

**FACTORIES, SHOPS AND INDUSTRIES (AMENDMENT) BILL
1989**

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Factories, Shops and Industries Act 1962:

- (a) to remove the provisions requiring registration of shops; and
- (b) to enable a shop, which has a corporation as shopkeeper, to qualify as a small shop if it meets the other requirements relating to small shops; and
- (c) to enable shops to trade on Easter Monday, the Queen's Birthday holiday and Labour Day; and
- (d) to remove obsolete provisions; and
- (e) in other minor and consequential respects.

The Bill also consequentially repeals the Factories, Shops and Industries (Further Amendment) Act 1985.

Clause 1 specifies 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.

Clause 3 is a formal provision which gives effect to the Schedule of amendments.

Clause 4 repeals the Factories, Shops and Industries (Further Amendment) Act 1985 which contains uncommenced provisions relating to the registration of shops and to exempt proprietary companies being shopkeepers of small shops.

Removal of requirements for registration of shops

Schedule 1 (1) omits Division 2 (Registration of shops) of Part 4 of the Act so as to remove the requirements relating to the registration of shops.

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Schedule 1 (6), (8), (9), (12) and (13) make consequential amendments.

Schedule 1 (7) repeals Division 3A (Appeals relating to retail shops) of Part 4 of the Act which contains mainly provisions relating to the registration of shops. Schedule 1 (3) transfers the remaining relevant provisions of that Division to Division 3 of that Part.

Schedule 1 (14) contains savings provisions consequent on the repeal of provisions relating to the registration of shops.

Certain corporations to be allowed small shop status

Schedule 1 (2) (b) and (4) insert a new definition of "small shop" into the Act. The new definition includes a shop which has a corporation as shopkeeper. At present not more than 2 natural persons must be the shopkeepers. The current criteria relating to small shops will continue to apply except that the requirement that a shopkeeper be actively engaged in the conduct of the business of the shop will be removed. Small shop classification enables a shop to open for unrestricted shopping hours (including on Sundays and public holidays).

Trading on certain public holidays

Schedule 1 (2) (a) substitutes the definition of "Public holiday" in section 78 (1) of the Act to enable shops to trade on Easter Monday, the Queen's Birthday holiday and Labour Day.

Increase of penalties which may be imposed by industrial magistrate or Local Court

Section 145 (3A) of the Act currently provides that an industrial magistrate or a Local Court constituted by a Magistrate may, for offences against the Act or regulations, impose a maximum penalty of \$5,000 or the maximum penalty specified by the relevant offence provision, whichever is the lesser. Schedule 1 (10) increases that \$5,000 limit to \$10,000.

Repeal of obsolete provisions

Schedule 1 (5) repeals section 79 (Opening and closing times of shops on weekdays) of the Act and Schedule 1 (11) repeals Part 9 (Home deliveries of certain commodities) of the Act because those provisions are now obsolete.