

FACTORIES AND SHOPS (HOME DELIVERIES) AMENDMENT ACT.

Act No. 12, 1948.

An Act to make certain provisions relating to the home delivery of certain commodities; for this purpose to amend the Factories and Shops Acts, 1912-1946; and for purposes connected therewith. [Assented to, 3rd May, 1948.]

George VI.
No. 12, 1948.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Factories and Shops (Home Deliveries) Amendment Act, 1948."

Short title,
citation and
commence-
ment.

(2) The Factories and Shops Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the Factories and Shops Act, 1912-1948.

(3) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

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Amendment of Act No. 39, 1912.

New Division 2A.

Definitions.

2. The Factories and Shops Acts, 1912-1946, is amended by inserting next after Division 2 of Part VI the following new Division:—

DIVISION 2A.—*Home Deliveries of Certain Commodities.*

103A. In this Division of this Part of this Act, unless the context or subject matter otherwise indicates or requires—

“Home delivery commodities” means groceries, fruit, vegetables, meat, and such other commodities as the Governor may by proclamation published in the Gazette declare to be home delivery commodities.

“Shop” means any building or place or any portion of a building or place in which goods are sold or exposed or offered for sale by retail.

“Shopkeeper” means the occupier of a shop.

Shopkeeper to furnish information as to home deliveries.

103B. (1) Every person who at the commencement of the Factories and Shops (Home Deliveries) Amendment Act, 1948, is a shopkeeper of a shop for the sale of any home delivery commodities, shall, within one month after such commencement, furnish the Under Secretary with such particulars as may be prescribed to enable him to determine whether such person shall be required to deliver or cause to be delivered any such home delivery commodities in accordance with the provisions of this Division of this Part of this Act.

(2) Every person who at any time after the commencement of the Factories and Shops (Home Deliveries) Amendment Act, 1948, becomes a shopkeeper of a shop for the sale of any home delivery commodities, shall, at the time of making application for a certificate of registration of such shop under this Part of this Act, furnish the Under Secretary with such particulars as may be prescribed to enable him to determine whether such person shall be required to deliver or cause to be delivered any such home delivery commodities in accordance with the provisions of this Division of this Part of this Act.

(3)

(3) Every applicant for renewal of registration of a shop for the sale of any home delivery commodities under this Part of this Act shall at the time of making application for such renewal furnish the Under Secretary with such particulars as may be prescribed to enable him to determine whether such applicant shall be required to deliver or cause to be delivered any home delivery commodities in accordance with the provisions of this Division of this Part of this Act. No. 12, 1948.

103c. (1) (a) The Under Secretary may by notice in writing given to any shopkeeper of a shop for the sale of any home delivery commodities require such shopkeeper to deliver or cause to be delivered any such home delivery commodities to any person at any place within such area and in accordance with such terms and conditions as may be specified in such notice. Delivery of commodities by shopkeeper.

Without limiting the generality of the foregoing such terms and conditions may include terms and conditions as to quantities of commodities to be delivered, times of delivery and modes of delivery.

(b) The Under Secretary may give any such notice—

(i) where he is satisfied that it is reasonably practicable for the shopkeeper to whom the notice is given to deliver or cause to be delivered any home delivery commodities in accordance with the requirements of such notice;

(ii) notwithstanding the fact that the shopkeeper to whom the notice is given has failed to furnish the prescribed particulars under section 103b of this Act.

(c) The Under Secretary may revoke any such notice or suspend any such notice for such period as he may think fit or may vary any terms and conditions of any such notice in such manner as he may determine.

(d)

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(d) A shopkeeper to whom any such notice has been given shall in the manner prescribed exhibit and keep exhibited such notice and any variation of the terms and conditions thereof in the shop to which such notice relates. The regulations may require the exhibition in the circumstances prescribed of copies of any such notice or variation of the terms and conditions thereof.

