

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 25 November, 1970.*

New South Wales



ANNO UNDEVICESIMO

ELIZABETHÆ II REGINÆ

Act No. , 1970.

An Act relating to the hours of trade of shops for the sale of motor spirit and certain other goods and the safety of persons engaged in or about the refrigerated compartments of certain vehicles; for these and other purposes to amend the Factories, Shops and Industries Act, 1962; and for purposes connected therewith.

BE

Factories, Shops and Industries (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Factories, Shops and Industries (Amendment) Act, 1970". Short title.
2. The Factories, Shops and Industries Act, 1962, is amended— Amendment of Act No. 43, 1962.
- 10 (a) by omitting from subsection one of section seventy-four the definition of "Motor accessories"; Sec. 74. (Definitions.)
- 15 (b) (i) by inserting in subsection one of section seventy-eight after the words "Part of this Act" the words "and in Schedule Three to this Act"; Sec. 78. (Definitions and application.)
- (ii) by inserting next after the definition of "Ladies' hairdressing shop" in the same subsection the following new definition:—
- 20 "Lease" includes sublease, tenancy, subtenancy or license to use or occupy, whether in writing or not, and "to lease", "leasing", "lessor" and "lessee", and derivatives thereof, have a corresponding meaning.
- 25 (iii) by inserting at the end of the same subsection the following new definitions:—
- 30 "Vehicle accessories" means replacement parts for vehicles, caravans, trailers or boats, and other goods specially designed or adapted for use in or upon vehicles, caravans, trailers or boats, but does not include caravans, trailers or boats.
- "Vehicle

Factories, Shops and Industries (Amendment).

“Vehicle service shop” means shop for the sale of motor spirit, motor oil or vehicle accessories.

“Vehicle shop” means shop for the sale of vehicles, caravans, trailers or boats.

5

(iv) by inserting at the end of the same section the following new subsection :—

10

(4) For the purposes of the definitions of “Vehicle accessories” and “Vehicle shop” in subsection one of this section, “vehicle” means vehicle used, or intended for use, on land and propelled by mechanical power.

15

(c) by omitting from subsection one of section seventy-nine the words “shops for the sale of motor vehicles, motor spirit, motor oil or motor accessories” and by inserting in lieu thereof the words “vehicle service shops”;

Sec. 79.
(Closing and opening times of certain shops on week days.)

(d) by omitting section eighty-one;

Sec. 81.
(Closing and opening times of shops for the sale of motor vehicles, motor spirit, etc.)

20

(e) by omitting from subsection one of section eighty-four the words “shops for the sale of motor vehicles, motor spirit, motor oil or motor accessories” and by inserting in lieu thereof the words “vehicle service shops”;

Sec. 84.
(Trading hours of shops on Sunday.)

25

(f) (i) by omitting from subsection one of section eighty-five the words “the Conciliation Commissioner” and by inserting in lieu thereof the words “a Conciliation Commissioner”;

Sec. 85.
(Matters to be dealt with in awards.)

30

(ii) by omitting from the same subsection (paragraph (d) excepted) the words “shops for the sale of motor vehicles, motor spirit, motor oil

or

Factories, Shops and Industries (Amendment).

or motor accessories" wherever occurring and by inserting in lieu thereof the words "vehicle service shops";

5 (iii) by omitting paragraph (d) of the same subsection;

(iv) by omitting from paragraph (b) of subsection two of the same section the words "shops for the sale of motor vehicles, motor spirit, motor oil or motor accessories" and by inserting in lieu thereof the words "vehicle service shops";

(g) by omitting subsection three of section eighty-six; Sec. 86. (Offences.)

(h) by inserting next after section 89D the following New sec. 89E. new section :—

15 89E. Until the Industrial Commission of New Vehicle shops. South Wales or a Conciliation Commissioner or a conciliation committee, in making an award after the commencement of the Factories, Shops and Industries (Amendment) Act, 1970, performs in respect of vehicle shops situate in an area the duties imposed on it or him by subsection one of section eighty-five of this Act, every vehicle shop situate in that area shall be kept closed at all times when a shop for the sale of motor vehicles situate in that area would have been required by or under this Act to be kept closed had the amendments made by section two (paragraph (h) excepted) of the Factories, Shops and Industries (Amendment) Act, 20 25 1970, not been made.

30 (i) by inserting next after section ninety the following New sec. 90A. new section :—

90A. (1) In this section, unless the context or Petrol shops. subject matter otherwise indicates or requires—

"Open" means open whether for the sale of any goods or for any other purpose.

"Petrol

Factories, Shops and Industries (Amendment).

5 “Petrol shop” means shop for the sale of motor spirit, or of motor spirit and any other goods, and includes any place or premises in or upon which a pump for supplying motor spirit is installed, and any such pump itself.

10 “Public holidays” means the first day of January, the twenty-sixth day of January, Easter Monday, the anniversary of the birth of Her Majesty and the twenty-sixth day of December or any day observed as such in accordance with the provisions of the Banks and Bank Holidays Act, 1912, and any day appointed by the Governor pursuant thereto as a public holiday throughout the State, and includes, in relation to any particular petrol shop, such special days or special half-days as may be appointed by the Governor, pursuant to that Act, to be observed as public holidays in the part of the State or in the city, town, or district in which the particular shop is situated.

“The prescribed hours” means—

25 (a) on Sundays and public holidays—between seven o'clock in the morning and one o'clock in the afternoon; and

30 (b) on days other than Sundays and public holidays—between seven o'clock in the morning and half-past six o'clock in the afternoon,

35 but, notwithstanding anything in the foregoing provisions of this definition, does not include any part of the twenty-fifth day of December, of Good Friday, or of Anzac Day.

Factories, Shops and Industries (Amendment).

5 (2) (a) This subsection applies to every lease or assignment of a lease of, or agreement relating to the leasing of a petrol shop, or agreement for the supply of any goods to the lessee or shopkeeper of a petrol shop, whether the lease, assignment or agreement was executed, entered into or made before or after the commencement of the Factories, Shops and Industries (Amendment) Act, 1970.

10 (b) Where any provision of a lease, assignment or agreement to which this subsection applies requires or purports to require a petrol shop to be kept open during certain times and those times are—

15 (i) wholly outside the prescribed hours, that provision shall be void; or

20 (ii) partly outside the prescribed hours, that provision shall be void except in so far as it requires or purports to require the shop to be kept open at times that are within those hours.

25 (c) Where a lease, assignment or agreement to which this subsection applies contains a provision requiring or purporting to require a petrol shop to be kept open at times wholly or partly outside the prescribed hours, the lease, assignment or agreement—

30 (i) shall be construed as if that provision were omitted therefrom and a provision requiring the petrol shop to be kept open at such of those times (if any) as are within the prescribed hours were substituted therefor; and

(ii) shall be in force accordingly.

(3)

Factories, Shops and Industries (Amendment).

(3) Any person who—

- 5 (a) gives a lease, or assigns a lease, of a petrol shop which lease or assignment, as the case may be, contains or is subject to a provision or condition requiring or purporting to require the lessee or assignee to keep the shop open at times wholly or partly outside the prescribed hours;
- 10 (b) consents to an assignment of a lease of a petrol shop upon a condition requiring or purporting to require the assignee to keep the shop open at times wholly or partly outside the prescribed hours;
- 15 (c) refuses to give a lease or to assign a lease, or to consent to an assignment of a lease, of a petrol shop except upon a condition requiring or purporting to require the lessee or assignee, as the case may be, to keep the shop open at times wholly or partly outside the prescribed hours;
- 20 (d) renews a lease of a petrol shop upon a condition requiring or purporting to require the lessee to keep the shop open at times wholly or partly outside the prescribed hours, or refuses to renew a lease or give a fresh lease of any such shop except upon such a condition;
- 25 (e) directly or indirectly induces or attempts to induce a person to take or agree to take a lease, or an assignment or renewal of a lease, of a petrol shop upon a condition requiring or purporting to require that person to keep the shop open at times wholly or partly outside the prescribed hours;
- 30 (f)

Factories, Shops and Industries (Amendment).

5 (f) agrees to supply any goods to the lessee or
shopkeeper of a petrol shop upon a con-
6 dition requiring or purporting to require
the lessee or shopkeeper, as the case may
be, to keep the shop open at times wholly
or partly outside the prescribed hours, or
refuses to supply any goods to the lessee or
shopkeeper, as the case may be, except
10 upon such a condition, or stops the supply
of any goods to the lessee or shopkeeper, as
the case may be, because the lessee or shop-
keeper, as the case may be, refuses to keep
or agree to keep the shop open at times
wholly or partly outside those hours; or

15 (g) directly or indirectly, by any threat, induces
or persuades or attempts to induce or per-
suade the shopkeeper of any petrol shop to
keep the shop open at times wholly or partly
outside the prescribed hours,

20 shall be guilty of an offence against this Act and
be liable to a penalty not exceeding one thousand
dollars.

