

No. 6. *Shop (Hours of Opening and Employment).* 1938.

TRINIDAD AND TOBAGO.

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No. 6 —1938.

I ASSENT,

[L.S.]

A. W. SEYMOUR,
Acting Governor.
5th May, 1938.

[On Proclamation.]

AN ORDINANCE relating to the opening hours of Shops, and of 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.

BE it enacted by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof as follows :—

1. This Ordinance may be cited as the Shop (Hours Short title. of Opening and Employment) Ordinance, 1938, and shall commence on a day to be fixed by the Governor by Commence- Proclamation. ment.

2. In this Ordinance unless the context otherwise Interpretation. requires—

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

- (a) The owner registered under the Registration of Business Names Ordinance ;
- (b) The owner of any business not so registered as aforesaid ;

- (c) The Directors and Secretary of a Company or Corporation when such a Company or Corporation is the owner of the business, provided that 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 ;
- (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.

Provided that 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.

“ Shop ” includes any premises or place where retail trade or business is carried on (including the business of a pawnbroker, barber, or hair-dresser) any premises licensed for the sale of intoxicating liquor, any wholesale provision shop, refreshment house, restaurant, dairy shop, parlour, or cook shop : Provided that the term “ Shop ” shall not include a market lawfully held, or a bazaar for charitable, religious, or public purpose, or any part of a building in which a shop is located when such part is not used for the purpose of exposing goods for sale or for the storage of such goods or otherwise for the carrying on of the trade or business.

“ Tourist ” means a person who is in the Colony for a temporary purpose and has not resided therein for more than three consecutive days.

3.—(1) The Governor in Executive Council may, if he thinks fit, make an order (in this Ordinance referred to as a “ Shop order ”) fixing the hours (in this Ordinance referred to as the “ Opening hours ”) on the several days of the week, including Sundays and public holidays, during which, either throughout the whole Colony or in any specified area of the Colony, all shops or shops of any specified class may be opened for serving customers.

Power to make Shop Orders limiting the opening hours of shops and hours of employment therein.

(2) The Governor in Executive Council 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 Ordinance shall, by such order, be declared to be applicable.

(3) The provisions of any Shop Order made under this Ordinance may be varied from time to time or revoked by a subsequent order.

(4) A Shop Order made under this Ordinance shall not have any force or effect until it has been approved by resolution of the Legislative Council, and when so approved shall be published in the *Royal Gazette* and from the date of such publication, or from the date specified therein, such Order shall have force and effect as if it formed part of this Ordinance.

4.—(1) Any Shop Order under this Ordinance 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.

Hours fixed by Order may be extended.

(2) Notwithstanding anything to the contrary in this Ordinance contained, it shall be lawful for the Governor in his discretion on the joint recommendation of the Collector of Customs and Excise and the Commissioner of Police, to authorize by notice published in a daily newspaper circulating in the Colony, the extension by one hour of the time during which any licensed premises mentioned in such notice may be kept open for the sale of intoxicating liquor. Such extension shall be granted when the Governor is satisfied that the same will be for the general public convenience, and will not injuriously affect public order.

The Governor may extend opening hours of Liquor premises for one hour.

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Extending
opening hours
during stay of
Tourist ships.

(3) Notwithstanding anything to the contrary in this Ordinance contained, it shall be lawful for the Commissioner of Police by notice published in a daily newspaper circulating in the Colony to grant to shops of the description and in the districts named in the notice an extension of the hours during which such shops in the specified districts may remain open on any day other than a closed day for the purpose of selling goods (other than intoxicating liquor) during the stay of a tourist ship at a port in the Colony: Provided that no extension shall be allowed beyond 7.30 p.m. on any such occasion.

Number of
opening hours.

5.—(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 (in this Ordinance referred to as closed days).

(2) Save as aforesaid the opening hours fixed by a Shop Order for any week day shall be not less than—

- (a) ten hours on one specified day to be designated as a late closing day ;
- (b) four hours on one specified day to be designated as an early closing day ;
- (c) eight hours on other week days to be designated as ordinary closing days.

(3) The opening hours fixed by any Shop Order may from time to time be shortened (but not further than as provided in sub-section (2) hereof) or extended for any specific day or period.

Hours of
employment
outside open-
ing hours.

6. 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.

Shops carrying
on more trades
than one.

7. Where more trades or businesses than one are 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 and business alone, but on such terms and under such conditions as may be specified in the Shop Order.

