

24<sup>th</sup> September 2007

The Better Regulation Office  
GPO Box 5341  
SYDNEY NSW 2001

By Email: [tradinghours@dpc.nsw.gov.au](mailto:tradinghours@dpc.nsw.gov.au)

Dear Sir/Madam,

Level 3, Trades Hall  
4 Goulburn Street  
SYDNEY NSW 2000  
Telephone: 02 9881 5999  
Facsimile: 02 9261 3505  
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ABN: 43 132 138 531

**Re: Better Regulation office Issues Paper – Reform of Shop Trading Hours in NSW – Part 4 of The Shops & Industries Act 1962**

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I refer to the abovementioned Issues Paper, in which interested persons are invited to provide written submissions.

Unions NSW support the written submissions of The Shop, Distributive & Allied Employees Association, NSW Branch and The Shop Assistants & Warehouse Employee's Federation of Australia, Newcastle & Northern NSW.

In particular, Unions NSW recommend the Government adopt the following measures:-

- (a) The existing prohibition on Sunday trading under Section 84 of the Act should be preserved;
- (b) The existing prohibition on public holiday trading under Section 85 of the Act should be unequivocally maintained;
- (c) The public holidays defined under Section 78 of the Act should be maintained;
- (d) Amend the Act and, if required, the *Banks and Bank Holidays Act 1912* (NSW) to ensure that New Year's Day, Australia Day, ANZAC Day, Christmas Day and Boxing Day, as identified in the Act, are prohibited from trading on both the actual day and the substituted day when such days fall on weekends and the relevant day is, therefore, "publicly observed" on the substituted day;



- (e) Provide a right for the Unions to be notified and consulted by the Director-General when considering an application for an exemption under Section 78A and require the Director-General to consider all relevant matters, including voluntary work, rostering and remuneration matters, raised by the Unions as part of the assessment process;
- (f) Provide a right for the Unions to be notified and consulted by the Minister when considering an application for an exemption under Section 85(2) or 89B and to require the Minister to consider all relevant matters, including voluntary work, rostering and remuneration matters, raised by the Unions as part of the assessment process;
- (g) Provide for an appeals right for the Unions under Section 78AA akin to the right provided to the relevant industrial organisation of employees in Section 9(2) and 9(3) of the Act;
- (h) Provide for a requirement that where an exemption is granted under Section 85(2) of the Act in relation to public holidays, the right to open for trade on such days is strictly conditional on the right for persons (including employees and contractors) to freely elect to work or not work on such a day. This voluntary work condition would also apply to shops and locations subject to existing Section 78A or 89B exemptions; and
- (i) The redefinition of “small shop” and “scheduled shop” should be limited in its scope to ensure that shopkeeper(s) operating under a single retail brand or banner on the same or adjoining premises do not artificially rearrange their business and / or employment affairs to avoid the trading prohibitions which would otherwise apply.

Should you have any queries please contact Alisha Wilde, Industrial Officer on **0416 188 555** or email [a.wilde@unionsnsw.org.au](mailto:a.wilde@unionsnsw.org.au).

Yours faithfully,



**Mark Lennon**  
**Assistant Secretary**