The Mombasa Shop Hours Act

CHAPTER 232

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THE MOMBASA SHOP HOURS ACT

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CHAPTER 232
THE MOMBASA SHOP HOURS ACT

Commencement: 30th August, 1949

An Act of Parliament to regulate shop hours and the employment of shop assistants and journeymen in Mombasa

1. This Act may be cited as the Mombasa Shop Hours Act.

2. (1) This Act shall apply only to the Municipality of Mombasa.

(2) Nothing in this Act shall apply to any sale of goods for charitable or other purposes from which no private profit is derived or to hawker.

3. In this Act, except where the context otherwise requires—

“journeyman” includes a tailor, cutter, sewer, shoemaker, joiner, cabinet maker, worker in jewellery or worker in curios or fancy goods, and such other persons as the Minister may, by order, declare to be journeymen for the purposes of this Act;

“occupier” includes the person having charge of a shop or owning the business thereof or employing any person in or in connexion therewith, and the manager, agent or other person acting or apparently acting in the management and control of the shop;

“shop” includes premises in which any retail or wholesale trade or business is carried on, and any office, workshop or workroom, whether in the same premises or otherwise, which is used in connexion with that trade or business, but does not include a stall in a market;

“shop assistant” includes a person employed for hire or reward in a shop in connexion with the serving of customers or the receipt of orders or the dispatch of goods, or keeping the books of the business of the shop and any person under sixteen years of age employed in that connexion whether or not for hire or reward, but does not include a person employed solely as a caretaker or as a cleaner or other domestic servant;
“week” means the period from six o’clock in the morning on Sunday to six o’clock in the morning on the succeeding Sunday.

4. (1) Subject to subsection (2)—

(a) no shop shall be kept open, nor may any work be carried on therein, by any shop assistant or journeyman, on a Sunday, nor after twelve-thirty o’clock in the afternoon on one other day in the week, nor after seven o’clock in the evening on any of the other five days in the week; and

(b) no shop shall be kept open, nor may any work be carried on therein, later than eleven o’clock in the morning on a public holiday.

(2) The Minister may, with the advice of the Municipal Council of Mombasa in that behalf and with respect to the whole or part of the Municipality, by order published in the Gazette—

(a) prescribe any shop or class of shops situated in any area which shall close at twelve-thirty o’clock in the afternoon and the day upon which they shall so close;

(b) exempt, subject or not to conditions, any shop or class of shops from the provisions of subsection (1); and

(c) prescribe the hours during which any shop or class of shops situated in any area may be open for the serving of customers, or, whether open or not, used for the employment of journeymen, and thereupon no shop in the class or area for which those hours are prescribed shall be open for the serving of customers or used for the employment of journeymen except during the prescribed hours:

Provided that the total number of hours prescribed for any one day in the case of any shop shall not exceed nine hours.

5. (1) The Municipal Council of Mombasa shall give notice by advertisement in one or more newspapers circulating in the Municipality of its intention to advise the Minister to publish an order under section 4 (2), and shall specify in the advertisement the terms of the proposed order.

(2) Any objection to a proposed order shall be lodged with the Municipal Council within fourteen days after the publication of the notice.
(3) The Municipal Council shall, as soon as practicable after the receipt of any objection to a proposed order, forward a copy of it, together with a statement in writing setting out the opinion of the Board and its advice as to whether the proposed order should be published in its original or amended form or withdrawn, to the Minister, whose decision shall be final.

6. (1) No shop assistant or journeyman shall be employed about the business of a shop for a longer period than forty-nine hours, excluding meal times, in any one week.

(2) The occupier of a shop shall fix and specify in a notice in the prescribed form in English, which shall be affixed in the shop in such a manner and at such a time as may be prescribed, the day of the week on which his shop assistants or journeymen are not employed after twelve-thirty o'clock in the afternoon.

(3) Notwithstanding section 4 (1), an occupier, on giving reasonable notice to the officer in charge of the police station of the district in which the shop is situated of the names of the shop assistants and journeymen concerned and the dates upon which he intends to extend their working hours, may (on not more than two occasions in any year and solely for the purpose of stocktaking) permit those shop assistants and journeymen to work either on the afternoon of the half-day closing prescribed under section 4 (2) (a) or on the following Sunday or on both the half-day and the following Sunday; but the provisions of this subsection shall not apply to a Saturday or Sunday where the Monday immediately following is a public holiday.

7. Unless otherwise prescribed, no shop assistant or journeyman shall be employed about the business of a shop before the hour of seven o'clock in the morning or after the hour of seven o'clock in the evening.

8. No shop assistant or journeyman shall be employed continuously for more than five hours.

9. There shall be allowed to every shop assistant or journeyman for meals during the period of daily employment not less than two hours, of which one hour at least, taken without interruption, shall be before two o'clock in the afternoon.
10. Every female shop assistant or journeyman shall be provided with a chair, seat or other suitable appliance for use during the hours she is employed in the shop.

Right of entry.

11. (1) An administrative officer, labour officer or police officer not below the rank of Assistant Inspector may—

(a) enter upon, inspect and examine at any hour by day or by night a shop and every part thereof, when he has reasonable cause to believe that a shop assistant or journeyman is employed therein;

(b) make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act or of any rules thereunder are complied with; and

(c) examine, either alone or in the presence of any person as he thinks fit, with respect to matters under this Act or of any rules thereunder, every shop assistant or journeyman whom he finds in the shop and require every such person to sign a declaration of the truth of the matters respecting which he is so examined.