25 (4) Where the lessee of a petrol shop is
not entitled to require the lessor to renew the lease
of the shop or to give a fresh lease thereof and the
lessor refuses to renew the lease or give a fresh lease
except upon a condition requiring or purporting to
require the lessee to keep the shop open at times
wholly or partly outside the prescribed hours, and
30 the lessee is in consequence obliged to give up pos-
session of the shop, the lessee shall be entitled to
recover damages from the lessor in any court of
competent jurisdiction as if the lessor had com-
mitted a breach of a covenant to renew the lease
35 for the same term and upon the same conditions as
are provided for by the lease.

(5)

Factories, Shops and Industries (Amendment).

- 5 (5) Nothing in this section makes it lawful for a shop to be open at any time at which, if this section were omitted from this Act, the shop would be required by or under this Act to be kept closed.
- (j) (i) by omitting from section ninety-one the words " , or enters into an agreement by which any other person occupies"; Sec. 91. (Leases of shops and warehouses.)
- (ii) by omitting from the same section the words "or agreement";
- 10 (iii) by inserting in the same section after the words "this Act" the words " , section 90A excepted";
- (k) by omitting from subsection one of section ninety-four the words "other than an automatic vending device in which motor spirit or motor oil is or are offered or exposed for sale"; Sec. 94. (Trading hours for automatic vending devices.)
- 15 (l) by inserting at the end of Schedule Three the following words : — Schedule Three.
- Vehicle shops.
- 20 3. The Factories, Shops and Industries Act, 1962, is further amended— Further amendment of Act No. 43, 1962.
- (a) by omitting from section two the words "*and Refrigerating Systems*" and by inserting in lieu thereof the words " , *Refrigerating Systems and Refrigerated Compartments*"; Sec. 2. (Division into Parts and Divisions.)
- 25 (b) by inserting next after the definition of "Prime mover" in subsection one of section nine the following new definition : — Sec. 9. (Definitions.)
- 30 "Refrigerated compartment" means a compartment of a vehicle of a prescribed class of vehicles, being a compartment that is used
- or

Factories, Shops and Industries (Amendment).

or intended for use for the cold storage of goods while they are being transported by the vehicle.

5 (c) by omitting from the heading to Division 11 of Part III the words "*and Refrigerating Systems*" and by inserting in lieu thereof the words "*, Refrigerating Systems and Refrigerated Compartments*";

Heading to Division 11 of Part III.

(d) by inserting at the end of section sixty-five the following new subsection :—

Sec. 65.
(Power to make regulations.)

10 (4) The Governor may make regulations, not inconsistent with this Act, prescribing all matters necessary or convenient to be prescribed for preventing or reducing the risk of death, personal injury or disease to persons employed or engaged,
15 whether in factories or not, in or about refrigerated compartments.

Without prejudice to the generality of the foregoing provisions of this subsection the Governor may make regulations—

20 (a) relating to—

(i) the design, construction, equipment, maintenance, repair, and methods of operation and use of refrigerated compartments;

25 (ii) duties of, and instructions to be given to, persons employed or engaged in or about such compartments;

30 (iii) the provision of warning notices in or on such compartments or vehicles containing such compartments;

(iv)

Factories, Shops and Industries (Amendment).

- (iv) the provision of protective clothing and protective equipment to persons so employed or engaged;
- 5 (b) requiring notification, by and to prescribed persons, of accidents to, or diseases contracted by, persons when so employed or engaged, where such accidents or diseases are of a prescribed class.
- 10 (e) (i) by inserting next after subparagraph (ii) of Sec. 73. paragraph (a) of subsection one of section (Power of seventy-three the following new subpara- Inspectors.) graphs :—
- 15 (iii) any premises or place wherein there is any vehicle containing a refrigerated compartment;
- (iv) any vehicle containing a refrigerated compartment in any premises or place referred to in subparagraph (iii) of this paragraph;
- 20 (ii) by inserting in paragraph (b) of the same subsection after the words "is used" where secondly occurring the words ", or there is any vehicle containing a refrigerated compartment,";
- 25 (iii) by inserting next after the same paragraph the following new paragraph :—
- 30 (b1) to enter, inspect, and examine, at any time by day or night, any vehicle in or upon a public road or other place to which the public (whether on payment of a fee or otherwise) ordinarily

has

Factories, Shops and Industries (Amendment).

- has access, if the vehicle contains, or if he has reasonable cause to believe that it contains, a refrigerated compartment;
- 5 (iv) by omitting from paragraph (c) of the same subsection the word "premises" and by inserting in lieu thereof the words "premises, vehicle";
- 10 (v) by inserting in paragraph (e) of the same subsection after the words "this Act" the words ", or the regulations thereunder,";
- (vi) by omitting from the same paragraph the word "premises" and by inserting in lieu thereof the words "premises, vehicle";
- 15 (vii) by omitting from the same paragraph the word "therein" and by inserting in lieu thereof the words "or engaged in or about the same";
- 20 (viii) by inserting in paragraph (g) of the same subsection after the words "this Act," the words "or the regulations thereunder,";
- (ix) by inserting in the same paragraph after the words "employed therein," the words "or any person whom he finds employed or engaged in, or about the vehicle,";
- 25 (x) by inserting in paragraph (h) of the same subsection after the words "refrigerating system," the words "refrigerated compartment,";
- 30 (xi) by inserting in paragraph (i) of the same subsection after the words "this Act" the words "or the regulations thereunder";

(xii)

Factories, Shops and Industries (Amendment).

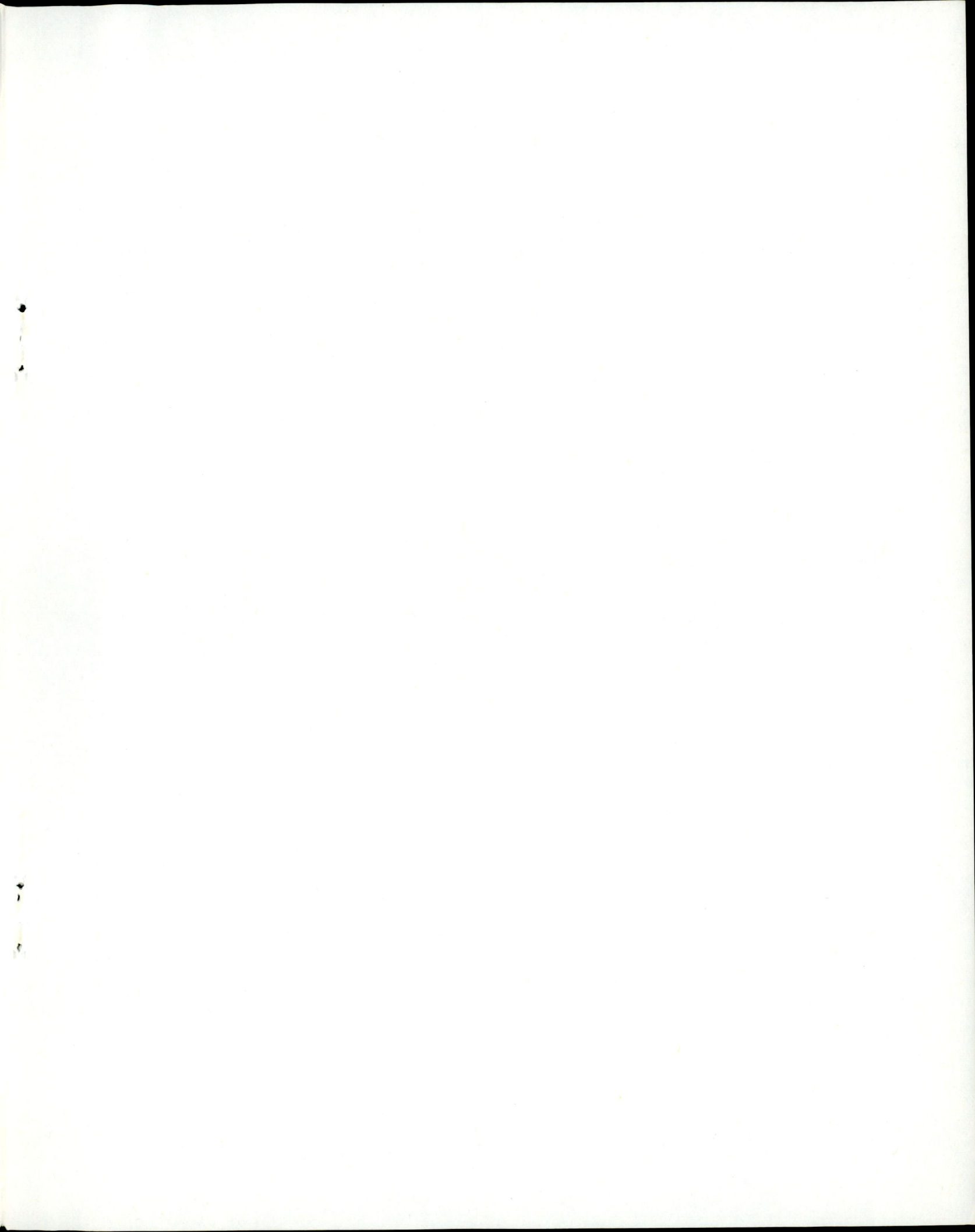
- (xii) by inserting in subsection two of the same section after the words "and servants," the words "and the person in charge of a vehicle referred to in that subsection,";
- 5 (xiii) by omitting from the same subsection the words "shop, premises" and by inserting in lieu thereof the words "shop, premises, vehicle".

