

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

**New South Wales**



ANNO OCTAVO DECIMO

**ELIZABETHÆ II REGINÆ**

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**Act No. 62, 1969.**

An Act to make further provisions in respect of the employment and safety of persons in factories, the fees payable for the registration of factories and shops, the sale of goods from automatic vending devices, and the early closing of shops; to abolish tobacco licenses; for these and other purposes to amend the Factories, Shops and Industries Act, 1962; and for purposes connected therewith. [Assented to, 6th November, 1969.]

BE

*Factories, Shops and Industries (Amendment).*

**B**E it enacted by the Queen's Most Excellent Majesty, by No. 62, 1969 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 (Amendment) Act, 1969". Short title.

(2) The Factories, Shops and Industries Act, 1962, is in this Act referred to as the Principal Act.

2. The Principal Act is amended—

- (a) by inserting in subsection four of section twenty-nine after the words "requirements of" the words "subsection one or two of";
- (b) by inserting next after subsection five of the same section the following new subsections :—

Amendment  
of Act No.  
43, 1962.

Sec. 29.  
(Construc-  
tion, sale  
and use of  
new  
machinery.)

(5A) The regulations may prescribe the guards or fences with which any prescribed machine or machinery is to be fitted at the time it is sold or let on hire for use in a factory.

(5B) Any person who sells or lets on hire, or as agent of the seller or hirer causes or procures to be sold or let on hire, for use in a factory in New South Wales—

- (a) any machine prescribed as a machine to which this paragraph applies, if it is not fitted with such guards or fences that, when the machine is in motion or use and the guards or fences are properly adjusted, persons will thereby be prevented from coming into contact with dangerous parts of the machine at every place on or in the machine where any operation or process is carried out by means of the machine; or

(b)

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- (b) any machine or machinery not fitted with such guards or fences as are prescribed under subsection (5A) of this section in relation thereto,

shall be guilty of an offence against this Act.

- (c) by omitting from subsection six of the same section the words "New South Wales before the commencement of this Act" and by inserting in lieu thereof the following words :—

New South Wales—

- (i) where the offence is not an offence against subsection (5B) of this section—before the commencement of this Act ;
- (ii) where the offence is an offence against paragraph (a) of subsection (5B) of this section—before the prescription of the machine to which the charge relates as a machine to which that paragraph applies ;  
or
- (iii) where the offence is an offence against paragraph (b) of subsection (5B) of this section—before the commencement of the regulations prescribing the guards and fences to which the charge relates.

Further amendment of Act No. 43, 1962.

Sec. 45.  
(Means of escape from and extinguishing fires.)

3. The Principal Act is further amended—

- (a) by inserting next after subsection four of section forty-five the following new subsection :—

(4A) Where, in the opinion of an inspector, it is desirable that steps be taken by way of structural alterations, change of location of fixtures, fittings, plant or materials, or otherwise, to facilitate the escape in case of fire of persons from a factory in a building having only one floor, or from a factory

or

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or part of a factory on the ground floor of a building, he shall report accordingly to the Chief Inspector who may by notice in writing direct the occupier of the factory to take, within a time specified in the notice, such steps to facilitate such escape as are so specified. No. 62, 1969

Where the requirements of such a notice are not complied with within the time for compliance specified therein the factory shall be deemed not to be kept in conformity with this Act.

- (b) by inserting in paragraph (c) of subsection one of section seventy-three after the words "a building inspector," the words "an officer of a fire brigade established and maintained under the Fire Brigades Act, 1909, or any Act amending or replacing that Act," Sec. 73.  
(Powers of Inspectors.)

4. The Principal Act is further amended—

Further  
amendment  
of Act No.  
43, 1962.

- (a) by omitting from paragraph (c) of the definition of "Small shop" in subsection one of section 76A the words "The number" and by inserting in lieu thereof the words "Except during a period of exemption specified in an order for the time being in force under section 89B of this Act in respect of an area or locality within which the shop is situated, the number"; Sec. 76A.  
(Small shops.)
- (b) (i) by omitting from subsection one of section eighty-five the words "Subject to subsection two" and by inserting in lieu thereof the words "Subject to subsections two and four"; Sec. 85.  
(Matters to be dealt with in awards.)
- (ii) by inserting at the end of the same section the following new subsection :—
- (4) Nothing in this section shall restrict or affect the power of the Industrial Commission of New South Wales, a Conciliation Commissioner

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Commissioner or a conciliation committee to fix by award such times as it or he may think proper for the commencement or cessation of the ordinary hours of work by employees in—

- (a) any shops in any area or locality in respect of which an order under section 89B of this Act is in force and during a period of exemption specified in the order;
- (b) any hairdresser's shop for the time being exempted from this Division of this Part of this Act pursuant to section 89C of this Act;
- (c) any shop lawfully open by virtue of section 89D of this Act.

(c) by inserting next after section 89A the following new sections :—

New secs.  
89B, 89C  
and 89D.

Exemption  
of holiday  
resorts.  
cf. Vic. Act  
No. 6283,  
s. 80A.

