



TASMANIA

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**SHOP TRADING HOURS ACT 1984**

**No. 61 of 1984**

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## **SHOP TRADING HOURS ACT 1984**

**No. 61 of 1984**

**An Act to provide for the regulation of the trading hours of certain retail shops and for related matters**

**[Royal Assent 26 September 1984]**

Be it enacted by His 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:

### **1. Short title**

This Act may be cited as the *Shop Trading Hours Act 1984*.

### **2. Commencement**

This Act shall commence on the day on which it receives the Royal Assent.

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**3. Interpretation**

(1) In this Act, unless the contrary intention appears

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*franchise agreement* means any contract, arrangement, or understanding, whether or not enforceable at law or in equity, containing a provision, whether express or implied, under or by virtue of which one party (in this definition referred to as the “franchisor”) grants or agrees to grant to another party (in this definition referred to as the “franchisee”) for reward, whether calculated by reference to gross or net revenue or otherwise and whether payable directly or indirectly, the right to use, in connection with the sale by retail of goods by the franchisee, any name, logo, style, or colours owned by, or commonly associated with or controlled by, the franchisor;

*franchisee* means a party to a franchise agreement, being the party referred to as the franchisee in the definition of “franchise agreement” in this subsection;

*franchisor* means a party to a franchise agreement, being the party referred to as the franchisor in the definition of “franchise agreement” in this subsection;

*goods* includes all chattels other than money and things in action;

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***inspector*** means an inspector within the meaning of the *Industrial Relations Act 1984*;

***major retailer*** means –

- (a) a person, or a group of persons as determined in accordance with Schedule 2, who or which carries on a business or businesses of selling goods by retail at a shop or shops to which section 5 applies; or
- (b) a person who would be a member of a group referred to in paragraph (a) except only for the fact that that person does not carry on a business or businesses of selling goods by retail;

***municipality*** means a municipal area;

***occupier***, in relation to a shop, or a building, part of a building, or place which an inspector has reason to believe is a shop, means the person who occupies the shop, building, part of a building, or place, and includes any agent, manager, foreman, or other person acting or apparently acting in the general management or control of the shop, building, part of a building, or place;

***Secretary*** means the Secretary of the Department;

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*shop* means a building, part of a building, or place, or other premises, in or at which a business of selling goods by retail is carried on;

*statutory holiday* has the same meaning as in the *Statutory Holidays Act 2000*.

- (2) Without limiting the generality of the definition of franchise agreement in subsection (1), payment for the use or occupation of a shop by a franchisee to, on behalf of, or at the direction of, a franchisor, being payment by way of rent or licence fee under a lease, sub-lease, licence or other contract, arrangement, or understanding, shall be deemed to constitute payment also for the right to use, in connection with the sale by retail of goods by the franchisee, any name, logo, style, or colours owned by, or commonly associated with or controlled by, the franchisor.
- (3) . . . . .

**3A. Non-application of Act**

- (1) This Act does not apply to any regatta, race meeting, sports meeting, agricultural, pastoral, or horticultural society's show, bazaar, fete, fair, market, or trade exhibition in or at which persons occupy or have the use of barrows, stalls, tables, or other subdivisions from or at which goods are sold, or exposed or offered for sale, by retail.
- (2) This Act does not apply to the sale of motor vehicles, to the offering or exposing for sale of

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motor vehicles, or to the sale of replacement parts required for essential repairs to motor vehicles.

- (3) This Act does not apply to –
- (a) premises 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 which are used principally for the conduct of such an auction;
  - (b) premises specified in a liquor licence or liquor permit granted under the *Liquor Licensing Act 1990* and on which liquor is the only or principal class of goods sold;
  - (c) . . . . .
  - (d) premises 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, either being meals or cooked food that are ready for immediate consumption either on the premises or elsewhere; or
  - (e) a service station which is used principally for the sale of petroleum products and motor vehicle accessories.
  - (f) . . . . .

