

**FACTORIES, SHOPS AND INDUSTRIES AND  
PHARMACY (AMENDMENT) ACT.**

**Act No. 58, 1966.**

**Elizabeth II,  
No. 58, 1966**

An Act to make further provisions relating to the hours of trade of chemists' shops and the carrying on of businesses of pharmacists; for this and other purposes to amend the Factories, Shops and Industries Act, 1962-1965, and the Pharmacy Act, 1964, as amended by the Decimal Currency Act, 1965; and for purposes connected therewith. [Assented to, 14th December, 1966.]

**B**E it enacted by the Queen'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, Shops and Industries and Pharmacy (Amendment) Act, 1966".

(2)

Short title,  
citation and  
commence-  
ment.

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(2) The Factories, Shops and Industries Act, 1962, No. 58, 1966 as amended by subsequent Acts and by this Act, may be cited as the Factories, Shops and Industries Act, 1962–1966.

(3) The Pharmacy Act, 1964, as amended by the Decimal Currency Act, 1965, and by this Act, may be cited as the Pharmacy Act, 1964–1966.

(4) Subject to subsection five of this section, this Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(5) Paragraph (b) of section three of this Act shall commence upon the day upon which subsection one of section three of the Poisons Act, 1966, commences.

2. The Factories, Shops and Industries Act, 1962–1965, is amended—

Amendment  
of Act No.  
43, 1962.

(a) by inserting in subsection one of section seventy-four next after the definition of “Make or bake” the following new definition :—

Sec. 74.  
(Definitions.)

“Medicinal or surgical goods” means drugs or medicines (including patent or proprietary drugs or medicines), surgical appliances, dressings and antiseptics.

(b) (i) by omitting from subsection (5A) of section seventy-six the word, figures and letter “section 76A” where firstly occurring and by inserting in lieu thereof the words, figures and letters “sections 76A and 76B”;

Sec. 76.  
(Registration of shops.)

(ii) by inserting in the same subsection after the word, figures and letter “section 76A” where secondly occurring the words “or subsection two of the said section 76B”;

(iii) by inserting in paragraph (a) of subsection six of the same section after the figures and letter “76A” the symbol, figures and letter “, 76B”;

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**New sec.  
76B.**

**Special  
pharmacies.**

(c) by inserting next after section 76A the following new section :—

76B. (1) In this section—

“Registered shop” means shop in respect of which a certificate of registration or of renewal of registration is for the time being operative.

“Special pharmacy” means a shop (not being an after-hours pharmacy as defined in section seventy-eight of this Act) wherein there is carried on a business of the sale by retail of medicinal or surgical goods on the orders or prescriptions of medical practitioners, which business is carried on either alone or in combination with any one or more of the following types of business and no other, namely the sale by retail of medicinal or surgical goods otherwise than on such orders or prescriptions, or of sanitary napkins, prepared food for invalids or infants, feeding cups, feeding bottles and teats, or such other goods as may be prescribed for the purposes of this definition and the definition of after-hours pharmacies in subsection one of section seventy-eight of this Act.

(2) The provisions of subsections three to nine, both subsections inclusive, of section 76A of this Act apply to special pharmacies subject to the following modifications :—

- (a) for any reference in those subsections to a “small shop” or to “small shops” there shall be substituted a reference to a “special pharmacy” or to “special pharmacies”, as the case may require;
- (b) for the reference in paragraph (a) of subsection three, and in subsection four, of that section to “particulars in respect of matters

matters referred to in the definition of **No. 58, 1966**  
'Small shop' in subsection one of this section" there shall be substituted a reference  
to "particulars in respect of the business  
carried on in the shop".

- (d) (i) by inserting in section seventy-eight next **Sec. 78.**  
before the definition of "Hairdresser's shop" **(Definitions**  
the following new definitions :— **and**  
**application.)**

"After-hours pharmacy" means a shop (not  
being a stall, tent, vehicle, boat or  
pack)—

- (a) of which the sole shopkeeper  
is a partnership consisting of  
the prescribed number of per-  
sons, partnerships, associations,  
or corporations each of whom  
or of which is the sole shop-  
keeper of a chemist's shop; and
- (b) wherein there is carried on a  
business of the sale by retail  
of medicinal or surgical goods  
on the orders or prescriptions  
of medical practitioners, which  
business is carried on either  
alone or in combination with  
any one or more of the follow-  
ing types of business and no  
other, namely the sale by  
retail of medicinal or surgical  
goods otherwise than on such  
orders or prescriptions, or of  
sanitary napkins, prepared food  
for invalids or infants, feeding  
cups, feeding bottles and teats,  
or such other goods as may be  
prescribed for the purposes of  
this

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this definition and the definition of special pharmacies in subsection one of section 76B of this Act.

“Chemist’s shop” does not include an after-hours pharmacy or a special pharmacy.

