



New South Wales

# Retail Trading Amendment Bill 2015

## Explanatory note

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

## Overview of Bill

The objects of this Bill are:

- (a) to allow a shop or bank to be open on Boxing Day provided that the shop or bank is staffed only by persons who have freely elected to work on Boxing Day, and
- (b) to allow a shop to receive, unpack and prepare goods for sale on any restricted trading day provided that the shop is staffed only by persons who have freely elected to work on that day, and
- (c) to allow a bank to be open on the Bank Holiday (the first Monday in August) and on other public holidays (other than on Good Friday, Easter Sunday, before 1 pm on Anzac Day and on Christmas Day), provided that the bank is staffed only by persons who have freely elected to work on that day, without obtaining approval under the *Retail Trading Act 2008* (the *principal Act*).

## Outline of provisions

**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 the date of assent to the proposed Act.

## Schedule 1 Amendment of Retail Trading Act 2008 No 49

**Schedule 1 [1]** inserts proposed section 3A into the principal Act. The proposed section provides that a person has not freely elected to work on a day if the person has been coerced, harassed,

threatened or intimidated to work on that day or merely because the person has been rostered, or required by the terms of an industrial instrument, to work on that day. **Schedule 1 [3], [4], [6], [7], [12] and [13]** make consequential amendments.

**Schedule 1 [5]** inserts proposed sections 8A and 8B into the principal Act.

Proposed section 8A gives effect to paragraph (b) of the Overview above.

Proposed section 8B gives effect to paragraph (a) of the Overview above in relation to shops.

**Schedule 1 [2]** makes a consequential amendment.

**Schedule 1 [8]** inserts proposed section 14CA. Proposed section 14CA gives effect to paragraphs (a) (in relation to banks) and (c) of the Overview above. **Schedule 1 [9]** makes a similar amendment to allow a financial institution to open on the Bank Holiday without obtaining approval under the principal Act. **Schedule 1 [10] and [11]** make consequential amendments.

## **Schedule 2      Amendment of Retail Trading Regulation 2014**

**Schedule 2** amends the *Retail Trading Regulation 2014* as a consequence of the insertion of proposed sections 8A and 8B.



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New South Wales

# Retail Trading Amendment Bill 2015

No. , 2015

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## **A Bill for**

An Act to amend the *Retail Trading Act 2008* to make further provision with respect to restricted trading days and bank trading days; and for other purposes.

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**The Legislature of New South Wales enacts:**

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**1 Name of Act**

2

This Act is the *Retail Trading Amendment Act 2015*.

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**2 Commencement**

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This Act commences on the date of assent to this Act.

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<b>Schedule 1</b>	<b>Amendment of Retail Trading Act 2008 No 49</b>	1
<b>[1] Section 3A</b>		2
Insert after section 3:		3
<b>3A Meaning of “freely elected to work”</b>		4
For the purposes of this Act, a person has not freely elected to work on a day:		5
(a) if the person works on the day because the person has been coerced, harassed, threatened or intimidated by or on behalf of the occupier of the shop or on behalf of the bank, or		6 7 8
(b) merely because the person is rostered, or required by the terms of an industrial instrument, to work on that day.		9 10
<b>[2] Section 4 Shops to be closed on restricted trading days</b>		11
Omit section 4 (3).		12
<b>[3] Section 7 Businesses of certain kinds exempt from trading restrictions</b>		13
Omit “have freely elected to work on that day, without any coercion, harassment, threat or intimidation by or on behalf of the occupier of the shop” from section 7 (2).		14 15
Insert instead “have freely elected to work on that day”.		16
<b>[4] Section 7 (3)</b>		17
Omit section 7 (3) and (4). Insert instead:		18
(3) This section has effect despite any other Act or law.		19
<b>[5] Sections 8A and 8B</b>		20
Insert after section 8:		21
<b>8A Shop not prohibited from receiving, unpacking and preparing goods for sale if staff freely elect to work</b>		22 23
(1) A shop is not required to be kept closed on a restricted trading day if:		24
(a) the only business activities carried on at the shop on that day are receiving, unpacking or preparing goods for sale, and		25 26
(b) the business activities are carried on only by persons who have freely elected to work on that day.		27 28
(2) This section has effect despite any other provision of this Act or of any other Act or law.		29 30
<b>8B Shop not required to be closed on Boxing Day if staff freely elect to work</b>		31
(1) A shop is not required to be kept closed on Boxing Day if the shop is staffed only by persons who have freely elected to work on that day.		32 33
(2) This section has effect despite any other provision of this Act and any other Act or law.		34 35
<b>[6] Section 13 Staffing on restricted trading days</b>		36
Omit “have freely elected to work on that day, without any coercion, harassment, threat or intimidation by or on behalf of the occupier of the shop” from section 13 (1).		37 38
Insert instead “have freely elected to work on that day”.		39

<b>[7] Section 13 (2)</b>	1
Omit the subsection.	2
<b>[8] Section 14CA</b>	3
Insert after section 14C:	4
<b>14CA Banks may be open on certain bank close days if staff freely elect to work</b>	5
Despite section 14C, a bank may be open for retail banking business on Bank Holiday or a public holiday (other than a public holiday referred to in section 14E (1)), if the bank is staffed only by persons who have freely elected to work on that day.	6 7 8 9
<b>[9] Section 14D Extension of Bank Holiday to other financial institutions</b>	10
Omit section 14D (3) (a). Insert instead:	11
(a) the financial institution (or the branch) is staffed only by persons who have freely elected to work on that day, or	12 13
<b>[10] Section 14D (4) and (5)</b>	14
Omit the subsections.	15
<b>[11] Section 14E Restrictions on granting approval for banks to open</b>	16
Omit “, on Christmas Day or on Boxing Day” from section 14E (1).	17
Insert instead “or on Christmas Day”.	18
<b>[12] Section 14F Staffing on bank close days</b>	19
Omit “have freely elected to work on that day, without any coercion, harassment, threat or intimidation by or on behalf of the bank” from section 14F (1).	20 21
Insert instead “have freely elected to work on that day”.	22
<b>[13] Section 14F (2)</b>	23
Omit the subsection.	24

<b>Schedule 2</b>	<b>Amendment of Retail Trading Regulation 2014</b>	1
<b>Clause 4 Sydney Trading Precinct</b>		2
Omit the clause.		3