8.—(1) If any person shall sell or expose or offer 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, he shall be guilty of an offence against this Ordinance and shall on summary conviction be liable to a penalty not exceeding Two hundred and forty dollars: Provided that 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 sub-section (1) of this section 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 3 of the Customs Ordinance.

9. 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 ;

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- (e) require the payment of such fees as shall be fixed in respect of a licence, but not exceeding five dollars per annum 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) authorize 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.

10. Nothing in any Shop Order shall—

- (a) affect the power of a Magistrate or two Justices of the Peace under section 55 of the Liquor Licences Ordinance, 1933, to order the closing of licensed premises ; or
- (b) affect the power of granting special licences conferred by section 37 of the Liquor Licences Ordinance, 1933.

Penalty for breach of hours of employment.

11.—(1) If any person is employed in any shop or store or place of trade or business, in respect of which a Shop Order under this Ordinance 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, shall each be liable, on summary conviction before a Magistrate, to a penalty not exceeding two hundred and forty dollars for a first offence and not exceeding five hundred dollars for any subsequent offence.

(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 the provisions or conditions 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 shall each be liable, on summary conviction before a Magistrate to a penalty not exceeding two hundred and forty dollars.

Penalty for breach of closing order.

(3) But nothing in this Ordinance 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.

12. If at any time outside the opening hours fixed by a Shop Order any person is found on premises licensed under the Liquor Licences Ordinance, 1933, (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 shall each be liable on summary conviction to a penalty not exceeding one hundred dollars, and the person so found shall on summary conviction be liable to a penalty not exceeding twenty-four dollars.

Penalty where a person is found on shop premises after closing hours.

13. 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 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

Name and address of person found on shop premises to be given to constable.

person fail 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. 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, shall on summary conviction be liable to a penalty not exceeding twenty-four dollars.

Onus of proof. 14. 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. 15.—(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 words following :—

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

Penalty. (3) Any person failing to comply with the provisions of this section shall be liable on summary conviction before a Magistrate for a first offence to a fine not exceeding twenty-four dollars and for any subsequent offence to a fine not exceeding fifty dollars.

(4) For the purposes of this section—

Interpretation.

“Shop” means any premises in which is carried on any of the trades or businesses specified in section 2 hereof, and includes retail sales by auction, but does not include the sale of programmes and catalogues and other similar sales at theatres and places of amusement ;

“Shop assistant” means any female person wholly or mainly employed in a shop for serving customers, or for the receipt of orders or the despatch of goods.

16. The Shop Order contained in the Schedule to this Ordinance shall be in force until varied or revoked, and all previous Orders made and issued under the powers conferred by The Shop Hours Ordinance, Cap. 191, and The Hours of Employment Ordinance, Cap. 192, are hereby revoked.

Shop Order
Schedule.

17. The following Ordinances are hereby repealed—

Repeals.

(a) The Shop Hours Ordinance.

Cap. 191.

(b) The Hours of Employment Ordinance.

Cap. 192.

(c) The Shop Hours (Amendment) Ordinance, 1930.

No. 10-1930

(d) The Shop Hours (Amendment) Ordinance, 1933.

No. 32-1933.

(e) The Seats for Shop Assistants Ordinance, 1928.

No. 2-1928.

SCHEDULE.

SHOP ORDER.

Section 16.

1. This Order may be cited as the Shop Order, 1938.

Short title.

2. For the purposes of this Order the following words and expressions shall, unless the context otherwise requires, have the meanings hereinafter assigned to them :—

Definitions.

“Closed day” means Sunday, Good Friday, Christmas Day and any day appointed or declared to be a public holiday under the Public Holidays Ordinance, Cap. 288.

“Early closing day” means such day in every week as is specified in the First Schedule hereto for the early closing of any specified class or classes of shops in any specified area of the Colony.

1st Schedule.

“Late closing day” means such day in every week as is specified in the First Schedule hereto for the late closing of any specified class or classes of shops in any specified area of the Colony.

“Ordinary closing day” means week days not being a closed day, an early closing day, or a late closing day.

“Ordinance” means the Shop (Hours of Opening and Employment) Ordinance, 1938, or any Ordinance amending or replacing the same.

“Cook shop” means any shop in which is sold only food cooked on the premises.

“General shop” means a shop in which are sold or exposed for sale any merchandise other than spirits, wine and beer, tobacco, cigars, cigarettes, drugs, groceries and provisions, confectionery, fruits and vegetables, motor spirits and lubricants.

