



New South Wales

# Retail Trading Amendment Regulation 2011

under the

Retail Trading Act 2008

The Administrator, with the advice of the Executive Council, has made the following Regulation under the *Retail Trading Act 2008*.

PAUL LYNCH, MP  
Minister for Industrial Relations

## Explanatory note

The objects of this Regulation are:

- (a) to reduce the period of public exhibition for applications to exempt shops from trading restrictions from 21 to 14 days, and
- (b) to amend the prescribed form for making applications to exempt shops from trading restrictions to better reflect requirements under section 10 of the *Retail Trading Act 2008*.

This Regulation is made under the *Retail Trading Act 2008*, including sections 11 (1) and 22 (the general regulation-making power).

## **2011 No 95**

Clause 1          Retail Trading Amendment Regulation 2011

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## **Retail Trading Amendment Regulation 2011**

under the

Retail Trading Act 2008

### **1 Name of Regulation**

This Regulation is the *Retail Trading Amendment Regulation 2011*.

### **2 Commencement**

This Regulation commences on the day on which it is published on the NSW legislation website.

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## **Schedule 1      Amendment of Retail Trading Regulation 2009**

**[1]    Clause 4 Public review period for exemption applications**

Omit “21” from clause 4 (1) (a). Insert instead “14”.

**[2]    Clause 4 (3)**

Insert after clause 4 (2):

- (3) This clause as amended by the *Retail Trading Amendment Regulation 2011* extends to an application for an exemption made but not finally determined before the commencement of the amendment.

**[3]    Schedule 1 Application form**

Omit the Schedule. Insert instead:

### **Schedule 1      Application form**

#### **Application for retail trading on restricted trading days**

Retail Trading Act 2008

##### **Applicant’s details**

Applicant’s name:

Business name:

Trading name:

ABN/ACN:

Particulars of shop/s for which you are seeking an exemption:

##### **Contact details**

Street address: [*include city/town and postcode*]

Postal address: [*if different from above*]

Telephone number: [*include area code*]

Fax number:

Email address:

Person making the application:

Position title:

## 2011 No 95

Retail Trading Amendment Regulation 2011

Schedule 1 Amendment of Retail Trading Regulation 2009

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### Details of exemption being sought

Please identify the restricted trading day/s for which you are seeking an exemption:

- Good Friday
- Easter Sunday
- Before 1pm on ANZAC Day
- Christmas Day
- Boxing Day

Is the exemption for:

- a specific day or days, being [*specify the date or dates*], or
- a specific period of up to three years, being [*specify the period in years*]

### Information required to support the application

**Important note.** In the case of an application for an exemption relating to more than one shop or restricted trading day, the information below should be provided separately for each shop and day.

Please specify the shop and restricted trading day to which the information below relates:

Please nominate the proposed trading hours:

Commencing at: [am/pm]

Closing at: [am/pm]

**Note.** The Director-General of the NSW Department of Services, Technology and Administration may only grant an exemption if satisfied that it is, in the exceptional circumstances of the case, in the public interest to approve this application.

Please specify the exceptional circumstances in support of your exemption application for the shop and restricted trading day specified above:

**Note.** "Exceptional circumstances" must be more than "special circumstances" to satisfy the requirements under section 10 (2) of the *Retail Trading Act 2008*. For guidance on the test for "exceptional circumstances", please refer to *Dwyer v Department of Services, Technology and Administration and Kmart Australia Limited* [2010] NSWADT 312.

To determine whether the exemption sought is in the public interest, please answer the following questions:

1. What is the nature of the business and kinds of goods sold?\*
2. What is the need for the shop to be open on the restricted trading day?\*
3. What is the likely effect on the local economy, tourism, small businesses and other businesses in the area if the exemption is granted?\*
4. What is the likely effect on employees or persons working in the shop if the exemption is granted?\*

**Note.** The Director-General of the NSW Department of Services, Technology and Administration will have regard to each of the matters asterisked above in determining whether the exemption sought is in the public interest.

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Employees working on the restricted trading day will be employed under which industrial instrument/s?

Number of employees likely to work in the shop if the exemption is granted? [*insert number*]

**Note.** This application will be put on public exhibition by the Director-General of the NSW Department of Services, Technology and Administration.

It is an offence to fail to comply with any conditions imposed on an exemption by the Director-General.

[*signature*]

[*date*]