

LAWS OF TRINIDAD AND TOBAGO

SHOP (HOURS OF OPENING AND EMPLOYMENT) ACT

CHAPTER 84:02

Act
6 of 1938
Amended by
27 of 1942
21 of 1950
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17 of 1984

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Note
on
Adaptation

Certain fees in this Chapter were increased by the Commission under paragraph 4 of the Second Schedule to the Law Revision Act (Ch. 3:03). Where this occurs, a marginal reference in the form normally indicating an amendment is made to L.N. 51/1980 (the Legal Notice by which the President's approval was signified).

CHAPTER 84:02

SHOP (HOURS OF OPENING AND
EMPLOYMENT) ACT

ARRANGEMENT OF SECTIONS

SECTION

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CHAPTER 84:02

SHOP (HOURS OF OPENING AND
EMPLOYMENT) ACT

An Act relating to the opening hours of shops, and premises licensed for the sale of intoxicating liquors, to provide for the limitation of the hours of employment in respect of certain trades, and for the supply of seats for female shop assistants.

1950 Ed.
Ch. 51 No. 14.
6 of 1938.

[16TH JANUARY 1938]

Commence-
ment.

1. This Act may be cited as the Shop (Hours of Opening and Employment) Act.

Short title.

2. In this Act—

“controlled business” means any one or more of the following trades or businesses, namely, any retail trade or business (including retail sales by auction but not including the sale of programmes and catalogues and other similar sales at theatres and places of amusement), the sale of intoxicating liquor under licence, the business of a pawnbroker, barber, hair-dresser, wholesale provision shop, refreshment house, restaurant, dairy shop, parlour or cook shop;

Interpretation.
[17 of 1984].

“employee” means a person employed in or about any shop, but shall not include—

- (a) the owner registered under the Registration of Business Names Act;
- (b) the owner of any business not so registered as aforesaid;
- (c) the directors and secretary of a company or corporation which is the owner of the business, where such directors and secretary are by a Shop Order specifically permitted to be in attendance in the shop, subject nevertheless to the conditions under which such permission is granted;
- (d) the agent of the owner and the manager of the business carried on in the shop;

Ch. 82:85.

- (e) any licensed druggist or assistant druggist in a drug shop;
- (f) any member of the owner's immediate family, when such member is by a Shop Order specifically permitted to be employed or to be in attendance in the shop, subject nevertheless to the conditions under which such permission is granted;

but in respect of categories (b), (d) and (f) only two such persons shall be excluded from being an employee in any single shop;

“immediate family” of the owner in reference to employment in a shop includes the owner's child, father, mother, brother, sister, as well as his wife, or her husband, as the case may be, and provided such person is maintained by and resides with such owner;

“Inspector” means a person appointed as such under section 3;

“Minister” means the Minister to whom responsibility for commerce is assigned;

“Sale” includes “barter” and “exchange”;

“shop” means all directly inter-connected premises or contiguous places used by any person for—

- (a) exposing goods for sale as part of any controlled business carried on by him; or
- (b) the storage, preparation, processing or manufacture of goods, some or all of which are ordinarily disposed of in the course of any controlled business carried on by him; or
- (c) any other purpose of a controlled business carried on by him,

or, where part only of any premises or places are so used, means that part; but the term “shop” shall not include any market lawfully held, or any bazaar for charitable or public purposes, or any separate room or workshop used exclusively for the storage, preparation,

processing or manufacture of goods which are of a description ordinarily disposed of in substantial quantities otherwise than in the course of controlled business.

“Spirits” and “intoxicating liquor” have the meanings assigned to them in the Liquor Licences Act. Chap. 84:10.

3. The Minister may appoint one or more persons to be Inspectors for the purposes of this Act.

Appointment
of Inspectors.

4. (1) For the purpose of ascertaining whether the provisions of this Act or of any Shop Order are being, or have been, duly observed and obeyed, any Inspector and any police officer not below the rank of corporal shall have the right to enter any premises or places which are, or which he may have grounds for suspecting to be, a shop at any time when such premises or places are open for business, and to require admission to any such premises or places, whether open for business or not, at any time when he has grounds for suspecting that any provision of this Act or of a Shop Order is being, or has recently been, contravened therein, and to inspect such premises or places and to examine any person employed in or about such premises or places and to require production to him of any books or documents relating to the subject matter of the investigation.

Powers and
duties of
Inspectors and
members of
the Police
Service.

(2) Any person who wilfully delays or obstructs an Inspector or a police officer in the exercise of any powers conferred by this section, or fails to give information properly requested, or to produce books or documents properly called for, in exercise of such powers, or prevents or attempts to prevent any person from appearing before or being examined by an Inspector or police officer, or conceals or attempts to conceal any person with the same object, is liable on summary conviction to a fine of two thousand dollars.

