

## EARLY CLOSING ACT.

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### Act No. 40, 1934.

George V.  
No. 40, 1934.

An Act to consolidate the law relating to early closing of shops and to regulate the hours of employment in shops. [Assented to, 26th November, 1934.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

#### PART I.

##### PRELIMINARY.

**Short title.** 1. This Act may be cited as the "Early Closing Act, 1934."

**Divisions of Act.**

2. This Act is divided into Parts, as follows:—

PART I.—PRELIMINARY—SS. 1-4.

PART II.—CLOSING TIMES—SS. 5-17.

PART III.—SHOP-ASSISTANTS, MINORS, AND CARTERS—SS. 18-22.

PART IV.—SUPPLEMENTAL AND EXEMPTIONS.—SS. 23-39.

#### SCHEDULES.

**Repeal and savings.**

3. (1) The Acts mentioned in the First Schedule to this Act are to the extent therein expressed hereby repealed, except as to things done or commenced and offences committed before the passing of this Act in respect of which every right and liability shall remain and continue and may be dealt with as if this Act had not been passed.

(2)

(2) All persons appointed under any Act hereby repealed and holding office at the time of the passing of this Act shall be deemed to have been appointed under this Act.

No. 40, 1934.

(3) All proclamations, rules, regulations, orders, directions, appointments, and notices made or given and things done under the authority of any Act hereby repealed and in force at the time of the passing of this Act shall be deemed to have been made, given or done under the authority of this Act.

4. In this Act, unless the context or subject-matter otherwise indicates or requires,—

Definitions.

“ Close ” means close to the admission of the public for purposes of trade.

Act No. 38,  
1899, s. 21.

“ Country shopping district ” means—

(a) any municipality outside the metropolitan and Newcastle shopping districts; and

*Ibid.* s. 2.

(b) any area declared to be a country shopping district in pursuance of the powers in this Act or before this Act by proclamation under any Act hereby repealed.

*Ibid.* s. 11.

“ Employ ” means employ in any way or in any kind of work.

*Ibid.* s. 21.

“ Metropolitan shopping district ” means area included in the city, and municipalities mentioned in Schedule Five.

*Ibid.*

“ Newcastle shopping district ” means area included in the municipalities mentioned in Schedule Six.

*Ibid.*

“ Shop ” means place, building, stall, tent, vehicle, or boat, or pack in which goods are offered or exposed for sale, or in which the business of a hairdresser, pawnbroker, or undertaker is carried on, or portion of a building separated from the rest of the building by a substantial partition and in which goods are offered or exposed for sale, or in which any such business as aforesaid is carried on; and includes where the context requires it kind or class of shop.

*Ibid.*

Act No. 81,  
1900, s. 16.

“ Shop-assistant ”

**Early Closing Act.****No. 40, 1934.**

Act No. 38,  
1899, s. 21;  
Act No. 81,  
1900, s. 16;  
Act No. 29,  
1906, s. 6.

“ Shop-assistant ” means person employed in or in connection with the sale of goods in a shop, not being a carter, and includes any clerk employed in a shop or any person doing any work in connection with hairdressing business, and any partner under the age of twenty-one years, but does not include any person who is employed by the shopkeeper when the shop is closed only.

Act No. 38,  
1899, s. 21;  
Act No. 81,  
1900, s. 16;  
Act No. 29,  
1906, s. 14.

“ Shopkeeper ” means person, partnership, or corporation occupying a shop, directly or indirectly, as principal, and shall include hawkers; and includes a person who continues to be a shopkeeper of a shop under the provisions of section thirty-one; but not a commercial traveller bona fide engaged in selling goods to a shopkeeper by sample only.

Act No. 38,  
1899, s. 21.

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

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**PART II.**
**CLOSING TIMES.***Non-scheduled Shops.*

Closing  
times,  
metro-  
politan and  
Newcastle.  
Act No. 38,  
1899, s. 1;  
Act No. 12,  
1910, s. 3.

**5.** The closing times for all shops (other than those mentioned or specified in Schedules Two or Three) in every week shall be, in the districts and on the days hereinafter respectively mentioned or described, as provided in the two following paragraphs and all such shops shall close on those days not later than the hours mentioned, which shall be hours after the hour of noon each day:—

- (a) Within the metropolitan or Newcastle shopping districts and all other shopping districts in the County of Northumberland and the districts mentioned in Schedule Seven, closing time shall be on Monday, Tuesday, Wednesday, and Thursday, six o'clock, on Friday ten o'clock and on Saturday one o'clock.

