

CHAPTER 356A**SHOPS****ARRANGEMENT OF SECTIONS****SECTION***Citation*

1. Short title.

Interpretation

2. Definitions.

Opening and closing of shops

3. Powers of Minister.
4. Licences to open shops.
5. Family shops.

Conditions of employment of shop assistants

6. Hours and time of employment.
7. Rest period.
8. Seats for shop assistants.
9. Rest room.
10. Certain requirements of occupier.
11. Sanitary defects and nuisances.
12. Fire and fire-fighting equipment.
13. Display of documents.

Inspection, supervision and investigation

14. Entry and inspection.
15. Information as to matters relating to Act.

Legal Proceedings

16. Employment offence.
17. Other offences.

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SECTION

- 18. Evidence of employment.
- 19. Proceedings against occupier.
- 20. Liability of occupier.

Miscellaneous

- 21. Discrimination.
- 22. Regulations.
- 23. Penalty.
- 24. Prosecutions.

SCHEDULE

CHAPTER 356A

SHOPS

An Act to repeal the Shops Act and make new provisions relating to shops.

1984-3.
1996-22.

[1st December, 1985]

Commence-
ment.
1985/192.

Citation

1. This Act may be cited as the *Shops Act*.

Short title.

2. (1) In this Act

Definitions.

"airport shop" means a shop situated within the limits of an airport as defined in section 2 of the *Airports Act*;

Cap. 285A.

"Chief Fire Officer" includes any member of the Barbados Fire Service.

"Chief Labour Officer" includes any person authorised in writing by the Chief Labour Officer to act on his behalf;

"closed day" means any day that is a public holiday by virtue of section 3 of the *Public Holidays Act*, Good Friday, Christmas Day and Easter Sunday;

Cap. 352.
1996-22.

"harbour shop" means a shop situated within the enclosed wharf area and water front of the Deep Water Harbour;

"hotel shop" means a shop situated on the premises of an hotel;

"members of the occupier's family" means spouse, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, brother of the half blood and sister of the half blood;

"occupier" means the owner of the business of a shop and includes any person having immediate control over a shop;

"privy" includes water closet, earth closet and urinal;

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1996-22. "shop"

(a) means any premises or place in which a person conducts, manages or carries on business for

(i) the sale or hire of commodities, whether by wholesale or retail, or

(ii) the provision of services,

and whether or not the business is conducted, managed or carried on to the exclusion of, or in addition to, any other business; and

(b) includes any place used for the storage of, receipt of orders for, or despatch or delivery of, any goods dealt with in the business;

"shop assistant" means any person, except a member of the occupier's family, wholly or mainly employed in a shop in connection with the serving of customers, the receipt of money or orders for goods, or the delivery or despatch of goods;

"spouse" includes

(a) a single woman who is living with a single man as his wife;

(b) a single man who is living with a single woman as her husband;

"week" means a period of 7 consecutive days.

(2) In this section

(a) "single woman" includes a widow and a woman who is divorced;

(b) "single man" includes a widower and a man who is divorced.

Opening and closing of shops

Powers of
Minister.

3. (1) Subject to section 4, the Minister may by order

(a) fix the hours on the several days of the week, including closed days, during which shops may be open for business;

(b) fix the hours during which shop assistants may be employed in a shop;

- (c) exempt any shop from the application of this Act and any order or regulations made under this Act;
 - (d) declare any premises or place in which any business is carried on to be a shop for the purposes of this Act; and
 - (e) prescribe anything that is authorised by this Act to be prescribed,
- and any such order may contain such incidental, supplemental or consequential provisions as the Minister thinks necessary or proper.

(2) An order made under subsection (1) is subject to negative resolution.

4. (1) The Chief Labour Officer may, on the application of the occupier, grant to the occupier a licence on such conditions as may be specified therein, authorising the occupier, on the visit of a tourist ship, to open his shop for business

Licence
to open
shops.

- (a) on any closed day except Good Friday, Easter Sunday, Christmas Day and the day celebrated as Independence Day for a period of 4½ hours; and
- (b) on an early closing day for an additional period of 4½ hours.

1996-22.

(2) For the purposes of this Act "early closing day" in relation to any shop means the day of the week prescribed by order as the early closing day for that shop.

(3) Notwithstanding subsection (1), harbour shops, airport shops and hotel shops may be open for business on any closed day without the authority of a licence.

