



New South Wales

Shops and Industries Amendment (Special Shop Closures) Bill 2005

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Shops and Industries Act 1962* (*the Principal Act*):

- (a) to provide for shops (other than scheduled shops and small shops) to be kept closed on Sunday 25 December 2005, and
- (b) to provide for shops (other than scheduled shops and small shops) to be kept closed on Monday 26 December 2005 unless the shops are located in a holiday resort that is subject to a pre-existing exemption under section 89B of the Principal Act that would allow the shops to open on that day, and are staffed by persons who have freely elected to work on that day, and
- (c) to provide for shops (other than scheduled shops and small shops) to be kept closed on Sunday 1 January 2006 unless:
 - (i) the shops are located in a holiday resort that is subject to a pre-existing exemption under section 89B of the Principal Act that would allow the shops to open on that day, or

- (ii) the shops are located in the commercial business districts of the Cities of Sydney, Newcastle and Wollongong, or in the commercial business district of Cabramatta, and are subject to pre-existing exemptions under section 78A of the Principal Act that would allow the shops to open on that day,
and are staffed by persons who have freely elected to work on that day, and
- (d) to provide that the proposed shop closures have effect despite any exemption granted under section 78A (exemption by the Director-General) or 89B (exemption of holiday resorts) or any order made under section 85 (2) (exemption by Ministerial order) of the Principal Act.

Scheduled shops are shops listed in Schedule 3 to the Principal Act and include, for example, chemists' shops, cooked food shops, newsagencies and video shops.

Small shops are those with two or less shopkeepers that require not more than four persons to conduct the business of the shop on any one day.

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.

Clause 3 is a formal provision that gives effect to the amendment to the Principal Act set out in Schedule 1.

Schedule 1 Amendment

Schedule 1 amends the Principal Act to insert proposed sections 89E, 89F and 89G, having the effect described above in the Overview.

First print



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New South Wales

Shops and Industries Amendment (Special Shop Closures) Bill 2005

No. , 2005

A Bill for

An Act to amend the *Shops and Industries Act 1962* with respect to the closure of certain shops on Sunday 25 December 2005, Monday 26 December 2005 and Sunday 1 January 2006.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Shops and Industries Amendment (Special Shop Closures) Act 2005</i> .	3 4
2 Commencement	5
This Act commences on the date of assent to this Act.	6
3 Amendment of Shops and Industries Act 1962 No 43	7
The <i>Shops and Industries Act 1962</i> is amended as set out in Schedule 1.	8

Schedule 1	Amendment	1
	(Section 3)	2
Sections 89E, 89F and 89G		3
Insert after section 89D:		4
89E Shops to be kept closed on Christmas Day 2005		5
(1) Shops (other than scheduled shops and small shops) are to be kept closed on Sunday 25 December 2005.		6 7
(2) This section has effect despite:		8
(a) any exemption granted under section 78A or 89B, or		9
(b) any order made under section 85 (2),		10
before or after the commencement of this section.		11
(3) This section is repealed at the beginning of 2 January 2006.		12
89F Shops to be kept closed on Boxing Day 2005 except in holiday resorts		13 14
(1) Shops (other than scheduled shops and small shops) are to be kept closed on Monday 26 December 2005, except as provided by subsection (2).		15 16 17
(2) A shop (other than a scheduled shop or a small shop) is permitted to open on Monday 26 December 2005 if the following conditions are satisfied:		18 19 20
(a) the shop is located in an area or part of an area that is subject to an exemption under section 89B in force immediately before the commencement of this section that would, but for this section, allow the shop to open on Monday 26 December 2005,		21 22 23 24 25
(b) the shop opens only in accordance with the conditions of the exemption,		26 27
(c) the shop is staffed on that day only by persons who have freely elected to work on that day, without any coercion, harassment, threat or intimidation by their employer.		28 29 30
(3) For the purposes of subsection (2) (c), a person is not taken to have freely elected to work on Monday 26 December 2005 merely because that person is rostered to work on that day.		31 32 33
(4) This section has effect despite:		34
(a) any exemption granted under section 78A or 89B, or		35

	(b) any order made under section 85 (2),	1
	before or after the commencement of this section.	2
	(5) This section is repealed at the beginning of 2 January 2006.	3
89G	Shops to be kept closed on New Year's Day 2006 except in holiday resorts and certain exempt areas	4
		5
	(1) In this section:	6
	<i>exempt area</i> means:	7
	(a) the commercial business districts of the Cities of Sydney,	8
	Newcastle and Wollongong, or	9
	(b) the commercial business district of Cabramatta,	10
	within such boundaries as the Minister may determine by public	11
	notice.	12
	(2) Shops (other than scheduled shops and small shops) are to be kept	13
	closed on Sunday 1 January 2006, except as provided by	14
	subsections (3) and (4).	15
	(3) A shop (other than a scheduled shop or a small shop) is permitted	16
	to open on Sunday 1 January 2006 if the following conditions are	17
	satisfied:	18
	(a) the shop is located in an area or part of an area that is	19
	subject to an exemption under section 89B in force	20
	immediately before the commencement of this section that	21
	would, but for this section, allow the shop to open on	22
	Sunday 1 January 2006,	23
	(b) the shop opens only in accordance with the conditions of	24
	the exemption,	25
	(c) the shop is staffed on that day only by persons who have	26
	freely elected to work on that day, without any coercion,	27
	harassment, threat or intimidation by their employer.	28
	(4) A shop (other than a scheduled shop or a small shop) is permitted	29
	to open on Sunday 1 January 2006 if the following conditions are	30
	satisfied:	31
	(a) the shop is located in an exempt area,	32
	(b) the shop is subject to an exemption under section 78A in	33
	force immediately before the commencement of this	34
	section that would, but for this section, allow the shop to	35
	open on Sunday 1 January 2006,	36
	(c) the shop opens only in accordance with the conditions of	37
	the exemption,	38

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|-----|--|-------------|
| (d) | the shop is staffed on that day only by persons who have freely elected to work on that day, without any coercion, harassment, threat or intimidation by their employer. | 1
2
3 |
| (5) | For the purposes of subsections (3) (c) and (4) (d), a person is not taken to have freely elected to work on Sunday 1 January 2006 merely because that person is rostered to work on that day. | 4
5
6 |
| (6) | This section has effect despite: | 7 |
| (a) | any exemption granted under section 78A or 89B, or | 8 |
| (b) | any order made under section 85 (2), | 9 |
| | before or after the commencement of this section. | 10 |
| (7) | This section is repealed at the beginning of 2 January 2006. | 11 |