



ANNO DECIMO NONO

ELIZABETHAE II REGINAE

A.D. 1970

No. 38 of 1970

An Act to amend the Industrial Code, 1967-1970; to repeal the Early Closing Act, 1926-1960; and for other purposes.

[Assented to 3rd December, 1970]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the "Industrial Code Amend- Short titles.
ment Act, 1970".
- (2) The Industrial Code, 1967-1970, as amended by this Act, may be cited as the "Industrial Code, 1967-1970".
- (3) The Industrial Code, 1967-1970, is hereinafter referred to as "the principal Act".

2. (1) This Act (with the exception of sections 3, 45, 46 and 47) Commencement.
shall come into operation on the day on which it is assented to.
- (2) Sections 3, 45, 46 and 47 of this Act shall come into operation on the first day of January, 1971.

3. The following Acts and portion of an Act are repealed:— Repeal.
 - the Early Closing Act, 1926;
 - the Early Closing Act Amendment Act, 1931;
 - the Early Closing Act Amendment Act, 1932;
 - so much of the second schedule to the Statute Law Revision Act, 1935, as relates to the Early Closing Act, 1926;
 - the Early Closing Act Amendment Act, 1945;

the Early Closing Act Amendment Act, 1952;
 the Early Closing Act Amendment Act, 1953;
 the Early Closing Act Amendment Act, 1954;
 the Early Closing Act Amendment Act, 1960.

Amendment of
 principal Act,
 s. 3—
 Arrangement of
 Act.

4. Section 3 of the principal Act is amended by inserting after the item:—

PART XIV.—AMENDMENT OF BAKEHOUSES REGISTRATION ACT, 1945-1947, s. 219

the item

PART XV—SHOP TRADING HOURS, ss. 220-227.

Amendment of
 principal Act,
 s. 5—
 Interpretation.

5. Section 5 of the principal Act is amended—

(a) by inserting after the definition of “child” the following definition:—

“closing time” in relation to a shop means the time at which the shop is required to be closed and fastened against the admission of the public under Part XV of this Act;;

(b) by striking out from the definition of “Commission in Appeal Session” the passage “the Deputy President” and inserting in lieu thereof the passage “a Deputy President”;

(c) by inserting after the definition of “committee” the following definition:—

“council” means a municipal or district council within the meaning of the Local Government Act, 1934, as amended, and includes any body corporate that is, by virtue of any Act, deemed to be, or vested with the powers of, a municipal or district council;;

(d) by striking out the definition of “Deputy President” and inserting in lieu thereof the following definition:—

“Deputy President” means a Deputy President of the Industrial Court and, in relation to the commission, means a Deputy President of the commission;;

(e) by striking out from subparagraph (i) of paragraph (b) of the definition of “employer” the passage “Public Service Commissioner” and inserting in lieu thereof the passage “Public Service Board”;

(f) by inserting after the definition of “employer” the following definitions:—

“exempted goods” means any of the goods included in the fourth schedule to this Act:

“exempted shop” means a shop of a class included in the third schedule to this Act;;

(g) by inserting after the definition of “machinery” the following definition:—

“meat” means the flesh of a slaughtered animal (not being exempted goods) intended for human consumption;;

(h) by striking out the definition of “metropolitan area” and inserting in lieu thereof the following definition:—

“the metropolitan area” means the part of the State comprised by—

(a) the municipalities of Adelaide, Brighton, Burnside, Campbelltown, Elizabeth, Enfield, Gawler, Glenelg, Henley and Grange, Hindmarsh, Kensington and Norwood, Marion, Mitcham, Payneham, Port Adelaide, Prospect, St. Peters, Salisbury, Tea Tree Gully, Thebarton, Unley, Walkerville, West Torrens and Woodville;

(b) the district council districts of Munno Para, East Torrens, Stirling and Noarlunga;

(c) the area of the Garden Suburb;

(d) the wards known as the Happy Valley, Coromandel, Clarendon and Kangarilla wards of the district council of Meadows;

and

(e) the portion of the Hundred of Willunga that lies within the district council district of Willunga;;

(i) by inserting after the definition of “President” the following definition:—

“public holiday” means a day that is a public holiday pursuant to the provisions of the Holidays Act, 1910, as amended;;

(j) by striking out the definition of “Public Service Commissioner” and inserting in lieu thereof the following definition:—

“Public Service Board” means the Public Service Board constituted under the Public Service Act, 1967, as amended;;

(k) by striking out from the definition of "Public Service employees" the passage "Public Service Act, 1936-1966" and inserting in lieu thereof the passage "Public Service Act, 1967, as amended";

(l) by striking out the definition of "shop" and inserting in lieu thereof the following definitions:

"sell" includes offer or expose for sale:

"shop" means the whole or any portion of a building, structure, stall, tent, vehicle, platform, ship or boat—

(a) in which goods are offered or exposed for sale by retail (including sale by auction);

or

(b) in which the business of a hairdresser or pawnbroker is carried on,

but in relation to a publisher of newspapers does not include a building used both for the publishing and sale of newspapers:

"shop assistant" means—

(a) a person engaged in or about a shop (whether remunerated or not)—

(i) in selling or supplying, or assisting in the sale or supply, of goods to the public;

(ii) as a hairdresser;

(iii) as a clerk or a messenger;

(iv) in packing or dispatching goods;

or

(b) a person engaged in delivering goods from a shop:

"shopkeeper" means the person, body corporate, firm or association who or which carries on the business of a shop, or acts or apparently acts in the general management or control of the business of a shop:

"shopping district" means an area constituted a shopping district and for the time being continuing as a shopping district under the provisions of this Act.;

and

(m) by inserting after the definition of "warehouse" the following definition:—

"week day" means Monday, Tuesday, Wednesday, Thursday or Friday..

6. Section 9 of the principal Act is amended by striking out subsections (3) and (4) and inserting in lieu thereof the following subsections:—

Amendment of principal Act, s. 9—
The President.

(3) In the absence of the President through illness or any other cause, the Deputy President, or if there are more than one Deputy Presidents the most senior in office of those available to act in the office of President shall act as the President, and such a person, while so acting, shall have and may exercise all the jurisdiction, powers and functions conferred on the President by or under this Act.

(4) A person temporarily acting in the office of President pursuant to this section may be paid such an allowance as the Governor determines.

7. Section 9a of the principal Act is repealed and the following sections are enacted and inserted in its place:—

Repeal of s. 9a of principal Act and enactment of sections in its place—

9a. (1) The Governor may appoint one or more Deputy Presidents of the Industrial Court.

Appointment of Deputy Presidents.

(2) Whenever the office of a Deputy President becomes vacant, the Governor may appoint a suitable person to fill the vacancy.

(3) A person shall not be eligible for appointment under this section unless he is eligible for appointment as a Judge of the Supreme Court.

9b. (1) The Governor may appoint a suitable person to the office of industrial magistrate.

Industrial magistrate.

(2) The person so appointed shall hold office subject to and in accordance with the provisions of the Public Service Act, 1967, as amended.

(3) The person appointed as an industrial magistrate shall be a special magistrate with the jurisdiction, powers and functions appertaining to that office under the Justices Act, 1921, as amended.

Repeal of
s. 10 of
principal Act
and enactment
of section
in its place—

8. Section 10 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Constitution
of Industrial
Court.

10. (1) Every person holding the office of President or Deputy President shall be a Judge of the Industrial Court.

(2) The Industrial Court shall be constituted of—

(a) two or more Judges;

(b) a Judge;

or

(c) the industrial magistrate,

as the President may direct.

Amendment of
principal Act,
s. 11—
Salaries.

9. Section 11 of the principal Act is amended by striking out the passage “the Deputy President” secondly occurring and inserting in lieu thereof the passage “a Deputy President”.

Repeal of
s. 12 of
principal Act
and enactment
of section
in its place—

10. Section 12 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Tenure of
office.

12. (1) The President, and any Deputy President, shall, unless lawfully removed, be entitled to hold office until he attains the age of sixty-five years, and, subject to subsection (2) of this section, shall cease to hold office upon attaining that age.

(2) The President or a Deputy President may complete the hearing and determination of any proceedings part-heard by him before attaining the age of sixty-five years, and, for the purpose of completing any such hearing and determination shall be deemed to continue in the office of President or Deputy President.

(3) The President or a Deputy President may, by written notice addressed to the Governor, retire at any time preceding the attainment of sixty-five years of age.

(4) Neither the President nor any Deputy President shall be removed from office otherwise than in the manner in which and upon the grounds upon which a Judge of the Supreme Court is by law liable to be removed from office.

11. Section 13 of the principal Act is amended by striking out from subsection (1) the passage “and the Deputy President” and inserting in lieu thereof the passage “and any Deputy President”.

Amendment of principal Act, s. 13—
Pension.

12. Section 14 of the principal Act is amended by striking out from subsection (2) the passage “the Deputy President” and inserting in lieu thereof the passage “a Deputy President”.

Amendment of principal Act, s. 14—
Election by contributors to superannuation fund.

13. Section 23 of the principal Act is amended—

Amendment of principal Act, s. 23—
Constitution of commission.

(a) by striking out subsection (4) and inserting in lieu thereof the following subsection:—

(4) The President of the Industrial Court shall be the President of the commission and each Deputy President of the Industrial Court shall be a Deputy President of the commission.;

and

(b) by striking out from subsection (10) the passage “Public Service Act, 1936-1966” and inserting in lieu thereof the passage “Public Service Act, 1967, as amended”.