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1970

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THE STATE OF TEXAS,
COUNTY OF [illegible]

Know all men by these presents,
that [illegible]

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WITNESSETH
my hand and seal
this [illegible] day
of [illegible] 19[illegible]

[illegible]

No. , 1970.

A BILL

Relating to the hours of trade of shops for the sale of motor spirit and certain other goods and the safety of persons engaged in or about the refrigerated compartments of certain vehicles; for these and other purposes to amend the Factories, Shops and Industries Act, 1962; and for purposes connected therewith.

[MR WILLIS—24 November, 1970.]

BE

Factories, Shops and Industries (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the "Factories, Shops and Industries (Amendment) Act, 1970".

Short title.

2. The Factories, Shops and Industries Act, 1962, is amended—

Amendment of Act No. 43, 1962.

(a) by omitting from subsection one of section seventy-four the definition of "Motor accessories";

Sec. 74. (Definitions.)

(b) (i) by inserting in subsection one of section seventy-eight after the words "Part of this Act" the words "and in Schedule Three to this Act";

Sec. 78. (Definitions and application.)

(ii) by inserting next after the definition of "Ladies' hairdressing shop" in the same subsection the following new definition :—

"Lease" includes sublease, tenancy, subtenancy or license to use or occupy, whether in writing or not, and "to lease", "leasing", "lessor" and "lessee", and derivatives thereof, have a corresponding meaning.

(iii) by inserting at the end of the same subsection the following new definitions :—

"Vehicle accessories" means replacement parts for vehicles, caravans, trailers or boats, and other goods specially designed or adapted for use in or upon vehicles, caravans, trailers or boats, but does not include caravans, trailers or boats.

"Vehicle

Factories, Shops and Industries (Amendment).

“Vehicle service shop” means shop for the sale of motor spirit, motor oil or vehicle accessories.

5 “Vehicle shop” means shop for the sale of vehicles, caravans, trailers or boats.

(iv) by inserting at the end of the same section the following new subsection :—

10 (4) For the purposes of the definitions of “Vehicle accessories” and “Vehicle shop” in subsection one of this section, “vehicle” means vehicle used, or intended for use, on land and propelled by mechanical power.

15 (c) by omitting from subsection one of section seventy-nine the words “shops for the sale of motor vehicles, motor spirit, motor oil or motor accessories” and by inserting in lieu thereof the words “vehicle service shops”; Sec. 79.
(Closing and opening times of certain shops on week days.)

(d) by omitting section eighty-one; Sec. 81.
(Closing and opening times of shops for the sale of motor vehicles, motor spirit, etc.)

20 (e) by omitting from subsection one of section eighty-four the words “shops for the sale of motor vehicles, motor spirit, motor oil or motor accessories” and by inserting in lieu thereof the words “vehicle service shops”; Sec. 84.
(Trading hours of shops on Sunday.)

25 (f) (i) by omitting from subsection one of section eighty-five the words “the Conciliation Commissioner” and by inserting in lieu thereof the words “a Conciliation Commissioner”; Sec. 85.
(Matters to be dealt with in awards.)

30 (ii) by omitting from the same subsection (paragraph (d) excepted) the words “shops for the sale of motor vehicles, motor spirit, motor oil
or

Factories, Shops and Industries (Amendment).

or motor accessories" wherever occurring and by inserting in lieu thereof the words "vehicle service shops";

5 (iii) by omitting paragraph (d) of the same subsection;

(iv) by omitting from paragraph (b) of subsection two of the same section the words "shops for the sale of motor vehicles, motor spirit, motor oil or motor accessories" and by inserting in lieu thereof the words "vehicle service shops";

10

(g) by omitting subsection three of section eighty-six; Sec. 86.
(Offences.)

(h) by inserting next after section 89D the following New sec.
89E.
new section :—

15 89E. Until the Industrial Commission of New Vehicle
shops.
South Wales or a Conciliation Commissioner or a conciliation committee, in making an award after the commencement of the Factories, Shops and Industries (Amendment) Act, 1970, performs in respect of vehicle shops situate in an area the duties imposed on it or him by subsection one of section eighty-five of this Act, every vehicle shop situate in that area shall be kept closed at all times when a shop for the sale of motor vehicles situate in that area would have been required by or under this Act to be kept closed had the amendments made by section two (paragraph (h) excepted) of the Factories, Shops and Industries (Amendment) Act, 1970, not been made.

20

25

(i) by inserting next after section ninety the following New sec.
90A.
new section :—

30

90A. (1) In this section, unless the context or Petrol
shops.
subject matter otherwise indicates or requires—

"Open" means open whether for the sale of any goods or for any other purpose.

"Petrol

Factories, Shops and Industries (Amendment).

5 “Petrol shop” means shop for the sale of motor spirit, or of motor spirit and any other goods, and includes any place or premises in or upon which a pump for supplying motor spirit is installed, and any such pump itself.

10 “Public holidays” means the first day of January, the twenty-sixth day of January, Easter Monday, the anniversary of the birth of Her Majesty and the twenty-sixth day of December or any day observed as such in accordance with the provisions of the Banks and Bank Holidays Act, 1912, and any day appointed by the Governor pursuant thereto as a public holiday throughout the State, and includes, in relation to any particular petrol shop, such special days or special half-days as may be appointed by the Governor, pursuant to that Act, to be observed as public holidays in the part of the State or in the city, town, or district in which the particular shop is situated.

“The prescribed hours” means—

25 (a) on Sundays and public holidays—between seven o'clock in the morning and one o'clock in the afternoon; and

30 (b) on days other than Sundays and public holidays—between seven o'clock in the morning and half-past six o'clock in the afternoon,

35 but, notwithstanding anything in the foregoing provisions of this definition, does not include any part of the twenty-fifth day of December, of Good Friday, or of Anzac Day.

Factories, Shops and Industries (Amendment).

5 (2) (a) This subsection applies to every lease or assignment of a lease of, or agreement relating to the leasing of a petrol shop, or agreement for the supply of any goods to the lessee or shopkeeper of a petrol shop, whether the lease, assignment or agreement was executed, entered into or made before or after the commencement of the Factories, Shops and Industries (Amendment) Act, 1970.

10 (b) Where any provision of a lease, assignment or agreement to which this subsection applies requires or purports to require a petrol shop to be kept open during certain times and those times are—

15 (i) wholly outside the prescribed hours, that provision shall be void; or

20 (ii) partly outside the prescribed hours, that provision shall be void except in so far as it requires or purports to require the shop to be kept open at times that are within those hours.

25 (c) Where a lease, assignment or agreement to which this subsection applies contains a provision requiring or purporting to require a petrol shop to be kept open at times wholly or partly outside the prescribed hours, the lease, assignment or agreement—

30 (i) shall be construed as if that provision were omitted therefrom and a provision requiring the petrol shop to be kept open at such of those times (if any) as are within the prescribed hours were substituted therefor; and

(ii) shall be in force accordingly.

(3)

Factories, Shops and Industries (Amendment).

(3) Any person who—

- 5 (a) gives a lease, or assigns a lease, of a petrol shop which lease or assignment, as the case may be, contains or is subject to a provision or condition requiring or purporting to require the lessee or assignee to keep the shop open at times wholly or partly outside the prescribed hours;
- 10 (b) consents to an assignment of a lease of a petrol shop upon a condition requiring or purporting to require the assignee to keep the shop open at times wholly or partly outside the prescribed hours;
- 15 (c) refuses to give a lease or to assign a lease, or to consent to an assignment of a lease, of a petrol shop except upon a condition requiring or purporting to require the lessee or assignee, as the case may be, to keep the shop open at times wholly or partly outside the prescribed hours;
- 20 (d) renews a lease of a petrol shop upon a condition requiring or purporting to require the lessee to keep the shop open at times wholly or partly outside the prescribed hours, or refuses to renew a lease or give a fresh lease of any such shop except upon such a condition;
- 25 (e) directly or indirectly induces or attempts to induce a person to take or agree to take a lease, or an assignment or renewal of a lease, of a petrol shop upon a condition requiring or purporting to require that person to keep the shop open at times wholly or partly outside the prescribed hours;

(f)

Factories, Shops and Industries (Amendment).