89B. (1) The Minister, on application being made pursuant to this section and where he is satisfied that the area or a part of the area of a municipality or shire outside the County of Cumberland, the City of Newcastle and the City of Greater Wollongong—

- (a) is, or is within, a holiday resort; and
- (b) during the period or periods of the year specified in the application or any part of that period or those periods usually has a holiday population that is large by comparison with its normal resident population,

may, subject to this section and for that period or those periods, or some part thereof, as he thinks fit, by order exempt the shops in that area or part thereof, as the case may be, from the provisions of this Division of this Part of this Act subject to such conditions as to hours of opening, or of trading in any classes of goods, or as to other matters, as may be specified in the order.

(2)

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(2) An application for an order under this section may be made to the Minister only by the council of the municipality or shire of the area or part thereof in respect of which the order is sought and shall—

- (a) state the reasons therefor ;
- (b) specify the area or locality in respect of which, and the period or periods in each year for which, it is desired that the exemption shall be in force ;
- (c) specify the times at which it is desired that shops be allowed to remain open, or to trade in any class or classes of goods, pursuant to the exemption ; and
- (d) state whether, and if so to what extent, the application has the support or concurrence of the shopkeepers of shops situated within the area or locality.

The period or periods specified pursuant to paragraph (b) of this subsection shall be an unbroken period not longer than, or more than one period totalling not more than, fifteen weeks and shall be the same period or periods in each year.

(3) The Minister shall not make an order under this section until he has obtained, and has considered, a report by the prescribed person as to whether or not the area or locality specified in the application for the order is, or is within, a holiday resort and, if so, whether during the period or periods so specified that area or locality usually has a holiday population that is large by comparison with its normal resident population.

In this subsection "the prescribed person" means the person for the time being holding, or acting in, the office of Director of Tourism or, where the holder of some other office is prescribed for the purposes of this subsection, the person for the time being holding or acting in that office.

(4)

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(4) An order under this section—

- (a) shall be published in the Gazette;
- (b) shall, until revoked and subject to any variation thereof that may from time to time be made, remain in force from year to year in respect of the period of exemption specified therein,

and any revocation or variation thereof shall also be so published.

(5) No person shall be guilty of an offence against this Act by reason only that a shop within an area or locality in respect of which an order under this section was for the time being in force was open at a time within the period of exemption specified in that order and in accordance with the conditions, if any, so specified.

Hairdressers' shops at transport terminals.

89c. (1) The Minister, on application being made to him by the shopkeeper of a hairdresser's shop, and where he is satisfied that the shop—

- (a) is situated at or near a railway station, shipping wharf, air transport terminal, or other place to or from which persons are customarily conveyed by rail, ship, aircraft or other means of transport;
- (b) is bona fide conducted for the sole or major purpose of performing hairdressing services for persons requiring those services on the completion of or in preparation for journeys of long duration; and
- (c) is so fitted out and equipped as to provide a suitable standard of comfort and amenity,

may by order exempt that shop from the provisions of this Division of this Part of this Act subject to such conditions, if any, as are specified in the order and either without limitation of time or for a period so specified.

(2)

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(2) No person shall be guilty of an offence **No. 62, 1969** against this Act by reason only that a shop was open at a time when an order under this section in respect of that shop was in force and in accordance with the conditions, if any, specified in that order.

89D. No person shall be guilty of an offence **Sale of sporting requisites.** against this Act by reason only that a shop was open at any time, where—

- (a) that shop was at that time situated in or upon premises where a game or sport was at that time being or about to be carried on; and
- (b) the goods sold or exposed or offered for sale in the shop at that time—
  - (i) consisted of requisites for the carrying on of that game or sport in or upon those premises; or
  - (ii) included such requisites and no such offence would have been committed if no such requisites had been sold or exposed or offered for sale in the shop at that time.

**5. The Principal Act is further amended—**

**Further amendment of Act No. 43, 1962.**

- (a) by inserting in section two in the matter relating to **Part IV** after the word “INDUSTRIES” the words **“, AND USE OF AUTOMATIC VENDING DEVICES”**; and **Sec. 2. (Division into Parts and Divisions.)**
- (b) by inserting in the heading to **Part IV** after the word “INDUSTRIES” the words **“, AND USE OF AUTOMATIC VENDING DEVICES”**; **Heading to Part IV.**

(c)



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New sec.  
94A.Sale of  
certain  
goods by  
means of  
automatic  
vending  
devices.

- (c) by inserting next after section ninety-four the following new section :—

94A. Where in any automatic vending device there are offered or exposed for sale any goods of a class prescribed by the regulations as goods which in the public interest should not be sold by means of such devices, the owner of the device and the occupier of any premises in or upon which it is situated shall be guilty of an offence against this Act.

Sec. 102.  
(Regulations.)

- (d) by omitting from paragraph (c) of section one hundred and two the word "exhibited" and by inserting in lieu thereof the following words :—

exhibited;

- (d) prescribing classes of goods as goods which in the public interest should not be sold by means of automatic vending devices.