5. (1) The Minister may, if he thinks fit, make an Order (in this Act referred to as a “Shop Order”) fixing the hours (in this Act referred to as the “opening hours”) on the several days of the week, including Sundays and public holidays, during which, either throughout Trinidad and Tobago or in any specified area of Trinidad and Tobago,

Power to
make Shop
Orders limit-
ing the
opening hours
of shops and
hours of
employment
therein.

all shops or shops of any specified class may be opened for serving customers.

(2) The Minister may, if he thinks fit, by a Shop Order limit the number of hours during which employees may remain or be employed in any shop or store or place of trade or business, whether wholesale or retail, to which this Act shall, by such Order, be declared to be applicable.

(3) A Shop Order made under this Act shall be subject to affirmative resolution of Parliament.

Sub. Leg. p. 11.

(4) The Shop (Opening Hours) Order (formerly appearing in a Schedule to this Act) shall be deemed to be an Order made under this section and may be amended or revoked under this section.

Hours fixed by
Orders may be
extended.

6. (1) Any Shop Order under this Act may make provision for the hours of employment fixed by such Order being extended on such occasions and for such purposes and to such extent as may be specified in such Order.

(2) Notwithstanding anything to the contrary contained in this Act, the Minister may in his discretion authorise, by notice published in a daily newspaper published in Trinidad and Tobago, the extension on special occasions of the time during which any licensed premises mentioned in such notice may be kept open. Such extension shall be granted when the Minister is satisfied that it will be for the general public convenience and will not injuriously affect public order.

Number of
opening hours.
[17 of 1984].

7. (1) A Shop Order may limit to any extent the opening hours of, or may absolutely prohibit the opening of, a shop on Sundays and public holidays.

(2) (*Repealed by Act 17 of 1984.*)

(3) The opening hours fixed by any Shop Order may from time to time be shortened or extended for any specific day or period.

Hours of
employment
outside opening
hours.

8. A Shop Order may prohibit or restrict the employment in or about any shop outside opening hours of any person who has been employed in or about any shop during opening hours, and may impose conditions on such employment.

9. Where more than one trade or business is carried on in the same shop, and any of those trades or businesses is of such a nature that, if it was the only trade or business carried on in the shop the Shop Order would not apply to the shop, such shop may be open outside the opening hours for the purposes of that trade or business alone, but on such terms and under such conditions as may be specified in the Shop Order.

Shops carrying on more trades than one.

10. (1) Any person who sells or exposes or offers for sale in any place other than a shop any goods at any time or on any day during which the sale of goods of a like description is prohibited by any Shop Order, is liable, on summary conviction to a fine of two thousand dollars; but nothing in this section shall be deemed to prohibit a private sale by a person not engaged in the sale of goods as a trade or business.

Places other than shops.

(2) Any goods exposed for sale in contravention of subsection (1) shall be forfeited and may be seized by any constable and dealt with in like manner as uncustomed goods seized by an officer of Customs in accordance with the provisions of the customs laws as defined in section 2 of the Customs Act.

Ch. 78:01.

11. For the purpose of effectively controlling the opening hours of shops, and the hours of employment therein, a Shop Order may—

Restrictions by Shop Order.

- (a) define and classify shops and determine the kind of merchandise which may be sold therein;
- (b) determine the persons who may or may not be employed therein;
- (c) impose restrictions to be observed in order that such shops may fall within one or other of the specified classes and to ensure their closing during prohibited hours and the observance of the law by owners and other persons in charge of or in attendance in such shop;
- (d) require the issue of licences in order to enable any shop to remain open for serving customers or to enable the carrying on of any retail trade or business in any place not being a shop, and for such other purposes and subject to such

conditions as may be prescribed in the Order, and provide for the cancellation of such licences, and designate the person or persons who shall act as Licensing Authority for the purposes hereof;

- (e) require the payment of such fees as shall be fixed in respect of a licence, but not exceeding five dollars a year for any one licence;
- (f) exempt shops from the operation of the Order, either absolutely or subject to any conditions;
- (g) permit a shop to be opened outside the opening hours for any purpose specified in the Order;
- (h) authorise sales or transactions outside the opening hours for any purpose specified in the Order or of any specified thing or in any circumstances specified in the Order; and
- (i) contain any incidental, supplemental, or consequential provisions which may appear necessary or proper.

Saving of certain provisions relating to Liquor Licences. [17 of 1984].