(b)

(b) Within any country shopping district (other than a district in the County of Northumberland or a district mentioned in Schedule Seven) closing time shall be on four week-days six o'clock, on one week-day one o'clock, and on one week-day ten o'clock—such days (until altered in pursuance of this Act) to be those respectively required at the date of commencement of this Act to be observed in each shopping district, and on the proclamation of any new shopping district as may be for such district therein declared :

No. 40, 1934.

Country shopping districts.

Act No. 81, 1900, s. 3 (1), s. 4; Act No. 29, 1906, s. 8; Act No. 12, 1910, s. 5; Act No. 49, 1919, s. 2 (5) (6).

Provided that by proclamation of the Governor to be made only on resolutions passed by both Houses of Parliament and published in the Gazette the provisions of paragraph (a) of this section may be extended to any country shopping district.

Act No. 12, 1910, s. 5.

6. (1) In any country shopping district, excepting districts comprised in the County of Northumberland and districts named in Schedule Seven or to which the like provisions are applied by proclamation as provided, shopkeepers carrying on business in such district and being not less in number than one-third of the shopkeepers of shops other than shops mentioned in Schedule Two may present to the Minister a memorial under their hands, in the form of Schedule Four, asking that a poll be taken on the question whether any of the days observed in pursuance of paragraph (b) of section five of this Act should be altered to the day specified in the memorial.

Memorial for a poll.

Act No. 81, 1900, s. 3 (2), (3), (4).

On receipt of the memorial the Minister shall notify in the Gazette, and in at least two issues of a newspaper circulating in the district, that on a day therein named (not being less than twenty-one nor more than twenty-eight days after the first notification) a poll will be taken as to the alteration proposed.

(2) On the day named a poll shall be taken as prescribed by the regulations, and at such poll each shopkeeper and shop-assistant of a shop not being a shop mentioned in Schedule Two shall, subject to the regulations, have one vote.

If

**Early Closing Act.**

No. 40, 1934.

If a majority of those voting at the poll, vote that the said days or any of them be so altered, the Minister shall so notify in the Gazette, and the closing days for such shops in the district shall be altered accordingly.

For the purposes of this section "shop-assistant" means any person who shall have been engaged for three months at least in a shop not being a shop mentioned in Schedule Two in the shopping district in which he claims to vote, and who, at the time of voting, shall be above the age of eighteen years.

Intervals  
between polls.  
Act No. 81,  
1900, s. 3 (4).

7. Where a poll has been taken in pursuance of section six of this Act, no other such poll shall be taken for a period of two years.

Closing  
times in  
case of  
holiday  
occurring.  
Act No. 81,  
1900, s. 8;  
Act No. 29,  
1906, s. 10;  
Act No. 23,  
1910, ss. 4,  
7; Act No.  
49, 1919, s. 2  
(5), (6).

8. (1) (a) Where in any shopping district a shop not mentioned in Schedule Two is closed during the whole of any bank holiday (including for each district a Bank Holiday for such district) or a public holiday under the Banks and Bank Holidays Act, 1912, and the shop assistants are not employed therein during such day such shop may be kept open until six o'clock or if it be a hairdresser's or tobacconist's shop seven o'clock on the day of the same week for which the closing time is one o'clock, and where such holiday is Christmas Day, New Year's Day, or Good Friday such shop may, subject to the provisions of paragraph (b) of this subsection, also be kept open until ten o'clock on the week-day next preceding.

(b) When Christmas Day falls on a Sunday or Monday any shop which usually closes at one o'clock on Saturday may remain open till ten o'clock on the Saturday preceding such Christmas Day: Provided that such shop is closed at six o'clock on Friday, and one o'clock on Wednesday in the preceding week, and the shop-assistants are not employed after those hours, and is also closed and kept closed, and the shop-assistants are not employed therein, on the Monday and Tuesday next following the twenty-fourth of December.

(2) Where in any shopping district a shop not mentioned in Schedule Two is closed until six o'clock, or, if it be a hairdresser's or tobacconist's shop, seven o'clock, on any week-day observed in any week as a holiday for any religious purpose, and the shop-assistants are not employed therein while it is so closed, such shop may

may be kept open until six o'clock, or, if it be a hair-dresser's or tobacconist's shop, seven o'clock, on the day of the same week for which the closing time is one o'clock.

No. 40, 1931.

(3) The times fixed under this section in respect of any shop shall be deemed to be the closing times of such shop on the days mentioned.

*Shops in Schedule Two.*

9. (1) The closing times for shops mentioned in Part I of Schedule Two shall be as follows:—

Shops mentioned in Schedule Two.  
Act No. 38, 1899, s. 6;  
Act No. 49, 1919, s. 4  
(a).

