



New South Wales

# Retail Trading Regulation 2014

under the

Retail Trading Act 2008

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Retail Trading Act 2008*.

ANDREW CONSTANCE, MP  
Minister for Industrial Relations

## Explanatory note

The object of this Regulation is to remake, with minor changes, the *Retail Trading Regulation 2009*, which is repealed on 1 September 2014 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation prescribes the following:

- (a) the Sydney Trading Precinct,
- (b) the form to be used for an application for exemption from trading restrictions,
- (c) the form of public consultation that must be carried out before determining such an exemption application.

This Regulation is made under the *Retail Trading Act 2008*, including sections 4 (3), 11 (1) (a) and 22 (the general regulation-making power).

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, being matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public and matters of a machinery nature.

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## Retail Trading Regulation 2014

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### 1 Name of Regulation

This Regulation is the *Retail Trading Regulation 2014*.

### 2 Commencement

This Regulation commences on 1 September 2014 and is required to be published on the NSW legislation website.

**Note.** This Regulation replaces the *Retail Trading Regulation 2009* which is repealed on 1 September 2014 by section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Definition

In this Regulation:

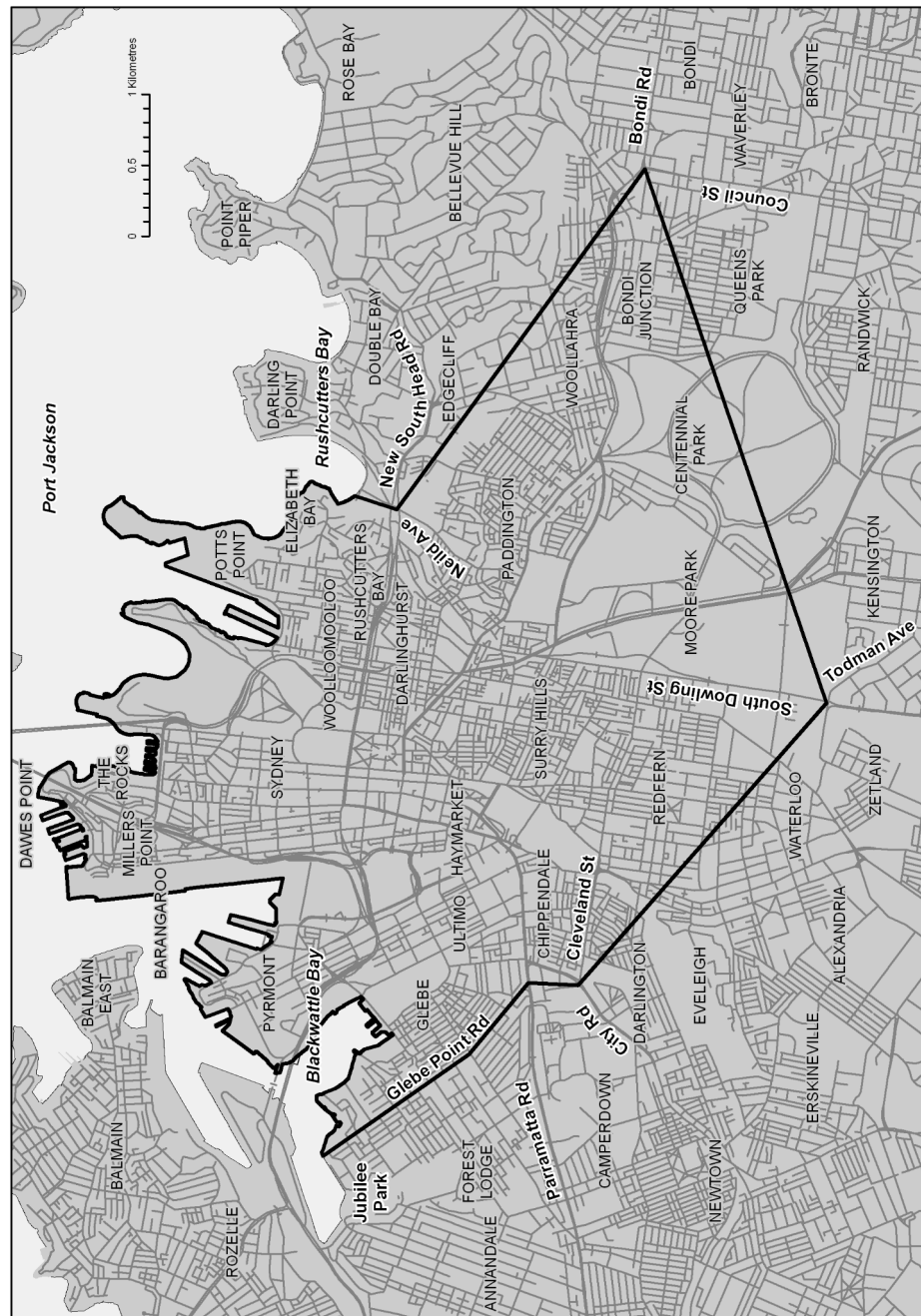
*the Act* means the *Retail Trading Act 2008*.