Further  
amendment  
of Act No.  
43, 1962.Sec. 2.  
(Division  
into Parts  
and  
Divisions.)Part IV,  
Division 6.  
(Hours of  
work in  
furniture  
factories.)

6. (1) The Principal Act is further amended—

- (a) by omitting from the matter relating to Part IV in section two the matter relating to Division 6;

- (b) by omitting Division 6 of Part IV.

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

Further  
amendment  
of Act No.  
43, 1962.Sec. 2.  
(Division  
into Parts  
and  
Divisions.)

7. The Principal Act is further amended—

- (a) by omitting from section two the matter relating to Part V;

(b)

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(b) by omitting Part V.

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Part V.  
(Tobacco  
licenses.)

8. The Principal Act is further amended by omitting paragraph (b) of subsection one of section one hundred and forty-five and by inserting in lieu thereof the following paragraph :—

Further  
amendment  
of Act No.  
43, 1962.  
Sec. 145.  
(Proceed-  
ings.)

(b) the person specified in a certificate issued under paragraph (b) of subsection one of section 10A of the Industrial Arbitration Act, 1940, where—

- (i) the certificate specifies that that person is the secretary of a specified industrial union ;  
and
- (ii) members of that industrial union are engaged in the industry concerned.

9. The Principal Act is further amended—

Further  
amendment  
of Act No.  
43, 1962.

(a) by omitting from subsection one of section one hundred and forty-eight the words “the Under Secretary” where firstly occurring and by inserting in lieu thereof the words “the prescribed person”;

Sec. 148.  
(Evidentiary  
provisions.)

(b) by inserting at the end of the same subsection the following words :—

In this subsection “the prescribed person” means the officer having ordinarily the custody of the documents and records relating to the registrations, or the issue of the certificates, permits, or licenses, or the receipt of the notices, as the case may be, which are of the class to which the registration, certificate, permit, license, or notice, as the case may be, referred to in the statement belongs.

10.

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No. 62, 1969  
Further amendment of Act No. 43, 1962. Schedule Two.

**10.** The Principal Act is further amended by omitting from Schedule Two the figures "2", "4", "10", "16", "20", "30" and "60" wherever occurring and by inserting respectively in lieu thereof the figures "4", "6", "15", "25", "30", "45" and "90".

Further amendment of Act No. 43, 1962.

**11.** The Principal Act is further amended—

Sec. 76A. (Small shops.)

(a) (i) by omitting paragraph (g) of the definition of "Small shop" in subsection one of section 76A and by inserting in lieu thereof the following paragraph :—

(g) The only goods sold or exposed or offered for sale in the shop shall be—

(i) the goods specified in Clauses (1) and (2) of Schedule 3A to this Act, or some of them; and

(ii) where the shop is in an area described in Column (a) of Clause (3) of that Schedule, the goods specified in Column (b) of that Clause opposite the description of that area, or some of them.

(ii) by inserting in subsection two of the same section after the figure and symbols "(2)" the word, figure and symbols "or (3)";

(iii) by inserting in the same subsection after the word "goods" wherever occurring the words "or areas";

(iv) by inserting in the same subsection after the word "same" the words "and an area may be described in such a proclamation by excluding an area from a larger area";

(b)

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- (b) by inserting at the end of Schedule 3A the following new Clause :—

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Schedule 3A.

## Clause (3).

Column (a).

Column (b).

New South Wales, excluding the County of Cumberland, the City of Newcastle and the City of Greater Wollongong.	}	Fruit and vegetables.
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## 12. (1) The Principal Act is further amended—

Further amendment of Act No. 43, 1962.

- (a) by omitting from subsection three of section thirty-three the words “male under eighteen years of age and no female” and by inserting in lieu thereof the words “person under eighteen years of age”;
- (b) (i) by omitting from subsection one of section fifty-one the words “males under the age of sixteen years or of females” and by inserting in lieu thereof the words “persons under the age of sixteen years”;
- (ii) by omitting from the same section the words “No male under eighteen years of age and no female” wherever occurring and by inserting in lieu thereof the words “No person under eighteen years of age”;

Sec. 33.  
(Lifts and openings.)

Sec. 51.  
(Employment of females and young persons in connection with machinery.)

(c)

*Factories, Shops and Industries (Amendment).***No. 62, 1969****Sec. 52.**

(Intervals for meal and rest in certain cases.)

(c) by omitting section fifty-two;

**Sec. 53.**

(Working of overtime by females and young persons.)

(d) by omitting section fifty-three;

**Sec. 54.**

(Employment of females and young persons at night.)

(e) (i) by omitting from subsection one of section fifty-four the words "no male under sixteen years of age and no female" and by inserting in lieu thereof the words "no person under sixteen years of age";

(ii) by omitting from the same subsection the words ", and subject to the restrictions contained in section fifty-three of this Act" and by inserting in lieu thereof the words "the working of which is permitted by an award or industrial agreement made or filed under the Industrial Arbitration Act, 1940";

**Sec. 61.**

(Application of certain provisions to shops.)

(f) by omitting from subsection one of section sixty-one the word ", fifty-three".

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