) Notwithstanding subsection (1) of this section, a shop may be open at any time if all restricted goods in it are then, to the satisfaction of an Inspector, out of sight of the public or kept in a part of the shop that is closed off.

(4) During the hours and on the days specified in the Order in Council declaring them to be special goods, special goods shall, for the purposes of subsection (3) of this section and section 21 (2) of this Act, be deemed not to be restricted goods.

Cf. 1921-22, No. 46, s. 30; 1927, No. 53, s. 12; 1955, No. 32, s. 5

**7. Pharmacies**—(1) The occupier of a pharmacy may open it at any time to sell medicines and surgical appliances that are urgently required if—

(a) The pharmacy is opened for that purpose only;

(b) The pharmacy is closed immediately after the sale is made; and

(c) Except for the admission and exit of the purchaser, the door of the pharmacy is kept locked.

(2) The Secretary may, by writing under his hand, issue an authority for the opening of any specified pharmacy (for so long as it remains a pharmacy) at such times and on such days, and subject to such conditions, as he thinks fit, and may similarly revoke or vary any such authority; and that pharmacy may be open accordingly.

(3) Without limiting the generality of subsection (2) of this section, it is hereby declared that any authority under that subsection may be issued subject to the condition that a specified roster involving pharmacists from other specified pharmacies be observed in the pharmacy in respect of which it is issued. 5

Cf. 1921-22, No. 46, s. 35 (4); 1955, No. 32, s. 7

**8. Postal business**—The occupier of a shop where telephonic, telegraphic, or postal business is transacted on behalf of the Postmaster-General may open it at any time if— 10

- (a) The shop is open for that purpose only;
- (b) The shop is closed immediately after the business has been transacted; and
- (c) Except for the admission and exit of the customer, the door of the shop is kept closed. 15

Cf. 1927, No. 53, s. 8 (1); 1955, No. 32, s. 9

**9. Bookstalls**—The Secretary may by writing under his hand issue an authority for the opening of any specified bookstall at any public passenger transport terminal, or station where public passenger transport services are running, at such times and on such days, and subject to such conditions, as he thinks fit, and may similarly revoke or vary any such authority; and that bookstall may be open accordingly. 20

Cf. 1927, No. 35, s. 18 (4), (4A), (5); 1949, No. 40, s. 13 (6); 1949, No. 51, s. 42; 1955, No. 32, s. 11 25

**10. Bazaars, etc., not affected**—Section 6 (1) of this Act shall not apply to any bazaar, sale of work, or other like method of raising money, carried on exclusively for religious, public, or charitable purposes for any period not exceeding 2 weeks. 30

Cf. 1921-22, No. 46, s. 54; 1955, No. 32, s. 31

**11. Commercial travellers**—Section 6 (1) of this Act shall not apply to the sale or exposure for sale of any goods by persons employed principally as *bona fide* commercial travellers, meaning thereby persons employed by merchants as commercial travelling agents for the purpose of selling goods to or seeking orders for goods from persons who are dealers therein and who buy to sell again. 35

Cf. 1921-22, No. 46, s. 71; 1955, No. 32, s. 32 40

**12. Shop Trading Hours Commission**—(1) There is hereby established a commission to be called the Shop Trading Hours Commission.

(2) The Commission shall comprise a Commissioner, 5 appointed by the Governor-General on the recommendation of the Minister, who shall be a barrister and solicitor of the Supreme Court of New Zealand of at least 3 years' practice and, subject to this section, shall hold office for a term of 3 years from the date of his appointment but may 10 from time to time be reappointed.

(3) The Commissioner may at any time resign his office by delivering a notice in writing to that effect to the Minister.

(4) The Governor-General may at any time remove the Commissioner from office for disability, bankruptcy, neglect 15 of duty, or misconduct.

Cf. 1955, No. 32, s. 10

**13. Associate members**—(1) Notwithstanding section 12 of this Act, the Governor-General may from time to time appoint to be an associate member of the Commission a suitable 20 person who shall hold office at the pleasure of the Governor-General but may at any time resign his office by delivering a notice in writing to that effect to the Minister:

Provided that there shall be no more than one such associate member at any one time.