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**4. Shops to which section 5 applies**

- (1) Where a person, or a group of persons, carries on a business or businesses of selling goods by retail at a shop or shops located in Tasmania and the number of persons employed, whether in a full-time capacity or a non-full-time capacity, in that business or those businesses exceeds 250 at any time during the period beginning at 8 a.m. on the Monday of any week and ending at 6 p.m. on Friday of the same week, being a week immediately preceding that in which there occurs a day referred to in section 5(1) on which the shop or shops shall not be kept open, section 5 applies to that shop, or as the case may be, each of those shops, in relation to that day so referred to.
- (1A) Where a person, or a group of persons, carries on a business or businesses of selling goods by retail at a shop or shops located in Tasmania and a franchise agreement is in force between a major retailer and that person or group of persons, section 5 applies to that shop, or, as the case may be, to each of those shops.
- (1B) The reference in subsection (1A) to a franchise agreement includes a reference to a franchise agreement entered into or in existence before the commencement of the *Shop Trading Hours Amendment Act (No. 2) 1987*.
- (2) The question of whether or not a group of persons is constituted for the purpose of subsection (1) or (1A), or of whether or not a

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person is a member of such a group, shall be determined in accordance with Schedule 2.

**5. Certain shops prohibited from opening on certain occasions**

- (1) Subject to the provisions of this Act, a shop to which this section applies must not be kept open at any time –
  - (a) on Christmas Day; or
  - (b) on Good Friday.
  - (c) . . . . .
- (2) For the purposes of this section, a shop is taken to be kept open if –
  - (a) it 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 the entrance is closed but not locked.
- (4) The occupier of a shop to which this section applies that is kept open in contravention of subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding 200 penalty units.

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- (5) If an occupier that is a body corporate is guilty of an offence under subsection (4), each person who is a director of the body corporate or who is concerned in the management of the body corporate is guilty of an offence and liable on summary conviction to a fine not exceeding 200 penalty units if that person knowingly authorised or permitted the offence by the body corporate.
- (6) A person may be proceeded against and convicted under subsection (5) whether or not the body corporate has been proceeded against for, or convicted of, an offence under subsection (4).

5AAA. . . . .

**5AA. Certain shops prohibited from opening on Sundays**

- (1) In this section,

***prescribed shop*** means –

- (a) a particular shop to which section 5 applies; and
  - (b) all shops to which section 5 applies; and
  - (c) a shop of a class of shop to which section 5 applies.
- (2) If the prescribed conditions have been met, the Minister, by notice published in the *Gazette*, is to declare that one or more prescribed shops

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specified in the declaration and situated in a municipality must not be kept open on any Sunday or statutory holiday observed in that municipality or all Sundays or all statutory holidays observed in that municipality –

- (a) at all times; or
  - (b) between the hours specified in the declaration.
- (3) For the purposes of subsection (2), the prescribed conditions have been met if –
- (a) a majority of councillors, within the meaning of the *Local Government Act 1993*, at a meeting of the council of the municipality have resolved to request the Chief Electoral Officer to hold a poll of the persons entitled to vote at an election or by-election in the municipality under Part 15 of that Act on the proposal set out in the request, being a precise statement of which Sundays and statutory holidays observed in the municipality, and at what times, one or more prescribed shops specified in the proposal and situated in the municipality must be kept closed; and
  - (b) of those persons who lodged a formal vote in that poll, more than 50% voted in favour of that proposal.
- (4) A declaration under subsection (2) is to be in substantially the same terms as the proposal referred to in subsection (3)(a).

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- (5) For the purposes of subsection (2), a shop is taken to be kept open if –
  - (a) it 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.
- (6) Despite subsection (5), if a shop has a common entrance with a factory or warehouse, the shop is not taken to be kept open if the entrance is closed but not locked.
- (7) The occupier of a shop that is kept open in contravention of a declaration under subsection (2) is guilty of an offence and liable on summary conviction to a fine not exceeding 200 penalty units.
- (8) If an occupier that is a body corporate is guilty of an offence under subsection (7), each person who is a director of the body corporate or who is concerned in the management of the body corporate is guilty of an offence and liable on summary conviction to a fine not exceeding 200 penalty units if that person knowingly authorised or permitted the offence by the body corporate.
- (9) A person may be proceeded against and convicted under subsection (8) whether or not the body corporate has been proceeded against for, or convicted of, an offence under subsection (7).