14. Section 24 of the principal Act is amended—

Amendment of principal Act, s. 24—
Constitution of commission.

(a) by striking out from paragraph (b) of subsection (1) the word “the” and inserting in lieu thereof the word “a”;

and

(b) by striking out from paragraph (b) of subsection (2) the word “the” where it first occurs and inserting in lieu thereof the word “a”.

15. Section 25 of the principal Act is amended—

Amendment of principal Act, s. 25—
Jurisdiction of commission.

(a) by striking out from subparagraph (ii) of paragraph (b) of subsection (1) the passage “the Deputy President” and inserting in lieu thereof the passage “a Deputy President”;

(b) by striking out from subsection (2) the passage “section 35 or section 79” and inserting in lieu thereof the passage “section 35, 37a or 79”;

and

(c) by inserting after subsection (2) the following subsection:—

(2a) Notwithstanding any other provision of this Act, an award made before the commencement of the Industrial Code Amendment Act, 1970, that was operative throughout the metropolitan area, or an area exclusive of the metropolitan area, as defined by this Act prior to the commencement of the Industrial Code Amendment Act, 1970, shall be deemed to be operative throughout the metropolitan area, or an area exclusive of the metropolitan area, as the case may require, within the meaning of this Act as amended by that Act.

Amendment of
principal Act,
s. 26—
Mediation.

16. Section 26 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “the Deputy President” wherever it occurs and inserting in lieu thereof in each case the passage “a Deputy President”;

and

(b) by striking out from subsection (2) the passage “the Deputy President” and inserting in lieu thereof the passage “a Deputy President”.

Amendment of
principal Act,
s. 27—
Compulsory
conference.

17. Section 27 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “the Deputy President” and inserting in lieu thereof the passage “a Deputy President”;

(b) by striking out from subsection (1a) the passage “The Deputy President” and inserting in lieu thereof the passage “A Deputy President”;

and

(c) by striking out from subsections (3) and (5) the passage “the President or as the case may be the Deputy President” wherever it occurs and inserting in lieu thereof in each case the passage “the person presiding over the conference”.

Amendment of
principal Act,
s. 28—
Powers of
commission.

18. Section 28 of the principal Act is amended—

(a) by inserting after the passage “to make any award or order” in paragraph (e) of subsection (1) the passage “(including an interim award or order)”;

and

(b) by striking out from paragraph (j) of subsection (1) the passage “the Deputy President” and inserting in lieu thereof the passage “a Deputy President”.

19. Section 36 of the principal Act is amended—

Amendment of
principal Act,
s. 36—
Recovery of
amounts due
under awards
and agreements.

- (a) by striking out from the first sentence of subsection (1) the passage “the commission” and inserting in lieu thereof the passage “the Industrial Court”;
- (b) by striking out the second, third and fourth sentences of subsection (1);
- (c) by inserting after subsection (1) the following subsections:—
- (1a) An application under subsection (1) of this section must be made in the prescribed manner.
- (1b) The Industrial Court may order an employer to pay to the person by or on behalf of whom an application is made under this section, any amount proved to be owed by the employer to that person.
- (1c) An amount shall not be recoverable under this section unless it first became payable within the three years immediately preceding the commencement of proceedings under this section.;
- (d) by striking out from subsection (3) the passage “the commission” wherever it occurs and inserting in lieu thereof in each case the passage “the Industrial Court”;
- (e) by striking out subsection (4) and inserting in lieu thereof the following subsections:—
- (4) Where the amount of a claim exceeds sixty dollars and the application in respect of the claim has been heard and determined by the Industrial Court constituted of an industrial magistrate, an appeal shall lie from the decision of the industrial magistrate to a Judge of the Industrial Court.
- (4a) Notice of an appeal under subsection (4) of this section must be lodged with the Registrar within fourteen days after the day on which the decision is given.
- (4b) Upon the hearing of an appeal the Judge may take fresh evidence and may confirm, vary or quash the decision or may refer the matter back to the industrial magistrate.;
- (f) by striking out from subsection (5) the passage “the commission” and inserting in lieu thereof the passage “the Industrial Court”;
- (g) by striking out from subsection (6) the passage “the commission” wherever it occurs and the passage “such commission” and inserting in lieu thereof in each case the passage “the industrial Court”;

(h) by striking out from paragraph (c) of subsection (6) the passage "Industrial Commission" and inserting in lieu thereof the passage "Industrial Court";

(i) by striking out from paragraph (i) of subsection (6) the passage "Local Courts Act, 1926-1965," and inserting in lieu thereof the passage "Local and District Criminal Courts Act, 1926-1969";

and

(j) by inserting after subsection (8) the following subsection:—

(9) The provisions of section 51 of this Act shall apply *mutatis mutandis* in respect of an application under this section.