(2) The occupier of a shop shall furnish all such means and information as the administrative officer, labour officer or police officer may require for the purpose of an inspection, examination or inquiry.

(3) If a person wilfully delays or obstructs an administrative officer, labour officer or a police officer in the exercise of any power under this Act or under any rules thereunder, or fails to comply with the requisition of the officer in pursuance of this section, or conceals or prevents a shop assistant or journeyman from appearing before or being examined by the officer, that person shall be guilty of an offence and liable to a fine not exceeding two hundred shillings.

Leave of absence.

12. There shall be allowed to every shop assistant or journeyman leave of absence amounting to not less than fourteen days in every year of his service without any deduction in salary or wages, and that leave of absence may be taken, at the option of the shop assistant or journeyman, either in one period or in two periods of even days each.

Penalties.

13. A person who contravenes any of the provisions of subsection (1), or of any order made under subsection (2), of this section or who employs or permits to be employed a shop assistant or journeyman about the business of a shop in excess
of the period mentioned in subsection (1) of section 6, or fails to comply with the provisions of subsection (2) of that section, or employs or permits to be employed a shop assistant or journeyman in contravention of the provisions of section 7, section 8, section 9 or section 10, or fails to allow the leave of absence required by section 12, shall be guilty of an offence and liable—

(a) in the case of a first conviction, to a fine not exceeding one hundred shillings or, in default of payment, to imprisonment for fourteen days;

(b) in the case of a second conviction, to a fine not exceeding two hundred shillings or, in default of payment, to imprisonment for one month;

(c) in the case of a third or subsequent conviction, to a fine not exceeding six hundred shillings or, in default of payment, to imprisonment for two months.

14. The Minister may make rules for carrying this Act into effect.
THE MOMBASA SHOP HOURS (CLOSING OF SHOPS) ORDER

1. This Order may be cited as the Mombasa Shop Hours (Closing of Shops) Order.

2. All shops situated in the mainland area of the Municipality of Mombasa and in the area on the Island of Mombasa which lies north of Moi Avenue and west of Digo Road, including all shops on plots having frontage on Digo Road, shall close on Wednesday at twelve-thirty o'clock in the afternoon.

3. All shops on plots having frontage on Moi Avenue and the shops situated on Plot No. 93 of Section of XX and Plot No. 18 of Section XXIV at the junction of Moi Avenue and Salim Road North shall close on Saturdays at twelve-thirty o'clock in the afternoon.

4. All shops other than those referred to in paragraph 2 and 3 shall close on Saturday at twelve-thirty o'clock in the afternoon.

5. The following shops and classes of shops shall be exempt from closing on Sundays and public holidays and from early closing on Wednesdays and Saturdays—

   (a) premises licensed under the Liquor Licensing Act for the sale of liquor consumption on the premises, and canteens established under the Traditional Liquor Act;

   (b) bookstalls and bookshops for the sale of newspapers and periodicals only;

   (c) shops whose sole purpose is supplying ships with victuals, ice, stores and other necessaries or for the rendering of laundry services;

   (d) shops dealing in motor fuel, motor oil, or motor vehicle, cycle or aircraft supplies and accessories;

   (e) chemists' shops for the sale of medicines, medical and surgical appliances and baby foods;

   (f) dairies for the sale of milk only;

   (g) restaurants, eating-houses and refreshment rooms for the supply of meals and refreshments for consumption on the premises,

   (h) bakeries for the sale of bread only.

6. The following shops and classes of shops shall be exempt from closing at seven o'clock in the evening—

   (a) premises licensed under the Liquor Licensing Act for the sale of liquor for consumption on the premises, and canteens established under the Traditional Liquor Act;

   (b) restaurants, eating-houses and refreshment rooms for the supply of meals and refreshments for consumption on the premises;

   (c) shops for the sale of sweetmeats and milk.
7. The hours during which shops may be opened for the serving of customers or the employment of journeymen shall be as follows—
   (a) on all days of the week except Sundays, public holidays and early closing days—
       from 7.30 a.m. to 12.30 p.m.;
       from 2.00 p.m. to 5.30 p.m.;
   (b) on early closing days—
       from 7.30 a.m. to 12.30 p.m.;

Provided that this paragraph shall not apply to the following shops—
   (i) premises licensed under the Liquor Licensing Act for the sale of liquor for consumption on the premises and canteens established under the Traditional Liquor Act;
   (ii) restaurants, eating-houses and refreshment rooms for the supply of meals and refreshments for consumption on the premises;
   (iii) shops for the sale of sweetmeats and milk;
   (iv) barbers' shops;
   (v) butchers' shops.

THE MOMBASA SHOP HOURS (EXEMPTION) ORDER

1. This Order may be cited as the Mombasa Shop Hours (Exemption) Order.

2. There shall be exempted from the provisions of section 4 (1) of the Act any shop which is owned by a sole proprietor and in which the proprietor serves personally without the assistance of any other person, whether paid or unpaid.

3. The provisions of this Order shall not apply to a shop which holds a wine merchant's and grocer's liquor licence issued under the Liquor Licensing Act.

G.N. 186/1952.