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- (10) A poll referred to in subsection (3) is to be conducted, and the result determined, by the Chief Electoral Officer –
- (a) at a time determined by the Chief Electoral Officer, but not later than 9 months after receiving the request referred to in subsection (3)(a); and
  - (b) in accordance with guidelines determined by the Chief Electoral Officer.
- (11) The costs of a poll referred to in subsection (3) are to be met by the Chief Electoral Officer.
- (12) For the purposes of subsection (11), if a poll is held in a municipality in conjunction with an election or by-election of councillors in the municipality, the costs of the poll are those costs incurred in respect of the poll that are additional to the costs incurred in the conduct of the election or by-election.
- (13) A request may not be made under subsection (3)(a) in respect of a municipality within 2 years after a poll referred to in subsection (3) has been held in that municipality.
- (14) A notice under subsection (2) is not a statutory rule within the meaning of the *Rules Publication Act 1953*.
- (15) For the purposes of this section –
- (a) the Chief Electoral Officer may determine guidelines relating to the

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conduct of a poll referred to in subsection (3); and

- (b) those guidelines may prescribe a matter by reference to any Act or any other document.

5A - 5B. . . . .

**6. Occupier of shop to keep record of employees**

- (1) The occupier of a shop shall cause to be kept at the shop or at such other place as may be approved by the Secretary a written record containing particulars of –
  - (a) the name and address of each person employed in the shop;
  - (b) the class of work performed by him; and
  - (c) the number of hours worked by him during each day and week and the times during each of those periods at which he started and ceased work.

(1A) The occupier of a shop shall cause to be kept at the shop or at such other place as may be approved by the Secretary a true copy of any franchise agreement in relation to the operation of the shop.

(1B) A franchisor shall cause a true copy of the franchise agreement in respect of which he is the franchisor –

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- (a) to be kept, in the case of a franchisor which is a body corporate, at its registered office in Tasmania, its place or principal place of business in Tasmania, or at such other place in Tasmania as may be approved by the Secretary; or
  - (b) to be kept, in the case of any other franchisor, at his place or principal place of business in Tasmania or at such other place in Tasmania as may be so approved.
- (2) If the occupier of a shop to which subsection (1) applies fails to comply with that subsection, he is guilty of an offence and is liable on summary conviction to a fine not exceeding 50 penalty units.
- (2A) Where a person to whom subsection (1A) or (1B) applies fails to comply with the appropriate subsection, that person is guilty of an offence, punishable on summary conviction, in accordance with subsection (2B).
- (2B) A person convicted of an offence under subsection (2A) is liable to a fine not exceeding 50 penalty units, and a person who is so convicted in respect of a continuing failure to comply with subsection (1A) or (1B) is liable, in addition to the penalty otherwise applicable to that offence, to a fine not exceeding 10 penalty units for each day during which the failure continued.

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- (3) Subject to subsection (4), any person who in keeping a record in accordance with subsection (1) makes an entry in the record that is false or misleading in a material particular is guilty of an offence and is liable on summary conviction to a fine not exceeding 10 penalty units or to imprisonment for a term not exceeding 3 months, or both.
- (4) It is a defence to a charge under subsection (3) if it is proved that, at the time when the entry was made, the defendant believed on reasonable grounds that it was neither false nor misleading.
- (5) The occupier of a shop referred to in subsection (1) shall be deemed to have complied with that subsection if he keeps at that shop or at a place approved by the Secretary a record that complies with section 75 of the *Industrial Relations Act 1984*.

**7. Powers of inspectors**

- (1) Whenever an inspector has reason to believe that a building, part of a building, or place, or other premises is a shop and that the building, part of a building, or place, or other premises is open for business as such, he may, for the purposes of this Act, enter and remain in the building, part of a building, or place, or other premises.
- (2) Where an inspector enters a building, part of a building, or place, or other premises pursuant to subsection (1), he may –

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- (a) require the occupier to produce for inspection any record required to be kept in relation to the building, part of the building, or place, or other premises in accordance with section 6;
  - (ab) require the occupier to produce for inspection a true copy of any franchise agreement in force in relation to the operation of the shop that is required to be kept in accordance with section 6;
  - (b) inspect any record produced pursuant to paragraph (a) or any document produced pursuant to paragraph (ab) and make a copy of any such record or document or of any part of any such record or document;
  - (c) make such inspections, examinations, and inquiries as he thinks necessary to ascertain whether or not a provision of this Act is being or has been contravened or complied with; and
  - (d) examine, with respect to matters with which this Act is concerned, any person apparently employed in or in connection with a shop carried on within or at the building, part of a building, or place, or other premises.
- (2A) Wherever an inspector has reason to believe that a franchise agreement is in force in relation to the operation of a shop, he may, for the purposes of this Act, enter and remain in –

