



BUITENGEWONE

# OFFISIËLE KOERANT

van Suidwes-Afrika.

Uitgegee op gesag.

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# OFFICIAL GAZETTE

EXTRAORDINARY

of South West Africa.

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Die volgende Ontwerpordonnansie, wat gedurende die Vierde Sessie van die Derde Wetgewende Vergadering ingedien sal word, word vir algemene informasie gepubliseer.

F. P. COURTNEY CLARKE,  
*Sekretaris vir Suidwes-Afrika.*

Kantoor van die Administrateur,  
Windhoek.

The following Draft Ordinance, which will be introduced during the Fourth Session of the Third Legislative Assembly, is published for general information.

F. P. COURTNEY CLARKE,  
*Secretary for South West Africa.*

Office of the Administrator,  
Windhoek.

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*Bladsy.*

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Ordonnansie op Winkelure en Winkelbediendes 1938. 1138

Shop Hours and Shop Assistants Ordinance, 1938.

1138

## ONTWERPORDONNANSIE

Om die wet betreffende winkelure, diensure van winkelbediendes, en ander persone in diens van winkels te wysig en te konsolideer, en om voorsiening te maak vir lone betaalbaar aan winkelbediendes, die algemene diensgesteldhede van winkelbediendes en ander sake in verband daarmee.

DIT WORD VERORDEN deur die Wetgewende Vergadering vir die Gebied Suidwes-Afrika as volg:—

1. Die wette aangegee in die eerste Bylae hiervan word hiermee herroep.

2. “*Winkel*” beteken enige plek tydelik of permanent gebruik vir die verkoop van roerende goedere, synde groothandel of kleinhandel, en by publieke opveiling of nie, en sluit in ’n haarsnyers- of ’n barbierswinkel, ’n koffiehuis en verversingslokaal, en ’n daaglikse publieke mark, maar sluit nie ’n hotel of buffet, waar bedwelmende drank verkoop word vir gebruik op die plek, of enige drankwinkel in nie.

“*Winkelbediende*” beteken enige persoon in die diens van enige ander persoon in of naby ’n winkel, maar sluit nie in ’n bestuurder of Afdelingsbestuurder, ’n huisbediende, tydreeëlar of oppasser, of enige persoon gebruik vir skoonmaak, verpak of aflewer van goed, of vir die voorkoming van brand of enige reisiger, skeepsklerk of lid van die boekhouerafdeling, of enige direkteur nie.

Met dien verstande dat die bogenoemde uitsonderinge alleen van toepassing is op persone wat alleenlik besig is met die respektiewelik gespesifiseerde werksaamhede of enige daarvan, of tydelike plaasvervangers van sodanige persone is.

Met dien verstande verder dat die uitdrukking “*Afdelingsbestuurder*” ten opsigte van ’n kleinhandelaars besigheid sal beteken ’n afdelingsbestuurder wat minstens drie winkelbediendes het wat onder hom in die afdeling werk.

“*Winkelinspekteur*” beteken die beampte aangestel kragtens artikel twintig.

### HOOFSTUK I.

#### *Openings- en sluitingsure.*

3. (1) Met uitsondering van sodanige bepalings wat hieronder gemaak word, is onderstaande die vroegste tydstip waarop alle winkels geopen mag word, en die laaste tydstip waarop alle winkels toegemaak mag word vir die bediening van kliënte binne die gebied van enige Munisipaliteit, Dorpsbestuur, of Dorp soos ingestel kragtens die Dorpe-Ordonnansie 1928.

	<i>Openingstyd.</i>	<i>Sluitingstyd.</i>
Weekdae, behalwe Saterdag:	8 v.m. — 2.30 n.m.	1 n.m. — 6 n.m.
Saterdag:	8 v.m. —	1.30 n.m.

Met dien verstande dat enige persoon later mag open en vroeër mag toemaak dan hierin bepaal is;

Met dien verstande verder dat die genoemde openings- en sluitingsure nie van toepassing is op die uitvoer van enige ambag of besigheid genoem in die tweede Bylae hiervan nie.

## DRAFT ORDINANCE

To amend and consolidate the law relating to shop hours, the hours of employment of shop assistants, and other shop employees, and to make provision in regard to the wages payable to shop assistants, the general conditions of employment of shop assistants, and other matters incidental thereto.

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa as follows:—

1. The laws specified in the first Schedule annexed hereto are hereby repealed.

2. “*Shop*” means any place set apart temporarily or permanently for the sale of movables by wholesale or retail and whether by auction or not and shall include a Hairdresser’s or Barber’s saloon, a cafe and refreshment room, and a daily public market, but shall not include any hotel or bar where intoxicating liquors are sold for consumption on the premises or any bottle store.

“*Shop Assistant*” means any person employed by any other person in or about a shop, but shall not include a manager or department manager, a domestic servant, timekeeper or caretaker, or any person employed for cleaning purposes, packing or delivery of goods or for the prevention of fire, or any traveller, shipping clerk or member of the counting house staff or the directorate.

Provided that the exemptions aforesaid shall only apply to persons solely employed in the respective specified capacities or any of them or to temporary substitutes for such persons.

Provided further that the expression “*department manager*” shall in respect to a retail business mean a department manager who has at least three shop assistants serving under him in the department.

“*Shop Inspector*” shall mean the official appointed in terms of *section twenty*.

### CHAPTER I.

#### *Hours of opening and closing.*

3. (1) Save as hereinafter provided, the following shall shall be the earliest hours at which all shops shall be opened and the latest hours at which all shops shall be closed for serving customers within the area of any Municipality, Village Management Board or Township as established in terms of the Townships Ordinance 1928.

