

*These notes refer to the Christmas Day (Trading) Act 2004
(c.26) which received Royal Assent on 28 October 2004*

CHRISTMAS DAY (TRADING) ACT 2004

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the Christmas Day (Trading) Act 2004 which received Royal Assent on 28 October 2004. They have been prepared by the Department of Trade and Industry in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
2. The Notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

SUMMARY

3. The Act prohibits large stores (as defined in the Sunday Trading Act 1994 ("the 1994 Act")) from opening on Christmas Day.
4. The 1994 Act prohibits large stores from opening on Christmas Day when that day falls on a Sunday. The purpose of the Act is to extend that prohibition to Christmas Day where that day falls on a day of the week other than Sunday.
5. The Act also prohibits loading and unloading at large shops before 9 a.m. in areas designated as loading control areas by a local authority under section 2 of the 1994 Act. Loading and unloading is only prohibited under the Act insofar as it is carried out in connection with the trade or business carried on in the shop.
6. The Act does not seek to regulate opening by shops with a relevant floor area (as defined) of 280 square metres (3,000 square feet) or less.
7. The main definitions of the terms contained in this Act are set out in the glossary annexed to these Notes.

COMMENTARY ON SECTIONS

Section 1: Prohibition of opening of large shops on Christmas Day

8. *Subsection (1)* prohibits large shops from opening on Christmas Day. *Subsection (2)* exempts those shops currently exempt from restrictions on Sunday trading under paragraph 3(1) of Schedule 1 to the 1994 Act. Shops covered by the exemption include farm shops, shops selling intoxicating liquor, motor or cycle supplies, pharmacies, petrol stations, shops located in transport centres and stands at exhibitions.
9. *Subsection (4)* amends paragraph 3(2) of Schedule 1 to the 1994 Act (which covers interpretation of the exemptions contained in paragraph 3(1) of that Schedule) insofar as it applies to this Act and ensures that those exemptions apply to the provisions of this Act.

Section 2: Loading and unloading early on Christmas Day

10. *Subsection (1)* prohibits large shops located in an area designated by a local authority as a loading control area from loading and unloading before 9 a.m. on Christmas Day unless, (a) the relevant local authority has granted consent, and (b) any loading or unloading is carried out in accordance with any conditions attached to that consent.
11. *Subsection (2)* applies paragraphs 3 to 8 of Schedule 3 to the 1994 Act to any consent granted under subsection (1). Those paragraphs relate to the grant, application for, revocation and publication of any consent to early loading and unloading by a local authority.
12. *Subsection (3)* provides that a person who breaches the prohibition on loading and unloading shall be liable to a fine not exceeding level three on the standard scale.
13. *Subsection (4)* defines “loading control area” as an area designated as such under section 2 of the 1994 Act.

Section 3: Enforcement

14. *Subsections (1) and (2)* provide that local authorities shall be under a duty to enforce the prohibition of opening by large stores on Christmas Day and to appoint inspectors for this purpose. These inspectors may be the same as those appointed under the 1994 Act.
15. *Subsection (3)* provides that inspectors will have the same powers as those appointed under the 1994 Act.

Section 4: Consequential Amendments

16. *Subsections (1) to (3)* contain consequential amendments to the 1994 Act. The prohibition on the opening of large shops and on loading and unloading before 9 a.m. on any Christmas Day which falls on a Sunday will now be imposed by the Act rather than the 1994 Act.

Section 6: Short title, interpretation, commencement and extent

17. The Act is to come into force on a day to be appointed by the Secretary of State by order.

COMMENCEMENT

18. The Act will be brought into force on a day to be appointed by the Secretary of State by order.

TERRITORIAL EXTENT AND TERRITORIAL APPLICATION

19. The Act extends to England and Wales, but not to Scotland or Northern Ireland. The Act will have no effect on the functions of the National Assembly for Wales, as functions relating to trading are not devolved as regards Wales.

HANSARD REFERENCES

20. The following table sets out the dates and Hansard references for each stage of this Act’s passage through Parliament.

<i>Stage</i>	<i>Date</i>	<i>Hansard Reference</i>
<i>House of Commons</i>		
Introduction	7 January 2004	Vol. 416 Col. 260-261
Second Reading	26 March 2004	Vol. 419 Col. 1155-1192
Money Resolution Debate	5 May 2004	Vol. 420 Col. 1407-1417

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<i>Stage</i>	<i>Date</i>	<i>Hansard Reference</i>
Committee	12 May 2004	Sc - D
Report and Third Reading	18 June 2004	Vol. 422 Col. 974-1043
<i>House of Lords</i>		
Introduction	21 June 2004	Vol. 622 Col. 1013-1014
Second Reading	16 July 2004	Vol. 663 Col.1530-1547
Committee	8 September 2004	Vol. 664 Col.680-684
Report	15 September 2004	Vol. Col. 1180-1181
Third Reading	11 October 2004	Vol. 665 Col. 12-13
<i>House of Commons</i>		
Consideration of House of Lords' Amendments	15 October 2004	Vol. 425 Col. 530-571
Royal Assent — 28 October 2004		House of Lords Hansard Vol. 665, Col. 959
		House of Commons Hansard Vol. 425, Col. 1557

GLOSSARY OF TERMS USED IN THE SUNDAY TRADING ACT 1994

- *shop* means any premises where there is carried on a trade or business consisting wholly or mainly of the sale of goods (see Schedule 1, paragraph 1 to the 1994 Act)
- *a large shop* is a shop which has a relevant floor area exceeding 280 square metres (see Schedule 1, paragraph 1 to the 1994 Act)
- *relevant floor area* in relation to a shop means the internal floor area of so much of the shop as consists of or is comprised in a building, but excluding any part of the shop, which throughout the [period of seven days ending with the Christmas Day in question], is used neither for the serving of customers in connection with the sale of goods nor for the display of goods (see Schedule 1, paragraph 1 to the 1994 Act)

The words in square brackets above are inserted into the definition in the 1994 Act (in place of a reference to Sunday) by section 1(5) of this Act insofar as the definition applies to the meaning of "large shop" in this Act.