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- (a) the registered office in Tasmania or place or principal place of business in Tasmania of the franchisor; or
  - (b) such other place as the Secretary has, pursuant to section 6(1B), approved as a place in Tasmania at which the franchisor is required to cause a copy of the franchise agreement to be kept.
- (2B) Where an inspector enters an office or other place pursuant to subsection (2A), he may –
- (a) require the person in charge or apparently in charge of that office or other place to produce for inspection a true copy of the franchise agreement required to be kept at that office or other place pursuant to section 6;
  - (b) inspect any document produced pursuant to paragraph (a) and make a copy of any such document or of any part of any such document; and
  - (c) make such inspections, examinations, and inquiries as he thinks necessary to ascertain whether or not section 6(1B) is being complied with.
- (3) Any person who –
- (a) refuses or deliberately delays the admission of an inspector –
    - (i) to a building, part of a building, or place, or other premises which

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he is seeking to enter pursuant to subsection (1); or

- (ii) to a registered office or other place which he is seeking to enter pursuant to subsection (2A);
- (b) without reasonable excuse, fails to comply with a requirement made of him under subsection (2)(a), (2)(ab), or (2B)(a);
- (c) obstructs or hinders an inspector in the exercise by him of his powers under this Act; or
- (d) without reasonable excuse, fails to answer a question put by the inspector during the course of an examination under subsection (2) or (2B) or gives an answer which, to the knowledge of that person, is false or misleading as to a material particular –

is guilty of an offence and is liable on summary conviction to a fine not exceeding 10 penalty units.

- (4) Where, in the course of an examination or inquiry –
  - (a) under subsection (2), an answer is given to an inspector by an officer of a corporation within the meaning of the Corporations Act which is carrying on or has carried on the business of a shop in the building, part of a building, or place

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or other premises where the question was put; or

- (b) under subsection (2B), an answer is given to an inspector by an officer of a corporation within the meaning of that Act at the registered office of the corporation, or other place, where the question was put –

the answer is, for the purposes of any proceedings against the corporation under this Act, admissible in evidence against the corporation unless it is proved that the answer was given in relation to a matter in respect of which the officer had no authority to bind the corporation.

- (5) The provisions of subsection (4) are in addition to any rule of law relating to the admissibility in evidence of statements made by any officer of a corporation.
- (6) An inspector is not entitled to enter a building, part of a building, or place, or other premises under subsection (1) or to enter any registered office or other place under subsection (2A) if he fails to produce, at the time of entry, evidence of his appointment as an inspector to the occupier of that building, part of a building, or place, or those other premises.
- (7) In this section, *officer*, in relation to a corporation within the meaning of the Corporations Act, has the meaning assigned to that expression by that Act.

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**8. Person not to be required to work contrary to an award or industrial agreement**

- (1) A person, whether an employer or not, must not require or attempt to persuade another person to work as an employee in a shop contrary to an award or industrial agreement that is applicable to that other person.

Penalty: Fine not exceeding 200 penalty units.

- (2) A person, whether an employer or not, must not require a prescribed person to work as an employee in a shop to which section 5 applies –
- (a) on a statutory holiday which is observed in the locality in which the shop is situated; or
  - (b) on a Sunday –

unless the employee agrees, in writing, to work on that statutory holiday or Sunday.

Penalty: Fine not exceeding 200 penalty units.

- (3) In subsection (2),

*prescribed person* means a person employed, at the commencement of this section, as an employee in the shop referred to in that subsection.

- (4) If a body corporate contravenes this section, 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

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knowingly authorised or permitted the contravention.

- (5) A person may be proceeded against and convicted under this section in accordance with subsection (4) whether or not the body corporate has been proceeded against or convicted.

8A. . . . .

**9. Procedure and evidence in respect of offences**

- (1) In any proceedings for an offence under this Act 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.
- (2) If the court hearing a complaint under this Act thinks fit, several complaints relating to offences under this Act or, with the consent of the parties, complaints laid against several parties in respect of such offences, may be heard together, and in any such case, a witness sworn to give evidence in respect of the complaint shall for all purposes be deemed to be a witness in respect of each complaint.

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- (3) A copy of a record or part of a record made under section 7(2)(b) is admissible in proceedings for an offence against section 5 as evidence of the matters specified in the record or part of the record.

