

FACTORIES AND SHOPS.

No. 51 of 1974.

**AN ACT to amend the Factories and Shops Act,
1963-1972.**

[Assented to 26th November, 1974.]

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, 1974.* Short title and citation.

(2) In this Act the Factories and Shops Act, 1963-1972 is referred to as the principal Act. Reprinted in Vol. 22 of the Reprinted Acts.

(3) The principal Act as amended by this Act may be cited as the Factories and Shops Act, 1963-1974. Approved for reprint 23rd May, 1969 and amended by Acts Nos. 50 of 1970, and 65 and 94 of 1972.

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 15
repealed.

3. Section 15 of the principal Act is repealed.

Section 18A
added.

4. The principal Act is amended by adding after section 18 a section as follows—

Secrecy.

18A. A person who discloses or makes use of any information that has been furnished to him or obtained by him under this Act, or in connection with the execution of this Act commits an offence unless that information is disclosed or used—

- (a) with the consent of the person carrying on or operating any business to which that information relates; or
- (b) for the purpose of giving effect to the objects of this Act and in the performance of a duty under this Act.

Penalty: Two hundred dollars.

Section 92A
added.

5. The principal Act is amended by adding after section 92 a section as follows—

Special pro-
visions in
respect of
shops in
holiday
resorts.

92A. (1) For the purposes of this section there shall be a committee, to be called the Holiday Resorts Advisory Committee.

(2) The members of the Committee shall be—

- (a) the persons who are members for the time being of the Retail Trade Advisory Committee constituted under section eighty-three; and

(b) five persons appointed by the Governor of whom—

- (i) one shall be a person willing to act as member appointed upon the joint written nomination of The Country Shire Councils Association of W.A. and The Country Town Councils Association to represent country local authorities;
- (ii) one shall be a person willing to act as member appointed upon the written nomination of the Director of the Department of Tourism to represent the tourist industry;
- (iii) one shall be a person willing to act as member appointed upon the written nomination of the Western Australian Employers Federation Inc. to represent the employers having employees in shops; and
- (iv) two shall be persons willing to act as members appointed upon the written nomination of the body known as The Trades and Labor Council of Western Australia to represent employees in shops.

(3) The Chairman of the Retail Trade Advisory Committee constituted under section eighty-three shall be Chairman of the Committee.

(4) The term of a member appointed pursuant to paragraph (b) of subsection (2) of this section shall not exceed three years.

(5) Each member or deputy member shall be paid such fees or remuneration and such travelling and out of pocket expenses as the Minister may approve.

(6) The provisions of subsections (3), (5), (6), (7), (8) and (9) of section forty-five apply—

(a) in relation to the members of the Committee referred to in paragraph (a) of subsection (2) of this section, with such modifications as are effected pursuant to subsection (4) of section eighty-three; and

(b) in relation to the members of the Committee referred to in paragraph (b) of subsection (2) of this section, with such modifications as the circumstances require.

(7) The provisions of subsections (10) and (11) of section forty-five apply to the Committee with such modifications as the circumstances require.

(8) The Committee shall investigate and make recommendations to the Minister on such matters relating to the administration of this section as are referred to it by the Minister.

(9) The local authority of a municipal district that—

(a) has within its municipal district a holiday resort; and

(b) has within its municipal district during the period or periods the subject of an application under this section a holiday population that is large by comparison with its normal resident population,

may apply to the Minister for an order under this section.

(10) An application pursuant to subsection (9) of this section shall—

(a) set out the reasons for the application;

- (b) specify the area or locality sought to be affected by an order made under this section;
- (c) specify subject to subsection (11) of this section the period or periods during which and the times at which it is desired that shops be allowed to remain open, or to trade in any class or classes of goods, pursuant to this section;
- (d) state whether and to what extent the application has the support or concurrence of the occupiers of shops situate within the area or locality.

(11) The period or periods specified under paragraph (c) of subsection (10) of this section—

- (a) shall not extend for longer than a total of one hundred and five days in each year;
- (b) shall be the same period or periods in each year;
- (c) shall, subject to an order made under this section, be a continuous unbroken period.

(12) If the Minister is satisfied that an application made pursuant to this section should be granted he may, subject to any conditions or variations he thinks fit, by order exempt the shops in the area the subject of the application or a part thereof from the provisions of this Division subject to such conditions as to hours of opening or closing or of trading in any class or classes of goods, or as to such other matters as he may specify in the order.

(13) The Minister shall not make an order under this section unless he has obtained and considered the report of the Director of Tourism appointed under the Public Service Act, 1904, or the holder of some other office prescribed for the purposes of this subsection as to—

- (a) whether or not the area or locality specified in the application for the order is a holiday resort; and
- (b) whether during the period or periods so specified the area or locality usually has a holiday population that is large by comparison with its normal resident population.

(14) An order made under this section—

- (a) shall be published in the *Government Gazette*;
- (b) may be revoked or varied by a subsequent notice so published; and
- (c) shall remain in force from year to year in respect of the period or periods of exemption specified therein.

(15) A person shall not be guilty of an offence against this Act by reason only that a shop within an area or locality in respect of which an order under this section was for the time being in force was open at a time within the period or periods of exemption specified in that order and in accordance with the conditions, if any, so specified.

(16) This section does not apply to a shop that is—

- (a) a shop under section eighty-six;
 - (b) a shop under section eighty-seven;
 - (c) a shop under section eighty-eight;
 - (d) a shop under section ninety-one A;
 - (e) a shop as defined in section ninety-two.
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