Amendment of
principal Act,
s. 37—
Living wage
inquiry.

20. Section 37 of the principal Act is amended—

(a) by striking out subsections (1) and (2) and inserting in lieu thereof the following subsections:

(1) The Full Commission, of its own motion, or upon application made to it by the Minister, the South Australian Chamber of Manufactures Incorporated, the South Australian Employers' Federation Incorporated, The United Trades and Labor Council of South Australia, or any other association by leave of the President, may make a determination declaring the living wage to be paid to adult male employees, and the living wage to be paid to adult female employees.

(2) In making any such determination the Full Commission may to such extent and in such manner as it thinks fit take into consideration any decision of the Commonwealth Conciliation and Arbitration Commission (whether made upon the basis of economic considerations or otherwise) affecting or likely to affect wages payable generally to employees subject to its awards in this State.;

and

(b) by striking out subsection (6) and inserting in lieu thereof the following subsection:—

(6) When the Full Commission makes a determination under this section, a copy of the determination shall be forwarded to the Minister who shall publish it in the *Gazette* and the determination shall, subject to section 86 of this Act, come into force as from the day or days determined by the Full Commission.

21. The following section is enacted and inserted in the principal Act immediately after section 37 thereof:—

Enactment of
s. 37a of
principal Act—

37a. (1) Where the Full Commission is satisfied that, having regard to any decision of the Conciliation and Arbitration Commission of the Commonwealth affecting or likely to affect the wages or other remuneration payable generally to employees subject to its awards in this State, any variation (which variation may include provision for a minimum wage in excess of the living wage) should be made in the wages or other remuneration payable generally to employees under awards, the Full Commission may order that any such variation be made, and such a variation shall come into force as from a day or days determined by the Full Commission.

Alteration
of awards.

(2) An award declared to be a common rule pursuant to the provisions of this Act shall, notwithstanding any variation in the award under this section, continue, as amended, to be a common rule.

(3) An order may be made under subsection (1) of this section by the Full Commission of its own motion, or upon application by the Minister, the South Australian Chamber of Manufactures Incorporated, the South Australian Employers' Federation Incorporated, The United Trades and Labor Council of South Australia, or any other association by leave of the President.

22. Section 40 of the principal Act is amended by striking out subsection (1) and inserting in lieu thereof the following subsection:—

Amendment of
principal Act,
s. 40—

(1) The Registrar shall as soon as practicable after any alteration is made—

Publication of
amended
awards.

(a) in the living wage;

or

(b) pursuant to section 37a of this Act,

publish in the *Gazette* a copy of every award affected by the alteration amended in accordance with that alteration.

23. Section 41 of the principal Act is amended—

Amendment of
principal Act,
s. 41—

(a) by striking out from subsection (1) the passage “the Deputy President” wherever it occurs and inserting in lieu thereof in each case the passage “a Deputy President”;

Powers of
entry.

and

(b) by striking out from paragraph (a) and paragraph (b) of subsection (2) the passage “the Deputy President” wherever it occurs and inserting in lieu thereof in each case the passage “a Deputy President”.

Amendment of principal Act, s. 43—
Protection of commission.

24. Section 43 of the principal Act is amended by striking out the passage “the Deputy President of the commission, the Commissioners” and inserting in lieu thereof the passage “each Deputy President of the commission, the Commissioners, the industrial magistrate”.

Amendment of principal Act, s. 45—
Interlocutory matters.

25. Section 45 of the principal Act is amended by striking out the passage “the Deputy President” and inserting in lieu thereof the passage “a Deputy President”.

Amendment of principal Act, s. 46—
Power to issue orders to take evidence.

26. Section 46 of the principal Act is amended by striking out from subsection (1) the passage “the Deputy President” and inserting in lieu thereof the passage “a Deputy President”.

Amendment of principal Act, s. 47—
Directions as to service.

27. Section 47 of the principal Act is amended—

(a) by striking out the passage “the Deputy President or the Commissioner” and inserting in lieu thereof the passage “a Deputy President, the Commissioner or the industrial magistrate”;

and

(b) by striking out the passage “the President or the Deputy President or that Commissioner” and inserting in lieu thereof the word “he”.

Amendment of principal Act, s. 50—
Adjournments.

28. Section 50 of the principal Act is amended by striking out the passage “the Deputy President or a Commissioner” and inserting in lieu thereof the passage “a Deputy President, a Commissioner, or the industrial magistrate”.

Amendment of principal Act, s. 52—
Evidence.