- (ii) by omitting from the definition of “Shop” in the same section the words “substantial partition” and by inserting in lieu thereof the words “permanent and substantial partition or wall”;
- (iii) by inserting in the same section next after the definition of “Small shop” the following new definition :—

“Special pharmacy” means a shop as defined in this subsection that is for the time being registered as a special pharmacy pursuant to section 76B of this Act.

- (iv) by inserting at the end of the same section the following new subsections :—

(2) For the purposes of the definition of “After-hours pharmacy” in subsection one of this section, “the prescribed number” means, in relation to any shop—

- (a) if the Minister for the time being administering the Pharmacy Act, 1964, as amended by subsequent Acts, has approved of the business of the shop being carried on in partnership by the shopkeepers of a specified number, being less than six, of chemists’ shops and has not withdrawn such approval—that specified or any greater number;
- (b) in any other case—six or more but not more than fifty.

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(3) The provisions of subsection three of section fourteen of the Companies Act, 1961, as amended by subsequent Acts, do not apply to the formation of a partnership for the purpose of conducting an after-hours pharmacy. No. 58, 1966

(e) by inserting in subsection one of section seventy-nine after the words "chemists' shops," the words "after-hours pharmacies, special pharmacies,"; Sec. 79.  
(Closing and opening times of certain shops on week days.)

(f) by inserting next after section eighty-one the following new section :— New sec. 81A.

81A. (1) (a) In this subsection "public holiday" means the first day of January, the twenty-sixth day of January, Good Friday, Easter Monday, the twenty-fifth day of April (Anzac Day), the anniversary of the birth of Her Majesty, Christmas Day, or the twenty-sixth day of December, or any day observed as such in accordance with the provisions of the Banks and Bank Holidays Act, 1912, as amended by subsequent Acts. Times at which after-hours pharmacies shall be kept closed.

(b) Subject to subsection two of this section, every after-hours pharmacy shall—

- (i) on any day that is the day of the weekly half-holiday but is not a public holiday, be kept closed between nine o'clock in the forenoon and half-past twelve o'clock in the afternoon; and
- (ii) on any day that is not the day of the weekly half-holiday or a Sunday or public holiday, be kept closed between nine o'clock in the forenoon and six o'clock in the afternoon.

(2) Where in respect of any part of the State or any city, town or district therein the Governor has, pursuant to the Banks and Bank Holidays Act, 1912, as amended by subsequent Acts, appointed a special day or special half-day to be observed as a public holiday, nothing in this section

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section shall require any after-hours pharmacy in that part of the State or that city, town or district to be closed at any time on that day.

Sec. 82.  
(Closing  
time of  
mixed  
shops.)

- (g) (i) by inserting in paragraph (a) of subsection one of section eighty-two after the word "shop" where secondly occurring the words ", after-hours pharmacy or special pharmacy";
- (ii) by inserting at the end of the same paragraph the following words :—

For the purposes of this paragraph the class consisting of after-hours pharmacies shall be deemed not to be a class of shops.

Sec. 84.  
(Trading  
hours of  
shops on  
Sunday.)

- (h) (i) by inserting in subsection two of section eighty-four after the words "scheduled shop" the words ", other than after-hours pharmacies or special pharmacies,";
- (ii) by inserting in subsection three of the same section after the words "scheduled shops" the words ", other than after-hours pharmacies or special pharmacies,";

Sec. 85.  
(Matters to  
be dealt  
with in  
awards.)

- (i) (i) by inserting in paragraph (a) of subsection one of section eighty-five after the words "chemists' shops," the words "after-hours pharmacies, special pharmacies,";
- (ii) by inserting in paragraph (e) of the same subsection after the words "small shops" the words ", after-hours pharmacies and special pharmacies";
- (iii) by inserting in subsection three of the same section after the word "shops" the words ", after-hours pharmacies or special pharmacies";

Sec. 86.  
(Offences.)

- (j) (i) by inserting in paragraph (a) of subsection one of section eighty-six after the word "shop" where firstly occurring the words ", other than an after-hours pharmacy";

(ii)

- (ii) by inserting in paragraph (b) of the same subsection after the word "shop" where firstly occurring the words "(other than an after-hours pharmacy)";
- (iii) by omitting from subsection two of the same section the word "Where" and by inserting in lieu thereof the words "Subject to sections 89A and ninety of this Act, where";
- (k) by inserting next after section eighty-nine the following new section : —

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New sec.  
89A.

89A. No person shall be guilty of an offence against this Act by reason only that a shop being a chemist's shop or after-hours pharmacy, or that a warehouse wherein medicinal or surgical goods were sold or offered or exposed for sale, was open on any day at a time (in this subsection referred to as a non-trading time) when such shops or warehouses are required by or under this Act to be kept closed, if—

Sale of  
medicinal  
or surgical  
goods.