	<i>Opening hours.</i>	<i>Closing hours.</i>
Weekdays, except Saturdays:	8 a.m. — 2.30 p.m.	1 p.m. — 6 p.m.
Saturdays:	8 a.m. —	1.30 p.m.

Provided that it is understood that any person may open later or close earlier than is herein stipulated;

Provided further that the aforesaid times of opening and closing shall not apply to the carrying on of any trade or business mentioned in the second Schedule annexed hereto.

En met dien verstande verder dat dit nie beskou sal word as 'n oortreding van die bepalings van hierdie artikel as die eienaar van, of die persoon wat die algemene bestuur of kontrole oor 'n winkel het, 'n kliënt privaatweg bedien op 'n Saterdag agt-ermiddag na half-twee in gevalle van dringende noodsaaklikheid nie. Sodanige dringende noodsaaklikheid moet bewys word ter bevrediging van die Hof voor wie sodanige proses gedryf mag word.

(2) Die Administrateur mag deur kennisgewing in die Offisiële Koerant die openings- en sluitingsure in onderartikel (1) hiervan aangegee, verander of wysig, of in die algemeen, of alleen ten opsigte van enige spesiale distrik of gebied; en mag die toepassing van die gemelde onderartikel uitbrei om enige ander distrik of gebied in te sluit.

(3) Nieteenstaande enige teenstrydige bepaling in hierdie artikel, mag geen persoon sy winkel oophou tussen 12 uur (middernag) en 3 uur v.m. vir die verkoop van goedere nie; behalwe (a) vir die verkoop van petrol, motorolie en reserwedele en ander onderdele van motorvoertuie en toestelle vir die ophaal van water; en (b) met die geskrewe toestemming van die Magistraat van die distrik vir die verkoop van verversings, ys en voer.

4. Onderhewig aan die bepalings van artikels vyf en ses mag geen winkel binne enige gebied onder die bepalinge van onderartikel (1) van artikel drie of binne vier myl van die grense van enige sodanige gebied, oopgehou word vir die bediening van kliënte op 'n publieke vakansiedag nie;

behalwe (a) vir die verkoop van vrugte, tabak, rokersonodighede, tydskrifte en koerante gedurende sodanige ure as wat die winkel oop sou gewees het indien die dag nie 'n publieke vakansiedag gewees het nie, en

(b) met betrekking tot die ambagte of besighede in die tweede bylae hiervan genoem.

5. Nieteenstaande enige teenstrydige bepalings in hierdie hoofstuk vervat, mag barbiers- en haarsnyerswinkels oopgehou word op Saterdag-agtermiddag van 3 n.m. tot 6 n.m. en op publieke vakansiedae van 9 v.m. tot 10 v.m. alleen vir kap- en skeerdoeleindes.

6. Die bepalings van artikel drie is nie van toepassing op enige aptekers- of drogistewinkel nie, met dien verstande dat geen apteker of drogis sy lokaal mag oophou vir bediening van die algemene publiek:

(a) later as 7 n.m. op Maandag, Dinsdag, Woensdag en Donderdag, en later as 9 n.m. op Vrydag;

(b) later as 1 n.m. op Saterdag, behalwe dat op Saterdag sodanige lokale weer tussen 6 n.m. en 7 n.m. heropen mag word;

(c) op Sondae en publieke vakansiedae, behalwe vir die uur van 6 n.m. tot 7 n.m. nie.

'n Apteker of drogis mag egter medisyne of geneeskundige of heelkundige benodighede te eniger tyd in geval van siekte of ander noodgevallen verskaf.

7. Nieteenstaande enige teenstrydige bepalings in hierdie Hoofstuk vervat, mag alle winkels op Kersaand en Oujaarsaand tot 9 n.m. oop bly, met dien verstande dat indien Kersdag en Nuwejaarsdag op 'n Maandag val, moet die onmiddellik voorafgaande Saterdag beskou word as Kersaand en Oujaarsdag respektiewelik vir die doeleindes van hierdie artikel.

8. Geen bepaling in hierdie hoofstuk vervat het toepassing op enige kermis of basaar gehou vir godsdienstige, liefdadigheds- opvoedkundige, sport of atletiese doeleindes, waaruit geen privaat profyt gehaal word nie.

9. Die bepalings van die "Proklamatie op Handeldryven op Zondag 1919" of enige wysiging daarvan word geensins deur enige bepalings van hierdie Hoofstuk aangetas nie; met dien verstande dat daar op Sondag in 'n winkel — blomme en blomversieringe of artikels benodig vir begrafnisdoeleindes verkoop mag word; en met dien verstande verder dat enige boekwinkel of enige spoorweg-lokaal op Sondag, een uur voor en vyftien minute na die vertrek van enige passasiertrein oopgehou mag word, indien sodanige trein as sy toestemming het 'n plek meer as honderd myl weg van sodanige lokaal.

## HOOFSTUK II.

### Werksure vir Winkelbedienendes.

10. (1) Geen winkelier mag veroorsaak of toelaat dat enige winkelbedienende in of naby 'n winkel of in of naby enige lokaal gebruik in verband met die besigheid van 'n winkel in diens gehou word vir

And provided further that it shall not be deemed to be a contravention of the provisions of this section for the owner or the person having the general management or control of a shop to supply a customer privately on a Saturday after half-past-one o'clock in the afternoon in cases of urgency, such urgency to be proved to the satisfaction of the Court before which the proceedings are taken.

(2) The Administrator may, by notice in the Gazette, alter or amend the opening and closing hours stipulated in sub-section (1) hereof, either generally or specially in regard to any particular district or area; and may extend the application of the said sub-section to any other district or area.

