

New South Wales

Hairdressers Bill 2003

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to prohibit unqualified people from acting as hairdressers.

At present, Part 6 of the *Shops and Industries Act 1962* requires hairdressers to be licensed and prevents people from employing or engaging unlicensed hairdressers. The scheme under Part 6 also provides that only the TAFE Commission can run hairdressing courses.

This Bill removes the licensing system and the prohibition on employing or engaging unlicensed hairdressers and allows other trainers to provide training in hairdressing. However, the Bill continues to prevent unqualified people from hairdressing by specifying the qualifications required to act as a hairdresser for fee, gain or reward.

This Bill arises as a result of the departmental review of Part 6 of the *Shops and Industries Act 1962*, conducted in the context of a National Competition Policy review.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Part 2 Hairdressers must be qualified

Clause 3 prohibits an unqualified individual from acting as a hairdresser for fee, gain or reward.

Clause 4 explains that an individual is *qualified to act as a hairdresser* if the individual has the qualifications required by the proposed section. An individual who has what is known as a Certificate III in Hairdressing is qualified to act as a hairdresser. That certificate forms part of the National Hairdressing Training Package developed by the National Wholesale, Retail and Personal Services Industry Training Council, endorsed by the National Training Quality Council (established by the Australian National Training Authority) and placed on the National Training Information Service. In addition, an individual who held a licence under Part 6 of the *Shops and Industries Act 1962* is taken to be qualified under the proposed Act, as are hairdressers from interstate or overseas who have their qualifications recognised.

Part 3 Miscellaneous

Clause 5 provides that the proposed prohibition on an unqualified individual acting as a hairdresser does not apply to apprentices, health care professionals and certain other individuals.

Clause 6 makes it clear that nothing in the proposed Act affects the *Apprenticeship and Traineeship Act 2001*.

Clause 7 provides for the service of a notice on an individual suspected of acting as a hairdresser without qualifications. Such a notice would require the individual to give information or provide documents regarding his or her qualifications.

Clause 8 provides for proceedings for offences under the proposed Act to be dealt with summarily before a Local Court and that proceedings for offences may be instituted only by the Minister or a person authorised by the Minister.

Clause 9 empowers the Governor to make regulations under the proposed Act.

Clause 10 is a formal provision that gives effect to the amendments to the *Shops and Industries Act 1962* set out in Schedule 1. Those amendments remove the licensing requirements under that Act, the requirement that only the TAFE Commission can run hairdressing courses and references to those requirements elsewhere in that Act.

Clause 11 repeals the *Hairdressing Regulation 1997* as a consequence of the repeal of the licensing requirements under the *Shops and Industries Act 1962*.

Clause 12 provides for the review of the proposed Act.

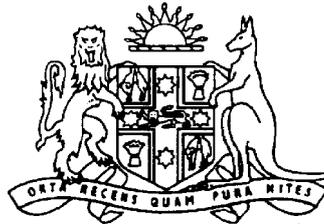
Schedule 1 Amendment of Shops and Industries Act 1962

Schedule 1 amends the *Shops and Industries Act 1962* to remove the licensing requirements under that Act, the requirement that only the TAFE Commission can run hairdressing courses and references to those requirements elsewhere in that Act.

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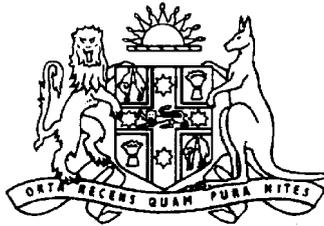
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New South Wales

Hairdressers Bill 2003

No , 2003

A Bill for

An Act to prohibit unqualified individuals from acting as hairdressers; to amend the *Shops and Industries Act 1962*; and for other purposes.

Clause 1 Hairdressers Bill 2003

Part 1 Preliminary

The Legislature of New South Wales enacts: 1

Part 1 Preliminary 2

1 Name of Act 3

 This Act is the *Hairdressers Act 2003*. 4

2 Commencement 5

 This Act commences on a day or days to be appointed by
 proclamation. 6
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Part 2	Hairdressers must be qualified	1
3	Hairdressers must be qualified	2
	An individual must not act as a hairdresser for fee, gain or reward unless the individual is qualified to act as a hairdresser.	3 4
	Maximum penalty: 20 penalty units.	5
4	When is an individual “qualified to act as a hairdresser”?	6
(1)	For the purposes of this Act, an individual is <i>qualified to act as a hairdresser</i> if any one or more of the following applies to the individual:	7 8 9
(a)	the individual has been awarded an authorised qualification by an authorised provider,	10 11
(b)	the Vocational Training Tribunal has determined under section 36 of the <i>Apprenticeship and Traineeship Act 2001</i> that the individual is adequately trained to pursue the recognised trade vocation of hairdressing (because the individual has qualifications obtained elsewhere than in New South Wales),	12 13 14 15 16 17
(c)	the Vocational Training Tribunal has determined under section 37 of the <i>Apprenticeship and Traineeship Act 2001</i> that the individual is adequately trained to pursue the recognised trade vocation of hairdressing (because the individual has acquired the competencies of the recognised trade vocation),	18 19 20 21 22 23
(d)	the individual has at any time held, or been taken to have held, a licence under Part 6 (Regulation of the hairdressing trade) of the <i>Shops and Industries Act 1962</i> , other than a licence limited to carrying out beauty treatment only.	24 25 26 27
(2)	In this section:	28
	<i>authorised provider</i> means an education or training provider that is:	29
(a)	registered under the <i>Vocational Education and Training Accreditation Act 1990</i> , or	30 31
(b)	licensed, registered or otherwise approved under an Act of another State or Territory to conduct vocational courses,	32 33
	in relation to an authorised qualification.	34