12. Nothing in any Shop Order shall—

- (a) affect the power of a Magistrate or two Justices of the Peace under section 63 of the Liquor Licences Act to order the closing of licensed premises; or
- (b) affect the power of granting occasional licences and special licences conferred by sections 44 and 45, respectively, of the Liquor Licences Act.

Chap. 84:10.

Penalty for breach of hours of employment.

13. (1) Where any person is employed in any shop or store or place of trade or business, in respect of which a Shop Order under this Act is in force, for longer than the time fixed by such Order, then the person or persons in whose name such shop, store, or place of trade or business is carried on, and any other person or persons actually in charge of such shop, store or place, are each liable on summary conviction for a first offence to a fine of two thousand dollars, and for any subsequent offence, to a fine of four thousand dollars.

(2) If, outside the opening hours fixed by any Shop Order, any shop to which the Order applies is opened or kept open except as permitted by the Shop Order, or if, except as aforesaid, any sale or transaction is effected or attempted to be effected in any such shop, or if with respect to any such shop there is any contravention of any Shop Order, the person or persons in whose name such shop is carried on and any other person or persons actually in charge of such shop are each liable on summary conviction to a fine of two thousand dollars.

Penalty for
breach of
closing Order.

(3) Nothing in this Act or any Shop Order shall render any person liable to a penalty by reason only that a transaction with a person in a shop at the end of the opening hours is commenced or completed after the end of the opening hours with reference to any article not being intoxicating liquor.

(4) Where any sale or transaction or part of any sale or transaction in the course of the controlled business carried on in a shop is effected in any part of the premises, including in the case of licensed premises the unlicensed part of such premises, such sale or transaction or part of such sale or transaction shall be deemed to have been effected in such shop.

14. If at any time outside the opening hours fixed by a Shop Order any person is found on premises licensed under the Liquor Licences Act (other than premises for which a hotel or special hotel licence is in force), or in any out-house or building in the same curtilage and occupied therewith, or in any other shop premises to which the Order applies, then, unless the Magistrate is satisfied that such person was an inmate, servant, or *bona fide* friend entertained at the expense of the licensed occupier, or that otherwise his presence was not in contravention of the law, the holder of the licence or the owner of the shop and any other person or persons actually in charge of such shop are each liable on summary conviction, to a fine of one thousand dollars and the person so found is liable, on summary conviction to a fine of two hundred dollars.

Penalty where
a person is
found on shop
premises after
closing hours.
Ch. 84:10.

15. (1) Any constable may demand the name and address of any person found on any licensed premises or any shop during the period during which they are required to be

Name and
address of
person found
on shop prem-
ises to be
given to
constable.

closed and, if he has reasonable ground to suppose that the name or address given is false, may require evidence of the correctness of such name and address, and may, if such person fails upon such demand to give his name or address or evidence of the correctness of the name or address so given, apprehend him without warrant, and carry him as soon as practicable before a Magistrate.

(2) Any person required by a constable under this section to give his name and address, who fails to give the same, or gives a false name or address, or gives false evidence with respect to such name or address, is liable on summary conviction to a fine of two hundred dollars.

Onus of proof. 16. In any prosecution against the owner or person in charge of a shop for permitting any employee to remain or be employed in such shop for a longer period than is permitted by law, if the defendant claims that the person alleged to be an employee is not an employee, the onus of proving that such person is not an employee shall lie on the defendant.

Seats for female shop assistants. 17. (1) In all rooms of a shop where female shop assistants are employed the occupier of the shop shall provide seats behind the counter, or in such other position as may be suitable for the purpose, and such seats shall be in the proportion of not less than one seat to every three female shop assistants employed in each room, with a minimum of one seat in each room.

Notice. (2) It shall be the duty of the occupier of the shop to permit the female shop assistants so employed to make reasonable use of such seats, and the occupier shall post in a conspicuous position in the shop a notice in the following words:

“NOTICE is hereby given that seats are provided in this shop for Female Shop Assistants, and that these Assistants may make reasonable use of the seats.”

Penalty. (3) Any person who fails to comply with the provisions of this section is liable on summary conviction for a first offence to a fine of two hundred dollars, and for any subsequent offence to a fine of four hundred dollars.

SUBSIDIARY LEGISLATION

SHOP (OPENING HOURS) ORDER

made under section 5

87/1984.
88/1984.

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation.
2. Interpretation.
3. Opening hours of shops.
4. Opening and closing times when different trades are carried on in the same premises.
5. Notice of opening hours to be posted upon shop.

SCHEDULE

[Subsidiary]

Shop (Opening Hours) Order

SHOP (OPENING HOURS) ORDER*Made under Section 5*

Citation. 1. This Order may be cited as the Shop (Opening Hours) Order.