29. Section 52 of the principal Act is amended—

(a) by striking out from paragraph (a) the passage “the Deputy President” wherever it occurs and inserting in lieu thereof in each case the passage “a Deputy President”;

and

(b) by striking out from paragraph (k) the numerals “24” and inserting in lieu thereof the numerals “25”.

Amendment of principal Act, s. 53—
Special case.

30. Section 53 of the principal Act is amended—

(a) by striking out subsection (3) and inserting in lieu thereof the following subsection:—

(3) The Industrial Court (except where constituted of the industrial magistrate) may if it thinks fit, at any

stage of the proceedings before it, state a case for the opinion of the Supreme Court upon any question that is, in its opinion, a question of law.;

and

(b) by striking out from subsection (4) the passage "the President or, as the case may be, the Deputy President" and inserting in lieu thereof the passage "the Industrial Court".

31. Section 60 of the principal Act is amended by striking out from subsection (2) the numerals "60" and inserting in lieu thereof the numerals "59".

Amendment of principal Act, s. 60—
Selection of members.

32. Section 73 of the principal Act is amended by striking out from subsection (2) the passage "the Deputy President" and inserting in lieu thereof the passage "a Deputy President".

Amendment of principal Act, s. 73—
Quorum and voting at meetings.

33. Section 79 of the principal Act is amended by striking out from subsection (5) the passage "the Deputy President" wherever it occurs and inserting in lieu thereof in each case the passage "a Deputy President".

Amendment of principal Act, s. 79—
Equal pay for males and females in certain circumstances.

34. Section 95 of the principal Act is amended by striking out from subsections (4), (5) and (6) the passage "the Deputy President" wherever it occurs and inserting in lieu thereof, in each case, the passage "a Deputy President".

Amendment of principal Act s. 95—
Aged, slow, inexperienced or infirm workers.

35. Section 103 of the principal Act is amended by striking out from subsection (2a) the passage "the Deputy President" and inserting in lieu thereof the passage "a Deputy President".

Amendment of principal Act, s. 103—
References to Full Commission.

36. Section 108 of the principal Act is amended by striking out from subsection (2) the passage "the Deputy President" and inserting in lieu thereof the passage "a Deputy President".

Amendment of principal Act, s. 108—
Effect of industrial agreement.

37. Section 115 of the principal Act is amended by striking out from subsection (1) the passage "the Deputy President" and inserting in lieu thereof the passage "a Deputy President, or the industrial magistrate".

Amendment of principal Act, s. 115—
Contempt.

Repeal of
s. 126a of
principal Act.

38. Section 126a of the principal Act is repealed.

Amendment of
principal Act,
s. 135—
Registration
of
associations.

39. Section 135 of the principal Act is amended by inserting after subsection (1) the following subsection:—

(1a) Where the membership of an association consists in part of persons employed by the Government of the Commonwealth or an instrumentality of that Government, those persons shall not be counted in determining whether the association is an association of not less than twenty employees, and registration shall not be refused solely on the ground that persons so employed are members of the association.

Amendment of
principal Act,
s. 136—
Method of
dealing with
application
for registration.

40. Section 136 of the principal Act is amended by striking out from paragraphs (a), (b) and (c) of subsection (3) the passage “the Deputy President” wherever it occurs and inserting in lieu thereof, in each case, the passage “a Deputy President”.

Amendment of
principal Act,
s. 138—
Registration
of
association.

41. Section 138 of the principal Act is amended by striking out from paragraph (c) of subsection (3) the passage “the Deputy President” and inserting in lieu thereof the passage “a Deputy President”.

Amendment of
principal Act,
s. 148—
Order that
persons cease
to be members
of an
association.

42. Section 148 of the principal Act is amended by striking out the passage “the Deputy President” and inserting in lieu thereof the passage “a Deputy President”.

Amendment of
principal Act,
s. 160—
Rules and
procedure.

43. Section 160 of the principal Act is amended—

(a) by striking out from paragraphs (a), (b) and (i) of subsection (1) the passage “the Deputy President” wherever it occurs and inserting in lieu thereof in each case the passage “a Deputy President”;

and

(b) by inserting after the passage “the commission” wherever it occurs in paragraphs (a), (b) and (i) of subsection (1) the passage “an industrial magistrate”.

44. Section 161 of the principal Act is amended—

Amendment of
principal Act,
s. 161—
Application of
Part.

- (a) by striking out from subsection (1) the passage “This Part of this Act with the exception of section 194,” and inserting in lieu thereof the passage “Except where it is otherwise expressly provided, the provisions of this Part”;

and

- (b) by striking out subsection (3).

45. The following section is enacted and inserted in the principal Act immediately after section 165 thereof:—

Enactment of
s. 165a of
principal Act—

165a. (1) Subject to this section, a person shall not carry on business in or from a shop unless the shop has been registered by the Secretary for Labour and Industry.