**10. Provisions in certain agreements unenforceable, &c.**

- (1) In this section *shopkeeper* means a person who carries on the business of selling goods by retail at a shop located in this State.
- (2) A provision of a lease agreement, franchise agreement or other agreement is unenforceable if that provision purports to require a shopkeeper to keep a shop open for business for any period of time, other than a period between the hours of 8 a.m. and 6 p.m. on any Monday, Tuesday, Wednesday, Thursday, Friday or Saturday.
- (3) Subsection (2) has effect regardless of whether the lease agreement, franchise agreement or other agreement referred to in that subsection –
- (a) was entered into in this State or elsewhere; or
  - (b) contains a provision generally to the effect that the agreement is to be construed, or that any dispute concerning the agreement is to be determined, in accordance with the law of a place outside this State.
- (4) A person who has entered into a lease agreement, franchise agreement or other

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agreement with a shopkeeper must not, by means of any threat or offer of reward or otherwise, induce or attempt to induce that shopkeeper to keep a shop open for business for any period of time, other than a period between the hours of 8 a.m. and 6 p.m. on any Monday, Tuesday, Wednesday, Thursday, Friday or Saturday, after that shopkeeper has, by words or writing, clearly expressed to that person an unwillingness to so open that shop.

Penalty: –

- (a) in the case of a body corporate– a fine not exceeding 200 penalty units; or
  - (b) in any other case– a fine not exceeding 150 penalty units.
- (5) A person must not terminate or refuse to renew a lease agreement, franchise agreement or other agreement with a shopkeeper on the ground that the shopkeeper does not agree to keep a shop open for business for any period of time, other than a period between the hours of 8 a.m. and 6 p.m. on any Monday, Tuesday, Wednesday, Thursday, Friday or Saturday.

Penalty: –

- (a) in the case of a body corporate– a fine not exceeding 200 penalty units; or
- (b) in any other case– a fine not exceeding 150 penalty units.

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- (6) If a body corporate contravenes this section, 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 authorized or permitted the contravention.
- (7) A person may be proceeded against and convicted under this section in accordance with subsection (6) whether or not the body corporate has been proceeded against or convicted.
- (8) . . . . .

**11. Regulations**

- (1) The Governor may make regulations for the purposes of this Act.
- (2) Without limiting subsection (1) , regulations under that subsection may provide for matters for or in respect of the holding of polls under section 5AA.

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**SCHEDULE 1 – . . . . .**

**SCHEDULE 2 – GROUPING PROVISIONS**

Section 4

**1. Grouping of corporations**

For the purposes of section 4(1), 2 corporations constitute a group if they are related to each other under section 50 of the Corporations Act.

**2. Grouping of commonly controlled businesses**

- (1) A reference in this clause to 2 businesses does not include a reference to 2 businesses both of which are owned by the same person, not being a trustee, or by the trustee or trustees of a trust.
- (2) For the purposes of section 4(1), where the same person has, or the same persons have together, a controlling interest under subclause (3) in each of 2 businesses, the persons who carry on those businesses constitute a group.
- (3) For the purposes of subclause (2), the same person has, or the same persons have together, a controlling interest in each of 2 businesses if that person has, or those persons have together, a controlling interest under any of the following paragraphs in one of the businesses and a controlling interest under the same or another of the following paragraphs in the other business:
  - (a) a person has, or persons have together, a controlling interest in a business, being a business carried on by a corporation, if the directors, or a majority of the

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- directors, or one or more of the directors (being a director or directors who is or are entitled to exercise a majority of voting power at meetings of the directors), of the corporation are or is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions, or wishes of that person or of those persons acting together;
- (b) a person has, or persons have together, a controlling interest in a business, being a business carried on by a corporation that has a share capital, if that person or those persons acting together may (whether directly or indirectly) exercise, control the exercise of, or substantially influence the exercise of, 50 per cent or more of the voting power attached to voting shares issued by the corporation;
- (c) a person has, or persons have together, a controlling interest in a business, being a business carried on by a partnership, if that person or those persons –
- (i) owns, or own together (whether or not beneficially), 50 per cent or more of the capital of the partnership; or
  - (ii) is, or are together, entitled (whether or not beneficially) to 50 per cent or more of any profits of the partnership;