(3) Anything to the contrary in this section notwithstanding, it shall not be lawful for any person to keep his shop open between the hours of 12 o'clock (midnight) and 3 a.m. for the sale of goods; except (a) for the sale of motor spirit, motor oils and spare parts and other accessories for motor vehicles and water-raising appliances; and (b), with the written permission of the Magistrate of the district, for the sale of refreshments, ice or fodder.

4. Subject to the provisions of sections five and six no shop within any area falling under the provisions of sub-section (1) of section three, or within four miles of the boundary of any such area, shall be kept open for serving customers on a public holiday;

except (a) for the sale of fruit, tobacco, smoker's requisites, periodicals and newspapers during such hours as the shop might have been kept open if the day had not been a public holiday, and

(b) in regard to the trades or businesses mentioned in the second Schedule annexed hereto.

5. Notwithstanding anything to the contrary in this Chapter contained, barbers' and hairdressers' establishments may be kept open on Saturday afternoons from 3 p.m. to 6 p.m. and on public holidays from 9 a.m. to 10 p.m. for the purpose of shaving and hairdressing only.

6. The provisions of section three shall not apply to any chemist's and druggist's shop, provided that no chemist or druggist shall keep his premises open for the purpose of serving the general public:

(a) later than 7 p.m. on Monday, Tuesday, Wednesday and Thursday, and later than 9 p.m. on Friday;

(b) later than 1 p.m. on Saturday, on which day, however, the shop may be reopened from 6 p.m. to 7 p.m.

(c) On Sundays and public holidays, except from 6 p.m. to 7 p.m.

It shall be lawful, however, for a chemist or druggist to supply medicines or medical or surgical appliances at any time in case of sickness or other emergency.

7. Notwithstanding anything to the contrary in this Chapter contained, all shops may remain open on Christmas Eve and New Year's Eve until 9 p.m. provided that when Christmas Day and New Year's Day fall on a Monday, the Saturdays immediately preceding shall be deemed to be Christmas Eve and New Year's Eve respectively for the purposes of this Section.

8. Nothing in this Chapter contained shall apply to any fair or bazaar held for religious, charitable, educational, sporting or athletic purposes, from which no private profit is derived.

9. Nothing in this Chapter contained shall be deemed to affect the provisions of the Sunday Trading Proclamation 1919, or any amendment thereof;

Provided that it shall be lawful to sell in a shop on Sunday—

Flowers and floral decorations or articles required for funeral purposes; and provided further that it shall be lawful on a Sunday for any bookstall upon any railway premises to be kept open an hour before and fifteen minutes after the departure of any passenger train scheduled to travel to a place more than a hundred miles distant from such premises.

## CHAPTER II.

### Hours of work of shop Assistants.

10. (1) No shopkeeper shall do or permit any act whereby any shop assistant shall be employed in or about a shop, or in or about any premises used in connection with the business of a shop

- (a) langer as ag-en-veertig uur met uitsluiting van maaltye, gedurende enige week nie;
- (b) vir langer as nege uur, met uitsluiting van maaltye, op enige dag nie;
- (c) vir langer as vyf en 'n half uur sonder 'n tussenpose van tenminste een uur — vir 'n maaltyd nie;
- (d) Na 1.30 n.m. op meer as vyf dae in enige week nie;

met dien verstande dat op Kersaand en Oujaarsdag 'n winkelbediende twaalf uur lank in diens gehou mag word, en een-en-veertig uur lank gedurende die week waarin Kersaand of Oujaarsaand op 'n Saterdag val.

(2) Vir die doel van opname van voorraad of ander spesiale werk mag sodanige werksure verleng word, maar vir nie meer as drie uur op enige dag of vir nie meer as 60 uur in enige kalenderjaar nie, en ook nie deurlopende tot op 'n Sondag nie.

Met dien verstande dat sodanige verlengde dienstyd behoorlik opgeteken word in 'n register deur die werkgewer vir die doel verskaf. Sodanige register moet op alle redelike tye oop wees vir ondersoek deur die winkelinspekteur, en die werkgewer moet aan die genoemde amptenaar minstens drie dae kennisgee van die datum waarop, en die tyd waarin sodanige voorraad opname gemaak sal word.

(3) Geen vroulike winkelbediende onder die ouderdom van sestien jaar mag na ses uur in die aand in of naby enige winkel in diens gehou word nie.

11. (1) (a) Elke persoon wat een of meer winkelbediendes in of naby enige winkel in diens hou moet in sy winkel een of meer aanwesighedsregisters aanhou in sodanige vorm as wat deur regulasie voorgeskryf mag word, en sodanige registers moet te eniger tyd gedurende besigheidsure oop wees vir inspeksie deur die Winkelinspekteur. Die genoemde register moet 'n addisionele en aparte register wees van die register in onderartikel (2) van artikel *tien* genoem.

(b) Waar 'n winkel mag oopbly tot 12 uur middernag kragtens die bepalings van artikel *drie* moet elke winkelier voor 12 uur in die middag op die eerste weekdag in elke week, waarop die winkel oopgemaak is, 'n tydtafel optrek waarop die naam van elke winkelbediende en die ure wat sodanige winkelbediende gedurende die volgende 7 dae op diens moet wees aangegee is, en moet sodanige tydtafel gedurig op 'n opvallende plek in die winkel ten toon stel, sodat die winkelinspekteur te eniger tyd toegang daartoe mag hê.