(2) The office of associate member may be held concurrently with any other office or offices. 25

(3) If the Commissioner or associate member for the time being is sick, incapacitated, absent, or for any other reason unable to carry out his functions, the Minister may appoint 30 a temporary associate member to act in his place, either for a specified period or for the period needed to hear and determine a specified application or group of applications.

(4) The appointment of a temporary associate member pursuant to subsection (3) of this section shall not be called 35 into question on the ground that the occasion for the exercise of the power of appointment by the Minister had not arisen at the time of the appointment, or had ceased at that time; nor shall the continuance of such an appointment be called into question on the ground that the circumstances 40 that occasioned the exercise of that power no longer exist.

(5) Subject to any directions of the Commissioner as to the applications he should hear, any associate member may exercise all the powers of the Commission.

**14. Remuneration of Commission**—(1) There shall be paid to the Commissioner and any associate member, out of money appropriated by Parliament for the purpose, remuneration by way of fees, salary, or allowances, and travelling allowances and expenses, in accordance with the Fees and Travelling Allowances Act 1951; and the provisions of that Act shall apply accordingly. 5

(2) The Commission is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951. 10

**15. Administrative and secretarial services**—The Department of Labour shall provide for the Commission such administrative and secretarial services as may be necessary to enable it to exercise its functions and powers, and perform its duties, under this Act. 15

**16. Annual report**—As soon as is practicable after the 31st day of March in every year the Commissioner shall furnish to the Minister a report of the proceedings of the Commission during the year that ended with the preceding 31st day of December, together with any recommendations that he may have relating to the trading hours of retail shops or to the categories of approved goods and special goods. 20

**17. Authority for extended opening of specified shop**—(1) The occupier of any shop may apply to the Commission for authority to open it during hours or on days specified in section 6 (1) of this Act. 25

(2) Every such application shall be filed in the office of the Magistrate's Court nearest the shop to which the application relates, and shall specify the name of the applicant, the name and location of the shop, the nature of the business carried on there, the times and days when it is proposed to be open, and the reasons for the application. 30

(3) Notice of the date and place of the hearing of the application shall be given to the applicant by the Registrar of the Court where the application is filed at least 14 days before the date fixed for the hearing; and within 3 days of the notice being given to him the applicant shall cause to be published in some newspaper approved for the purpose by the Registrar, and to be sent to an Inspector, to every industrial union of workers registered in respect of shop 40

assistants employed in the locality in shops carrying on the trade carried on in the shop in respect of which the application is made, and to every industrial union of employers registered, or organisation of employers functioning, in respect of shops of that kind, a notice of the application and of the matters specified in subsection (2) of this section.

Cf. 1955, No. 32, s. 10A

15 **18. District and group applications**—(1) The occupiers of the majority of the shops in any district or area may apply to the Commission for authority to open, during hours or on days specified in section 6 (1) of this Act, all the shops in that district or area; and sections 17 and 19 of this Act, with the necessary modifications, shall apply to any such application.

15 (2) Where a local authority is satisfied that authority to open during hours or on days specified in section 6 (1) of this Act in respect of all shops in an area within its district would be in the local and public interest, or that there is a strong public demand for such an authority within its district, it may apply to the Commission for such an authority as if it were the majority of the occupiers of all shops in that area.

**19. Applications and orders**—(1) At the hearing of an application under section 17 of this Act, any of the following persons may appear and be heard, in person or by counsel:

- 25 (a) The applicant:
- (b) Any Inspector:
- (c) The local authority in whose area the shop is situated:
- (d) The occupier of any shop that may be affected by the result of the application:
- 30 (e) Any organisation that, or any of whose members, may, in the opinion of the Commission, be affected by the result of the application.

(2) The Commission may make an order either refusing the application or granting it, either wholly or in part, and either unconditionally or subject to such conditions as the Commission thinks fit; and the shop concerned may be open accordingly.