“Grocery” means a shop (other than a wholesale provision shop) in which are sold or exposed for sale groceries and provisions, including tobacco, cigars, cigarettes, confectionery, fruits, vegetables and other goods ordinarily sold in grocery and provision shops; and grocery shops include the shops heretofore known as retail provision shops.

2nd Schedule

“Parlour” means a shop in which are sold or exposed for sale only the articles of merchandise enumerated in the Second Schedule hereto. Such shop shall be the only shop, room or place used by the owner of the business for the purpose of storing and selling such merchandise. Such shop shall be the only shop of any kind established on premises rated as one lot, unless the Commissioner of Police, in his absolute discretion, grants exemption in writing from compliance with this restriction. Such shop shall have no means of internal communication with any other part of the premises, unless such other part is used solely as a residence by the owner of the shop, and shall not be adjacent to premises licensed for the sale of intoxicating liquor.

“Spirit Retailer’s Shop” means premises in respect of which a spirit retailer’s licence under the Liquor Licences Ordinance, 1933, is in force.

“Wine Retailer’s Shop” means premises in respect of which a wine retailer’s licence granted under the provisions of the Liquor Licences Ordinance, 1933, is in force.

Subject to any further provisions contained in this Order, “dairy shop”, “refreshment house”, and “restaurant” mean places or premises in which only meals, light refreshments, cigars, cigarettes, confectionery and matches are sold for consumption either on or off the premises; and “restaurant” also includes any premises licensed as a restaurant under the Liquor Licences Ordinance, 1933.

Opening and
closing hours.
1st Schedule.

3. The hours during which the several shops of the classes specified in the First Schedule hereto may remain open for serving customers shall be as respectively set out in the said Schedule, subject nevertheless to the exceptions and conditions contained in this Order.

4. Except as hereinafter specially provided, no shop shall open on Closed days. closed days.

5. Nothing in this Order shall extend to—

- (a) The sale of any provisions, stores, coals, or other supplies for the use of any vessel anchored in the harbours of Port-of-Spain, San Fernando, Brighton, or Scarborough, on the written order of the captain or chief officer and the local agent thereof, and subject to compliance with the Customs laws; or
- (b) The sale of any article required for the burial of the dead or for any sick person or animal, where the seller thereof has reasonable ground for believing such article to be required for any of those purposes; or
- (c) Any cook shop; or
- (d) The sale of fresh milk or ice; or
- (e) The sale of bread, fresh meat, fresh fish, fresh fruit or fresh vegetables until 9 o'clock a.m. on any closed day, and at any hour on any other day; or
- (f) the delivery from a grocery on any day between 6 a.m. and 9 a.m. (when such grocery is required to be closed) of any goods of the kind described in the definition of "grocery" contained in paragraph 2 of this Order; such delivery to be made to the persons who have ordered the goods at their premises; or
- (g) The sale of any newspaper published in the Colony; or
- (h) The sale at petrol filling stations of motor spirits and lubricants, and motor accessories required for urgent repairs; or
- (i) The sale in San Fernando of oilfield supplies urgently required by a person operating for oil.

Articles that may be sold outside of opening hours and on closed days.

6. At any time outside the opening hours prescribed for drug shops (including closed days) prescriptions may be made up and the same and also any drugs, infants requisites and articles required for sick persons and animals may be sold. Licensed druggists, assistant druggists and porters attached to dispensing departments may be employed in a drug shop at all times for the foregoing purposes.

Sale of medicine, &c., for infants and the sick from Drug shop.

7.—(1) Any person who is employed in or about a general shop or a wholesale provision shop during opening hours may be employed in or about such shop for not more than half an hour immediately after the closing of the shop: Provided that the manager of any department of any such shop may be employed in the shop for not more than one hour immediately after the closing hour.

Employment outside of opening hours in General shops and Wholesale provision shops.

(2) Between the 11th and the 24th of December (both days inclusive) any person employed in or about any general shop during opening hours may be employed in or about such shop for not more than one hour immediately after the closing of the shop.

General shops from 11th to 24th December

(3) Porters may be employed in any general shop or wholesale provision shop for not more than half an hour immediately before the opening hour for the purpose of opening and cleaning the premises, under the supervision of the person in charge of the shop or other person deputed by him.