Registration
of shops.

Penalty: Two hundred dollars.

(2) The registration shall, subject to subsection (4) of this section remain in force for a period of one year from the last day of the month in which registration was required under subsection (1) of this section, and the registration shall thereafter be renewed annually.

(3) A shop that was, immediately before the commencement of the Industrial Code Amendment Act, 1970, registered under the Early Closing Act, 1926-1960, shall, subject to subsection (4) of this section be deemed to be registered under this Part until the thirty-first day of July, 1971.

(4) The registration of a shop shall terminate if the shopkeeper upon whose application the registration of the shop was granted or last renewed (whether under this Act or the Early Closing Act, 1926-1960) ceases to be the shopkeeper in respect of the shop.

(5) An application for the registration of a shop, or the renewal of registration, must be made in the prescribed form containing the prescribed particulars and must be accompanied by the prescribed fee.

(6) Registration need not be effected in respect of a shop situated outside a shopping district until the expiration of three months after the shop becomes subject to the application of this section but registration effected within that period shall be retrospective to the commencement of that period.

(7) The Secretary for Labour and Industry shall, upon registering a shop, determine whether the shop is or is not an exempted shop within the meaning of this Act and such a determination shall be conclusive evidence in any legal proceedings that the shop is or is not an exempted shop for the purposes of this Act.

(8) A determination made pursuant to the provisions of the Early Closing Act, 1926-1960, that a shop is or is not an exempted shop within the meaning of that Act, shall be deemed to be a corresponding determination under the provisions of this section.

(9) The Secretary for Labour and Industry may cancel a determination under this section at any time.

(10) This section shall apply in respect of shops within—

(a) any shopping district;

or

(b) those portions of the State to which this Part applies in accordance with the provisions of section 161 of this Act.

(11) This section shall not apply in respect of any shop at an industrial, agricultural, or horticultural exhibition or show, or any other exhibition or show approved by the Minister.

Enactment of
Part XV of
principal Act—

46. The following Part is enacted and inserted in the principal Act immediately after section 219 thereof:—

PART XV

SHOP TRADING HOURS

Application
of Part.

220. (1) Subject to this section, this Part shall apply—

(a) in respect of all shops situated within shopping districts;

and

(b) in respect of all shops in which meat is sold to the public whether situated within or outside a shopping district.

(2) Subject to this Part, the following are shopping districts for the purposes of this Act:—

(a) the metropolitan area;

(b) each shopping district existing under the Early Closing Act, 1926-1960, immediately before the commencement of the Industrial Code Amendment Act, 1970, with the exception of the metropolitan shopping district and the Stirling shopping district;

and

(c) any shopping district that may be constituted pursuant to the provisions of this Part.

(3) This Part shall not apply in respect of any shop at an industrial, agricultural or horticultural exhibition or show, or any other exhibition or show approved by the Minister or a shop, approved by the Minister, situated within the premises of a golf club.

(4) The Governor may, by proclamation, temporarily alter or suspend subject to such conditions as may be specified in the proclamation, the closing time prescribed by this Part—

(a) in respect of such shopping districts as may be specified in the proclamation;

and

(b) in respect of such shops or classes of shops as may be specified in the proclamation.

(5) Sections 221, 222, and 223 of this Act shall come into operation on the thirteenth day of April, 1971, in respect of the following areas:—

(a) the municipalities of Elizabeth, Gawler, Salisbury and Tea Tree Gully;

(b) the district council districts of Munno Para, East Torrens, and Noarlunga;

(c) the wards known as the Happy Valley, Coromandel, Clarendon and Kangarilla wards of the district council of Meadows;

and

(d) the portion of the Hundred of Willunga that lies within the district council of Willunga.

221. (1) Subject to this section, the closing time for a shop shall be 5.30 p.m. on every week day and 12.30 p.m. on a Saturday.

Closing times.

(2) Subject to this section, the closing time for a hairdresser's shop shall be 6 p.m. on every week day and 12.30 p.m. on a Saturday.

(3) The Governor may, by proclamation, vary the closing time for hairdressers' shops within a shopping district or part of a shopping district outside the metropolitan area, and may by subsequent proclamation, vary or revoke that proclamation.

(4) This section shall not apply in respect of a public holiday.

Shops to be closed at closing time.

222. (1) Except as otherwise provided in this Act, a shopkeeper shall, at or before the closing time on each day, close and fasten his shop, and keep it closed and fastened against the admission of the public for the remainder of the day.

Penalty: One hundred dollars.

(2) Except as otherwise provided in this Act, a shopkeeper shall keep his shop closed and fastened against the admission of the public for the whole of a Sunday or a public holiday.

Penalty: One hundred dollars.