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- (d) a person has, or persons have together, a controlling interest in a business carried on under a trust, if that person (whether or not as the trustee of another trust) is the beneficiary, or those persons (whether or not as the trustees of another trust) are together the beneficiaries, in respect of 50 per cent or more of the value of the interests in the trust first-mentioned in this paragraph;
  - (e) a person has a controlling interest in a business if, whether or not he is a trustee of a trust, he is the sole owner of the business or persons, being 2 or more trustees of a trust, have a controlling interest in a business if they are the owners of the business.
- (4) Where a corporation has a controlling interest under subclause (3) in a business, it shall, for the purposes of subclause (3), be deemed to have a controlling interest in any other business in which another corporation, that is related to it under section 50 of the Corporations Act, has a controlling interest.
- (5) Where –
- (a) a person has, or persons have together, a controlling interest under subclause (3) in a business; and
  - (b) the person or persons who carries or carry on that business has or have such a controlling interest in another business –

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the person or persons referred to in paragraph (a) shall, for the purposes of subclause (3), be deemed to have a controlling interest in the business referred to in paragraph (b).

(6) Where –

- (a) a person is a beneficiary under a trust; or
- (b) two or more persons together are beneficiaries under a trust –

in respect of 50 per cent or more of the value of the interests in that trust and the trustee or trustees of that trust has or have under subclause (3) a controlling interest in a business, that beneficiary or those beneficiaries shall, for the purposes of subclause (3), be deemed to have a controlling interest in that business.

(7) For the purposes of this clause, *voting share*, in relation to a corporation, means an issued share in the corporation, not being –

- (a) a share to which, in no circumstances, is there attached a right to vote; or
- (b) a share to which there is attached a right to vote only in one or more of the following circumstances:
  - (i) during a period during which a dividend (or part of a dividend) in respect of the share is in arrear;
  - (ii) on a proposal to reduce the share capital of the corporation;

- (iii) on a proposal that affects rights attached to the share;
- (iv) on a proposal to wind up the corporation;
- (v) on a proposal for the disposal of the whole of the property, business, and undertaking of the corporation;
- (vi) during the winding up of the corporation.

**3. Smaller groups subsumed into larger groups**

- (1) Notwithstanding any other provision of this Schedule (except subclause (2)), where a person is, whether or not by virtue of this subclause, a member of 2 or more groups (each of which is in subclause (2) referred to as a smaller group), all of the members of those groups constitute, for the purposes of section 4(1), one group.
- (2) Except for the purpose of determining whether a group is constituted under subclause (1), a group which, but for this subclause, would be a smaller group ceases to be a group if its members are members of a group constituted under subclause (1).

**4. Grouping provisions to operate independently**

The fact that a person is not a member of a group constituted under a provision of this Schedule does not prevent that person from being a

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member of a group constituted under another provision of this Schedule.

**5. Beneficiaries under discretionary trusts**

A person who, as the result of the exercise of a power or discretion by the trustee of a discretionary trust or by any other person or by that trustee and other person, may benefit under that trust shall be deemed, for the purposes of this Schedule, to be a beneficiary in respect of 50 per cent or more of the value of the interests in that trust.

**6. Exclusion of persons from groups**

- (1) Where the Minister is satisfied, having regard to the nature and degree of ownership or control of the businesses, the nature of the businesses and any other matters that he considers relevant, that a business carried on by a member of a group is carried on substantially independently of, and is not substantially connected with the carrying on of, a business carried on by any other member of that group, the Minister may, by order in writing served on that first-mentioned member, exclude him from that group.
- (2) The Minister shall not, under subclause (1), make an order so as to exclude a person from a group on and from a date if that person is or was on that date a corporation which, under section 50 of the Corporations Act, is related to another corporation which is a member of that group.

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- (3) Notwithstanding any other provision of this Schedule, an order under subclause (1) shall have effect according to its tenor on and from the date specified in the order (being a date that is the date of the order or before the date of the order) as the date on and from which the person referred to in the order is or shall be deemed to have been excluded from the group so referred to.

**NOTES**

The foregoing text of the *Shop Trading Hours Act 1984* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 15 October 2018 are not specifically referred to in the following table of amendments.

