



TASMANIA

**ANZAC DAY OBSERVANCE AMENDMENT ACT
2018**

No. 21 of 2018

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SCHEDULE 1 – LEGISLATION REVOKED



ANZAC DAY OBSERVANCE AMENDMENT ACT 2018

No. 21 of 2018

***An Act to amend the *Anzac Day Observance Act 1929* and
the *Shop Trading Hours Act 1984* and to revoke the *Shop
Trading Hours Order 2012****

[Royal Assent 15 October 2018]

Be it enacted by Her Excellency the Governor of Tasmania, by
and with the advice and consent of the Legislative Council and
House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Anzac Day
Observance Amendment Act 2018*.

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Part 1 – Preliminary

2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

3. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which this Act commences.

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Part 2 – Anzac Day Observance Act 1929 Amended

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**PART 2 – ANZAC DAY OBSERVANCE ACT 1929
AMENDED**

4. Principal Act

In this Part, the *Anzac Day Observance Act 1929** is referred to as the Principal Act.

5. Section 3 amended (Interpretation of Part II)

Section 3 of the Principal Act is amended by inserting after the definition of *race meeting* the following definition:

shop has the same meaning as in the *Shop Trading Hours Act 1984*;

6. Sections 5A, 5B and 5C inserted

After section 5 of the Principal Act, the following sections are inserted in Part II:

5A. Shops, &c., not to open on Anzac Day

- (1) A person must not cause or allow a shop to be kept open on Anzac Day before 12.30 p.m.

Penalty: Fine not exceeding 200 penalty units.

- (2) For the purposes of subsection (1), a shop is kept open if –

*No. 70 of 1929

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Part 2 – Anzac Day Observance Act 1929 Amended

- (a) the shop is not locked, or otherwise closed, against admission to the public; or
 - (b) any person in the shop is engaged in the sale of goods, canvassing for orders or delivering goods to customers.
- (3) Despite subsection (2), if a shop has a common entrance with a factory or warehouse, the shop is not taken to be kept open if that entrance is closed but not locked.
- (4) Notwithstanding subsection (1), a shop may be kept open before 12.30 p.m. on Anzac Day if the shop –
 - (a) is a shop, or belongs to a class or group of shops, that the Minister, by notice in accordance with subsections (5) and (6), has declared may be kept open before 12.30 p.m. on Anzac Day; or
 - (b) is a pharmacy; or
 - (c) is a newsagency; or
 - (d) is not part of a shopping centre, plaza or mall and the number of persons engaged at the shop as employees or otherwise in the conduct of the business of the shop on any day in the

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Part 2 – Anzac Day Observance Act 1929 Amended

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immediately preceding March did
not exceed 10; or

(e) is a shop –

(i) at which an auction is
conducted by a real estate
agent, or a general
auctioneer, within the
meaning of the *Property
Agents and Land
Transactions Act 2016*;
and

(ii) which is used principally
for the conduct of such an
auction; or

(f) is specified in a liquor licence or
liquor permit granted under the
Liquor Licensing Act 1990 and is
a shop at which liquor is the only
or principal class of goods sold;
or

(g) is a shop in, or at which, the only
or principal business carried on is
that of providing meals or cooked
food, with or without the
accompaniment of any beverage,
being either meals or cooked food
that are ready for immediate
consumption either at the shop or
elsewhere; or

(h) is a service station which is used
principally for the sale of

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Part 2 – Anzac Day Observance Act 1929 Amended

petroleum products and motor
vehicle accessories; or

- (i) is a shop in, or at which, the sale of motor vehicles, or the offering or exposing for sale of motor vehicles, occurs or the sale of replacement parts required for essential repairs to motor vehicles occurs.
- (5) In deciding whether or not to make a notice under subsection (4)(a), the Minister may have regard to such matters as the Minister considers relevant including, but not limited to –
 - (a) the needs of the relevant community including, but not limited to, organisations that support veterans, and their families, such as the RSL; and
 - (b) the effect on the relevant community if the shop, or class or group of shops, is not kept open; and
 - (c) the policy that a notice under this section should not undermine, to any significant degree, the controls on shop trading hours set out in the *Shop Trading Hours Act 1984*.
- (6) A notice under subsection (4)(a) –

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(a) is to be published, before the notice is to have effect –

(i) in the *Gazette*; and

(ii) in at least one daily newspaper circulating generally in each municipal area where a shop, to which the notice relates, operates; and

(iii) on a website that is accessible by the public; and

(b) is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

5B. Person not to be required to work in certain circumstances

(1) This section applies to a shop specified in section 5A(4) which is not a shop to which section 5 of the *Shop Trading Hours Act 1984* applies.

(2) A person, whether an employer or not, must not require a person to work before 12.30 p.m. on Anzac Day as an employee in a shop to which this section applies unless the employee agrees, in writing, to that work on that day.

Penalty: Fine not exceeding 200 penalty units.

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Part 2 – Anzac Day Observance Act 1929 Amended

- (3) If a body corporate contravenes this section –
 - (a) each person who is a director of the body corporate or who is concerned in the management of the body corporate is taken to have contravened this section if the person knowingly authorised or permitted the contravention; and
 - (b) a person may be proceeded against and convicted under this section in accordance with paragraph (a) whether or not the body corporate has been proceeded against or convicted under this section.
- (4) In any proceedings, for an offence against this section, against the occupier of a shop, it is sufficient in the complaint in respect of the offence to allege that a building, a part of a building, or place, or other premises is a shop and to state the name of its ostensible occupier or the style or title under which the occupier is usually known or carries on business, and the complaint may from time to time be amended as to the name of the actual occupier.
- (5) In this section –

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occupier, in relation to a shop, has the same meaning as in the *Shop Trading Hours Act 1984*.

5C. Application of *Shop Trading Hours Act 1984*

- (1) Section 7 of the *Shop Trading Hours Act 1984* applies to a shop, or purported shop, referred to in sections 5A and 5B as if a reference to *this Act* in section 7 of the *Shop Trading Hours Act 1984* were a reference to the *Anzac Day Observance Act 1929*.
- (2) A copy of a record or document, or part of a record or document, made under section 7 of the *Shop Trading Hours Act 1984*, as applied under subsection (1), is admissible in proceedings for an offence against section 5A or 5B as evidence of the matters specified in the record or document, or part of the record or document.

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Part 3 – Shop Trading Hours Act 1984 Amended

**PART 3 – SHOP TRADING HOURS ACT 1984
AMENDED**

7. Principal Act

In this Part, the *Shop Trading Hours Act 1984**
is referred to as the Principal Act.

8. Section 3A amended (Non-application of Act)

Section 3A(3) of the Principal Act is amended as
follows:

- (a) by omitting from paragraph (e)
“accessories; or” and substituting
“accessories.”;
- (b) by omitting paragraph (f).

9. Section 5AAA repealed

Section 5AAA of the Principal Act is repealed.

**10. Section 8 amended (Person not to be required to
work contrary to an award or industrial agreement)**

Section 8(2) of the Principal Act is amended by
omitting “or section 5AAA(2)”.

*No. 61 of 1984

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Part 4 – Legislation revoked

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PART 4 – LEGISLATION REVOKED

11. Legislation revoked

The legislation specified in Schedule 1 is
revoked.

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SCHEDULE 1 – LEGISLATION REVOKED

Section 11

Shop Trading Hours Order 2012 (No. 19 of 2012)

*[Second reading presentation speech made in:–
House of Assembly on 21 August 2018
Legislative Council on 20 September 2018]*