(a) For flower shops nine o'clock on five week-days and eleven o'clock on Saturdays in all shopping districts.

(b) (i) For chemists' shops, druggists' shops, public dispensaries and private dispensaries situate within the metropolitan or Newcastle shopping district, half-past seven o'clock on Mondays, Tuesdays, Wednesdays and Thursdays, nine o'clock on Fridays, and one o'clock on Saturdays, and such shops may reopen between the hours of seven o'clock and nine o'clock on Saturdays.

(ii) For such shops in country shopping districts, half-past seven o'clock on four week-days and one o'clock and ten o'clock respectively upon the days of the week upon which non-scheduled shops close at those hours, with the same option of reopening between seven o'clock and nine o'clock on the weekly half-holiday.

And all such shops shall close on each day not later than the hour after the hour of noon, prescribed as closing time for such day for their respective districts.

But a registered pharmacist within the meaning of the Pharmacy Act, 1897, may after the said closing time, on request, supply any drugs or patent or proprietary medicines for medicinal purposes or any surgical appliances which are stated to be urgently required either by the indorsement on a prescription by a legally qualified medical practitioner or by a statement in writing signed by the purchaser.

Urgent prescriptions.  
Act No. 38, 1899, s. 7;  
Act No. 49, 1919, s. 4  
(b).

**Early Closing Act.****No. 40, 1934.**Act No. 38,  
1899, s. 6.Closing of  
newsagents'  
and book-  
sellers'  
shops.Act No. 81,  
1900, s. 5;  
Act No. 23,  
1910, s. 3.

(2) The closing time for shops mentioned in Part II of Schedule Two, and situated within any shopping district, shall be eleven o'clock on each week-day, and all such shops shall close on all week-days not later than the hour above mentioned: Provided that the closing time for newsagents' and booksellers' shops as in this proviso defined within the metropolitan shopping district shall be eight o'clock on four week-nights and ten o'clock on Friday and Saturday: a newsagent's shop for this purpose shall include a shop where newspapers, periodicals, magazines, novelettes, stationery, school requisites, or books are exposed for sale.

Act No. 38,  
1899, s. 6.

(3) The closing time for all shops mentioned in Part III of Schedule Two situate within any shopping district, shall be twelve o'clock midnight on all week-days, and all such shops shall close on all week-days not later than the hour mentioned.

Shops men-  
tioned in  
Schedule  
Two carry-  
ing on other  
trades sub-  
ject to  
hours of  
such trades.Act No. 38,  
1899, s. 20.**10. In every shopping district—**

- (a) Every shop mentioned in Schedule Two, in which is carried on any class of trade not usually carried on in shops mentioned in the Schedule, shall be closed at the closing time fixed by or under this Act for shops not mentioned in the Schedule.
- (b) Every shop mentioned in Part II or Part III of Schedule Two in which is carried on any class of trade usually carried on in shops mentioned in an earlier Part of the Schedule shall be closed at the closing time fixed by or under this Act for shops mentioned in such earlier Part of the Schedule.

*Shops in Schedule Three.*Opening  
and closing  
hours for  
butchers'  
shops.Act No. 64,  
1915, s. 2;  
Act No. 22,  
1930, s. 15;  
Act No. 53,  
1930, s. 4  
(h).

**11.** The opening and closing times for butchers' shops situate in a shopping district on each day, notwithstanding any other provision of this Act, shall be such times as may be fixed by any award for the time being in force under any Act (State or Commonwealth) relating to industrial arbitration for the commencing and cessation of work by employees in such butchers' shops: Provided that in a district where hours are not so fixed by such an award the opening time shall be half-past six o'clock in

the

the morning of each week-day, and the closing time shall be five o'clock in the afternoons of each week-day other than Saturday, and one o'clock in the afternoon of Saturday.

No. 40, 1934.

**12.** A shopkeeper of a butcher's shop shall not be guilty of an offence by reason only that his shop was open for persons entering or leaving such shop solely in connection with the delivery of meat to such shop.

Saving.  
Act No. 64,  
1915, s. 3.

**13.** (1) The provisions of section eight of this Act shall not apply to butchers' shops.

Non-applica-  
tion of s. 8.  
*Ibid.* s. 4.

(2) Provided that butchers' shops which close on Saturday for any religious purpose during the whole of the time between the opening and closing hours fixed as aforesaid for that day may be opened and kept open on that day between the hours of six o'clock and eight o'clock in the evening.