(4) An application made pursuant to subsection (1) must reach the Chief Labour Officer not later than 7 working days before the day in respect of which the application is made.

5. Sections 3, 4, 6, 7 to 10 and 13 do not apply to a shop in which only members of the occupier's family are normally employed.

Family
shops.

Conditions of employment of shop assistants

Hours and
time of
employment.

6. (1) The number of hours in any 1 week, excluding intervals for meals, during which a shop assistant may remain or may be employed in a shop shall not exceed 40.

(2) No shop assistant shall be employed in a shop on any day for more than 4½ consecutive hours without an interval of 1 hour for meal-time and for more than 8 hours in the aggregate to run continuously from the time he commences work, but excluding intervals for meals.

(3) In reckoning the number of hours during which a shop assistant remains or is employed in any shop in a week or on any day for the purposes of this section, account must not be taken of any extended hours during which that shop assistant undertakes voluntarily to be employed and for which the shop assistant is paid at a rate of pay specified in subsection (4) (a) or (b), as the case may be.

(4) Where a shop assistant works overtime he is entitled to be paid at a rate of pay not less than

- (a) in the case of work performed on any closed day, twice as much as his ordinary rate; and
- (b) in any other case, half as much again as his ordinary rate.

(5) The occupier shall keep a record for each week signed by him and showing in respect of every shop assistant

- (a) the period of employment during each day;
- (b) the number of hours that the shop assistant worked during that week;
- (c) the times at which intervals for meals were allowed and the duration of each interval;
- (d) the wages paid for normal work during that week; and
- (e) the wages paid for overtime work during that week.

1996-22.

(6) No shop assistant shall be required

(a) to work overtime; or

(b) to work on the day he observes as the day of religious worship,

without his consent.

(7) An occupier who dismisses or otherwise penalises a shop assistant for refusing

(a) to work overtime; or

(b) to work on the day the shop assistant observes as the day of religious worship,

is guilty of an offence and liable on summary conviction to a fine of \$20 000 or imprisonment for one year or both.

(8) In a prosecution under subsection (7) it is for the occupier to prove that the shop assistant was not dismissed or otherwise penalised for refusing

(a) to work overtime; or

(b) to work on the day the shop assistant observes as the day of religious worship,

as the case may be.

7. (1) Every shop assistant shall be allowed a period for rest of at least 2 days per week.

Rest
period.
1996-22.

(2) Subsection (1) does not apply where a shop assistant consents to work overtime.

8. (1) The occupier of a shop shall, in every room thereof where shop assistants are employed, provide not less than 1 seat for every 3 shop assistants employed therein, and where there are less than 3 shop assistants employed in a room the occupier shall provide at least 1 seat.

Seats for
shop
assistants.

(2) The occupier carrying on business in a shop referred to in subsection (1) shall

- Schedule. (a) permit the shop assistants to make use of the seats whenever the use thereof does not interfere with their work; and
- (b) give notice, in the form set out in the *Schedule*, to the shop assistants that they are entitled to use the seats.

(3) Where, in addition to any other shop assistants, cashiers are employed in a shop the occupier shall, in addition to the seats provided pursuant to subsection (1), provide 1 seat for each cashier employed in the shop.

- Rest room. **9.** (1) Every occupier carrying on business in a shop in which 5 shop assistants or more are employed shall provide adequate rest room facilities for those shop assistants.

(2) Where there are less than 5 shop assistants employed in a shop in which no rest room is provided, the occupier carrying on business in the shop shall separate, by a screen, a part of the shop for use as a rest area by those shop assistants.

(3) The Chief Labour Officer shall determine the adequacy or otherwise of rest room facilities provided under this section and he may give directions to the occupier respecting the facilities and the occupier shall comply with the directions.

- Certain requirements of occupier. **10.** An occupier carrying on business in a shop in which he employs 1 shop assistant or more shall

- (a) in that shop or on the premises of that shop, provide
- (i) a first aid kit containing such first aid requisites and appliances as the Minister by order prescribes,
 - (ii) a sufficient supply of fresh drinking water, at such distance from the privy as the Chief Medical Officer directs, for the free use of shop assistants, and
 - (iii) sufficient and suitable privy accommodation for shop assistants;
- (b) allow shop assistants to use the privy accommodation when necessary;

- (c) provide and maintain, as far as is practicable, safe means of access to every place where shop assistants work;
- (d) provide for proper and sufficient ventilation of the shop;
- (e) provide adequate facilities for washing and drying of hands.