35 (3) Without limiting the generality of subsection (2) of this section, it may be a condition of an order thereunder that the shop concerned or, in the case of an application in respect of all the shops in a district or area, all those shops, be open

only for the sale of approved goods in accordance with section 6 (3) of this Act during specified hours or on specified days; and in that case that shop or, as the case may be, all those shops, may be open only to that extent during those hours or on those days, notwithstanding that, in the case of an order affecting all the shops in a district or area, not all the occupiers thereof were parties to the application concerned. 5

(4) In determining, pursuant to subsection (3) of this section, the hours during which or the days on which a shop or all the shops in a district or area is or are to be open only as aforesaid, the Commission shall, unless in its opinion special reasons exist for not doing so, specify such hours or days as shall, in its opinion, most readily enable persons working in that shop or those shops to have 2 consecutive days off: 10 15

Provided that if the industrial unions of workers representing those persons so agree, other hours or days may be specified.

(5) In deciding whether to grant or refuse an application the Commission shall have regard to the following matters: 20

- (a) The public demand during the hours and on the days for which there has been an application for authority to open: 20
- (b) The nature of the area in which the shop concerned is situated, and in particular whether it is a tourist or holiday area: 25
- (c) The interests of the occupier of any other shop:
- (d) The public interest generally, including the interests of persons living in the vicinity of the shop concerned. 30

(6) An order made under this section may at any time be amended or revoked by the Commission, on application by the original applicant, the occupier of any shop that is affected by the extended opening authorised by the order, or, in the case of an order affecting a shop the occupier of which has been convicted of an offence against this Act, on the application of an Inspector; and the provisions of this section and section 17 of this Act shall, with the necessary modifications, apply to any such application as if it were an application under subsection (1) of that section. 35 40

(7) Subject to subsection (6) of this section, an order made under this section shall continue to apply to a shop notwithstanding that its ownership or management may change:

Provided that, in the case of an order in respect of only one shop, if the occupier thereof carries on therein any business that was not carried on therein when the order was made, the order shall thereupon cease to apply to that shop.

5 (8) For the purposes of this Act, the Commission shall have and may exercise, in respect of any application and the hearing thereof, the powers of a Magistrate under the Magistrates' Courts Act 1947 to the same extent as if the application were an originating application under the rules of procedure for  
10 the time being in force under that Act; and, subject to subsection (10) of this section, those rules shall apply accordingly.

(9) All Courts and persons acting judicially shall take  
15 judicial notice of the signature of the member of the Commission attached to any order under this section.

(10) Proceedings before the Commission shall not be held bad for want of form; and no decision of the Commission shall be reviewed in any Court except on the grounds of lack of jurisdiction.

20 (11) The occupier of a shop in respect of which an order under this section is for the time being in force shall display prominently in the shop, so that it may be read by any person without having to ask for its production or obtain permission to see it, a notice setting out accurately the full terms of  
25 the order; and no person shall display in any shop a notice that relates to an order that is no longer in force in respect of that shop or that does not set out accurately the full terms of an order that is in force in respect of that shop.

(12) In the light of any matters arising, or any representations made, during any proceedings before it, the  
30 Commission may recommend to the Minister that goods of any class be declared to be approved goods or special goods.

Cf. 1955, No. 32, s. 10b

**20. Inspectors**—(1) For the purposes of this Act every  
35 Inspector, accompanied if he thinks fit by a constable to assist him in his duty, may enter, inspect, and examine any shop, or any place that he has reasonable cause to believe to be a shop or to have a shop within its premises, at all reasonable times by day and night:

40 Provided that where, in order to enter any place that he believes to be a shop, an Inspector wishes to enter part of a private dwelling-house (being a part that he does not believe to be a shop) he shall not enter that part except pursuant to a warrant issued under subsection (2) of this section.

