

Transitory provisions.

7—(1) The persons who immediately before the commencement of this Act held office as the second appointed member of the Tribunal and the deputy of that member of the Tribunal shall be deemed respectively to have been appointed as the Government representative and his deputy.

(2) Any person who immediately before the commencement of this Act held office as the general service representative, the police representative, or the teachers' representative, or as the deputy of such a member of the Tribunal, shall, subject to the provisions of the Principal Act as amended by this Act, continue to hold office as such for the period for which he would have held that office if this Act had not been enacted.

(3) Expressions used in this section have the same meaning as they have for the purposes of the third schedule to the Principal Act.

SUNDAY OBSERVANCE.

No. 32 of 1968.

AN ACT to consolidate and amend the law relating to Sunday. [24 July 1968.]

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:—

Short title, commencement, and repeal.

1—(1) This Act may be cited as the *Sunday Observance Act 1968*.

(2) This Act shall commence on a day to be fixed by proclamation.

(3) The Acts specified in the schedule are repealed.

Interpretation.

2 In this Act, unless the contrary intention appears—

“attend” applies both to attending as one of the spectators or audience and to attending as a referee, steward, groundsman, ticket seller, gate-keeper, or other like person;

“dependent female” means a woman entitled to maintenance or other financial benefit by reason of her cohabitation with a man who is not her husband;

“entertainment” includes an exhibition arranged for public inspection (whether of the product of man or of nature) and a performance open to the public including—

- (a) a cinematographic exhibition;
- (b) a theatrical performance;
- (c) a ballet;
- (d) a musical performance;
- (e) a lecture;
- (f) a meeting; or
- (g) a discussion,

but does not include a game;

“game” includes any sport, match, or physical contest in which persons take part as players or contestants, referees, stewards, groundsmen, ticket sellers, gatekeepers, or otherwise;

“public laundry” means an automatic washing or dry-cleaning establishment in which operations are carried out solely by the customers and the machines;

“railway” includes tramway;

“Sunday” means the period of time which begins at midnight on Saturday and ends at midnight on the following day;

“work of necessity” includes—

- (a) work required because an emergency or such a situation as could not reasonably have been provided against and which is likely to cause danger to persons, substantial loss, or damage to property if the work is not carried out;
- (b) work essential to any industry, industrial process, or undertaking of such a continuous nature that it cannot be stopped without serious injury to the industry or undertaking or its product or to the plant or property used; and
- (c) work of such a nature that for the convenience of the public or the reasonable requirements of an industry, undertaking, trade, or business it must be done out of normal working, trading, or travelling hours, as the case may require, and on Sunday in order to avoid danger to persons, serious public inconvenience, substantial loss, or damage to property.

3—(1) Except as otherwise provided in this Act, on Sunday no person shall—

- (a) purchase, sell, offer for sale, or negotiate the purchase of property;
- (b) carry on his ordinary calling;
- (c) transact any business of or in connection with his ordinary calling; or
- (d) do for gain any business, work, or labour.

(2) This section does not apply to doing works of mercy or works of necessity.

Sunday work
forbidden.

8 Edw. VII

No 36, ss. 6,

11.

Exemptions.
Ibid., s. 11.

4 This Act does not apply to—

(a) work in connection with—

- (i) religious activities;
- (ii) the supply of air, electric current, gas, heat, light, or water;
- (iii) the production, publication, distribution, or sale, whether wholesale or retail, of a newspaper, not being a magazine or other periodical; or
- (iv) the catching, cleaning, processing, storing, transportation, and sale of fresh fish;

(b) work in connection with—

- (i) agricultural, horticultural, pastoral, dairying, or other like primary production; or
- (ii) the droving, transportation, or delivery of, or caring for, live animals,

that the person by or for whom the work is performed believes on reasonable grounds could not be postponed beyond Sunday without loss, damage, or suffering;

(c) work—

- (i) necessary for or incidental to, the provision of food or drink or the doing of other services of a domestic nature, in private residences, clubs, hotels, boarding-houses, or like places;
- (ii) necessary for or incidental to guarding and protecting property;
- (iii) done by a person in performing his duties as the officer, servant, or agent of the Crown or a public or local authority;
- (iv) which the Minister administering the *Railway Management Act 1935*, having regard to the object of this Act and with the object of preventing undue delay, deems necessary to permit in connection with the freight traffic of a railway, State or private; or
- (v) done in supervising or otherwise working in a public laundry;

(d) the conveying of travellers and passengers and work incidental thereto, including the receipt, carriage, and delivery of freight in accordance with a public vehicle licence under the *Traffic Act 1925*;

(e) the continuance of the carriage of any goods, the lawful carriage of which has commenced or continued on Saturday and work incidental thereto;

- (f) the transportation, storage, delivery, and processing of milk, cheese, and other perishable produce and products (but not the delivery of fruit and vegetables to retailers and work incidental thereto);
- (g) the sale of eggs, milk, and cream;
- (h) the sale of fresh fruit and vegetables and cut flowers at the orchard or garden at which they were grown by the grower;
- (i) the transportation of, delivery of, and caring for animals in connection with shows and sporting activities and work incidental thereto;
- (j) the baking and sale, by wholesale or retail, of bread and delivery of bread to retailers;
- (k) the removal and burial of the dead and work incidental thereto; or
- (l) work that is declared by the Governor by regulation not to be subject to this Act.

