

1992—No. 475

**FACTORIES, SHOPS AND INDUSTRIES ACT 1962—
REGULATION**

(Shops (Trading Hours) Regulation 1992)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Factories, Shops and Industries Act 1962, has been pleased to make the Regulation set forth hereunder.

J. P. HANNAFORD
Attorney General and Minister for Industrial Relations.

Citation

1. This Regulation may be cited as the Shops (Trading Hours) Regulation 1992.

Commencement

2. This Regulation commences on 1st September, 1992.

Definitions

3. In this Regulation:

“**Director-General**” means the Director-General of the Department of Industrial Relations, Employment, Training and Further Education;

“**the Act**” means the Factories, Shops and Industries Act 1962.

Classification of trades

4. In respect of each class of shops specified in Schedule 1:

(a) the trade that consists primarily of the sale of goods of a kind specified in that Schedule in respect of that class of shops is, for

the purposes of Part 4 of the Act, to be taken to be the trade usually carried on in that class of shops; and

- (b) no other trade is to be taken to be a trade usually carried on in that class of shops.

General shops

5. For the purposes of the definition of “General shop” in section 78 (1) of the Act, all shops (other than scheduled shops) are classified as general shops.

Exemption from Division 3 of Part 4 of the Act

6. (1) An application under section 78A (1) of the Act:

- (a) must be in writing; and
- (b) must specify whether exemption is sought:
- (i) from all of the provisions of Division 3 of Part 4 of the Act and of the provisions of the regulations made for the purposes of that Division; or
- (ii) from such provisions only of that Division or of those regulations as are specified in the application; and
- (c) must specify the grounds on which the exemption is sought.

(2) The fee to accompany an application under section 78A (1) of the Act is \$50.

(3) For the purposes of section 78A (10) of the Act, an appeal by a shopkeeper or occupier of a shop to the Industrial Court against a determination of the Director-General is to be made.

- (a) in accordance with the Industrial Court (Interim) Rules 1992; and
- (b) within the time set out in Rule 1 (2) of Part 7 of those rules

Partitioning off of goods in mixed shops

7. (1) For the purposes of section 82 of the Act, the prescribed manner of partitioning off goods is by enclosing the goods behind a partition which is constructed from strong and durable materials and is of sufficient height to prevent access from the part of the shop that is kept open

(2) The Director-General may from time to time approve materials for use in the construction of partitioning, and the dimensions of partitions to be used, for purposes of this clause.

(3) A partition which is constructed from approved materials and is of approved dimensions is taken to comply with the requirements of subclause (1).

Repeals etc.

8. (1) The Shops (Registration and Opening and Closing Hours) Regulations are repealed.

(2) In any award, agreement, order or determination in force under the Industrial Relations Act 1991 immediately before the commencement of this Regulation, a reference to a class of shops referred to in Schedule 2 to the Shops (Registration and Opening and Closing Hours) Regulations continues to be a reference to the class of shops so referred to as if those Regulations had not been repealed.

SCHEDULE 1—CLASSIFICATION OF SHOPS

(C14.)

Audio shops	Records, compact discs or blank or pre-recorded audio cassettes or audio tapes.
Book shops	Book, periodicals or magazines, whether or not those goods are sold in conjunction with the sale of stationery requisites.
Chemists' shops	Drugs, chemicals, medicines or other pharmaceutical goods, where those goods are sold by a registered pharmacist under the Pharmacy Act 1964.
Confectioners' shops.....	Confectionery.
Cooked food shops, being	
(a) Cake and pastry shops.....	Cakes, pastries or pies.
(b) Cooked provision shops.....	Cooked or other processed meats, poultry or preserves.
(c) Refreshment shops.....	Light refreshments, milk, soft drinks, hot beverages or confectionery.

1992—No. 475

(d) Restaurants	Meals, snacks or hot or cold beverages, where those goods are sold for consumption on the premises.
(e) Take-away food shops	Meals, snacks or hot or cold beverages, where those goods are sold for consumption elsewhere than on the premises.
Fish shops	Cooked or uncooked fish or shellfish.
Flower shops	Cut flowers, plants, seeds, seedlings, wreaths, bouquets or other floral emblems.
Fruit and vegetable shops	Fresh fruit or vegetables.
Garden plant shops	Garden plants or shrubs, seeds, garden equipment or associated products.
General shops	Any goods other than goods prescribed in respect of any other class of shops specified in this Schedule.
Newsagencies	Newspapers, periodicals and magazines, whether or not those goods are sold in conjunction with the sale of books, stationery, cards, educational requisites or souvenirs.
Pet shops	Live animals, birds, reptiles, fish, pet food or pet accessories.
Souvenir shops	Souvenirs and gift items.
Tobacconists' shops	Tobacco, cigarettes or cigars, whether or not those goods are sold in conjunction with the sale of pipes or other smoking requisites or accessories.
Vehicle service shops	Motor spirit, motor oil or vehicle accessories.
Vehicle shops	Cars, trucks, motorcycles, boats, caravans or trailers, whether or not those goods are sold in conjunction with the sale of accessories or parts.
Video shops	Blank or pre-recorded video cassettes or video tapes.

TABLE OF PROVISIONS

1. Citation
2. Commencement
3. Definitions
4. Classification of trades
5. General shops
6. Exemption from Division 3 of Part 4 of the Act
7. Partitioning off of goods in mixed shops
8. Repeals etc.

SCHEDULE 1—CLASSIFICATION OF SHOPS

EXPLANATORY NOTE

The object of this Regulation is to repeal and remake, without any major changes, the provisions of the Shops (Registration and Opening and Closing Hours) Regulations. The provisions of the new Regulation deal with:

- (a) the classification of trades for the purposes of Part 4 of the Factories, Shops and Industries Act 1962; and
- (b) the classification of shops as “general shops” for the purposes of Part 4 of that Act; and
- (c) applications for exemptions from the provisions of Division 3 of Part 4 of that Act (Opening and closing hours of shops and warehouses and the manner and timing of an appeal against the Director-General’s determination); and
- (d) partitioning off of goods in mixed shops.

This Regulation is made in connection with the staged repeal of subordinate legislation under Part 3 of the Subordinate Legislation Act 1989.