5 (f) agrees to supply any goods to the lessee or
shopkeeper of a petrol shop upon a con-
condition requiring or purporting to require
the lessee or shopkeeper, as the case may
be, to keep the shop open at times wholly
or partly outside the prescribed hours, or
refuses to supply any goods to the lessee or
shopkeeper, as the case may be, except
10 upon such a condition, or stops the supply
of any goods to the lessee or shopkeeper, as
the case may be, because the lessee or shop-
keeper, as the case may be, refuses to keep
or agree to keep the shop open at times
wholly or partly outside those hours; or

15 (g) directly or indirectly, by any threat, induces
or persuades or attempts to induce or per-
suade the shopkeeper of any petrol shop to
keep the shop open at times wholly or partly
outside the prescribed hours,

20 shall be guilty of an offence against this Act and
be liable to a penalty not exceeding one thousand
dollars.

25 (4) Where the lessee of a petrol shop is
not entitled to require the lessor to renew the lease
of the shop or to give a fresh lease thereof and the
lessor refuses to renew the lease or give a fresh lease
except upon a condition requiring or purporting to
require the lessee to keep the shop open at times
wholly or partly outside the prescribed hours, and
30 the lessee is in consequence obliged to give up pos-
session of the shop, the lessee shall be entitled to
recover damages from the lessor in any court of
competent jurisdiction as if the lessor had com-
mitted a breach of a covenant to renew the lease
35 for the same term and upon the same conditions as
are provided for by the lease.

(5)

Factories, Shops and Industries (Amendment).

5 (5) Nothing in this section makes it lawful for a shop to be open at any time at which, if this section were omitted from this Act, the shop would be required by or under this Act to be kept closed.

- (j) (i) by omitting from section ninety-one the words " , or enters into an agreement by which any other person occupies"; Sec. 91. (Leases of shops and warehouses.)
- 10 (ii) by omitting from the same section the words "or agreement";
- (iii) by inserting in the same section after the words "this Act" the words " , section 90A excepted";
- 15 (k) by omitting from subsection one of section ninety-four the words "other than an automatic vending device in which motor spirit or motor oil is or are offered or exposed for sale"; Sec. 94. (Trading hours for automatic vending devices.)
- (l) by inserting at the end of Schedule Three the following words : — Schedule Three.
- Vehicle shops.

20 3. The Factories, Shops and Industries Act, 1962, is further amended— Further amendment of Act No. 43, 1962.

- 25 (a) by omitting from section two the words "*and Refrigerating Systems*" and by inserting in lieu thereof the words " , *Refrigerating Systems and Refrigerated Compartments*"; Sec. 2. (Division into Parts and Divisions.)
- (b) by inserting next after the definition of "Prime mover" in subsection one of section nine the following new definition : — Sec. 9. (Definitions.)

30 "Refrigerated compartment" means a compartment of a vehicle of a prescribed class of vehicles, being a compartment that is used

or

Factories, Shops and Industries (Amendment).

or intended for use for the cold storage of goods while they are being transported by the vehicle.

- 5 (c) by omitting from the heading to Division 11 of Part III the words "*and Refrigerating Systems*" and by inserting in lieu thereof the words "*, Refrigerating Systems and Refrigerated Compartments*";

Heading to Division 11 of Part III.

- (d) by inserting at the end of section sixty-five the following new subsection :—

Sec. 65.
(Power to make regulations.)

- 10 (4) The Governor may make regulations, not inconsistent with this Act, prescribing all matters necessary or convenient to be prescribed for preventing or reducing the risk of death, personal injury or disease to persons employed or engaged, whether in factories or not, in or about refrigerated compartments.
- 15

Without prejudice to the generality of the foregoing provisions of this subsection the Governor may make regulations—

- 20 (a) relating to—
- (i) the design, construction, equipment, maintenance, repair, and methods of operation and use of refrigerated compartments;
- 25 (ii) duties of, and instructions to be given to, persons employed or engaged in or about such compartments;
- 30 (iii) the provision of warning notices in or on such compartments or vehicles containing such compartments;
- (iv)

Factories, Shops and Industries (Amendment).

- (iv) the provision of protective clothing and protective equipment to persons so employed or engaged;
- 5 (b) requiring notification, by and to prescribed persons, of accidents to, or diseases contracted by, persons when so employed or engaged, where such accidents or diseases are of a prescribed class.
- 10 (e) (i) by inserting next after subparagraph (ii) of Sec. 73. paragraph (a) of subsection one of section (Power of Inspectors.) seventy-three the following new subparagraphs :—
- 15 (iii) any premises or place wherein there is any vehicle containing a refrigerated compartment;
- (iv) any vehicle containing a refrigerated compartment in any premises or place referred to in subparagraph (iii) of this paragraph;
- 20 (ii) by inserting in paragraph (b) of the same subsection after the words "is used" where secondly occurring the words ", or there is any vehicle containing a refrigerated compartment,";
- 25 (iii) by inserting next after the same paragraph the following new paragraph :—
- 30 (b1) to enter, inspect, and examine, at any time by day or night, any vehicle in or upon a public road or other place to which the public (whether on payment of a fee or otherwise) ordinarily

has

Factories, Shops and Industries (Amendment).

- has access, if the vehicle contains, or if he has reasonable cause to believe that it contains, a refrigerated compartment;
- 5 (iv) by omitting from paragraph (c) of the same subsection the word "premises" and by inserting in lieu thereof the words "premises, vehicle";
- 10 (v) by inserting in paragraph (e) of the same subsection after the words "this Act" the words ", or the regulations thereunder,";
- (vi) by omitting from the same paragraph the word "premises" and by inserting in lieu thereof the words "premises, vehicle";
- 15 (vii) by omitting from the same paragraph the word "therein" and by inserting in lieu thereof the words "or engaged in or about the same";
- 20 (viii) by inserting in paragraph (g) of the same subsection after the words "this Act," the words "or the regulations thereunder,";
- 25 (ix) by inserting in the same paragraph after the words "employed therein," the words "or any person whom he finds employed or engaged in, or about the vehicle,";
- (x) by inserting in paragraph (h) of the same subsection after the words "refrigerating system," the words "refrigerated compartment,";
- 30 (xi) by inserting in paragraph (i) of the same subsection after the words "this Act" the words "or the regulations thereunder";

(xii)

Factories, Shops and Industries (Amendment).

- (xii) by inserting in subsection two of the same section after the words "and servants," the words "and the person in charge of a vehicle referred to in that subsection,";
- 5 (xiii) by omitting from the same subsection the words "shop, premises" and by inserting in lieu thereof the words "shop, premises, vehicle".

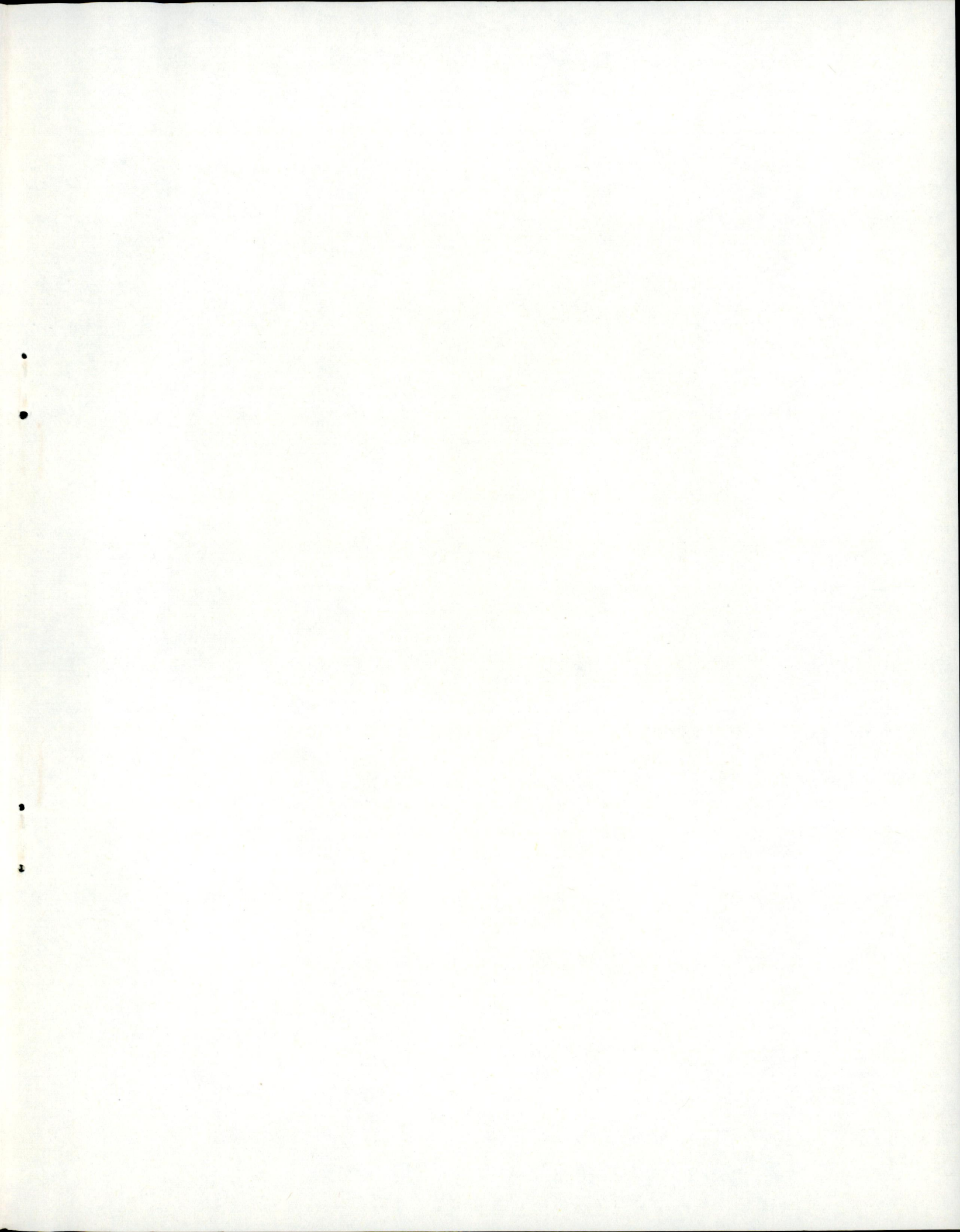
BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1970
[15c]