Act	Number and year	Date of commencement
<i>Shop Trading Hours Act 1984</i>	No. 61 of 1984	26.9.1984
<i>Shop Trading Hours Amendment Act 1984</i>	No. 62 of 1984	1.1.1985 (ss. 4 (1) and 6)
<i>Statute Law Revision Act 1985</i>	No. 51 of 1985	23.5.1985
<i>Shop Trading Hours Amendment Act 1986</i>	No. 110 of 1986	17.12.1986
<i>Shop Trading Hours Order 1987</i>	S.R. 1987, No. 167	2.9.1987
<i>Shop Trading Hours Amendment Act 1987</i>	No. 113 of 1987	23.12.1987
<i>Shop Trading Hours Amendment Act (No. 2) 1987</i>	No. 114 of 1987	11.2.1988
<i>Shop Trading Hours Amendment Act 1988</i>	No. 51 of 1988	8.12.1988
<i>Shop Trading Hours Amendment Act 1989</i>	No. 40 of 1989	1.12.1989
<i>Administrative Arrangements (Miscellaneous Amendments) Act 1990</i>	No. 5 of 1990	1.7.1990

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Act	Number and year	Date of commencement
<i>Shop Trading Hours Amendment Act 1990</i>	No. 24 of 1990	31.8.1990
<i>Liquor and Accommodation Act 1990</i>	No. 44 of 1990	1.4.1991
<i>Shop Trading Hours Amendment Act 1991</i>	No. 29 of 1991	25.10.1991
<i>Shop Trading Hours Amendment Act 1992</i>	No. 2 of 1992	30.4.1992
<i>Shop Trading Hours Amendment Act (No. 2) 1992</i>	No. 24 of 1992	21.8.1992
<i>Shop Trading Hours Amendment (Specific Events) Act 1992</i>	No. 25 of 1992	14.10.1992
<i>Shop Trading Hours Order 1992</i>	S.R. 1992, No. 208	16.12.1992
<i>Shop Trading Hours Order 1993</i>	S.R. 1993, No. 237	24.11.1993
<i>Shop Trading Hours Order 1994</i>	S.R. 1994, No. 12	19.1.1994
<i>Shop Trading Hours Amendment (Extension of Trading) Act 1993</i>	No. 112 of 1993	1.5.1994 ss. 4, 6, 8 - rest of Act commenced 23/12/93
<i>Statute Law Revision Act 1994</i>	No. 68 of 1994	25.11.1994
<i>Shop Trading Hours Amendment Act 1994</i>	No. 76 of 1994	31.3.1995 (ss. 4, 5, 8, 9, 10)
<i>Local Government (Consequential Amendments) Act 1995</i>	No. 30 of 1995	1.9.1995
<i>Shop Trading Hours Order 1998</i>	S.R. 1998, No. 157	16.12.1998
<i>Shop Trading Hours (Christmas 1999) Amendment Act 1999</i>	No. 66 of 1999	24.11.1999
<i>Shop Trading Hours Order 2000</i>	S.R. 2000, No. 171	27.9.2000
<i>Shop Trading Hours Amendment Act 2000</i>	No. 84 of 2000	13.12.2000
<i>Statutory Holidays (Consequential Amendments) Act 2000</i>	No. 82 of 2000	13.12.2000
<i>Corporations (Consequential Amendments) Act 2001</i>	No. 42 of 2001	15.7.2001
<i>Shop Trading Hours Amendment (Christmas 2001) Act 2001</i>	No. 114 of 2001	5.12.2001
<i>Shop Trading Hours Amendment Act 2002</i>	No. 1 of 2002	3.5.2002 ss. 3, 6 and 9 1.12.2002 (This Act, other than ss. 3, 6 and 9,)
<i>Liquor and Accommodation Amendment Act 2004</i>	No. 24 of 2004	1.1.2005
<i>Property Agents and Land Transactions Act 2005</i>	No. 75 of 2005	1.12.2006
<i>Anzac Day Observance Amendment Act 2011</i>	No. 45 of 2011	7.12.2011
<i>Property Agents and Land Transactions</i>	No. 58 of 2016	1.4.2017

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Act	Number and year	Date of commencement
<i>Act 2016</i>		
<i>Anzac Day Observance Amendment Act 2018</i>	No. 21 of 2018	15.10.2018