11. Where it appears to the Chief Labour Officer that there is any sanitary defect or nuisance in, or in relation to, any shop he shall give notice thereof to the Chief Medical Officer.

Sanitary
defects and
nuisances.

12. (1) An occupier shall provide and maintain

Fire and fire-
fighting
equipment.

- (a) such means of escape in case of fire for the persons therein as may reasonably be required in the circumstances; and
- (b) proper equipment for fire-fighting which shall be so placed as to be easily available for use.

(2) Any door opening on to any staircase or corridor from any room in which any person is employed or any customer is allowed and, any door affording a means of exit from the shop for persons in the shop must, except in the case of sliding doors, be constructed to open outwards.

(3) While any person is within a shop the doors of the shop, and of any room therein and any door that afford a means of exit for persons in the shop from any building or from any enclosure in which the shop is situated, must not be locked or fastened in such manner that it cannot be easily and immediately opened from within.

(4) Any staircase or flight of steps leading from one floor to another or to the ground must be provided with substantial handrails and must, if the Chief Labour Officer so directs by requisition to the employer carrying on business therein, be provided with slats or some other sufficient means to prevent slipping.

(5) The Chief Fire Officer may at any time enter any shop and inspect the means of escape in case of fire and the fire-fighting equipment provided by the occupier.

(6) Every occupier who, by himself, or any person employed by him or acting under his direction or with his consent, refuses, fails to admit or obstructs the Chief Fire Officer acting under subsection (5) is guilty of an offence.

(7) Effective provision must be made in every shop for giving warning in case of fire, and such warning must be clearly audible throughout the shop.

(8) The contents of any room in which persons are employed or customers are allowed shall be so arranged or disposed that there is a free passage for all persons in the room to a means of escape in case of fire.

13. (1) An occupier shall keep the following documents exhibited in a conspicuous place in every shop to which they apply

Display of documents.

(a) a copy of sections 6, 7, 8 and 9;

- (b) a copy of the notice referred to in section 8(2)(b);
- (c) a list, signed by the occupier, of the names of every shop assistant together with the hours of employment of each such shop assistant; and
- (d) a copy of every order made under this Act.

(2) Notwithstanding subsection (1), the Chief Labour Officer may require an occupier to keep exhibited in a conspicuous place in a shop, any extracts from this Act or a notice specifying any of the requirements of this Act.

(3) An occupier who fails to comply with subsection (1) or with any requirements of the Chief Labour Officer made pursuant to subsection (2) is guilty of an offence.

Inspection, supervision and investigation

Entry and
inspection.

14. (1) The Chief Labour Officer or a member of the Police Force may at any time enter and inspect any shop for the purpose of ascertaining whether this Act is being complied with.

(2) Every occupier who, by himself or by any person employed by him or acting under his direction or with his consent or on his behalf, refuses or fails to admit, or obstructs, the Chief Labour Officer or any member of the Police Force acting under subsection (1) is guilty of an offence.

Informa-
tion as to
matters
relating
to Act.

15. (1) The Chief Labour Officer may examine, along with or in the presence of another person as he thinks fit with respect to any matter relating to this Act, any person whom he finds in any shop, or whom he has reasonable cause to believe to be, or to have been within the preceding 2 months, employed in a shop and require the second-mentioned person to make and sign a declaration as to the matters respecting which he is so examined; but on any such examination no person may, notwithstanding subsection (2)(a) and (c), be required to answer any questions which are likely to incriminate him.

(2) A person is guilty of an offence who

- (a) refuses to answer any questions lawfully put to him by the Chief Labour Officer under subsection (1);
- (b) gives any answer which is to his knowledge false in any material particular; or
- (c) refuses to make or sign a declaration required by subsection (1).

Legal Proceedings

16. Every occupier who employs a shop assistant in breach of this Act is guilty of an offence. Employment offence.

17. A person is guilty of an offence if he Other offences.

- (a) personates any other person named in any requisition, notice or other document given or issued under this Act;
- (b) gives or issues any requisition, notice or other document under this Act knowing the same to be untrue in any material particular;
- (c) uses any requisition, notice or other document purporting to be given or issued under this Act, knowing the same to be untrue in any material particular;
- (d) mutilates or destroys any requisition, notice or other document issued in accordance with this Act; or
- (e) fails to comply with this Act, any order or regulations made under this Act or any directions given by the Chief Labour Officer or any person authorised to give directions under this Act.