Factories, Shops and Industries (Amendment)

(4ii) by inserting in subsection (2) of the same section after the words "and certain" the words "and the person in charge of a vehicle referred to in that subsection";

(4iii) by striking from the same subsection the words "shop, premises" and by inserting in their stead the words "shop, premises, vehicle";



**FACTORIES, SHOPS AND INDUSTRIES (AMENDMENT)
BILL, 1970.**

EXPLANATORY NOTE.

THE objects of this Bill are—

- (a) to remove all restrictions on the hours during which petrol stations and certain other shops selling accessories for vehicles may be open;
- (b) to prevent the lessee or proprietor of a petrol station from being required by the terms of the lease or otherwise to keep the station open for any time—
 - (i) earlier than 7 a.m. or later than 1 p.m. on Sundays and public holidays; or
 - (ii) earlier than 7 a.m. or later than 6.30 p.m. on other days, or for any time on Christmas Day, Good Friday or Anzac Day;
- (c) to provide for the determination by a State industrial award of the hours for shops selling cars, caravans, trailers or boats;
- (d) to require shops referred to in paragraph (c) hereof to continue to be closed during the hours during which shops selling cars are required to be closed before this Bill is enacted, until the award referred to in that paragraph is made;
- (e) to enable regulations to be made to prevent or reduce the risk of death, injury or disease to persons employed in or about refrigerated compartments of certain vehicles;
- (f) to authorise the inspection of vehicles containing refrigerated compartments; and
- (g) to make other amendments of a minor, consequential or ancillary character.

PROOF

No. , 1970.

A BILL

Relating to the hours of trade of shops for the sale of motor spirit and certain other goods and the safety of persons engaged in or about the refrigerated compartments of certain vehicles; for these and other purposes to amend the Factories, Shops and Industries Act, 1962; and for purposes connected therewith.

[MR WILLIS—24 November, 1970.]

BE

Factories, Shops and Industries (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the "Factories, Shops and Industries (Amendment) Act, 1970". Short title.

2. The Factories, Shops and Industries Act, 1962, is amended— Amendment of Act No. 43, 1962.

10 (a) by omitting from subsection one of section seventy-four the definition of "Motor accessories"; Sec. 74. (Definitions.)

15 (b) (i) by inserting in subsection one of section seventy-eight after the words "Part of this Act" the words "and in Schedule Three to this Act"; Sec. 78. (Definitions and application.)

(ii) by inserting next after the definition of "Ladies' hairdressing shop" in the same subsection the following new definition :—

20 "Lease" includes sublease, tenancy, subtenancy or license to use or occupy, whether in writing or not, and "to lease", "leasing", "lessor" and "lessee", and derivatives thereof, have a corresponding meaning.

25 (iii) by inserting at the end of the same subsection the following new definitions :—

30 "Vehicle accessories" means replacement parts for vehicles, caravans, trailers or boats, and other goods specially designed or adapted for use in or upon vehicles, caravans, trailers or boats, but does not include caravans, trailers or boats.

"Vehicle

Factories, Shops and Industries (Amendment).

“Vehicle service shop” means shop for the sale of motor spirit, motor oil or vehicle accessories.

“Vehicle shop” means shop for the sale of vehicles, caravans, trailers or boats.

5

(iv) by inserting at the end of the same section the following new subsection :—

10

(4) For the purposes of the definitions of “Vehicle accessories” and “Vehicle shop” in subsection one of this section, “vehicle” means vehicle used, or intended for use, on land and propelled by mechanical power.

15

(c) by omitting from subsection one of section seventy-nine the words “shops for the sale of motor vehicles, motor spirit, motor oil or motor accessories” and by inserting in lieu thereof the words “vehicle service shops”;

Sec. 79.
(Closing and opening times of certain shops on week days.)

(d) by omitting section eighty-one;

Sec. 81.
(Closing and opening times of shops for the sale of motor vehicles, motor spirit, etc.)

20

(e) by omitting from subsection one of section eighty-four the words “shops for the sale of motor vehicles, motor spirit, motor oil or motor accessories” and by inserting in lieu thereof the words “vehicle service shops”;

Sec. 84.
(Trading hours of shops on Sunday.)

25

(f) (i) by omitting from subsection one of section eighty-five the words “the Conciliation Commissioner” and by inserting in lieu thereof the words “a Conciliation Commissioner”;

Sec. 85.
(Matters to be dealt with in awards.)

30

(ii) by omitting from the same subsection (paragraph (d) excepted) the words “shops for the sale of motor vehicles, motor spirit, motor oil or

or

Factories, Shops and Industries (Amendment).

or motor accessories" wherever occurring and by inserting in lieu thereof the words "vehicle service shops";

5 (iii) by omitting paragraph (d) of the same subsection;

(iv) by omitting from paragraph (b) of subsection two of the same section the words "shops for the sale of motor vehicles, motor spirit, motor oil or motor accessories" and by inserting in lieu thereof the words "vehicle service shops";

10

(g) by omitting subsection three of section eighty-six; Sec. 86. (Offences.)

(h) by inserting next after section 89D the following New sec. 89E. new section :—

15 89E. Until the Industrial Commission of New Vehicle shops. South Wales or a Conciliation Commissioner or a conciliation committee, in making an award after the commencement of the Factories, Shops and Industries (Amendment) Act, 1970, performs in respect of vehicle shops situate in an area the duties imposed on it or him by subsection one of section eighty-five of this Act, every vehicle shop situate in that area shall be kept closed at all times when a shop for the sale of motor vehicles situate in that area would have been required by or under this Act to be kept closed had the amendments made by section two (paragraph (h) excepted) of the Factories, Shops and Industries (Amendment) Act, 1970, not been made.

20

25

(i) by inserting next after section ninety the following New sec. 90A. new section :—

30

90A. (1) In this section, unless the context or Petrol shops. subject matter otherwise indicates or requires—

"Open" means open whether for the sale of any goods or for any other purpose.

"Petrol

Factories, Shops and Industries (Amendment).

5 "Petrol shop" means shop for the sale of motor spirit, or of motor spirit and any other goods, and includes any place or premises in or upon which a pump for supplying motor spirit is installed, and any such pump itself.

10 "Public holidays" means the first day of January, the twenty-sixth day of January, Easter Monday, the anniversary of the birth of Her Majesty and the twenty-sixth day of December or any day observed as such in accordance with the provisions of the Banks and Bank Holidays Act, 1912, and any day appointed by the Governor pursuant thereto as a public holiday throughout the State, and includes, in relation to any particular petrol shop, such special days or special half-days as may be appointed by the Governor, pursuant to that Act, to be observed as public holidays in the part of the State or in the city, town, or district in which the particular shop is situated.

"The prescribed hours" means—

25 (a) on Sundays and public holidays—
between seven o'clock in the morning and one o'clock in the afternoon; and

30 (b) on days other than Sundays and public holidays—between seven o'clock in the morning and half-past six o'clock in the afternoon,

35 but, notwithstanding anything in the foregoing provisions of this definition, does not include any part of the twenty-fifth day of December, of Good Friday, or of Anzac Day.

Factories, Shops and Industries (Amendment).

5 (2) (a) This subsection applies to every lease or assignment of a lease of, or agreement relating to the leasing of a petrol shop, or agreement for the supply of any goods to the lessee or shopkeeper of a petrol shop, whether the lease, assignment or agreement was executed, entered into or made before or after the commencement of the Factories, Shops and Industries (Amendment) Act, 1970.

10 (b) Where any provision of a lease, assignment or agreement to which this subsection applies requires or purports to require a petrol shop to be kept open during certain times and those times are—

15 (i) wholly outside the prescribed hours, that provision shall be void; or

20 (ii) partly outside the prescribed hours, that provision shall be void except in so far as it requires or purports to require the shop to be kept open at times that are within those hours.

