

FACTORIES AND SHOPS.

No. 13 of 1978.

AN ACT to amend the Factories and Shops Act,
1963-1976.

[Assented to 16th May, 1978.]

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

1. (1) This Act may be cited as the *Factories and Shops Act Amendment Act, 1978*.

Short title
and
citation.

(2) In this Act the Factories and Shops Act, 1963-1976 is referred to as the principal Act.

Approved
for
Reprint
24th July,
1975 and
amended by
Act No. 7
of 1976.

(3) The principal Act as amended by this Act may be cited as the Factories and Shops Act, 1963-1978.

Commence-
ment.

2. The provisions of this Act shall come into operation on such day or days as is or are, respectively, fixed by proclamation.

Section 5
amended.

3. Subsection (1) of section 5 of the principal Act is amended by deleting paragraph (g) of the interpretation "factory".

Section 57A
added.

4. The principal Act is amended by adding after section 57 the following section—

Special
provisions
for late
closing of
shops.

57A. (1) The occupier of a shop in which an employee, other than a child or young person, has worked or was in attendance for the purpose of working between the hours of six o'clock in the afternoon and nine o'clock in the afternoon on Thursday in any week—

(a) does not contravene—

(i) subparagraph (i) of paragraph (a) of subsection (1) of section fifty-five; or

(ii) paragraph (a) of subsection (1) of section fifty-six; and

(b) is not required to comply with subsection (2) of section fifty-five, subsection (2) of section fifty-six or subsection (2) of section fifty-seven,

except in relation to—

(c) an employee who, in the week in which he worked or was in attendance at the shop during those hours and in the week immediately preceding that week, worked or was in attendance at the shop for an aggregate of more than eighty hours;

(d) an employee who, in the week in which he worked or was in attendance at the shop during those hours, worked or was in attendance at the shop for more than forty hours and—

(i) proceeded on annual or sick leave; or

- (ii) had his employment terminated, whether by the occupier of the shop or otherwise.

(2) Notwithstanding any rule of law or construction to the contrary, where an agreement, lease or contract relating to the letting of a shop contains a term or covenant providing for the opening of the shop, whether at specified hours or specified times or not, the occupier of the shop is not in breach of that term or covenant by reason only of failing to open the shop between the hours of six o'clock and nine o'clock on Thursday in any week. .

5. Section 85 of the principal Act is amended as to subsection (1) by deleting paragraphs (a), (b) and (c) and substituting the following paragraphs—

Section 85
amended.

- (a) on Monday, Tuesday, Wednesday and Friday, in each week, until eight o'clock in the forenoon and from and after six o'clock in the afternoon;
- (b) on Thursday, in each week, until eight o'clock in the forenoon and from and after nine o'clock in the afternoon;
- (c) on Saturday, in each week, until eight o'clock in the forenoon and from and after one o'clock in the afternoon;
- (d) on Sunday in each week; and
- (e) on each public holiday and each public half-holiday. .

6. Section 89 of the principal Act is amended by deleting paragraph (a) of subsection (1) and substituting the following paragraphs—

Section 89
amended.

- (a) on Monday, Tuesday, Wednesday and Friday of each week, except between eight o'clock in the forenoon and six o'clock in the afternoon;
- (aa) on Thursday of each week, except between eight o'clock in the forenoon and nine o'clock in the afternoon; .

Section 91A
amended.

7. Section 91A of the principal Act is amended—

- (a) by deleting the passage “(1) Subject to subsection (2) of this section the” in lines one and two of subsection (1), and substituting the word “The”; and
- (b) by repealing subsection (2).

Section 96
amended.

8. Section 96 of the principal Act is amended—

- (a) by deleting the word “shopkeeper” in line one and substituting the words “occupier of a shop or warehouse”;
- (b) by deleting the words “shop assistant” in lines one and two and substituting the word “employee”;
- (c) by deleting the word “shop” in line three and substituting the words “shop or warehouse”;
- (d) by deleting the words “shop assistant” in line four and substituting the word “employee”;
- (e) by deleting the words “with the shopkeeper” in lines five and six and substituting the words “with him”;
- (f) by deleting the word “shopkeeper” in line three of paragraph (a) and substituting the word “occupier”;
- (g) by deleting the words “shop assistant” where occurring in line two and in line seven of paragraph (b) and substituting the word “employee” in each case;
- (h) by deleting the word “shop” in the last line of paragraph (b) and substituting the words “shop or warehouse”;
- (i) by deleting the words “shop assistant” in line one of paragraph (c) and substituting the word “employee”; and
- (j) by deleting the word “shopkeeper” in line three of paragraph (c) and substituting the word “occupier”.

9. Section 99 of the principal Act is amended— Section 99
amended.

- (a) as to subsection (1), by deleting the passage commencing with the word “basic” in line nine and ending with the expression “80” at the end of the subsection and substituting the following passage—

minimum wage as declared and varied from time to time by The Western Australian Industrial Commission under the provisions of the Industrial Arbitration Act, 1912 for males and females as the case may be—

	Males Percentage of Minimum Wage	Females Percentage of Minimum Wage
Under 16 years of age	40	40
Between 16 and 17 years of age	50	50
Between 17 and 18 years of age	60	60
Between 18 and 19 years of age	70	70
Between 19 and 20 years of age	80	80
Between 20 and 21 years of age	95	95 ;

- (b) as to subsection (7) by deleting the passage commencing with the passage “warehouse—” in line five and ending with the passage “employed.” in the last line and substituting the following passage—

warehouse—

- (i) in the case of such a male person, at a lesser rate of wage than the current minimum wage prescribed for a male person over the age of twenty-one years by The Western Australian Industrial Commission under the provisions of the Industrial Arbitration Act, 1912; and

- (ii) in the case of such a female person, at a lesser rate of wage than the current minimum wage so prescribed for a female person over the age of twenty-one years. .
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