(2) Any Magistrate or Justice who, on an application in writing made on oath, is satisfied that there is reasonable ground for believing a private dwelling-house to be a shop or to have a shop within its premises, may issue to an Inspector named therein a warrant, in a form prescribed by the Governor-General by Order in Council, to enter that dwelling-house. 5

(3) Every occupier of a shop, or a place that an Inspector has reasonable cause to believe to be a shop or to have a shop within its premises, shall allow an Inspector, with or without a constable, to enter, inspect, and examine it pursuant to subsection (1) of this section. 10

(4) Every Inspector may examine, either alone or in the presence of another person, as he thinks fit, with respect to matters under this Act, any person whom he finds in a shop or in a place he has reasonable cause to believe to be a shop or to have a shop within its premises, and may require any such person to sign a statutory declaration of the matters in respect of which he is so examined: 15

Provided that on any such examination by an Inspector no person shall be required, in response to any question, to give an answer tending to incriminate himself. 20

(5) Every Inspector shall be furnished with a certificate of his appointment, in the form prescribed under the Factories Act 1946, and on applying for admission to any shop or place he has reasonable cause to believe to be a shop or to have a shop within its premises he shall, if required by the occupier, produce the certificate to him. 25

(6) No Inspector shall divulge to any person any information obtained pursuant to this Act except for the purposes of this Act. 30

Cf. 1921-22, No. 46, ss. 34, 66; 1951, No. 11, s. 3; 1955, No. 32, s. 44

**21. Offences and penalties—**(1) The occupier of a shop that is open in contravention of this Act or of a condition subject to which an order has been granted pursuant to section 19 of this Act commits an offence. 35

(2) Every person who sells restricted goods during the hours or on any day specified in section 6 (1) of this Act otherwise than pursuant to an order under section 19 or to section 7, section 8, or section 9, of this Act commits an offence. 40



(3) Every person who acts in contravention of or fails to comply with the requirements of this Act commits an offence.

(4) Every person who commits an offence against this Act shall be liable, on summary conviction, to a fine not exceeding \$500.

Cf. 1921-22, No. 46, ss. 33, 46, 59; 1955, No. 32, ss. 33, 38

**22. Procedure—**(1) An Inspector who lays an information in respect of an offence against this Act, or proceeds with or conducts any proceedings in connection therewith, shall not be called upon to prove that he is an Inspector; and any such information may be proceeded with and conducted by the Inspector laying it, or by any other Inspector, or by any other person permitted by the Court.

(2) In any proceedings relating to an offence against this Act by the occupier of a shop it shall be sufficient in the information to allege that a place is a shop and to state the name of its ostensible occupier or the style or title under which the occupier is usually known or carries on business; and the information may from time to time be amended as to the actual name of the occupier.

(3) If the Court thinks fit, several informations laid against the same person relating to offences against this Act or, with the consent of the parties, informations laid against several parties in respect of such offences, may be heard together; and in any such case a witness sworn to give evidence in respect of one information shall for all purposes be deemed to be a witness in respect of each information.

**23. Effect of Act on awards and agreements—**(1) Notwithstanding anything in any award or agreement (within the meaning of the Industrial Relations Act 1973), any shop may be open at any time in accordance with this Act.

(2) Nothing in this Act shall require any employee to work in any shop contrary to any such award or agreement that applies to him.

**24. Act administered in Department of Labour—**This Act shall be administered in the Department of Labour.

**25. Savings—**(1) Notwithstanding section 26 of this Act, every order of the Shops and Offices Exemption Tribunal pursuant to section 10B of the Shops and Offices Act 1955, being an order exempting any shop from the provisions of any Act or any award relating to the times when it is required to be closed, that was in force immediately before the commencement of this Act shall enure and continue in force for the purposes of this Act as if it were an order under section 19 of this Act, and may be amended or revoked accordingly. 5 10

(2) Notwithstanding section 26 of this Act, every exemption from any provision of the Shops and Offices Act 1955 or of any award requiring a shop to be closed at any time, given by the Minister pursuant to section 7 (2) or section 11 (1) of that Act, that was in force immediately before the commencement of this Act shall enure and continue in force for the purposes of this Act as if it were an authority issued by the Secretary under section 7 (2) or, as the case may be, section 9 of this Act, and may be amended or revoked accordingly. 15 20

(3) Notwithstanding section 26 of this Act, every application made to the Shops and Offices Exemption Tribunal under section 10A of the Shops and Offices Act 1955 that was not finally disposed of immediately before the commencement of this Act may be dealt with by the Commission in all respects as if it had originally been made to the Commission. 25

**26. Consequential amendments and repeals—**(1) The enactments specified in the first column of the Third Schedule to this Act are hereby amended in the manner indicated in the second column of that schedule. 30

(2) The enactments specified in the Fourth Schedule to this Act are hereby consequentially repealed.