25 (c) Where a lease, assignment or agreement to which this subsection applies contains a provision requiring or purporting to require a petrol shop to be kept open at times wholly or partly outside the prescribed hours, the lease, assignment or agreement—

30 (i) shall be construed as if that provision were omitted therefrom and a provision requiring the petrol shop to be kept open at such of those times (if any) as are within the prescribed hours were substituted therefor; and

(ii) shall be in force accordingly.

(3)

Factories, Shops and Industries (Amendment).

(3) Any person who—

- 5 (a) gives a lease, or assigns a lease, of a petrol shop which lease or assignment, as the case may be, contains or is subject to a provision or condition requiring or purporting to require the lessee or assignee to keep the shop open at times wholly or partly outside the prescribed hours;
- 10 (b) consents to an assignment of a lease of a petrol shop upon a condition requiring or purporting to require the assignee to keep the shop open at times wholly or partly outside the prescribed hours;
- 15 (c) refuses to give a lease or to assign a lease, or to consent to an assignment of a lease, of a petrol shop except upon a condition requiring or purporting to require the lessee or assignee, as the case may be, to keep the shop open at times wholly or partly outside the prescribed hours;
- 20 (d) renews a lease of a petrol shop upon a condition requiring or purporting to require the lessee to keep the shop open at times wholly or partly outside the prescribed hours, or refuses to renew a lease or give a fresh lease of any such shop except upon such a condition;
- 25 (e) directly or indirectly induces or attempts to induce a person to take or agree to take a lease, or an assignment or renewal of a lease, of a petrol shop upon a condition requiring or purporting to require that person to keep the shop open at times wholly or partly outside the prescribed hours;
- 30

(f)

Factories, Shops and Industries (Amendment).

5 (f) agrees to supply any goods to the lessee or
shopkeeper of a petrol shop upon a con-
condition requiring or purporting to require
the lessee or shopkeeper, as the case may
be, to keep the shop open at times wholly
or partly outside the prescribed hours, or
refuses to supply any goods to the lessee or
shopkeeper, as the case may be, except
10 upon such a condition, or stops the supply
of any goods to the lessee or shopkeeper, as
the case may be, because the lessee or shop-
keeper, as the case may be, refuses to keep
or agree to keep the shop open at times
wholly or partly outside those hours; or

15 (g) directly or indirectly, by any threat, induces
or persuades or attempts to induce or per-
suade the shopkeeper of any petrol shop to
keep the shop open at times wholly or partly
outside the prescribed hours,

20 shall be guilty of an offence against this Act and
be liable to a penalty not exceeding one thousand
dollars.

25 (4) Where the lessee of a petrol shop is
not entitled to require the lessor to renew the lease
of the shop or to give a fresh lease thereof and the
lessor refuses to renew the lease or give a fresh lease
except upon a condition requiring or purporting to
require the lessee to keep the shop open at times
wholly or partly outside the prescribed hours, and
30 the lessee is in consequence obliged to give up pos-
session of the shop, the lessee shall be entitled to
recover damages from the lessor in any court of
competent jurisdiction as if the lessor had com-
mitted a breach of a covenant to renew the lease
35 for the same term and upon the same conditions as
are provided for by the lease.

(5)

Factories, Shops and Industries (Amendment).

- 5 (5) Nothing in this section makes it law-
ful for a shop to be open at any time at which, if
this section were omitted from this Act, the shop
would be required by or under this Act to be kept
closed.
- (j) (i) by omitting from section ninety-one the words Sec. 91.
“, or enters into an agreement by which any (Leases of
other person occupies”; shops and
warehouses.)
- 10 (ii) by omitting from the same section the words
“or agreement”;
- (iii) by inserting in the same section after the words
“this Act” the words “, section 90A excepted”;
- 15 (k) by omitting from subsection one of section ninety- Sec. 94.
four the words “other than an automatic vending (Trading
device in which motor spirit or motor oil is or are hours for
offered or exposed for sale”; automatic vending
devices.)
- (l) by inserting at the end of Schedule Three the Schedule
following words :— Three.
- Vehicle shops.
- 20 3. The Factories, Shops and Industries Act, 1962, is Further
further amended— amendment
of Act No.
43, 1962.
- 25 (a) by omitting from section two the words “and Sec. 2.
Refrigerating Systems” and by inserting in lieu (Division
thereof the words “, *Refrigerating Systems and into Parts
Refrigerated Compartments*”; and
Divisions.)
- (b) by inserting next after the definition of “Prime Sec. 9.
mover” in subsection one of section nine the follow- (Defini-
ing new definition :— tions.)
- 30 “Refrigerated compartment” means a compart-
ment of a vehicle of a prescribed class of
vehicles, being a compartment that is used
or

Factories, Shops and Industries (Amendment).

or intended for use for the cold storage of goods while they are being transported by the vehicle.

5 (c) by omitting from the heading to Division 11 of Part III the words "*and Refrigerating Systems*" and by inserting in lieu thereof the words "*, Refrigerating Systems and Refrigerated Compartments*";

Heading to Division 11 of Part III.

(d) by inserting at the end of section sixty-five the following new subsection :—

Sec. 65. (Power to make regulations.)

10 (4) The Governor may make regulations, not inconsistent with this Act, prescribing all matters necessary or convenient to be prescribed for preventing or reducing the risk of death, personal injury or disease to persons employed or engaged, whether in factories or not, in or about refrigerated compartments.

15 Without prejudice to the generality of the foregoing provisions of this subsection the Governor may make regulations—

20 (a) relating to—

(i) the design, construction, equipment, maintenance, repair, and methods of operation and use of refrigerated compartments;

25 (ii) duties of, and instructions to be given to, persons employed or engaged in or about such compartments;

30 (iii) the provision of warning notices in or on such compartments or vehicles containing such compartments;

(iv)

Factories, Shops and Industries (Amendment).

- (iv) the provision of protective clothing and protective equipment to persons so employed or engaged;
- 5 (b) requiring notification, by and to prescribed persons, of accidents to, or diseases contracted by, persons when so employed or engaged, where such accidents or diseases are of a prescribed class.
- 10 (e) (i) by inserting next after subparagraph (ii) of Sec. 73. paragraph (a) of subsection one of section (Power of Inspectors.) seventy-three the following new subparagraphs :—
- 15 (iii) any premises or place wherein there is any vehicle containing a refrigerated compartment;
- (iv) any vehicle containing a refrigerated compartment in any premises or place referred to in subparagraph (iii) of this paragraph;
- 20 (ii) by inserting in paragraph (b) of the same subsection after the words “is used” where secondly occurring the words “, or there is any vehicle containing a refrigerated compartment,”;
- 25 (iii) by inserting next after the same paragraph the following new paragraph :—
- 30 (b1) to enter, inspect, and examine, at any time by day or night, any vehicle in or upon a public road or other place to which the public (whether on payment of a fee or otherwise) ordinarily

has

Factories, Shops and Industries (Amendment).

has access, if the vehicle contains, or if he has reasonable cause to believe that it contains, a refrigerated compartment;

- 5 (iv) by omitting from paragraph (c) of the same subsection the word "premises" and by inserting in lieu thereof the words "premises, vehicle";
- 10 (v) by inserting in paragraph (e) of the same subsection after the words "this Act" the words ", or the regulations thereunder,";
- (vi) by omitting from the same paragraph the word "premises" and by inserting in lieu thereof the words "premises, vehicle";
- 15 (vii) by omitting from the same paragraph the word "therein" and by inserting in lieu thereof the words "or engaged in or about the same";
- 20 (viii) by inserting in paragraph (g) of the same subsection after the words "this Act," the words "or the regulations thereunder,";
- (ix) by inserting in the same paragraph after the words "employed therein," the words "or any person whom he finds employed or engaged
- 25 in, or about the vehicle,";
- (x) by inserting in paragraph (h) of the same subsection after the words "refrigerating system," the words "refrigerated compartment,";
- 30 (xi) by inserting in paragraph (i) of the same subsection after the words "this Act" the words "or the regulations thereunder";

(xii)

Factories, Shops and Industries (Amendment).

- (xii) by inserting in subsection two of the same section after the words "and servants," the words "and the person in charge of a vehicle referred to in that subsection,";
- 5 (xiii) by omitting from the same subsection the words "shop, premises" and by inserting in lieu thereof the words "shop, premises, vehicle".