Clause 4 Hairdressers Bill 2003

Part 2 Hairdressers must be qualified

authorised qualification means:

- (a) the set of nationally endorsed standards and qualifications for recognising and assessing skills known as “(WRH30100) Certificate III in Hairdressing”, or
- (b) if the Certificate III in Hairdressing is no longer nationally endorsed, the qualifications prescribed by the regulations.

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Part 3	Miscellaneous	1
5	Prohibition on unqualified hairdressers does not apply to apprentices, health care professionals or certain others	2 3
	Section 3 does not apply to:	4
	(a) an apprentice (within the meaning of the <i>Apprenticeship and Traineeship Act 2001</i>) who acts as a hairdresser when under the direct control and supervision of an individual who is qualified to act as a hairdresser, or	5 6 7 8
	(b) any individual who acts as a hairdresser when engaged in the practice of his or her profession as a legally qualified medical practitioner, nurse or physiotherapist or other health care professional, or	9 10 11 12
	(c) any individual who acts as a hairdresser when providing care for elderly or disabled people, or	13 14
	(d) any individual who acts as a hairdresser in such other circumstances as may be prescribed by the regulations.	15 16
6	Apprenticeship and Traineeship Act 2001 not affected	17
	The operation of the <i>Apprenticeship and Traineeship Act 2001</i> is not affected by this Act.	18 19
7	Information and documents may be required	20
	(1) If an authorised officer has reason to believe that an individual is acting as a hairdresser but is not qualified to do so, the authorised officer may serve on that individual a notice requiring the individual to do either or both of the following for the purpose of determining whether the individual is in fact qualified:	21 22 23 24 25
	(a) to produce specified documents for inspection or copying at any place nominated in the notice,	26 27
	(b) to provide the information specified in the notice.	28
	(2) An individual who, without reasonable excuse, fails to comply with a notice served on the individual under this section within the time specified in the notice is guilty of an offence.	29 30 31
	Maximum penalty: 20 penalty units.	32
	(3) In this section, <i>authorised officer</i> means an officer of a Government Department who is authorised by the Minister for the purposes of this section.	33 34 35

8	Proceedings for offences	1
(1)	Proceedings for an offence under this Act may be dealt with summarily before a Local Court.	2 3
(2)	Proceedings for an offence under this Act may be instituted only by the Minister or by a person duly authorised by the Minister in that behalf, either generally or in a particular case.	4 5 6
9	Regulations	7
	The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.	8 9 10 11
10	Amendment of Shops and Industries Act 1962 No 43	12
	The <i>Shops and Industries Act 1962</i> is amended as set out in Schedule 1.	13 14
11	Repeal of Hairdressing Regulation 1997	15
	The <i>Hairdressing Regulation 1997</i> is repealed.	16
12	Review of Act	17
(1)	The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.	18 19 20
(2)	The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.	21 22
(3)	A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.	23 24 25

Schedule 1 Amendment of Shops and Industries Act 1962

(Section 10)

	1
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[1] Part 6 Regulation of the hairdressing trade	4
Omit the Part.	5
[2] Section 144 Regulations	6
Omit “, permits and licences” from section 144 (1) (c).	7
[3] Section 145 Proceedings	8
Omit “Part 4 or 6 or the regulations under those Parts” from section 145 (1) (a2).	9 10
Insert instead “Part 4 or the regulations under that Part”.	11
[4] Section 148 Evidentiary provisions	12
Omit “, permit or licence” wherever occurring in section 148 (1) (a) and (b).	13 14
[5] Section 148 (1) (a)	15
Omit “, boiler, or pressure vessel,”.	16
[6] Section 148 (1) (a)	17
Omit “or permit” wherever occurring.	18
[7] Section 148 (1) (b)	19
Omit “, boiler, or pressure vessel”.	20
[8] Section 148 (1)	21
Omit “, permits, or licences”.	22
[9] Section 148 (1)	23
Omit “permit, licence,”.	24
[10] Section 151 Penalty for forging certificates and false declaration	25
Omit “, permit, or licence” wherever occurring.	26

Hairdressers Bill 2003

Schedule 1 Amendment of Shops and Industries Act 1962

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| [11] Section 151 | 1 |
| Omit “in any application for a hairdresser’s licence or”. | 2 |
| [12] Section 152 Penalty for destroying notices etc | 3 |
| Omit “, permit, licence”. | 4 |
| [13] Section 152A Performance of Director-General’s functions | 5 |
| Omit “Part 2, 4 or 6” from section 152A (1). | 6 |
| Insert instead “Part 2 or 4”. | 7 |