(2) Nothing in subsection one of this section shall operate so as to require—

- (a) a shopkeeper of a shop situated within a radius of five miles from the General Post Office, Sydney, to deliver or cause to be delivered any home delivery commodities to any person at any place situated more than one mile (measured by the nearest practicable route) from the shop of such shopkeeper;
- (b) a shopkeeper of a shop situated within a radius of three miles from the principal post office, Newcastle, to deliver or cause to be delivered home delivery commodities to any person at any place situated more than one mile (measured by the nearest practicable route) from the shop of such shopkeeper;
- (c) a shopkeeper of a shop situated within the County of Cumberland or the County of Northumberland outside the areas referred to in paragraphs (a) and (b) of this subsection, to deliver or cause to be delivered home delivery commodities to any person at any place situated more than two miles (measured by the nearest practicable route) from the shop of such shopkeeper;
- (d) a shopkeeper of a shop situated in any part of the State of New South Wales outside the County of Cumberland or the County of Northumberland, to deliver or cause to be delivered home delivery commodities to any person at any place situated more than three

three miles (measured by the nearest practicable route) from the shop of such shopkeeper; No. 12, 1948.

- (e) a shopkeeper of a shop to deliver or cause to be delivered home delivery commodities to any person, who, upon tender of delivery, fails to pay the lawful retail price for such commodities upon demand.

(3) In this section—

“Place” includes any house, shop, structure, building, or any land or premises whatsoever and any part of any such place which is separately occupied.

103d. (1) Notwithstanding anything elsewhere contained in this Act, the Under Secretary may-- Refusal or
cancellation
of registra-
tion of shops.

- (a) refuse to register a shop or issue a certificate of registration under this Part of this Act if the applicant for registration refuses to give an undertaking to deliver or cause to be delivered any home delivery commodities if required so to do by the Under Secretary pursuant to the provisions of section 103c of this Act. Any such undertaking shall be in or to the effect of the prescribed form;
- (b) refuse to renew the registration or the certificate of registration of any shop, or cancel the certificate of registration or renewal of registration of any shop, if, in his opinion the shopkeeper of such shop has, without reasonable excuse, failed to deliver or cause to be delivered any home delivery commodities when required so to do in accordance with the provisions of this Division of this Part of this Act.

(2) Where the Under Secretary in pursuance of the provisions of subsection one of this section refuses to register any shop or issue a certificate of registration of any shop or to renew the registration or the certificate of registration of any shop,

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shop, or cancels the certificate of registration or renewal of registration of any shop under this Part of this Act, he shall notify the applicant for registration or renewal of registration or the holder of the certificate of registration or renewal of registration issued in respect of such shop, as the case may be, of the grounds of his decision for such refusal or cancellation.

(3) If any person is dissatisfied with the decision of the Under Secretary in respect of such refusal or cancellation he may appeal against the decision of the Under Secretary to the district court exercising jurisdiction in the district within which the shop of such person is situated. Such district court shall thereupon determine the matter of the appeal and its determination shall be final.

Any such appeal shall be made in accordance with rules of court.

Penalties.

103E. (1) Any person who—

- (a) contravenes or fails to comply with any of the provisions of this Division of this Part of this Act, or with any of the terms and conditions of any notice given to him pursuant to the provisions of section 103c of this Act;
- (b) carries on the business of a shopkeeper of a shop the certificate of registration or renewal of registration of which has been cancelled in pursuance of the provisions of section 103d of this Act, or in respect of which registration or renewal thereof or the issue of a certificate of registration or renewal thereof has been refused in pursuance of the provisions of the said section,

shall be guilty of an offence against this Part of this Act and shall be liable, on conviction for a first offence to a penalty not exceeding fifty pounds and for a second or subsequent offence to a penalty not exceeding one hundred pounds:

Provided

Provided that the provisions of paragraph (b) of this subsection shall not apply to any person who pending determination of an appeal against the decision of the Under Secretary under paragraph (b) of subsection one of section 103D of this Act carries on the business of a shopkeeper of a shop in respect of which such appeal has been made. No. 12, 1948.

(2) Any person who wilfully makes any false statement in respect of any matter or proceeding under this Division of this Part of this Act shall be guilty of an offence against this Part of this Act, and shall be liable on summary conviction to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding six months.