(2) Elke winkelbediende moet elke dag wat hy op diens is in die winkel onmiddellik nadat hy die winkel inkom aan die begin van die dag en onmiddellik voordat hy die winkel verlaat aan die end van die dag, en wanneer hy die winkel verlaat of binnekom vir maaltye, sy naam in die register teken, en die juiste tyd en datum van sodanige naamtekening, aantekening, en dit is die plig van die werkgewer om redelike maatreëls te neem teneinde te verseker dat die register behoorlik gehou word en dat die genoemde inskrywings behoorlik gemaak word.

(3) Enige persoon wat nalatig is of in gebreke bly om die bepalings van hierdie artikel uit te voer, of verhinder dat die genoemde inskrywing gemaak word, of met opset enige valse inskrywing maak, of op bedrieglike wyse enige inskrywing verander, maak hom skuldig aan 'n oortreding en is by skuldigbevinding onderhewig aan 'n boete van hoogstens vyftig pond, of aan gevangenisstraf vir 'n tydperk van hoogstens ses maande, of aan beide sodanige boete en sodanige gevangenisstraf.

12. Enige persoon in diens in of naby 'n winkel is, wat nie val onder die definisie van winkelbediende kragtens artikel *twee* nie, behalwe 'n oppasser, huisbediende, 'n skoonmaker, 'n persoon wat gebruik word vir die verhuur van brand, of 'n persoon wat hoofsaaklik vir buitewerk gebruik word, is geregtig op 'n vry agtermiddag beginnende nie later as half twee in die middag nie vir die res van die dag, op een weekdag in elke week. Elke werkgewer wat nalaat of weier om sodanige werknemer sodanige vry agtermiddag soos hierbo aangegee toe te staan is skuldig aan 'n oortreding; met dien verstande dat elke slagter wat handeldrywe in kosher vleis en wat sy winkel sluit vanaf sonsondergang op Vrydag tot sonsondergang op Saterdag, en wie se werknemers nie gedurende daardie tydperk in diens gehou is of besig gehou is met werk nie, vrygestel is van die bepalings van hierdie artikel.

13. Die bepalings van hierdie Hoofstuk is nie van toepassing op Aptekers- en Drogistewinkels nie.

- (a) for more than forty-eight hours, excluding mealtimes in any one week;
- (b) for more than nine hours, excluding mealtimes in any one day;
- (c) for more than five and a half hours without an interval of at least one hour for a meal;
- (d) after 1.30 p.m. on more than five days in any one week.

Provided, that on Christmas Eve and New Year's Eve a shop assistant may be employed for twelve hours, and for fifty-one hours during the week in which Christmas Eve or New Year's Eve falls on a Saturday.

(2) For the purpose of stocktaking or other special work such working hours may be extended, but not for more than three hours in any one day or for more than 60 hours in any one calendar year, or into any Sunday.

Provided that such extended hours are duly recorded in a register provided for the purpose by the employer, which shall be open to inspection at any reasonable time by the Shop Inspector, and that at least three days notice is given by the employer to the said officer of the date and time during which it is proposed to take stock.

(3) No female assistant under the age of 16 years shall be employed in or about any shop after six o'clock in the evening.

11. (1) (a) Every person who employs one or more shop assistants in or about any shop shall provide in his shop one or more attendance registers in such form as may be prescribed by regulation and shall keep the same at all times during business hours open to inspection by the Shop Inspector. The said register shall be a register additional to and apart from the register mentioned in subsection (2) of section *ten*.

(b) In the case of a shop which is allowed to remain open until 12 o'clock midnight, in terms of the provisions of section *three*, every shopkeeper shall before noon on the first week day in each week on which the shop is opened compile a time-table showing the name of and the hours to be worked by each assistant during the succeeding 7 days and cause the said time-table to be exhibited continuously in a conspicuous place in the shop, so that it shall be available at any time for inspection by the Shop Inspector.

(2) Immediately on entering the shop at the beginning and immediately before leaving the shop at the end of the day, and on leaving for or returning from meals every shop assistant shall on every day on which he is employed in the shop sign his name in the register and make entries showing the exact time and date of the said signature, and it shall be the duty of the employer to take reasonable measures to ensure that the register is properly kept and that the said entries are duly and properly made.

(3) Any person who neglects or fails to carry out the provisions of this section, or prevents the making of the said entries, or knowingly makes any false entry, or fraudulently alters any entry, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds, or to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment.

12. Any person employed in or about a shop, not falling under the definition of "shop-assistant" in terms of section *two*, other than a caretaker, a domestic servant, a cleaner, a person employed for the prevention of fire, or a person employed mainly out of doors, shall be entitled to a half-holiday beginning not later than halfpast one o'clock in the afternoon and extending over the remainder of the day on at least one weekday in each week. Every employer who neglects or refuses to grant such employee such half-holiday as aforesaid shall be guilty of an offence; provided that every butcher who deals in kosher meat and who keeps his shop closed from sunset on Friday to sunset on Saturday, and whose employees are not detained or engaged in work during that period, shall be exempt from the provisions of this section.

13. The provisions of this Chapter shall not apply to Chemists' or Druggists' shops.

HOOFSUK III.

CHAPTER III.

*Lone en diensgesteldhede van Winkelbediendes.*

*Wages and conditions of employment of Shop Assistants.*

14. Geen persoon onder die ouderdom van vertien jaar mag in diens geneem word as 'n winkelbediende nie.

14. No person under the age of fourteen years shall be employed as a shop assistant.

15. (1) Die volgende is die minimum lone betaalbaar aan winkelbediendes:

15. (1) The following shall be the minimum wages payable to shop assistants:—

(a) Gekwalifiseerde Assistentente:	
Manlik (gehuud)	£18.10 per mensem.
Manlik (ongehuud)	£12.10 per mensem.
Vroulik	£ 9 per mensem.