- (a) the only purpose of such opening was the sale of medicinal or surgical goods in accordance with the order or prescription of a medical practitioner or required urgently, and no goods other than medicinal or surgical goods either—
- (i) specified in such an order or prescription produced by a person seeking to buy those goods to a person acting in the conduct of the business of the shop or warehouse; or
- (ii) which a person seeking to buy those goods stated to a person so acting to be required for a specified urgent purpose,

were sold in the shop or warehouse during the non-trading times on that day; and

(b)



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(b) the door of the shop or warehouse was kept closed and fastened at all non-trading times on that day except when—

(i) a person admitted to the shop or warehouse for the purpose of the sale of medicinal or surgical goods as referred to in paragraph (a) of this subsection;

(ii) a person referred to in paragraph (a) of subsection one of section ninety of this Act; or

(iii) a customer referred to in the proviso to subsection two of section eighty-six of this Act,

was entering or leaving the shop or warehouse.

Sec. 90.  
(Defences.)

(1) (i) by omitting paragraph (c) of subsection one of section ninety;

(ii) by inserting in subsection two of the same section after the words "of this Act" the words "or as a special pharmacy pursuant to section 76B of this Act";

(iii) by omitting from the same subsection the words "that section" where firstly occurring and by inserting in lieu thereof the words "the said section 76A or was a special pharmacy as defined in subsection one of the said section 76B";

(iv) by omitting from paragraph (a) of the same subsection the words "that section" and by inserting in lieu thereof the words "the said section 76A or in accordance with that subsection as applied and modified by the said section 76B";

(m)

- (m) (i) by inserting in section ninety-four after the words "of this Act" the words ", after-hours pharmacies as defined by section seventy-eight of this Act or special pharmacies as defined by section 76B of this Act";

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Sec. 94.  
(Trading hours for automatic vending devices.)

- (ii) by inserting at the end of the same section the following new subsection : —

(2) Where goods offered or exposed for sale in an automatic vending device in any area are goods of the kind usually the subject of trade in after-hours pharmacies as defined by section seventy-eight of this Act, or special pharmacies as defined by section 76B of this Act, and the automatic vending device is not kept closed at any time when chemists' shops in that area are required by or under this Act to be kept closed, the owner of the device and the occupier of the premises in which the device is situated shall be guilty of an offence against this Act.

- (n) by inserting at the end of section one hundred and two the following new paragraph :—

Sec. 102.  
(Regulations.)

- (c) requiring the shopkeeper of a shop, being a chemist's shop, after-hours pharmacy as defined by section seventy-eight of this Act or special pharmacy as defined by section 76B of this Act, to exhibit whenever the shop is closed, a notice containing the prescribed information as to a place where and means whereby medicinal and surgical goods may be obtained, and prescribing the place and manner in which any such notice shall be exhibited.

- (o) by inserting in Schedule Three after the words "Chemists' shops" the following words :—

Schedule Three.

"After-hours pharmacies.  
Special pharmacies."

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**No. 58, 1966**      **3.** The Pharmacy Act, 1964, as amended by the Decimal  
Amendment      Currency Act, 1965, is amended—  
of Act No.  
48, 1964.

Sec. 3.  
(Interpre-  
tation.)

- (a) by inserting in section three next before the definition of "Board" the following new definition :—

"After-hours pharmacy" has the meaning ascribed thereto by section seventy-eight of the Factories, Shops and Industries Act, 1962, as amended by subsequent Acts.

Sec. 4.  
(Pharmacy  
Board of  
New South  
Wales.)

- (b) by omitting from subsection one of section four the words "in addition to exercising and performing the powers, authorities, duties and functions conferred or imposed upon it by this Act, administer the Poisons Act, 1952, as amended by subsequent Acts" and by inserting in lieu thereof the words "exercise and perform the powers, authorities, duties and functions conferred or imposed upon it by this Act";

Sec. 25.  
(Persons  
other than  
practising  
pharmacists  
not to have  
interest in  
pharmacists'  
business.)

- (c) by inserting at the end of paragraph (e) of subsection two of section twenty-five the following word and new paragraph :—

; or

- (f) any person, corporation or body of persons unincorporated who or which is carrying on the business of a pharmacist from carrying on, in partnership with one or more other such persons, corporations or bodies, not more than one after-hours pharmacy in addition to that business of a pharmacist.

(d)

- (d) by inserting next after subsection three of section No. 58, 1966 twenty-six the following new subsection :—

Sec. 26.

(3A) A practising pharmacist shall not be guilty of an offence against this section by reason only of his carrying on, as a partner, not more than one after-hours pharmacy in addition to any business of a pharmacist that he is lawfully carrying on.

(Practising pharmacists not to carry on business in more than one shop.)

- (e) by inserting next after paragraph (h) of subsection one of section thirty-eight the following new paragraph :—

Sec. 38.  
(Regulations.)

(ha) the establishment and conduct of after-hours pharmacies, the formation of partnerships for the purposes of establishing such pharmacies, the admission of additional partners, the holding and transfer of shares in such partnerships, the provisions to be included in agreements for the formation of such partnerships and any other matters relating to such partnerships.

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