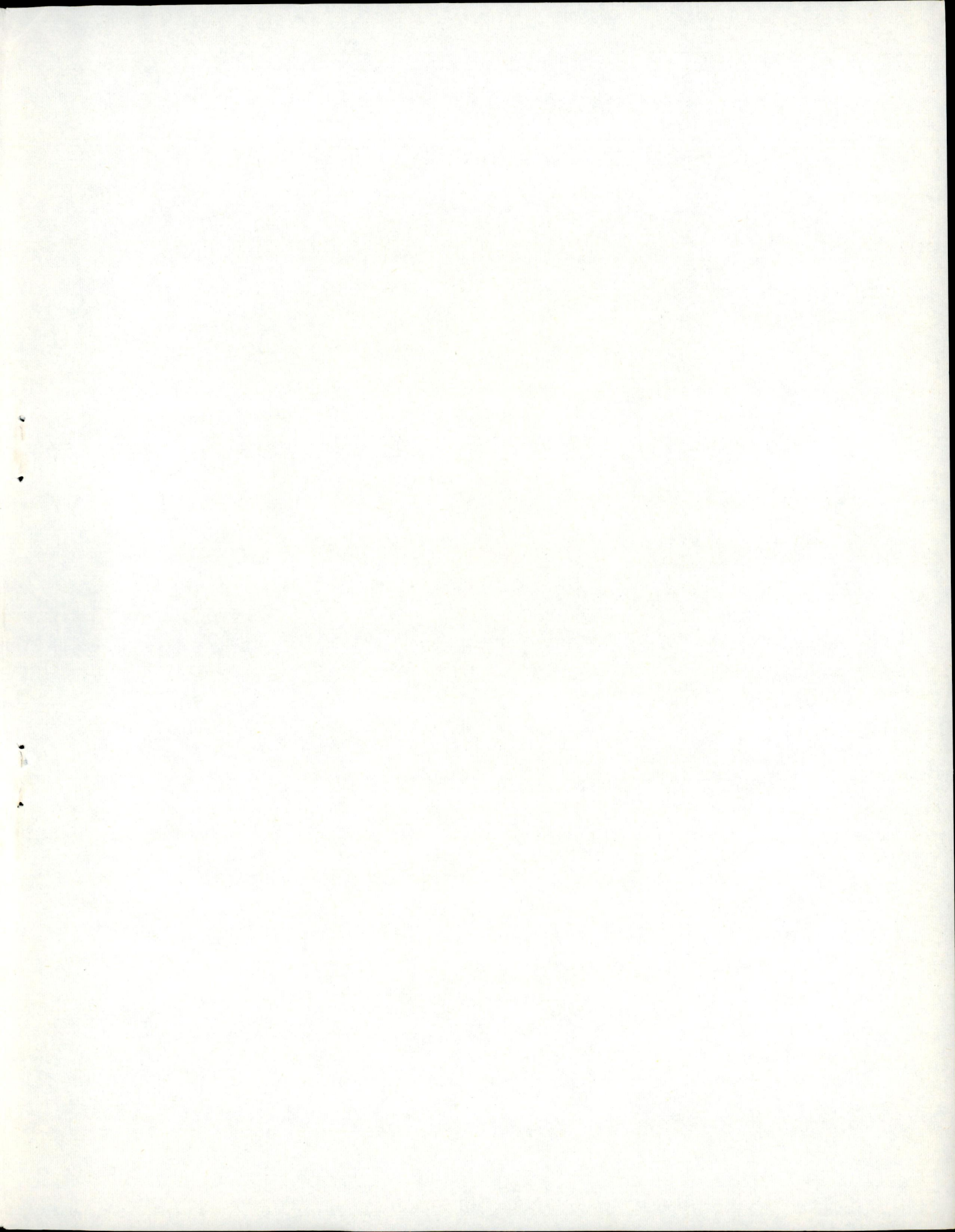
BY AUTHORITY:

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Factories, Shops and Industries (Amendment)

(iii) by inserting in subsection two of the same section after the words "and servant" the words "and the person in charge of a vehicle referred to in that subsection";

(iv) by inserting after the word "sub-section" the words "and by inserting in section two of the said Act, after the word "vehicle" the words "and any person in charge of a vehicle";



I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 26 November, 1970.*

New South Wales



ANNO UNDEVICESIMO

ELIZABETHÆ II REGINÆ

Act No. 83, 1970.

An Act relating to the hours of trade of shops for the sale of motor spirit and certain other goods and the safety of persons engaged in or about the refrigerated compartments of certain vehicles; for these and other purposes to amend the Factories, Shops and Industries Act, 1962; and for purposes connected therewith. [Assented to, 9th December, 1970.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

L. A. PUNCH,
Chairman of Committees of the Legislative Assembly.

Factories, Shops and Industries (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short
title.

1. This Act may be cited as the "Factories, Shops and Industries (Amendment) Act, 1970".

Amendment
of Act No.
43, 1962.

2. The Factories, Shops and Industries Act, 1962, is amended—

Sec. 74.
(Defini-
tions.)

(a) by omitting from subsection one of section seventy-four the definition of "Motor accessories";

Sec. 78.
(Defini-
tions and
application.)

(b) (i) by inserting in subsection one of section seventy-eight after the words "Part of this Act" the words "and in Schedule Three to this Act";

(ii) by inserting next after the definition of "Ladies' hairdressing shop" in the same subsection the following new definition :—

"Lease" includes sublease, tenancy, subtenancy or license to use or occupy, whether in writing or not, and "to lease", "leasing", "lessor" and "lessee", and derivatives thereof, have a corresponding meaning.

(iii) by inserting at the end of the same subsection the following new definitions :—

"Vehicle accessories" means replacement parts for vehicles, caravans, trailers or boats, and other goods specially designed or adapted for use in or upon vehicles, caravans, trailers or boats, but does not include caravans, trailers or boats.

"Vehicle

Factories, Shops and Industries (Amendment).

“Vehicle service shop” means shop for the sale of motor spirit, motor oil or vehicle accessories.

“Vehicle shop” means shop for the sale of vehicles, caravans, trailers or boats.

(iv) by inserting at the end of the same section the following new subsection :—

(4) For the purposes of the definitions of “Vehicle accessories” and “Vehicle shop” in subsection one of this section, “vehicle” means vehicle used, or intended for use, on land and propelled by mechanical power.

- (c) by omitting from subsection one of section seventy-nine the words “shops for the sale of motor vehicles, motor spirit, motor oil or motor accessories” and by inserting in lieu thereof the words “vehicle service shops”; Sec. 79.
(Closing and opening times of certain shops on week days.)
- (d) by omitting section eighty-one; Sec. 81.
(Closing and opening times of shops for the sale of motor vehicles, motor spirit, etc.)
- (e) by omitting from subsection one of section eighty-four the words “shops for the sale of motor vehicles, motor spirit, motor oil or motor accessories” and by inserting in lieu thereof the words “vehicle service shops”; Sec. 84.
(Trading hours of shops on Sunday.)
- (f) (i) by omitting from subsection one of section eighty-five the words “the Conciliation Commissioner” and by inserting in lieu thereof the words “a Conciliation Commissioner”; Sec. 85.
(Matters to be dealt with in awards.)
- (ii) by omitting from the same subsection (paragraph (d) excepted) the words “shops for the sale of motor vehicles, motor spirit, motor oil
- or

Factories, Shops and Industries (Amendment).

or motor accessories" wherever occurring and by inserting in lieu thereof the words "vehicle service shops";

(iii) by omitting paragraph (d) of the same subsection;

(iv) by omitting from paragraph (b) of subsection two of the same section the words "shops for the sale of motor vehicles, motor spirit, motor oil or motor accessories" and by inserting in lieu thereof the words "vehicle service shops";

Sec. 86.
(Offences.)

(g) by omitting subsection three of section eighty-six;

New sec.
89E.

(h) by inserting next after section 89D the following new section :—

Vehicle
shops.

89E. Until the Industrial Commission of New South Wales or a Conciliation Commissioner or a conciliation committee, in making an award after the commencement of the Factories, Shops and Industries (Amendment) Act, 1970, performs in respect of vehicle shops situate in an area the duties imposed on it or him by subsection one of section eighty-five of this Act, every vehicle shop situate in that area shall be kept closed at all times when a shop for the sale of motor vehicles situate in that area would have been required by or under this Act to be kept closed had the amendments made by section two (paragraph (h) excepted) of the Factories, Shops and Industries (Amendment) Act, 1970, not been made.

New sec.
90A.

(i) by inserting next after section ninety the following new section :—

Petrol
shops.

90A. (1) In this section, unless the context or subject matter otherwise indicates or requires—

"Open" means open whether for the sale of any goods or for any other purpose.

"Petrol

Factories, Shops and Industries (Amendment).

“Petrol shop” means shop for the sale of motor spirit, or of motor spirit and any other goods, and includes any place or premises in or upon which a pump for supplying motor spirit is installed, and any such pump itself.

“Public holidays” means the first day of January, the twenty-sixth day of January, Easter Monday, the anniversary of the birth of Her Majesty and the twenty-sixth day of December or any day observed as such in accordance with the provisions of the Banks and Bank Holidays Act, 1912, and any day appointed by the Governor pursuant thereto as a public holiday throughout the State, and includes, in relation to any particular petrol shop, such special days or special half-days as may be appointed by the Governor, pursuant to that Act, to be observed as public holidays in the part of the State or in the city, town, or district in which the particular shop is situated.