(a) Qualified assistants—	
Male (married)	£18.10 per mensem.
Male (single)	£12.10 per mensem.
Female	£ 9 per mensem.

Alle winkelbediendes moet beskou word as gekwalifiseerd na drie jaar ondervinding.

All shop assistants shall be deemed to be qualified after three years experience.

(b) Leerling of ongekwalifiseerde assistente:	
Beginsalaris	£5 per mensem.
Na 1 jaar ondervinding	£6 per mensem.
Na 2 jaar ondervinding	£7.10 per mensem.

(b) Learner or unqualified assistants.	
Initial wage	£5 per mensem.
After 1 years experience	£6 per mensem.
After 2 years experience	£7.10 per mensem.

Enige werkgewer wat opsetlik die bepalings van hierdie onderartikel oortree, is skuldig aan 'n oortreding en is by skuldigbevinding onderhewig aan 'n boete van hoogstens vyftig pond of by wanbetaling aan gevangenisstraf vir 'n tydperk van hoogstens ses maande, en mag verder deur die Hof beveel word om aan enige betrokke winkelbediende enige bedrag te betaal wat volgens die mening van die hof aan sodanige winkelbediende betaalbaar is kragtens hierdie artikel; Sodanige bevel is uitvoerbaar op dieselfde wyse as 'n siviele vonnis van die hof.

Any employer wilfully contravening the provisions of this sub-section shall be guilty of an offence, and liable on conviction to a fine not exceeding fifty pounds or in default of payment to imprisonment for a period not exceeding six months, and may be further ordered by the Court to pay to any shop assistant concerned any sum which such Court finds is due to such assistant by such employer in terms of this section. Such order shall be executable in the same manner as a civil judgment of the Court.

(2) Die Administrateur mag te eniger tyd, deur kennisgewing in die Koerant die minimum betaaltariewe soos aangegee in onderartikel (1) wysig.

(2) The Administrator may at any time, by notice in the Gazette alter the minimum rates of pay as laid down in sub-section (1).

16. (1) 'n Werkgewer moet een manlike gekwalifiseerde winkelbediende in sy diens neem voor hy 'n manlike ongekwalifiseerde winkelbediende in sy diens mag neem, en die aantal manlike ongekwalifiseerde winkelbediendes in sy diens mag nie die aantal gekwalifiseerde winkelbediendes oortref nie.

16. (1) One male qualified shop assistant shall be employed by an employer before a male unqualified shop assistant may be employed by him and the number of male unqualified shop assistants employed by him shall not exceed the number of male qualified shop assistants.

Vir die doeleindes van hierdie onderartikel mag 'n manlike ongekwalifiseerde winkelbediende wat nie minder loon ontvang as 'n manlike gekwalifiseerde winkelbediende nie, beskou word as 'n manlike gekwalifiseerde winkelbediende.

For the purposes of this sub-section a male unqualified shop assistant receiving not less than the wage of a qualified shop assistant may be reckoned as a male qualified shop assistant.

(2) Die bepalings van onderartikel (1) is *mutatis mutandis* van toepassing op vroulike winkelbediendes.

(2) The provisions of sub-section (1) shall apply *mutatis mutandis* in regard to female shop assistants.

(3) 'n Werkgewer wat aktief werksaam is in 'n winkel mag vir die doeleindes van een van die voorgaande onderartikels, maar nie altwee nie, beskou word as 'n gekwalifiseerde winkelbediende, mits ten aansien van enige winkel nie meer as een werkgewer beskou word as sodanige winkelbediende nie.

(3) An employer who is actively engaged in carrying on the business of a shop may, for the purposes of one, but not both of the preceding sub-sections, be deemed to be a qualified shop assistant, provided that in respect of any shop not more than one employer shall be deemed to be such an assistant.

(4) Waar 'n werkgewer besigheid dryf in meer as een winkel, word elke sodanige winkel as 'n aparte winkel beskou, en hy word nie beskou as 'n gekwalifiseerde winkelbediende vir meer as een sodanige winkel nie.

(4) Where an employer carries on business in more than one shop, each such shop shall be deemed to be a separate shop and he shall not be deemed to be a qualified shop-assistant for more than one such shop.

(5) Enige werkgewer wat die bepalings van hierdie artikel oortree, maak hom skuldig aan 'n oortreding.

(5) Any employer contravening the provisions of this section shall be guilty of an offence.

17. (1) Elke winkelbediende is geregtig op verlof met volle betaling op alle publieke vakansiedae of, waar hy op 'n publieke vakansiedag in diens is, is hy geregtig op verlof met volle betaling op 'n dag in die plek van sodanige vakansiedag; sodanige dag wat sodanige vakansie vervang, mag aan sodanige winkelbediende nie later as veertien dae na die datum van sodanige vakansiedag toegestaan word nie.

17. (1) Each shop assistant shall be entitled to leave on full pay on all public holidays or, where he is employed on a public holiday, to leave on full pay on a day in substitution for such holiday; such substituted day to be allowed to such assistant not later than fourteen days after the date of such holiday.

Met dien verstande dat enige winkelbediende wat vir nie langer as twee uur op sodanige publieke vakansiedag in diens is nie, nie geregtig is op verlof op 'n ander dag in die plek van sodanige vakansiedag nie.

Provided that any shop assistant employed for not more than two hours on any public holiday shall not be entitled to leave on a day in substitution for such holiday.

(2) Elke winkelbediende, in elke jaar van sy diens met dieselfde werkgewer is geregtig op twee agtereenvolgende weke afwesigheidsverlof met vol betaling, en na drie jaar diens onder dieselfde werkgewer moet aan hom drie agtereenvolgende weke afwesigheidsverlof toegestaan word in elke jaar solank as wat hy in die diens van dieselfde werkgewer bly.