Porters

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- In Spirit shops. (4) Any person who is employed in or about any Spirit Retailer's shop during opening hours may be employed in or about that shop for not more than half an hour immediately after the closing hour for the purpose of cleaning and closing such shop.
- Directors and Secretary of a Company. (5) Every Director and Secretary of a Company or Corporation may attend at all times in any shop owned by such Company or Corporation, provided that not more than two such Directors may so attend for the purpose of serving customers during opening hours.
- Attendance of employees in shops. (6) Except as expressly permitted by the Ordinance, or any Shop Order, no employee shall be or remain in or about any shop on closed days, or outside of opening hours on any other day.
- Annual stock-taking. (8) For the purposes of an annual stock-taking any person employed in or about any general shop, wholesale provision shop, or grocery, may be employed after the closing hour for not more than two hours on each of eight consecutive ordinary closing days or for not more than four hours on each of four consecutive ordinary closing days, at any time of the year, on the written licence of the Commissioner of Police previously had and obtained and subject to such conditions as the Commissioner may require.
- Opening and closing times when different trades are carried on in same premises. (9) 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: Provided that nothing in this paragraph shall apply to any transactions under paragraph 6 of this Order.
- Hours of employment. (10) No employee shall be employed in or about any one or more shops on any day for more than four and one-half consecutive hours calculated from the time of opening of the shop without at least three-quarters of an hour for mealtime and relaxation, nor for any subsequent period after 2 p.m. without at least an additional quarter of an hour for mealtime and relaxation, nor for an aggregate period exceeding $7\frac{1}{2}$ hours on any ordinary closing day, or $9\frac{1}{2}$ hours on a late closing day, or 45 hours in any week (the aggregate period in each case being exclusive of mealtime): Provided that such aggregate period shall be extended by an additional period equal to the number of hours by which the opening hours or hours of employment are or may be extended on any specified day or days by this or any other shop order or by notice issued under section 4 of the Ordinance, and also by the number of hours occupied in stocktaking in accordance with paragraph 8 of this Order:
- Provided further that for each additional hour or part thereof, beyond the regular hours of employment, during which an employee is employed on any day in consequence of any extension under Section 4 of the Ordinance or for stocktaking, he shall be paid not less than one and one-half times his average hourly wages for that day, or not less than thirty cents per hour whichever shall be the greater.

On any day on which shops (other than General Shops and Wholesale Provision Shops in Port-of-Spain and San Fernando and within one mile thereof, Restaurants, Refreshment Houses, Dairy Shops, and Parlours) are permitted to open for serving customers, the earliest hour at which such shop may open shall be 6 a.m. and the latest hour at which such shop must close shall be as follows:—

On the early closing day	....	....	....	1 p.m.
On the ordinary closing day	....	....	....	6.30 p.m.
On the late closing day	....	....	....	7.30 p.m.

Provided that within the above limits of time and subject to any extension of opening hours allowed by this or any other Shop Order, the aggregate opening hours on the respective days shall not exceed the following periods of time, namely:—

On the early closing day	...	....	....	5 hours
On the ordinary closing day	...	...	....	8 hours
On the late closing day	...	....	....	10 hours

The period of 5 hours on the early closing day shall be continuous. The period of 8 hours on the ordinary closing day may be either continuous or divided into two periods neither of which shall be of more than 5 hours. The period of 10 hours on the late closing day may be either continuous or divided into two periods.

3. Restaurants, Refreshment Houses and Dairy Shops may remain open for serving customers between the hours of 5.30 a.m. and 11.30 p.m. on any day including a closed day. Provided that on closed days and after 7 p.m. on other days such shops may sell only food for consumption on the premises, and the following articles, namely, non-alcoholic beverages, cigarettes, cigars, confectionery, and matches: Provided further that Restaurants licensed under the Liquor Licences Ordinance, 1933, may also sell intoxicating liquors according to the terms of such licence.

4. A barber or hair-dresser may attend on a customer on a closed day only at the customer's own residence.

SECOND SCHEDULE.

Parlours may remain open for serving customers between the hours of 6 a.m. and 11 p.m. on every day including closed days for the sale of the following articles only, namely:—

Aerated waters	Cocoa	Milk (fresh)
Arrowroot	Coffee	Oil (coconut—raw or refined)
Biscuits	Confectionery	Pepper
Bread	Cooked food	Salt
Cakes	Fruits	Sugar (local)
Candles	Ice	Tea
Cheese	Ice cream	Vinegar
Cigarettes	Matches	
Cigars	Milk (condensed)	

Passed in Council this twenty-ninth day of April, in the year of Our Lord one thousand nine hundred and thirty-eight.

W. E. GOCKING,
Clerk of the Council.