**14.** The closing time for poulterers' shops shall be in every week six o'clock on four week-days, one o'clock on one week-day and ten o'clock on one week-day, and the half-holiday and the late closing night shall be as follows:—

Poulterers'  
shops.  
Act No. 38,  
1899, s. 1;  
Act No. 23,  
1910, ss. 2,  
6; Act No.  
49, 1919, s. 2  
(7).

(a) In the metropolitan or Newcastle shopping district the shopkeeper of a poulterer's shop shall have an option to choose Wednesday or Saturday as the day on which his shop shall be closed at one o'clock and unless the shopkeeper has made a choice in pursuance of this Act, he shall be deemed to have chosen Wednesday as the day on which to close at one o'clock and his closing time on Saturday shall be ten o'clock. If the shopkeeper shall have chosen Saturday as the weekly half-holiday for his shop its closing time on that day shall be one o'clock and for such shop the closing time on Friday shall be ten o'clock.

(b) In any country shopping district in which the one o'clock closing day for non-scheduled shops is Saturday, the closing time for poulterers' shops shall in each week be:—

one o'clock in the afternoon of Wednesday;  
ten o'clock in the evening of Saturday;  
six o'clock in the evening of the four other  
week-days.



No. 41, 1934.

(c) In a country district where the half-holiday for non-scheduled shops is not Saturday the shopkeeper of a poulterer's shop shall observe the closing times fixed for non-scheduled shops.

All such shops shall close on those days not later than the hours above mentioned: Provided that nothing in this section shall affect the operation of section eight.

Closing times of hairdressers' and tobacconists' shops. Act No. 49, 1919, s. 2 (1).

**15.** (1) For hairdressers' and tobacconists' shops, one o'clock shall be the closing time on Wednesday or Saturday, at the option of the shopkeeper, and seven o'clock shall be the closing time for such shops on other week-days. But tobacconists' shops which close at one o'clock on Wednesday may remain open until ten o'clock on Saturday, and tobacconists' shops which close at one o'clock on Saturday may remain open until ten o'clock on Friday.

(2) Where the businesses of hairdresser and tobacconist are carried on in the same building and the entrance from the street to one shop is through the other, both shops shall close at the same time on Wednesday and Saturday, and the option as to the day on which the closing time shall be one o'clock shall, in case of disagreement, be exercised by the shopkeeper of the tobacconist's shop.

Option of shopkeeper. Act No. 38, 1899, s. 1 (2); Act No. 49, 1919, s. 2 (2).

**16.** (1) The choice of the shopkeeper as to the closing time on the Wednesday authorised under this Act in respect of hairdressers', tobacconists', and poulterers' shops may be made in respect of any shop occupied by him, and shall be made by sending to the Minister or to any person authorised by the Minister in that behalf a notice in the form prescribed, and affixing a copy of the notice in a conspicuous place in the shop. And until he makes such choice in the manner aforesaid the shopkeeper shall be deemed to have chosen one o'clock as the closing time for his shop on Wednesday.

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

Any shopkeeper who, having made any such choice, fails to keep the copy of the notice affixed as hereinbefore directed shall be guilty of an offence against this Act.

(2)

(2) Where in any shopping district a shopkeeper occupies two or more shops not being shops mentioned in Schedule Two, all such shops shall on each day close at the same time, notwithstanding any choice which the shopkeeper has made under this Act.

No. 40, 1934.

Shopkeeper occupying more than one shop.  
Act No. 81, 1900, s. 7.

*General penalties.*

17. If any shop situate within any shopping district is not closed and kept closed for the remainder of the day at and after the closing time fixed, chosen, or deemed to be chosen, for such day in respect of such shop by or under this Act, or if in any such shop any goods are offered for sale after the said time, the shopkeeper of the shop and any person acting or apparently acting in the management of the shop shall be guilty of an offence:

Penalties for not closing shops.  
Act No. 33, 1899, s. 7;  
Act No. 12, 1910, s. 4;  
Act No. 23, 1910, s. 5.

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

Provided also that no registered pharmacist shall be guilty of the said offence by reason only that he has, after the said closing time, on request, supplied any drugs, medicines or appliances in an urgent case coming within the terms of the provision for such cases in paragraph (b) of subsection one of section nine.

Urgent prescriptions.  
Act No. 38, 1899, s. 7;  
Act No. 49, 1919, s. 4 (b).

PART III.

SHOP-ASSISTANTS, MINORS, AND CARTERS.

18. (1) No shop-assistant shall be employed in any shop or about the business of any shop (not being a shop mentioned in Schedule Two) situate within any shopping district for more than one half-hour after any closing time fixed, appointed, chosen, or deemed to be chosen in pursuance of this Act for such shop:

Employment of assistants in shops not mentioned in Schedule Two.  
Act No. 38, 1899, s. 8;  
Act No. 81, 1900, s. 9;  
Act No. 29, 1906, s. 4;  
Act No. 49, 1919, s. 2 (5).