(2) Each shop assistant shall be given in each year of his service with the same employer two consecutive weeks leave of absence on full pay, and after three years of service with the same employer he shall be given three consecutive weeks leave of absence on full pay in every year that he continues to remain in the service of the same employer.

Die werkgewer moet vasstel wanneer sodanige verlof geneem moet word, maar indien die werkgewer aan 'n werknemer sy verloftydperk nie alreeds vroeër in die jaar toegestaan het nie moet sodanige verlof binne twee maande na die afsluiting van elke diensjaar toegestaan word.

The employer shall fix the time when such leave shall be taken, but if the employer shall not have granted to an employee his period of leave at an earlier date such leave shall be granted within two months after the termination of each year's service.



Wanneer in enige jaar in die diens van 'n winkelbediende sy dienstynd beëindig word na die voltooiing van tenminste vier maande diens, en voor hy sy afwesigheidsverlof ten aansien van sodanige jaar geneem het, moet die werkgewer aan die winkelbediende vir elke voltooide diensweek in die genoemde jaar een vyf-en-twintigste van 'n week se loon betaal gebaseer op die loontarief waarvolgens sodanige winkelbediende betaal word by die afsluiting van sy dienste.

'n Winkelbediende wat kennis gegee of ontvang het van die beëindiging van sy dienste mag instede van sodanige uitbetaling afwesigheidsverlof met vol betaling toegestaan word vir sodanige tydperk as wat hom mag toekom, gedurende die loop van sodanige kennisgewing.

(3) Vir die doeleindes van die onmiddellik-voorafgaande onderartikel, word die diensjaar van 'n winkelbediende ten opsigte waarvan hy geregtig is op sodanige jaarlikse verlof, beskou as 'n tydperk van twaalf maande wat eindig op of na die datum van die inwerkingtreding van hierdie Ordonnansie en waarin hy sodanige verlof met vol betaling nie ontvang het nie.

(4) 'n Winkelbediende is geregtig op een maand siekteverlof met vol betaling in enige enkele diensjaar, na hy tenminste twaalf maande diens by dieselfde werkgewer voltooi het, en gedurende die eerste diensjaar is hy geregtig op twee dae siekteverlof ten aansien van elke voltooide maand van diens.

Die werkgewer mag 'n mediese sertifikaat eis voor hy verplig kan word om meer as twee dae siekteverlof toe te staan.

(5) Die uitdrukking "dieselfde werkgewer", in hierdie artikel sluit in die geval van die afsterwe van 'n werkgewer, sy regsvertegenwoordiger, sy erfgenaam of legataris, of in die geval van insolvenskap of likwidasië van die werkgewer, sy trustee of likvideerder in, vir solank as wat sodanige verteenwoordiger, erfgenaam legataris, trustee of likvideerder, die besigheid bestuur en die winkelbediende daarin in diens hou.

(6) Werkgewers moet 'n register aanhou, waarin die name van al die winkelbediendes opgeteken moet wees, die datums waarop hulle in diens getree het, en die verlotydperke wat van tyd tot tyd aan sodanige winkelbediendes toegestaan is.

Die register in onderartikel (2) van artikel *tien* voorgeskryf mag in hierdie doel gebruik word; Sodanige register moet te eniger tyd vir die Winkelinspekteur oop lê vir inspeksie.

(7) Enige werkgewer wat nalatig is of weier om verlof aan enige winkelbediende kragtens die bepalings van hierdie artikel toe te staan, of wat nalatig is met die aanhou van die register voorgeskryf in onderartikel (6), of wat opsetlik enige valse inskrywing in sodanige register maak, is skuldig aan 'n oortreding.

18. (1) 'n Werkgewer moet aan elke winkelbediende wanneer hy sy diens verlaat, gratis 'n dienssertifikaat gee.

Sodanige sertifikaat moet die werkgewer se naam en adres aangee, asook die naam, spesiale werk, loontarief en werklike salaris van sodanige winkelbediende ten tyde van sy uitdienstreding, sowel as die datums waarop sodanige winkelbediende die diens van die werkgewer ingetree en verlaat het.

Die werkgewer moet aan alle sodanige sertifikate nommers in volgorde gee, en moet 'n rekord laat hou waarin die besonderhede van elke sertifikaat deur hom uitgereik, aangegee word.

(2) Enige persoon wat in besit is van 'n sertifikaat kragtens onderartikel (1) uitgereik moet dit indien wanneer hy aansoek doen om enige nuwe betrekking as winkelbediende, en geen werkgewer mag 'n winkelbediende in sy diens neem voordat hy behoorlik navraag gedoen het of sodanige persoon in besit is van 'n dienssertifikaat nie.

Elke nuwe aanstelling moet by die Winkelinspekteur gerapporteer word, binne een maand na sodanige aanstelling gemaak is.

(3) Enige persoon wat enige bepaling in hierdie artikel vervaar, oortree is skuldig aan 'n oortreding.

19. Elke werkgewer moet geskikte sitplekke vir sy winkelbediendes verskaf, sodat hulle kan rus wanneer dit moontlik is, asook geskikte gemakhuise en gesondheidsgeriewe.

Die genoemde geriewe moet sodanig wees dat hulle die bevrediging van die Winkelinspekteur wegdra.

Enige verontagsaming van hierdie artikel is 'n oortreding, mits die werkgewer toegelaat word as verdediging te bewys dat die eise van die Winkelinspekteur onredelik was.