“The prescribed hours” means—

- (a) on Sundays and public holidays—between seven o'clock in the morning and one o'clock in the afternoon; and
- (b) on days other than Sundays and public holidays—between seven o'clock in the morning and half-past six o'clock in the afternoon,

but, notwithstanding anything in the foregoing provisions of this definition, does not include any part of the twenty-fifth day of December, of Good Friday, or of Anzac Day.

Factories, Shops and Industries (Amendment).

(2) (a) This subsection applies to every lease or assignment of a lease of, or agreement relating to the leasing of a petrol shop, or agreement for the supply of any goods to the lessee or shopkeeper of a petrol shop, whether the lease, assignment or agreement was executed, entered into or made before or after the commencement of the Factories, Shops and Industries (Amendment) Act, 1970.

(b) Where any provision of a lease, assignment or agreement to which this subsection applies requires or purports to require a petrol shop to be kept open during certain times and those times are—

- (i) wholly outside the prescribed hours, that provision shall be void; or
- (ii) partly outside the prescribed hours, that provision shall be void except in so far as it requires or purports to require the shop to be kept open at times that are within those hours.

(c) Where a lease, assignment or agreement to which this subsection applies contains a provision requiring or purporting to require a petrol shop to be kept open at times wholly or partly outside the prescribed hours, the lease, assignment or agreement—

- (i) shall be construed as if that provision were omitted therefrom and a provision requiring the petrol shop to be kept open at such of those times (if any) as are within the prescribed hours were substituted therefor; and
- (ii) shall be in force accordingly.

(3)

Factories, Shops and Industries (Amendment).

(3) Any person who—

- (a) gives a lease, or assigns a lease, of a petrol shop which lease or assignment, as the case may be, contains or is subject to a provision or condition requiring or purporting to require the lessee or assignee to keep the shop open at times wholly or partly outside the prescribed hours;
- (b) consents to an assignment of a lease of a petrol shop upon a condition requiring or purporting to require the assignee to keep the shop open at times wholly or partly outside the prescribed hours;
- (c) refuses to give a lease or to assign a lease, or to consent to an assignment of a lease, of a petrol shop except upon a condition requiring or purporting to require the lessee or assignee, as the case may be, to keep the shop open at times wholly or partly outside the prescribed hours;
- (d) renews a lease of a petrol shop upon a condition requiring or purporting to require the lessee to keep the shop open at times wholly or partly outside the prescribed hours, or refuses to renew a lease or give a fresh lease of any such shop except upon such a condition;
- (e) directly or indirectly induces or attempts to induce a person to take or agree to take a lease, or an assignment or renewal of a lease, of a petrol shop upon a condition requiring or purporting to require that person to keep the shop open at times wholly or partly outside the prescribed hours;
- (f)

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- (f) agrees to supply any goods to the lessee or shopkeeper of a petrol shop upon a condition requiring or purporting to require the lessee or shopkeeper, as the case may be, to keep the shop open at times wholly or partly outside the prescribed hours, or refuses to supply any goods to the lessee or shopkeeper, as the case may be, except upon such a condition, or stops the supply of any goods to the lessee or shopkeeper, as the case may be, because the lessee or shopkeeper, as the case may be, refuses to keep or agree to keep the shop open at times wholly or partly outside those hours; or
- (g) directly or indirectly, by any threat, induces or persuades or attempts to induce or persuade the shopkeeper of any petrol shop to keep the shop open at times wholly or partly outside the prescribed hours,

shall be guilty of an offence against this Act and be liable to a penalty not exceeding one thousand dollars.

(4) Where the lessee of a petrol shop is not entitled to require the lessor to renew the lease of the shop or to give a fresh lease thereof and the lessor refuses to renew the lease or give a fresh lease except upon a condition requiring or purporting to require the lessee to keep the shop open at times wholly or partly outside the prescribed hours, and the lessee is in consequence obliged to give up possession of the shop, the lessee shall be entitled to recover damages from the lessor in any court of competent jurisdiction as if the lessor had committed a breach of a covenant to renew the lease for the same term and upon the same conditions as are provided for by the lease.

(5)

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(5) Nothing in this section makes it lawful for a shop to be open at any time at which, if this section were omitted from this Act, the shop would be required by or under this Act to be kept closed.

- (j) (i) by omitting from section ninety-one the words " , or enters into an agreement by which any other person occupies"; Sec. 91.
(Leases of shops and warehouses.)
- (ii) by omitting from the same section the words "or agreement";
- (iii) by inserting in the same section after the words "this Act" the words " , section 90A excepted";
- (k) by omitting from subsection one of section ninety-four the words "other than an automatic vending device in which motor spirit or motor oil is or are offered or exposed for sale"; Sec. 94.
(Trading hours for automatic vending devices.)
- (l) by inserting at the end of Schedule Three the following words :— Schedule Three.
- Vehicle shops.

3. The Factories, Shops and Industries Act, 1962, is further amended— Further amendment of Act No. 43, 1962.

- (a) by omitting from section two the words "*and Refrigerating Systems*" and by inserting in lieu thereof the words " , *Refrigerating Systems and Refrigerated Compartments*"; Sec. 2.
(Division into Parts and Divisions.)
- (b) by inserting next after the definition of "Prime mover" in subsection one of section nine the following new definition :— Sec. 9.
(Definitions.)

"Refrigerated compartment" means a compartment of a vehicle of a prescribed class of vehicles, being a compartment that is used

or

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or intended for use for the cold storage of goods while they are being transported by the vehicle.

Heading to
Division 11
of Part III.

- (c) by omitting from the heading to Division 11 of Part III the words "*and Refrigerating Systems*" and by inserting in lieu thereof the words "*, Refrigerating Systems and Refrigerated Compartments*";

Sec. 65.
(Power to
make regu-
lations.)

- (d) by inserting at the end of section sixty-five the following new subsection :—

(4) The Governor may make regulations, not inconsistent with this Act, prescribing all matters necessary or convenient to be prescribed for preventing or reducing the risk of death, personal injury or disease to persons employed or engaged, whether in factories or not, in or about refrigerated compartments.

Without prejudice to the generality of the foregoing provisions of this subsection the Governor may make regulations—

(a) relating to—

- (i) the design, construction, equipment, maintenance, repair, and methods of operation and use of refrigerated compartments;
- (ii) duties of, and instructions to be given to, persons employed or engaged in or about such compartments;
- (iii) the provision of warning notices in or on such compartments or vehicles containing such compartments;

(iv)

Factories, Shops and Industries (Amendment).

- (iv) the provision of protective clothing and protective equipment to persons so employed or engaged;
- (b) requiring notification, by and to prescribed persons, of accidents to, or diseases contracted by, persons when so employed or engaged, where such accidents or diseases are of a prescribed class.
- (e) (i) by inserting next after subparagraph (ii) of Sec. 73. paragraph (a) of subsection one of section seventy-three the following new subparagraphs :—
 - (iii) any premises or place wherein there is any vehicle containing a refrigerated compartment;
 - (iv) any vehicle containing a refrigerated compartment in any premises or place referred to in subparagraph (iii) of this paragraph;
- (ii) by inserting in paragraph (b) of the same subsection after the words "is used" where secondly occurring the words ", or there is any vehicle containing a refrigerated compartment,";
- (iii) by inserting next after the same paragraph the following new paragraph :—
 - (b1) to enter, inspect, and examine, at any time by day or night, any vehicle in or upon a public road or other place to which the public (whether on payment of a fee or otherwise) ordinarily

has

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has access, if the vehicle contains, or if he has reasonable cause to believe that it contains, a refrigerated compartment;

- (iv) by omitting from paragraph (c) of the same subsection the word "premises" and by inserting in lieu thereof the words "premises, vehicle";
- (v) by inserting in paragraph (e) of the same subsection after the words "this Act" the words ", or the regulations thereunder,";
- (vi) by omitting from the same paragraph the word "premises" and by inserting in lieu thereof the words "premises, vehicle";
- (vii) by omitting from the same paragraph the word "therein" and by inserting in lieu thereof the words "or engaged in or about the same";
- (viii) by inserting in paragraph (g) of the same subsection after the words "this Act," the words "or the regulations thereunder,";
- (ix) by inserting in the same paragraph after the words "employed therein," the words "or any person whom he finds employed or engaged in, or about the vehicle,";
- (x) by inserting in paragraph (h) of the same subsection after the words "refrigerating system," the words "refrigerated compartment,";
- (xi) by inserting in paragraph (i) of the same subsection after the words "this Act" the words "or the regulations thereunder";
- (xii)

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- (xii) by inserting in subsection two of the same section after the words "and servants," the words "and the person in charge of a vehicle referred to in that subsection,";
- (xiii) by omitting from the same subsection the words "shop, premises" and by inserting in lieu thereof the words "shop, premises, vehicle".

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 9th December, 1970.*

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A. R. CUTLER
Governor

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