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**TABLE OF AMENDMENTS**

Provision affected	How affected
Section 3	Amended by No. 62 of 1984, s. 4, No. 110 of 1986, s. 4, No. 114 of 1987, s. 4, No. 51 of 1988, s. 4, No. 40 of 1989, s. 4, No. 5 of 1990, s. 3 and Sched. 1, No. 29 of 1991, s. 4, No. 112 of 1993, s. 4, No. 76 of 1994, s. 4, No. 30 of 1995, s. 3 and Sched. 1 and No. 1 of 2002, s. 4
Section 3A	Inserted by No. 62 of 1984, s. 5 Amended by No. 44 of 1990, s. 225 and Sched. 3, No. 68 of 1994, s. 3 and Sched. 1, No. 24 of 2004, s. 58, No. 75 of 2005, Sched. 1, No. 45 of 2011, s. 17, No. 58 of 2016, Sched. 4 and No. 21 of 2018, s. 8
Section 4	Amended by No. 110 of 1986, s. 5, No. 114 of 1987, s. 5 and No. 112 of 1993, s. 5
Section 5	Amended by No. 51 of 1985, s. 4 and Sched. 2, Part I, No. 110 of 1986, s. 6 Subsection (2A) inserted by No. 110 of 1986, s. 6 Amended by No. 113 of 1987, s. 5 and Sched. 1, No. 112 of 1993, s. 6, No. 76 of 1994, s. 5 Subsection (2B) inserted by No. 66 of 1999, s. 4 Substituted by No. 1 of 2002, s. 5 Amended by No. 45 of 2011, s. 18
Section 5AAA	Inserted by No. 45 of 2011, s. 19 Repealed by No. 21 of 2018, s. 9
Section 5AA	Inserted by No. 1 of 2002, s. 6
Section 5A	Inserted by No. 113 of 1987, s. 4 Substituted by No. 24 of 1990, s. 4 Repealed by No. 112 of 1993, s. 7 Inserted by No. 76 of 1994, s. 6 Substituted by No. 66 of 1999, s. 5, No. 84 of 2000, s. 4, No. 114 of 2001, s. 4 Repealed by No. 1 of 2002, s. 5
Section 5B	Inserted by No. 25 of 1992, s. 5 Amended by No. 76 of 1994, s. 7 Subsection (1AA) inserted by No. 76 of 1994, s. 7 Amended by No. 76 of 1994, s. 7 Subsection (4A) inserted by No. 76 of 1994, s. 7 Subsection (4B) inserted by No. 76 of 1994, s. 7 Repealed by No. 1 of 2002, s. 5

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Provision affected	How affected
Section 6	Amended by No. 62 of 1984, s. 6, No. 113 of 1987, s. 5 and Sched. 1, No. 114 of 1987, s. 6 and No. 5 of 1990, s. 3 and Sched. 1
Section 7	Amended by No. 62 of 1984, s. 7, No. 113 of 1987, s. 5 and Sched. 1, No. 114 of 1987, s. 7, No. 5 of 1990, s. 3 and Sched. 1 and No. 42 of 2001, Sched. 1
Section 8	Amended by No. 110 of 1986, s. 7 Subsection (3) inserted by No. 110 of 1986, s. 7 Subsection (4) inserted by No. 110 of 1986, s. 7 Amended by No. 113 of 1987, s. 5 and Sched. 1, No. 112 of 1993, s. 8, No. 76 of 1994, s. 8 Substituted by No. 1 of 2002, s. 5 Amended by No. 45 of 2011, s. 20 and No. 21 of 2018, s. 10
Section 8A	Inserted by No. 110 of 1986, s. 8 Repealed by No. 1 of 2002, s. 5
Section 9	Amended by No. 62 of 1984, s. 8
Section 10	Inserted by No. 76 of 1994, s. 10 Amended by No. 1 of 2002, s. 8
Section 11	Inserted by No. 1 of 2002, s. 9
Schedule 1	Inserted by No. 110 of 1986, s. 9 Amended by S.R. 1987 No. 167, S.R. 1992 No. 208, S.R. 1993 No. 237, S.R. 1994 No. 12 Repealed by No. 1 of 2002, s. 8
Part I of Schedule 1	Amended by S.R. 1998, No. 157, No. 82 of 2000, Sched. 1, S.R. 2000, No. 171 and No. 1 of 2002, s. 8
Part II of Schedule 1	Amended by No. 82 of 2000, Sched. 1 and No. 1 of 2002, s. 8
Schedule 2	Renumbered by No. 110 of 1986, s. 10 Amended by No. 42 of 2001, Sched. 1