Provided that except in a hairdresser's or tobacconist's shop the shopkeeper of any shop may employ any shop-assistant on any twelve week-days in any half year (not being days on which the shop closes at one or ten o'clock or any public or bank holiday allowed within the

No. 40, 1934.

the district as a holiday) for a period not exceeding three hours (exclusive of the hour to be allowed for refreshment under this section) after the closing hour on the said days; but during any such period the shop shall be closed and the assistants so employed shall be allowed by the shopkeeper one hour for refreshment.

There shall be kept by the shopkeeper a record of the extra hours worked under this section, and such record shall be exposed in some position visible and accessible to all his shop-assistants, shall bear the certificate of each such assistant as to its correctness as regards himself, and shall be produced to the inspector when demanded by him.

Penalty.

(2) If a shopkeeper, or a person acting or apparently acting in the management of a shop, employs any shop-assistant in breach of this section, or otherwise contravenes its provisions, he shall be guilty of an offence.

Assistants in shops in Schedule Two, and in hairdressers' and tobacconists'.  
Act No. 38, 1899, s. 9;  
Act No. 29, 1906, s. 5;  
Act No. 49 1919, s. 2 (5).

**19.** (1) (a) No shop-assistant shall be employed in any shop mentioned in Schedule Two or in any hairdresser's or tobacconist's shop situate within any shopping district after the closing time fixed, chosen, or deemed to be chosen, in pursuance of this Act for such shop, nor for more than sixty hours in any week, exclusive of the hours allowed for refreshment.

(b) In hairdressers' and tobacconists' shops any customer who, at the said closing time, is in the shop being attended to, or waiting to be attended to, may be attended to by the shop-assistants within fifteen minutes after the said closing time.

Half-holidays.

(2) All shop-assistants employed in any such shop shall subject to subsection three of this section be allowed a half-holiday from one o'clock in the afternoon on some one week-day of every week, except a week in which there is a public or bank holiday allowed to such assistants as a holiday.

Assistants in hotels, etc.  
Act No. 81, 1900, s. 11;  
Act No. 29, 1906, s. 12.

(3) For shop-assistants employed in hotels, restaurants or eating-houses the half-holiday mentioned in subsection two of this section may be allowed from two o'clock instead of from one o'clock.

(4)

(4) If the shopkeeper, or person acting, or apparently acting, in the management of the shop—

No. 40, 1934.  
Penalties.  
Act No. 38,  
1899, s. 9.

(a) employs in his shop any shop-assistant after such closing time, except as aforesaid, or for more than sixty hours in any week; or

(b) does not arrange for and allow to each such assistant the half-holiday, as required by this section to be allowed,

he shall be guilty of an offence.

Provided that subsection one and paragraph (a) of subsection four of this section shall not apply to persons in the shops of registered pharmacists.

**20.** Where a shop-assistant, employed in a shop not being a shop mentioned in Schedule Two and not being a hairdresser's or tobacconist's shop, is allowed a holiday on full pay for the purposes of recreation during the whole of any day other than a bank holiday or day appointed within the portion of the district in which the shop is situated as a public holiday under the Banks and Bank Holidays Act, 1912, or day observed as a holiday for any religious purpose, as provided in section eight, the shopkeeper, for each day so allowed, may employ the assistant for a period not exceeding three hours (exclusive of the hour to be allowed for refreshment under this section) on each of any two other days (not being a day on which the shop closes at one or ten o'clock, or a bank or public holiday as aforesaid) after the closing time on each such day, but after the said closing time the shop shall be kept closed, and the assistant so employed shall be allowed by the shopkeeper one hour for refreshment between six o'clock and seven o'clock.

Shopkeeper may employ assistant for extra hours in lieu of holiday on full pay.  
Act No. 81,  
1900, s. 10;  
Act No. 29,  
1906, s. 11;  
Act No. 49,  
1919, s. 2  
(5).

If the shopkeeper of the shop, or any person acting or apparently acting in the management of the shop, contravenes any provision of this section he shall be guilty of an offence.

**21.** Every baker in the metropolitan area, notwithstanding any other provision of this Act, shall give to every person engaged by him as a bread carter or acting for him in that capacity, one whole day as a holiday, on the third Wednesday in each month:

Holiday for bread carters.  
Act No. 81,  
1900, s. 12.

Provided

No. 40, 1934.