18. (1) In any proceedings against an occupier for employing a shop assistant in his shop or allowing any shop assistant to be employed or to work therein contrary to this Act, the fact that the shop assistant was found in the shop is *prima facie* evidence that he was then being employed therein unless the occupier satisfies the court that the shop assistant was not being employed in the shop or was there either against the orders or without the knowledge, consent or connivance of the occupier. Evidence of employment.

(2) The fact that a person other than the occupier is engaged in a shop in connection with the serving of customers, the receipt of money or orders, for goods, or the delivery or despatch of goods, is *prima facie* evidence that the person is being employed as a shop assistant in the shop.

Proceedings
against
occupier.

19. In any proceedings against an occupier for an offence under section 8, 9, 10, 12 or 14 the following provisions apply:

- (a) the magistrate, in addition to, or in lieu of, imposing any punishment otherwise authorised by this Act, may by order require the accused to do any specified work, or to adopt any specified means, for the purpose of securing compliance with this Act, and may specify in the order a time within which the work must be done or the means adopted, as the case may be;
- (b) the time specified in any order under paragraph (a) may be extended on the application of the accused;
- (c) the magistrate shall adjourn the proceedings until the expiration of the time specified in the order, if an order under paragraph (a) is made in lieu of imposing a fine, and if the order is duly obeyed he may, if he thinks fit, impose no fine in respect of the offence;
- (d) the accused is liable to a fine not exceeding \$100 or every day during which default continues, if default is made in obeying an order made under paragraph (a) within the time or extended time specified in that behalf, and the fine is, in addition to any other fine, imposed.

Liability of
occupier.

20. The fact that an occupier has been convicted of an offence under this Act does not relieve him of any civil liability in respect of wages or other payments that are recoverable from him.

Miscellaneous

Discrimina-
tion.

21. (1) No person shall on account of his race, colour or creed be refused

- (a) access to any shop; or

- (b) opportunity to avail himself of any facility, service or amenity offered to the public by any shop by way of trade or business incidental thereto.

(2) An occupier who contravenes subsection (1) is guilty of an offence.

(3) An occupier who is charged with an offence under this section is entitled, upon a charge being duly made by him and on giving to the prosecution not less than 3 days' notice in writing of his intention, to have any other person whom he charges as the actual offender (whether or not that person is his agent or servant) brought before the court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the occupier proves to the satisfaction of the court

- (a) that he used all due diligence to enforce the execution of this section; and

(b) that the other person had committed the offence in question without his consent, connivance or wilful default, that other person may be convicted of the offence and punished in accordance with the provisions of this Act and the occupier acquitted.

(4) Where the occupier avails himself of the defence specified in subsection (3), the prosecution and the person against whom the occupier brings a charge may,

- (a) if the occupier gives evidence, cross-examine him and any witnesses called by him; and

- (b) call evidence in rebuttal.

22. (1) The Minister may make regulations

Regulations.

- (a) respecting the plan and system of fire escape in a shop;
- (b) respecting the fire-fighting equipment in a shop;
- (c) respecting any shop or the conditions of employment of shop assistants and other persons working in shops; and
- (d) generally for the carrying into effect of the purposes of this Act.

(2) Notwithstanding subsection (1)(a) and (b), where there are no regulations made respecting those paragraphs the Chief Fire Officer may, if he is not satisfied with the plan or system, or, as the case may be, the equipment provided in any shop, required the occupier to provide such plan or system, or fire-fighting equipment as the Chief Fire Officer prescribes.

(3) Regulations made under subsection (1) are subject to negative resolution.

Penalty.

23. Any person guilty of an offence under this Act for which no penalty is otherwise specifically provided is liable on summary conviction to a fine of \$500 or imprisonment for 6 months or both and, on a second or subsequent conviction, to a fine of \$1 000 or imprisonment for 12 months; and in either case, if the failure to comply is continuous, then, to a further fine not exceeding \$100 for each day during which the failure to comply continues.

Prosecu-
tions.

24. Prosecutions under this Act may be by information in the name of the Chief Labour Officer.

SCHEDULE

(Section 8)

THE SHOPS ACT, CAP. 356A

NOTICE IS HEREBY GIVEN that seats are provided in this shop for shop assistants and that the shop assistants are entitled to make use of the seats whenever the use thereof does not interfere with their work.

(Signed)
(Occupier)