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SCHEDULES

FIRST SCHEDULE

s. 5 (2)

GOODS DEEMED TO BE APPROVED GOODS

*Aquarium Flora and Fauna*

Aquarium flora and fauna (including tropical fish), and food and ancillary equipment necessary for the keeping of such flora and fauna.

*Bakers and Pastrycooks Goods*

Biscuits.  
Bread.  
Cake.  
Pastry.  
Pies.  
Sandwiches.  
Smallgoods.

*Building Supplies and Handyman's Requisites*

Timber.  
Plywood.  
Interior wallboard and tiles (with or without a wood content).  
Decorative and faced boards.  
Fibrous plaster and plaster board sheets.  
Building paper and substitutes.  
Damp course.  
Sand and glass paper.  
Fillers, adhesives, and putty.  
Paint, primers only, in containers not exceeding 2.3 litres.  
Nails, screws, hinges, and butts.  
Catches and handles.  
Hacksaw blades.  
Hammers.  
Handles for garden and hand tools.  
Paint brushes.  
Screwdrivers.

*Condiments*

Mayonnaise.  
Mustard.  
Pepper.  
Pickles.  
Relishes.  
Salt.  
Sauces.  
Vinegar.

*Confectionery*

Confectionery and sweetmeats.

*Dairy Produce*

Butter.  
Cheese, packaged or processed.  
Cream, including reduced cream.  
Milk, including condensed and dried milk.

FIRST SCHEDULE—*continued**Drinks*

- Aerated waters.
- Cordials.
- Cordial extracts.
- Soft drinks.

*Fish*

- Fresh fish and shellfish, if it is sold by the owner of a registered fishing boat or a person appointed by him in that behalf, direct from that boat at the place where it is moored, berthed, or beached, or from a stall within 500 metres from that place, and if it has been taken from that boat under a valid boat fishing permit for the method or methods used to take that fresh fish or shellfish.

*Frozen Foods*

- Fruit, frozen.
- Ice cream.
- Ice blocks.
- Meals, pre-cooked and deep frozen.
- Vegetables, frozen.

*Fruit, Vegetables, and Flowers*

- Cut flowers.
- Fruit, fresh, bottled, or tinned.
- Vegetables
  - Lettuce.
  - Tomatoes.
  - Vegetables, tinned or freeze-dried.
  - Vegetables sold by the grower thereof on the premises where they are grown.

*Fuels*

- Charcoal.
- Coke.
- Coal.
- Carbonettes, and any other solid fuels derived from coal, in retail packages not exceeding 20 kilogrammes.
- Dieseline.
- Kerosine.

*Gardening Supplies*

- Compost.
- Fertilisers.
- Fungicides.
- Garden Dusts.
- Garden Sprays.
- Insecticides.
- Manures.
- Mulches.
- Peat.
- Pesticides.
- Plant care products.
- Potting mixtures and ingredients.
- Soil conditioners.
- Weed killers.

FIRST SCHEDULE—*continued*

*Groceries, Miscellaneous*

- Breakfast cereals, pre-packaged.
- Baked Beans.
- Cocoa, including cocoa compounds.
- Coffee, including coffee compounds.
- Eggs.
- Extracts, meat or vegetable.
- Fish, tinned.
- Flour, in pre-packed quantities not exceeding 1.5 kilogrammes.
- Honey.
- Jam.
- Jelly crystals.
- Nuts, shelled and pre-wrapped.
- Pastes and spreads.
- Soups, tinned or packaged.
- Spaghetti, tinned.
- Sugar, in pre-packed quantities not exceeding 1.5 kilogrammes.
- Tea, in pre-packed quantities not exceeding 250 grammes.