Provided that in the event of any public holiday under the Banks and Bank Holidays Act, 1912, falling in the same week as the third Wednesday in any month, such whole day holiday shall be observed on such public holiday, and not on the third Wednesday.

And on such third Wednesday in each month or on such public holiday, as the case may be, no bread shall be delivered by cart to a customer by any person engaged by a baker in the metropolitan area.

Regulation  
of half-  
holidays or  
holidays for  
carts.

Act No. 81,  
1900, s. 13.

**22.** Every baker outside the metropolitan area, and every shopkeeper, butcher, or milkvendor, whose place of business is situated in any shopping district, shall allow every person usually employed by him in delivering goods from the shop, or in delivering meat, milk, or bread, four half-holidays from the hour of two o'clock in the afternoon on some week-days in each month, or a whole holiday on one week-day in each month of his employment. And if, in any month, he fails or refuses to allow any person so employed by him such half-holidays or such whole holiday, he shall be guilty of an offence.

Evidence.

In any prosecution for a contravention of the provisions of this section, proof that during any month any person used, for the purpose of delivering goods from a shop, or delivering meat, milk, or bread, a cart bearing the name or title of, or in any other way purporting to be the property of, the defendant, shall be prima facie evidence that the said person during the said month was employed by the defendant in delivering goods, meat, milk, or bread, as aforesaid.

#### PART IV.

##### SUPPLEMENTAL AND EXEMPTIONS.

Governor may  
make new  
districts.  
Act No. 38,  
1899, s. 2;  
Act No. 81,  
1900, s. 4.

**23.** (1) The Governor may by proclamation published in the Gazette constitute any area not at the commencement of this Act a country shopping district to be such a district and shall in such proclamation define the boundaries thereof, and may in the same way revoke or vary any such proclamation.

(2)

(2) The Governor may by proclamation published in the Gazette alter the boundaries of any shopping district.

No. 40, 1934.

May alter boundaries. Act No. 38, 1939, s. 11.

**24.** The Minister may appoint members of the police force or other persons to be inspectors to carry out the provisions of this Act, and shall supply each inspector with a certificate of his appointment.

Appointment of inspectors. *Ibid.* s. 12.

**25.** An inspector, on producing the certificate of his appointment, may—

Powers of inspectors. *Ibid.* s. 13.

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

**26.** Any person who wilfully obstructs an inspector in the exercise of any power conferred by this Act, or who fails to comply with a lawful requirement made by an inspector shall be guilty of an offence.

Obstruction of inspectors. *Ibid.* s. 14.

**27.** Any person who is guilty of an offence under this Act shall, except where otherwise provided, be liable for the first offence to a penalty not exceeding two pounds, and for any subsequent offence to a penalty not less than two pounds nor more than ten pounds.

Penalty for offence. *Ibid.* s. 15.

**28.** In any prosecution of a shopkeeper or person acting, or apparently acting, in the management of a shop for an offence under this Act, proof that at any time a shop-assistant is in a shop shall be prima facie evidence that at the said time he was employed in the shop by such shopkeeper or person.

Evidence of employment in a shop. *Ibid.* s. 16.

**29.**

**Early Closing Act.****No. 40, 1934.****Proof of  
closing  
shop.****Act No. 81,  
1900, s. 17.**

**29.** No person shall be convicted under this Act for not closing or for not keeping closed a shop if he proves that the shop was not closed or not kept closed only for the purposes of—

- (a) ventilation; or
- (b) persons visiting or resorting to the premises for purposes other than for trade in the shop; or
- (c) customers referred to in the first proviso to section seventeen of this Act; or
- (d) in the case of a registered pharmacist, persons entering or leaving in connection only with the supply of articles in pursuance of the second proviso to section seventeen of this Act; or
- (e) in the case of a retail butcher, persons entering or leaving only in connection with the delivery of meat to the shop of such butcher.

**Penalty for  
work by  
hairdressers  
after closing  
time.****Act No. 29,  
1906, s. 13;  
Act No. 49,  
1919, s. 3.**

**30.** If in any hairdresser's shop any work is done for any customer after the closing time fixed, chosen, or deemed to be chosen for any day in respect of such shop, the shopkeeper of the shop, or any person acting or apparently acting in the management of the shop, shall be guilty of an offence:

Provided that no such shopkeeper or person shall be guilty of the said offence by reason only that within fifteen minutes after the said closing time any work was done for a customer who, at the closing time, was in the shop being attended to or waiting to be attended to.

**Where shop-  
keeper  
leases for  
less than  
one week.****Act No. 29,  
1906, s. 14.**

**31.** Where a shopkeeper leases to any other person, or enters into an agreement by which any other person occupies his shop, or any part thereof, for a term or period less than one week, he shall, notwithstanding such lease or agreement, continue to be shopkeeper of the shop.