When in any year of a shop assistant's service his employment is terminated after the completion of at least four months employment, and before he has received his leave of absence in respect of such year, the employer shall pay to the shop assistant for each completed week of employment in the said year, one twenty-fifth of a week's wage at the rate of wages which such assistant was receiving when his employment was terminated. A shop assistant who has given or received notice to terminate his service may instead of such payment be given leave of absence on full pay for a pro rata period during the currency of such notice.

(3) For the purpose of the preceding sub-section, a shop assistant's year of service for which he shall be entitled to such annual leave shall be deemed to be the period of twelve months which ends on or after the date of the commencement of this Ordinance and in which he has not received such leave on full pay.

(4) A shop assistant shall be entitled to one month's sick leave on full pay in any one year of service, after he has completed at least twelve months service with the same employer, and during the first year of service to two days sick leave in respect of each completed month of service.

The employer shall be entitled to call for a medical certificate before being required to grant more than two days sick leave.

(5) The expression in this section "the same employer" shall include in the case of the death of an employer the legal representative, heir or legatee of that employer or, in the case of the insolvency or liquidation of the employer, the trustee or liquidator, so long as such representative, heir, legatee, trustee or liquidator continues to carry on the business and to employ the shop assistant therein.

(6) Employers shall keep a register, in which shall be entered the names of all shop-assistants employed, the dates on which such assistants have entered employment, and the periods of leave that have been granted to such assistants at various times.

The register prescribed in terms of sub-section (2) of section *ten* may be utilised for this purpose. Such register shall be open to inspection at any reasonable time by the Shop Inspector.

(7) Any employer who neglects or refuses to grant leave to any shop assistant in terms of the provisions of this section or neglects to keep the register prescribed in terms of sub-section (6), or knowingly makes any false entry in such register, shall be guilty of an offence.

18. (1) An employer shall give, free of charge, a certificate of service to each of his shop assistants at the time when he leaves the employer's service.

Such certificate shall state the employer's name and address, together with the name, occupation, rate of pay and actual salary received by the assistant at the time of leaving, as well as the dates when such assistant entered and left the service of the employer.

The employer shall cause all such certificates to be numbered consecutively and shall cause a record to be kept containing particulars of each certificate issued by him.

(2) Any person holding a certificate issued in terms of sub-section (1) shall produce it on making application for any fresh post as shop assistant, and no employer shall engage any person as a shop assistant without making due inquiry as to whether such person is in possession of a certificate of service.

Every fresh appointment shall be reported to the Shop Inspector within one month after such appointment is made.

(3) Any person contravening any provision contained in this section shall be guilty of an offence.

19. Every employer shall provide suitable seating accommodation for his shop assistants, to enable them to rest when possible, and also suitable lavatories and sanitary conveniences.

Such conveniences as aforesaid shall be to the satisfaction of the Shop Inspector.

Any contravention of this section shall constitute an offence provided that an employer shall be allowed to prove as a defence that the Shop Inspector has been unreasonable in his demands.

HOOFTUK IV.

CHAPTER IV.

*Algemeen.*

*General.*

20. (1) Vir elke gebied genoem in onderartikel (1) van artikel drie, moet 'n lid van die Polisiemag spesiaal deur die Administrateur benoem word by wyse van 'n kennisgewing in die Offisiële Koerant om die pligte van Winkelinspekteur in sodanige gebied uit te oefen. Elke sodanige winkelinspekteur mag te eniger tyd gedurende besigheidsure enige winkel binnegaan met die doel om vas te stel of die bepalings van hierdie Ordonnansie nagekom word, en mag vir daardie doel die registers wat kragtens hierdie Ordonnansie gehou moet word inspekteer, asook die lisensie(s) waaronder die besigheid van sodanige winkel gedrywe word, en mag verder enige persoon, wat hy vind arbeidsaam te wees met werk van die winkel, of alleen of in die teenwoordigheid van enige ander persoon, na sy goedvinding, ondersoek met betrekking tot die onderwerpe in hierdie Ordonnansie behandel.

Ten opsigte van landelike gebiede wat nie binne die bepalinge van voormelde onderartikel (1) van artikel drie val nie, moet die naaste Posbevelhebber van Polisie die Winkelinspekteur wees.

Dit is die plig van die polisiemag om die polisiebeampte wat as Winkelinspekteur aangestel is, behulpsaam te wees, en geen bepaling in hierdie onderafdeling mag beskou word as enige inkorting te wees op die gewone soek- of inspeksiereg wat aan enige polisiebeampte kragtens die bepalings van enige ander wet toegestaan is nie.

(2) Enige persoon wat verhinder of keer dat enige sodanige Winkelinspekteur enige winkel binnegaan, of sy pligte in sodanige winkel uitvoer, of wat weier om enige redelike inligting deur sodanige Winkelinspekteur verlang, te verskaf is skuldig aan 'n oortreding.

(3) Dit is die plig van die Winkelinspekteur om enige sitting van die Lisensiehof wat kragtens die Konsolidasie-Ordonnansie betreffende Lisensies, 1935 (Ordonnansie No. 13 van 1935) gehou word, by te woon en om aan die genoemde Hof rapport te lewer van enige vonnisse teen enige werkgewer in sy besonder gebied, in terme van hierdie Ordonnansie, uitgewys, indien sodanige werkgewer by sodanige Hof aansoek doen in verband met 'n lisensie.