*Magazines and Periodicals*

- Magazines and periodicals; this shall not be deemed to include books published either in hard-bound or paper-backed editions.
- Newspapers.

*Meats and Smallgoods*

- Bacon.
- Ham, cooked.
- Luncheon sausage.
- Meat, tinned.
- Sausages, pre-wrapped.
- Saveloys.

*Medicinal and Household Goods*

- Aspirins and similar headache tablets.
- Babies' bottles.
- Baby foods.
- Babies' teats.
- Cough mixtures.
- Fly sprays.
- Light bulbs.
- Medicated confectionery.
- Razor blades.
- Sanitary towels.
- Sticking plaster, bandages, and similar emergency dressings.
- Sunburn lotions.
- Toilet rolls.
- Toilet soaps.
- Toothpaste.
- Toothbrushes.

*Miscellaneous Items*

- Boats.
- Candles.
- Pantyhose.
- Torch batteries.
- Women's nylon stockings.

FIRST SCHEDULE—*continued**Motor Accessories*

Caravans and trailers.

Motor spirits, petrol, and oil.

Parts or accessories for motor vehicles, farm machinery, or farm implements.

*Photographic Goods*

Films.

*Plants, etc.*

Corms.

Plants.

Seedlings.

Seeds.

Shrubs.

Trees.

Tubers (including seed potatoes).

*Prepared or Cooked Foods*

Cooked fish.

Cooked chipped potatoes.

Cooked oysters.

Cooked sausages.

Cooked saveloys.

Take-away foods, being prepared or cooked foods in a form ready for immediate human consumption.

*Tobacco, etc.*

Cigarettes.

Cigarette papers.

Cigars.

Matches.

Tobacco.

SECOND SCHEDULE

s. 5 (4)

GOODS DEEMED TO BE SPECIAL GOODS

Goods	Hours	Days
Vegetables New and used motor cars (including station sedans), motor trucks (including vans), motor omnibuses, motorcycles, power cycles, tractors, and other motor vehicles propelled by mech- anical means Wreaths, floral bouquets, and flowers	8 a.m. to Noon   8 a.m. to 1 p.m.   8 a.m. to Noon	Saturdays other than New Year's Day, Waitangi Day, Anzac Day, Christmas Day, and Boxing Day.

s. 26 (1)

## THIRD SCHEDULE

## AMENDMENTS

Enactment Amended	Manner in which amended
Section 18 (3) of the Police Offences Act 1927	By omitting the words "or to any person carrying on or working in the business of a shop within the meaning of the Shops and Offices Act 1955" (as added by section 4 (2) (b) of the Shops and Offices Act 1955), and substituting the words "or to any person carrying on or working in the business of a shop within the meaning of the Shop Trading Hours Act 1976".
The First Schedule to the Labour Department Act 1954 (as substituted by section 3 (1) of the Labour Department Amendment Act 1970)	By inserting, in its appropriate alphabetical order, "The Shop Trading Hours Act 1976".
Section 19 of the Shops and Offices Act 1955	By omitting the word "three", and substituting the expression "13".
Section 292 (6) of the Sale of Liquor Act 1962	By omitting the words "all the provisions of that Act", and substituting the words "or section 3 of the Shop Trading Hours Act 1976, all the provisions of those Acts".
Section 292 (7) of the Sale of Liquor Act 1962	By omitting the words "the provisions of the Shops and Offices Act 1955 and of any award made under section 3 of that Act applying to any shop or store authorised under this section it shall be lawful for any such shop or store", and substituting the words "the Shop Trading Hours Act 1976, it shall be lawful for any shop or store authorised under this section".

s. 26 (2)

## FOURTH SCHEDULE

## ENACTMENTS REPEALED

Sections 3 to 12 (inclusive), and section 49, of the Shops and Offices Act 1955

The Shops and Offices Amendment Act 1959

The Shops and Offices Amendment Act 1965

Section 2 of the Shops and Offices Amendment Act 1975.