**Power of  
suspension  
in certain  
cases.****Act No. 81,  
1900, s. 18.**

**32.** In cases of emergency caused by fire, flood, or disease, the Minister may by notice published in the Gazette suspend the operation of such provisions of this Act as he deems necessary in respect of any persons, class of persons, or shops for such period within such locality, and under and subject to the performance of such conditions as he may prescribe, and in like manner may alter or annul such order of suspension.

Any

Any person who contravenes or fails to comply with any condition prescribed under this section shall be guilty of an offence.

No. 40, 1934.

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

Act not to apply to bazaars. Act No. 81, 1900, s. 19.

**34.** Where any act or default constituting an offence under this Act for which any shopkeeper or person acting or apparently acting in the management of a shop is by this Act liable to a penalty has in fact been done or committed by some other person, such other person shall be liable to the penalties imposed by section twenty-seven of this Act.

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

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

Act No. 38, 1899, s. 17.

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

**35.** All offences under this Act or regulations may be prosecuted and penalties for any breach recovered in a summary way before a court of petty sessions.

Informations for offences. *Ibid.* s. 19.

Informations shall be laid within a month from the committing of the offence or breach.



**Early Closing Act.**

No. 40. 1934.

Time for  
Broken Hill  
and Sturt.  
Act No. 38,  
1899, s. 22.

**36.** Within the municipal district of Broken Hill and within the electoral district of Sturt the time mentioned in this Act shall be taken to mean the mean time of the one hundred and thirty-fifth meridian of longitude east of Greenwich in England.

Exemption  
of certain  
establish-  
ments.

*Ibid.* s. 23 ;  
Act No. 81,  
1900, s. 15.

**37.** Except as to the provisions with regard to hours of employment and half-holidays contained in section nineteen, nothing in this Act shall apply to railway, tramway or ferry refreshment-rooms, railway, tramway or ferry bookstalls, public-houses, and hotels.

Savings.

Act No. 38,  
1899, s. 24.

**38.** Nothing in this Act shall affect the operation of the Factories and Shops Act, 1912-1931, the Industrial Arbitration Act, 1912, or the Industrial Arbitration (Eight Hours) Act, 1930.

Regulations.

Act No. 38,  
1899, s. 18 ;  
Act No. 81,  
1900, s. 14 ;  
Act No. 19,  
1916, s. 10.

**39.** (1) The Governor may make regulations not inconsistent with this Act—

- (a) providing for the making of lists and rolls of shopkeepers entitled to vote at a poll;
- (b) determining, where a partnership or corporation is a shopkeeper, the person by whom the vote of such partnership or corporation shall be given;
- (c) providing for the appointment and prescribing the duties of officers conducting or assisting at conducting the taking of polls;
- (d) providing for the manner in which polls shall be taken, and the conditions on which shopkeepers shall be entitled to vote at a poll;
- (e) providing for making returns of the result of any poll;
- (f) prescribing the forms to be used for the purposes of this Act, and authorising the correction or variation when necessary of any form;
- (g) determining, in respect of any shop mentioned in Schedule Two, what classes of trade shall, for the purposes of this Act, be deemed to be classes of trade usually carried on in such shop, and thereupon such classes of trade and no other shall be deemed to be the classes of trade usually carried on in such shop;

(h)

- (h) for the keeping of records and the giving of information by shopkeepers concerning the hours and extra hours of employment of and the holidays and half-holidays allowed to shop-assistants, and the giving of information by shopkeepers, butchers, milk vendors, and bakers concerning the holidays and half-holidays allowed persons employed in delivering goods from a shop, or meat, milk, or bread;
- (i) prescribing the manner in which such records shall be kept and such information given, and the person to whom such information shall be given;
- (j) providing for the certifying of the correctness of such records and information;
- (k) providing for the publication to shop-assistants of information concerning this Act and regulations;
- (l) generally for carrying out the provisions of this Act;

and may in those regulations authorise any penalty not exceeding five pounds to be imposed for any breach.

(2) Such regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in such regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session; and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

## SCHEDULES.

Sec. 3.

## SCHEDULE ONE.

Reference to Act.	Title or short title.	Extent of repeal.
No. 38, 1899...	Early Closing Act, 1899 ... ..	The whole.
No. 81, 1900...	Early Closing (Amendment) Act, 1900...	The whole.
No. 29, 1906...	Early Closing (Hairdressers' Shops) Act, 1906.	The whole.
No. 12, 1910...	Saturday Half Holiday Act, 1910 ...	The whole.
No. 23, 1910...	Early Closing Amendment Act, 1910 ...	The whole.
No. 64, 1915...	Early Closing (Amendment) Act, 1915 ...	The whole.
No. 49, 1919...	Early Closing (Amendment) Act, 1919 ...	The whole.
No. 19, 1923...	Bread (Amendment) Act, 1923 ... ..	Sec. 3.