Interpretation. 2. For the purposes of this Order the expressions "intoxicating liquor" and "spirits" have the meanings respectively assigned to them by the Liquor Licences Act.

Chap. 84:10.

Opening hours of shops. 3. (1) Any shop, other than premises mentioned in subclause (2) or (3), may be opened for serving customers at any time and on any day.

(2) Premises used for the sale or supply of intoxicating liquor by virtue of—

- Chap. 84:10.
- (a) an authority furnished under section 40(2) of the Liquor Licences Act;
 - (b) an occasional licence granted under section 44 of that Act; or
 - (c) a special licence granted under section 45 of that Act,

may be opened for serving customers during such hours, on such days and subject to such exceptions and conditions as may be specified in such authority, occasional licence or special licence or in the Liquor Licences Act, in the Shop (Hours of Opening and Employment) Act, or in this Order.

(3) Premises used for the sale or supply of intoxicating liquor by virtue of a licence issued under the Liquor Licences Act other than those mentioned in subclause (2) may be opened for serving customers during such hours and on such days as are respectively set out in the Schedule subject to such exceptions and conditions as are set out in the respective licences, in the Liquor Licences Act, in the Shop (Hours of Opening and Employment) Act, or in this Order.

Schedule.

(4) On the second Sunday after Easter Sunday in each year, premises used for the sale or supply of intoxicating liquor by virtue of a spirit retailer's licence or wine retailer's licence issued under the Liquor Licences Act within a one-mile radius of the Siparia Magistrate's Court in the County of St. Patrick, may be opened for serving customers during the hours of 6.00 a.m. to 6.00 p.m.

Shop (Opening Hours) Order

[Subsidiary]

(5) The provisions relating to evidence of sale contained in section 72 of the Liquor Licences Act shall apply in prosecutions under this Act.

4. Where different trades or businesses, in respect of which different times for opening and closing apply, are carried on in the same premises, such premises shall be opened at the latest hour and closed at the earliest hour applicable to any such trade or business, unless means are provided to the satisfaction of the Commissioner of Police for the adequate partition or division of the premises into separate and distinct shops so as to ensure the effective closing of each trade or business outside of the relevant opening hours fixed for such trade or business.

Opening and closing times when different trades are carried on in same premises.

5. The owner or person in charge of a shop shall have posted in a conspicuous position both upon the outside of the front of the shop and inside the shop, a notice specifying the opening and closing hours of such shop; and where different trades or businesses, in respect of which different times for opening and closing apply, are carried on in the same premises, such notice shall specify the respective times for opening and closing applicable to each trade or business.

Notice of opening hours to be posted upon shop.

SCHEDULE

OPENING AND CLOSING HOURS FOR SALE OR SUPPLY OF LIQUOR ON LICENSED PREMISES

Spirit Retailer's Licence issued under the Liquor Licences Act	Throughout Trinidad and Tobago	Monday to Saturday	6.30 a.m.- 9.00 p.m.
Wine Retailer's Licence issued under the Liquor Licences Act	Throughout Trinidad and Tobago	Monday to Saturday	6.30 a.m.- 9.00 p.m.
Hotel Spirit Licence issued under the Liquor Licences Act	Throughout Trinidad and Tobago	On any day (including public holidays)	At any time
Special Hotel Licence issued under the Liquor Licences Act	Throughout Trinidad and Tobago	On any day (including public holidays)	At any time
Restaurant Licence issued under the Liquor Licences Act	Throughout Trinidad and Tobago	On any day (including public holidays)	At any time
Special Restaurant Licence issued under the Liquor Licences Act	Throughout Trinidad and Tobago	On any day (including public holidays)	At any time

LAWS OF TRINIDAD AND TOBAGO

*Shop (Hours of Opening
and Employment)*

16

Chap. 84:02

[Subsidiary]

Shop (Opening Hours) Order

Night Bar Licence issued under the Liquor Licences Act	Throughout Trinidad and Tobago	On any day (in- cluding public holidays)	6.00 p.m.- 6.00 a.m.
Spirit Grocer's Licence issued under the Liquor Licences Act	Throughout Trinidad and Tobago	Monday to Saturday	6.30 a.m.- 9.00 p.m.
Spirit Dealer's Licence issued under the Liquor Licences Act	Throughout Trinidad and Tobago	Monday to Saturday	6.30 a.m.- 9.00 p.m.
Wine Merchant's Licence issued under the Liquor Licences Act	Throughout Trinidad and Tobago	Monday to Saturday	6.30 a.m.- 9.00 p.m.