5—(1) No person on Sunday shall serve or execute, or cause to be served or executed, any writ, process, warrant, order, judgment, or decree, except—

Service of process on Sunday void. *Ibid.*, s. 10.

- (a) where the liberty of the subject is involved;
- (b) in cases of crime or breach of the peace;
- (c) in aid of the peace;
- (d) under the equitable, admiralty, or ecclesiastical jurisdiction of the Supreme Court or jurisdiction in substitution therefor;
- (e) for the care or custody of persons who cannot look after themselves;
- (f) to provide for the maintenance of husbands, wives, dependent females, or children; and
- (g) for the arrest of absconding defendants and debtors.

(2) The service on Sunday of any writ, process, warrant, order, judgment, or decree contrary to subsection (1) of this section shall be void to all intents and purposes whatsoever; and the person so serving or executing the same shall be as liable to an action by the party grieved, and to answer damages to him for the doing thereof, as if he had done the same without any authority.

6 Except in connection with a game prohibited by the regulations and notwithstanding any other provisions of this Act, a person may on Sunday—

Games and work connected therewith.

- (a) provide, engage in, or attend any game;
- (b) carry on any business of his ordinary calling or for gain do any work or provide any service or employ any other person to do any work or provide any service if the business or work or service is necessary for or habitually associated with playing or attending any game, other than a game prohibited by or under this section; and

- (c) sell or hire either at the premises of a sporting club or at the place where a game is played any article or thing habitually used or consumed in playing or attending a game for which the club exists or which is there played, other than a game prohibited by or under this section.

Entertainments.

7 Except as provided in the regulations a person may provide, take part in, or attend any entertainment on Sunday and in so providing, taking part, in or attending a person may carry on any business of his ordinary calling or may for gain do, or employ another person to do, any work, notwithstanding any other provision of this Act.

Employer not to penalize refusal of Sunday work. Cf. *Defence Act 1903-1964*, s. 128.

8—(1) Where an employee is ordered or asked by his employer to do work on a Sunday that he has not expressly contracted to do on a Sunday and he has refused to do such work, his employer shall not penalize him or prejudice him in his employment, by reason of his refusal, whether by reducing his salary or wages, dismissing him from his employment, or in any other way.

(2) In any proceedings for a contravention of this section, the burden is on the employer to prove that an employee proved to have been penalized or prejudiced in his employment was so penalized or prejudiced for some reason other than the reason alleged in the complaint.

(3) In this section “employment” includes apprenticeship.

Employer's orders a defence.

9—(1) Subject to subsection (2) of this section it is a defence to an employee charged with a contravention of this Act that his employer ordered or caused him to do the act constituting the contravention.

(2) The defence provided by subsection (1) of this section shall be pleaded expressly, and where it is pleaded—

- (a) the complainant may have an adjournment to enable him to proceed against the employer for the contravention; and
- (b) the complaints against the employee and the employer shall be heard together.

Penalty. *Ibid.*, ss. 12, 13, 14.

10 A person who contravenes a provision of this Act for which no penalty is expressly provided is liable to a penalty of two hundred dollars.

Exemption of certain shops.

Ibid., s. 15, No. 23 of 1965, s. 4.

11 Nothing in this Act affects shops as defined in the *Factories, Shops, and Offices Act 1965*.

12 The Governor may make regulations for the purposes of ^{Regulations.} this Act and in particular for—

- (a) forbidding, or imposing conditions on the providing, taking part in, engaging in, or attending any specified, or specified class of, game or entertainment on all Sundays or any specified Sundays and in respect either of the whole day or any specified part thereof; and
- (b) providing for the effect of a breach of a condition so imposed, with power to impose different liabilities according as persons are concerned in or have knowledge of the breach.

THE SCHEDULE.

(Section 1.)

ACTS REPEALED.

Year and No. of enactment.	Title of enactment.
8 Edw. VII No. 36	<i>The Sunday Observance Act 1908.</i>
No. 14 of 1955	<i>The Sunday Observance Act 1955.</i>
No. 60 of 1962	<i>The Sunday Observance Act 1962.</i>
No. 23 of 1965	<i>The Sunday Observance Act 1965.</i>

ADOPTION OF CHILDREN.

No. 33 of 1968.

AN ACT to consolidate and amend the law relating to the adoption of children. [24 July 1968.]

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:—

PART I.

PRELIMINARY.

1—(1) This Act may be cited as the *Adoption of Children Act 1968.* Short title and commencement.

(2) This Act shall commence on a date to be fixed by proclamation.