(3) Except as otherwise provided in this Act, a shopkeeper shall not sell, or cause or permit to be sold, any goods in or about his shop on any day after the closing time or on any Sunday or public holiday.

Penalty: One hundred dollars.

(4) Except as otherwise provided in this Act, if a person is inside a shop after the closing time on any day, or at any time on a Sunday or public holiday for the purpose of buying or taking delivery of goods, the shopkeeper shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars.

(5) Except as otherwise provided in this Act, if the business of hairdressing is carried on in a shop after the closing time on any day, or at any time on a Sunday or public holiday, the shopkeeper shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars.

(6) No offence is committed under this section by reason only of the fact that a shopkeeper, or a shop assistant, is engaged within a period of fifteen minutes after closing time—

(a) in serving customers who were in the shop at closing time;

or

(b) in completing the hairdressing of a customer who was in the shop at closing time.

(7) No offence is committed under this section by reason only of the fact that goods are exposed for sale in a window or show-case of a shop at a time when the business of the shop is not being carried on.

(8) In respect of a hairdresser's shop, the Saturday after Good Friday shall be deemed not to be a public holiday for the purposes of this section.

(9) This section does not apply in respect of an exempted shop.

223. (1) It shall be lawful for exempted goods to be sold in or from an exempted shop after the closing time on any day or at any time on a Sunday or public holiday.

Exempted shops.

(2) If any goods that are not exempted goods are sold in or from an exempted shop after the closing time on any day or at any time on a Sunday or public holiday, the shopkeeper shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars.

224. (1) It shall be lawful for the shopkeeper of a shop situated outside the metropolitan area at any time—

Sale and delivery to persons resident at least five miles from a shop.

(a) to sell or deliver goods to any person who resides at least five miles from the shop;

and

(b) to keep his shop open for so long as is necessary to effect the sale and delivery.

(2) The distance between the place at which the person is resident and the shop shall, for the purposes of this section, be calculated according to the shortest practicable route.

(3) It shall be lawful for a shopkeeper at any time to sell or deliver spare parts for agricultural machinery and to keep his shop open for so long as is necessary to effect the sale and delivery.

225. (1) It shall be lawful for goods to be sold or offered or exposed for sale at any time in any shop over a period of not more than one week if the proceeds from the sale are to be devoted to a charitable, religious, or benevolent purpose.

Exemption for charitable purposes.

(2) A shop used solely for the purposes of the sale of goods in accordance with subsection (1) of this section shall not be required to be registered under the provisions of this Act.

Licence to sell motor spirit, lubricants, spare parts and accessories.

226. (1) The Minister may, upon the application of a shopkeeper, grant a licence to that shopkeeper permitting him to sell motor spirit and lubricants, and spare parts and accessories for motor vehicles on any day after closing time and on Sundays and public holidays.

(2) The licence may be subject to such limitations, restrictions and conditions as are prescribed.

(3) The licensee shall pay to the Minister such fees as may be prescribed.

(4) It shall be lawful for the holder of a licence under this section to sell the goods subject to the licence, to keep his shop open during the hours specified in the licence and to employ shop assistants during those hours in accordance with the conditions of the licence.

(5) If the Minister considers that a licence granted under this section has been abused in any way, he may, by notice in writing addressed to the holder of the licence, cancel the licence and the licence shall thereupon become void.

(6) A licence granted under the Early Closing Act, 1926-1960, for the sale of motor spirit, lubricants, and spare parts and accessories for motor vehicles, shall be deemed to be a licence granted under this section and shall, subject to this section, continue in operation for the term for which it was granted.

Constitution or abolition of shopping district.

227. (1) A council may, by instrument in writing under the common seal of the council, make application to the Minister that—

(a) any portion of its area, not comprised within a shopping district, be constituted a shopping district;

or

(b) any shopping district or part of a shopping district within its area cease to be a shopping district or part of a shopping district.

(2) An application shall not be made under this section in respect of any portion of the State including any portion of the metropolitan area and where an application is made to constitute a shopping district, the portion of the area in respect of which the application is made must, unless it comprises a municipality, exceed thirty-six square miles in extent.

(3) An application to abolish part of a shopping district must not be made in respect of a portion of an area not comprised within a municipality, if the abolition of that part of the shopping district would reduce the area of the shopping district to less than thirty-six square miles.

(4) An application under this section may only be made in pursuance of a resolution of the council supported by not fewer than two thirds of the total number of members of the council.

(5) The council must advise the Minister of the views it has ascertained of persons (including shopkeepers and shop assistants) resident in the area and affected by the application, upon the subject of the application.

(6) The Minister may require the Returning Officer for the State to conduct a poll of all electors on the roll of electors for the House of Assembly at the date of the application, and resident within the area of the council, in order to ascertain their views on the subject of the application.