Secs. 9,  
10, 19.  
Act No. 38,  
1899, s. 6 &  
Sch. 1.

## SCHEDULE TWO.

## PART I.

Chemists' shops.  
Druggists' shops.  
Private dispensaries.  
Public dispensaries.  
Flower shops.

## PART II.

Fruit shops.  
Vegetable shops.  
Confectioners' shops.  
Newspaper and Newsagents' shops.  
Public-houses, hotels, and wine shops.  
Undertakers' shops.

## PART III.

Restaurants.  
Refreshment shops.  
Eating-houses.  
Fish shops.  
Oyster shops.  
Cooked provision shops.

No. 40, 1934.

SCHEDULE THREE.

- Hairdressers' shops.
- Tobacconists' shops.
- Butchers' shops.
- Poulterers' shops.

Secs. 11-16.  
Act No. 12,  
1919, s. 3;  
Act No. 23,  
1910, s. 6;  
Act No. 49,  
1919, s. 2 (4).

SCHEDULE FOUR.

*Petition for alteration of days to which closing times apply in a country shopping district.*

Sec. 6.  
Act No. 38,  
1899, Sch. 2.

To The Honorable the Minister for Labour and Industry,—

We, the undersigned shopkeepers in the country shopping district respectfully ask that a poll be taken for an alteration of the days to which the closing times appointed in pursuance of the Early Closing Act, 1934, apply to shops (not being shops mentioned in Schedule Two of the said Act), situate within the said district as follows:—

Closing time.	Proposed alteration of days to which closing times apply.
One o'clock ...	To be altered from [ <i>state the present day for closing at one o'clock</i> ] to [ <i>state the proposed day</i> ].
Ten o'clock ...	To be altered from [ <i>state the present day for closing at ten o'clock</i> ] to [ <i>state the proposed day</i> ].

Dated this                      day of                      , 19 .

(Signatures and addresses of shopkeepers.)

## SCHEDULE FIVE.

Sec. 4.

*Description of Metropolitan Shopping District.*

The City of Sydney, and the Municipalities of Alexandria, Annandale, Ashfield, Auburn, Balmain, Bankstown, Bexley, Botany, Burwood, Canterbury, Concord, Darlington, Drummoyne, Dundas, Eastwood, Enfield, Ermington and Rydalmere, Erskineville, The Glebe, Granville, Homebush, Hunter's Hill, Hurstville, Kogarah, Kuring-gai, Lane Cove, Leichhardt, Lidcombe, Manly, Marrickville, Mascot, Mosman, Newtown, North Sydney, Paddington, Parramatta, Petersham, Randwick, Redfern, Rockdale, Ryde, St. Peters, Strathfield, Vacluse, Waterloo, Waverley, Willoughby and Woollahra; and all that area, being Port Jackson, its tributaries, bays and inlets: Commencing at mean high-water mark at North Head; and bounded thence by that mean high-water mark to its intersection with the southern prolongation of the eastern boundary of the Municipality of Manly; thence generally by the Harbour boundaries of the following:—Municipality of Manly, the Shire of Warringah and the Municipalities of Ku-ring-gai, Willoughby, Mosman, North Sydney, Lane Cove, Hunter's Hill, Ryde, Ermington and Rydalmere, Parramatta, Granville, Auburn, Lidcombe, Homebush, Concord, Drummoyne, Ashfield, Leichhardt, Balmain, Annandale, Glebe, The City of Sydney, the Municipalities of Woollahra and Vacluse, to the northernmost point of Inner South Head; thence by a line northerly to North Head, the point of commencement.

Sec. 4.

Act No. 38,  
1899, Sch. 4.

## SCHEDULE SIX.

*Description of Newcastle shopping district.*

The Municipalities of Newcastle, Adamstown, Carrington, Hamilton, Lambton, Merewether, New Lambton, Plattsburg, Stockton, Wallsend, Waratah, and Wickham.

**SCHEDULE SEVEN.**

Cabramatta and Canley Vale, the Municipality of.  
Fairfield, the Municipality of.  
Gulgong, the Municipality of.  
Inverell, the Municipality of.  
Liverpool, the Municipality of.  
Orange, the Municipality of.  
Portland, the Municipality of.

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