### 4 Sydney Trading Precinct

For the purpose of section 4 (3) of the Act, the Sydney Trading Precinct is the precinct described as:

- (a) having a northern boundary composed by the southern shoreline of Port Jackson Harbour, extending from Rushcutters Bay to Jubilee Park at Blackwattle Bay, and
- (b) having a western boundary extending from Jubilee Park at Blackwattle Bay, along the western side of Glebe Point Road to Parramatta Road, and then in a direct line to the corner of City Road and Cleveland Street, Chippendale, and
- (c) having a south-western boundary extending from the corner of City Road and Cleveland Street, Chippendale, proceeding in a direct line to the corner of South Dowling Street and Todman Avenue, Kensington, and
- (d) having a south-eastern boundary from the corner of South Dowling Street and Todman Avenue, Kensington, proceeding in a direct line to the corner of Council Street and Bondi Road, Bondi Junction, and
- (e) having a north-eastern boundary from the corner of Council Street and Bondi Road, Bondi Junction, proceeding in a direct line to the corner of New South Head Road and Neild Avenue, Rushcutters Bay, and then in a direct line due north to the southern shoreline of Port Jackson Harbour.

**Note.** An illustration of the above description is as follows:



**5 Application for exemption**

An application for exemption is to be in the form set out in Schedule 1.

**6 Public review period for exemption applications**

Before determining an application for an exemption under Division 2 of Part 3 of the Act, the Director-General must:

- (a) cause the application to be publicly exhibited for a period of at least 14 days, and

- (b) seek public comment on the application during the period of public exhibition,  
and
- (c) have regard to any public comment received during that period.

**7 Savings**

Any act, matter or thing that, immediately before the repeal of the *Retail Trading Regulation 2009*, had effect under that Regulation continues to have effect under this Regulation.

## Schedule 1 Application form

### Application for retail trading on restricted trading days

Retail Trading Act 2008

#### Applicant's details

Applicant's name: *[name of company/sole trader/partnership]*

Business/trading name:

ABN/ACN:

#### Contact details

Person making the application: *[contact name]*

Position title:

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

Postal address: *[if different from above]*

Telephone number: *[include area code]*

Fax number:

Email address:

#### Name and location of the shop/s subject of this application

State the name and full street address (including city/town and postcode) of the shop/s for which you are seeking an exemption:

#### 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. If insufficient space has been provided, attach additional numbered sheets.

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

Nominate the proposed trading hours:

Commencing at: *[am/pm]*

Closing at: *[am/pm]*

**Note.** An exemption may only be granted if it is, in the exceptional circumstances of the case, in the public interest to do so. "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", refer to *Dwyer v Department of Services, Technology and Administration and Kmart Australia Limited* [2010] NSWADT 312.

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

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

1. What is the nature of the shop and the kinds of goods sold?
2. Why does the shop need to be kept 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? (In your response, indicate the number of employees likely to work on the restricted trading day if the exemption is granted and specify the industrial instruments (including agreement number/s) under which employees working on the day will be employed.)

**Note.** Regard will be had to each of the matters listed above in determining whether the exemption sought is in the public interest. This application will be put on public exhibition. It is an offence to fail to comply with any conditions imposed on an exemption.

[signature]

[date]