(7) Voting at any such poll shall not be compulsory.

(8) If a majority of votes cast at a poll favour the application of the council, a shopping district or a part of a shopping district shall be created or abolished by proclamation in accordance with the application of the council.

(9) If the Minister is satisfied without a poll being conducted that the application is supported by a majority of the persons (including shopkeepers and shop assistants) resident in the area and affected by the application, a shopping district or part of a shopping district may be created or abolished by proclamation in accordance with the application of the council.

(10) If an unsuccessful application is made to the Minister under this section a period of three years must elapse before the same, or a substantially similar, application is made to the Minister.

(11) The Governor may by regulation make such provisions as he deems necessary or expedient in connection with a poll to be conducted under this section.

(12) Subject to the regulations a poll shall be conducted in such manner as the Returning Officer for the State determines.

(13) Any petition under the provisions of the Early Closing Act, 1926-1960, to which, at the commencement of the Industrial Code Amendment Act, 1970, effect had not been given, shall be deemed to be an application under this section and shall be dealt with accordingly.

47. The following schedules are enacted and inserted in the principal Act immediately after the second schedule:—

Enactment of
third and
fourth
schedules of
principal Act.

THE THIRD SCHEDULE

EXEMPTED SHOPS

Aquarium shops
Art shops
Bakers shops
Book and card shops
Chemists and Druggists shops
Confectionery shops
Cooked food shops
Delicatessens
Fish shops
Florists
Fruit and/or Vegetable shops
Newsagents shops
Non-alcoholic drink shops
Plant nurseries
Restaurants and eating houses (including hotels, motels and roadhouses)
Souvenir shops
Tobacconists shops

THE FOURTH SCHEDULE

EXEMPTED GOODS

Adhesive tape
Antiseptics
Aquariums and accessories for aquariums
Artifacts
Ash-trays
Bacon
Batteries, dry cell
Biscuits
Books
Bread (including bread rolls)
Breakfast cereals
Brushes, tooth, hair and skin
Butter
Cake (including pastry)
Candles
Cards
Cheese
Chocolate, drinking
Cigar and cigarette holders and cases
Cigarette lighters, lighting fluid, flints and rollers
Cigarette papers
Cigarettes
Cigars
Cocoa
Coffee (including coffee beans)
Confectionery
Cooked food
Cooking oils
Cosmetic and toilet bags
Cosmetics
Cream
Deodorants
Drawings
Drinks, non-alcoholic (including cordials and cordial extracts and fruit juices)
Drugs
Eggs
Electric light globes
Envelopes
Erasers
Etchings
Eyebrow pencils and pluckers
Face creams and lotions
Face powder
Fertilizers
Films for cameras
First aid requisites
Fish
Fish food

Fishing bait
Fishing gear
Flash bulbs for cameras
Flour
Flowers
Frozen food
Fruit
Gloves, rubber and plastic
Hair clips, combs, curlers, nets, oils, pins, sprays and washes
Honey
Hot water bags
Ice
Ice cream
Infants' comforters, pilchers, toilet and feeding requisites
Infants' foods
Ink
Insect repellants
Instant puddings
Jam
Jellies
Journals
Lipstick
Lunch-wraps
Magazines
Manicure sets
Margarine
Matches
Mayonaisse
Meat extracts
Medical and surgical instruments and appliances, including veterinary instruments and appliances
Medicines, including veterinary medicines
Milk
Mustard
Nail files, polishes and removers
Newspapers
Nuts
Oysters
Packaged foods kept under refrigeration (except uncooked meat)
Paintings (including reproductions)
Panty hose
Paper
Pasta (including lasagna, macaroni, noodles, ravioli, spaghetti and vermicilli)
Pastes (meat and fish)
Pens and pencils (including refills)
Pepper
Perfumery
Pesticides
Pet foods
Pickles
Pies and pasties
Plants, living
Pocket knives
Pots, flower and shrub
Pottery, handmade
Poultry
Powder puffs
Rabbits
Razors and razor blades
Rulers
Salt
Sanitary napkins
Sauces
Sausages
Sculpture
Seeds
Shaving creams
Soap (including soap powders)
Soup
Souvenirs (identified by inscription, stamping or marking)
Sponges
Stockings
Sugar
Sunglasses

Suntan creams and lotions
Talcum powder
Tea
Tobacco
Tobacco jars and pouches
Tobacco pipes and cleaners for tobacco pipes
Toilet paper
Toilet tissues
Toothpaste
Vegetable extracts
Vegetables
Vinegar
Wreaths
Writing pads
Yoghurt

In the name and on behalf of Her Majesty, I hereby assent
to this Bill.

J. W. HARRISON, Governor.