21. Enige persoon wat enige bepaling van hierdie Ordonnansie oortree maak hom skuldig aan 'n oortreding, en waar geen spesiale strafbepaling aangegee is nie, is hy onderhewig in die geval van 'n eerste oortreding aan 'n boete van hoogstens vyf-en-twintig pond of aan gevangenisstraf vir 'n tydperk van hoogstens drie maande, of aan beide sodanige boete en sodanige gevangenisstraf; in die geval van 'n tweede oortreding aan 'n boete van hoogstens vyftig pond of aan gevangenisstraf vir 'n tydperk van hoogstens ses maande of aan beide sodanige boete en sodanige gevangenisstraf; en in die geval van 'n derde en verdere oortreding aan 'n boete van hoogstens een honderd pond of aan gevangenisstraf vir 'n tydperk van hoogstens twaalf maande of aan beide sodanige boete en sodanige gevangenisstraf.

22. Die Administrateur mag regulasies maak en strafbepalinge stel vir die oortreding van sodanige regulasies:

- (1) vir enige onderwerp waarvoor kragtens hierdie Ordonnansie regulasies gemaak moet word.
- (2) die wyse waarop die lone van winkelbediendes en ander persone in diens van die winkel betaal moet word.
- (3) in die algemeen vir die bevordering van die doeleindes of die beter uitvoering van hierdie Ordonnansie.

23. Hierdie Ordonnansie moet aangehaal word as die Ordonnansie op Winkelure en Winkelbediendes 1938.

EERSTE BYLAE.

FIRST SCHEDULE.

*Wette heroep.*

*Laws Repealed.*

1. Winkel Uren Proklamatie van 1921 (Proklamasie No. 9 van 1921), soos van tyd tot tyd gewysig.

2. Halwe vakansiedag Ordonnansie 1927 (Ordonnansie No. 8 van 1927) soos van tyd tot tyd gewysig.

20. (1) For every area falling under the provisions of sub-section (1) of section three a member of the police force shall be specially appointed by the Administrator by notice in the Gazette to perform the duties of Shop Inspector within such area. Every such Shop Inspector may at any time during business hours enter any shop in order to ascertain whether the provisions of this Ordinance are being complied with, and for such purpose may inspect the registers prescribed to be kept in terms of this Ordinance, and the licence or licences under which the business at such shop is carried on, and may further examine, either alone or in the presence of any other person as he thinks fit, with respect to the matters contained in this Ordinance, every person whom he finds taking part in the work of the shop.

In respect of rural areas not falling within the provision of sub-section (1) of section three as aforesaid, the nearest Post Commander of police shall be the Shop Inspector.

It shall be the duty of the police force to assist the policeman appointed as Shop Inspector, and nothing in this sub-section contained shall be deemed to derogate from any ordinary right of search or inspection granted to any policeman by virtue of the provisions of any other laws.

(2) Any person who prevents or obstructs any such Shop Inspector from entering any shop or carrying out his duties therein or refuses to furnish any reasonable information asked for by such Shop Inspector shall be guilty of an offence.

(3) It shall be the duty of the Shop Inspector to attend any sitting of the Licensing Court held in terms of the Licences Consolidation Ordinance 1935 (Ordinance No. 13 of 1935) and to report to the said Court any convictions obtained against any employer in his particular area under the provisions of this Ordinance, if such employer makes any application to such Court in respect of a licence.

21. Any person contravening any provision of this Ordinance shall be guilty of an offence, and where no penalty is specially provided shall be liable in the case of a first offence to a fine not exceeding twenty-five pounds or to imprisonment for a period not exceeding three months, or to both such fine and such imprisonment; in the case of a second offence to a fine not exceeding fifty pounds or to both such fine and such imprisonment; and in the case of a third or subsequent offence to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.

22. The Administrator may make regulations and may provide penalties for the contravention of such regulations:

- (1) on any matter prescribed by this Ordinance to be made by regulation;
- (2) the manner in which the wages of shop assistants and other shop employees shall be paid;
- (3) generally for the furtherance of the objects or the better administration of this Ordinance.

23. This Ordinance shall be called the Shop Hours and Shop Assistants Ordinance, 1938.

1. The Shop Hours Proclamation 1921 (Proclamation No. 9 of 1921), as amended from time to time.

2. The Half-Holiday Ordinance 1927 (Ordinance No. 8 of 1927), as amended from time to time.

## TWEEDE BYLAE.

- (a) Die besigheid wat by 'n restaurant, kafé, teekamer of eetplek gedrywe word.
- (b) Die verkoop van vars vrugte, groente, neute, suikerbakkery ingeslote lekkers, varsgeplukke blomme en ander blomversiersels.
- (c) Die verkoop van tabak, sigare, sigarette, rokersbenodighede, en koerante gepubliseer in die Gebied of in die Unie van Suid Afrika.
- (d) Die besigheid wat by 'n spoorwegboekwinkel gedryf word.
- (e) Die besigheid wat deur 'n begratnisondernemer gedryf word.
- (f) Die verkoop van artikels vir begrafnisdoeleindes.
- (g) Die verkoop van ys en voer.
- (h) Die besigheid deur 'n bakker, slagter en visverkoper gedryf.
- (i) Petrol motorolie, reserwedele en ander onderdele vir motorvoertuie en toestelle vir die ophaal van water.

## SECOND SCHEDULE.

- (a) The business carried on at a restaurant, cafe, tea-room or eatinghouse.
- (b) The sale of fresh fruit, vegetables, nuts, confectionery including sweets, fresh-cut flowers and other floral decorations.
- (c) The sale of tobacco, cigars, cigarettes, smokers' requisites, and newspapers published in the Territory or the Union of South Africa.
- (d) The business carried on at a Railway Bookstall.
- (e) The business carried on by an undertaker.
- (f) The sale of articles for funeral purposes.
- (g) The sale of ice and fodder.
- (h) The business carried on by a baker, butcher or fishmonger.
- (i) motor spirit, motor oils, spare parts, and other accessories for motor vehicles and water-raising appliances.