

Shop Trading Hours Act Repeal Act (Abolition of Restrictions) Amendment Bill

Member's Bill

As reported from the Commerce Committee

Commentary

Recommendation

The Commerce Committee has examined the Shop Trading Hours Act Repeal Act (Abolition of Restrictions) Amendment Bill and recommends that it be passed with the amendments shown.

Legislative history of the bill

The issues concerning shop trading hours contained in this member's bill were introduced in 1999 as the Shop Trading Hours (Abolition of Restrictions) Bill. That bill was referred to the Justice and Law Committee, which called for public submissions. However, the committee was unable to hear submissions before the end of the 45th Parliament.

Following commencement of the 46th Parliament, the bill was referred to the Commerce Committee, but submissions were not heard and the committee reported to the House on 30 June 2000. The bill (now in the name of Rodney Hide) was re-referred to the committee for further consideration; the committee reported again in July 2001.

In the 47th Parliament the bill was re-titled and referred to the Commerce Committee.

Working Group Recommendation

The Minister of Labour established a working group in February 2003 to consider various options and provide recommendations to the committee about whether and how to change the current legislation. The working group released its report, 'Shop Trading Hours-Proposals for a Way Forward', in June 2003. The report contained two options relating to Easter Sunday trading. The group stated that ". . . the two options proposed are founded on our assessment that Easter Sunday is the main focus for any change, and on the need to balance the social, community, commercial and employee interests involved."¹ We supported their recommendation and agreed to focus on Easter Sunday trading.

Easter Sunday Trading

We recommend the Shop Trading Hours Act Repeal Act 1990 be amended to allow Easter Sunday trading across the board. Most of the current area exemptions (mainly designated tourist areas) relate to Easter Sunday trading and we consider that removing Easter Sunday as a restricted day will act to alleviate most of the concerns about disparity between areas.

We further recommend that employee and leaseholder protections be included to ensure that employees and leaseholders are suitably protected against compulsorily working or opening on Easter Sunday.

Submitters were equally divided for and against any further liberalisation of shop trading hours. We feel that recommending shops be allowed to open on Easter Sunday reflects a balance for all parties concerned. We do not recommend any liberalisation of trading hours for Good Friday or Christmas day.

New Zealand First minority view

New Zealand First supports the continuation of restriction on shop trading hours on Christmas Day, Anzac Day morning and Good Friday, but submits that the power to make decisions, should lie with local rather than central government and should be as a result of community consultation.

¹ 'Shop Trading Hours – Proposals for a Way Forward', Report of the Shop Trading Hours Working Group, June 2003.

Appendix

Committee process

The Shop Trading Hours Act Repeal Act (Abolition of Restrictions) Amendment Bill was referred to the committee on 15 May 2002. The closing date for submissions was 4 September 2003. We received and considered 34 submissions from interested groups and individuals and form submissions from 479 interested groups. We heard 12 submissions. Hearing of evidence took 2 hours and 34 minutes and consideration took 46 minutes.

We received advice from the Department of Labour.

Committee membership

Mark Peck (Chairperson)

Hon Roger Sowry (Deputy Chairperson)

Brent Catchpole

Brian Connell

Russell Fairbrother

Rodney Hide

Darren Hughes

HV Ross Robertson

**Shop Trading Hours Act Repeal Act
(Abolition of Restrictions) Amendment**

Key to symbols used in reprinted bill

As reported from the committee of the whole House

Struck out

[
[
Subject to this Act,
[
[

Text struck out

New

[
[
Subject to this Act,
[
[

Text inserted

(Subject to this Act,)

Words struck out

Subject to this Act,

Words inserted

As reported from a select committee

Struck out (majority)

[
[
Subject to this Act,
[
[

Text struck out by a majority

New (majority)

[
[
Subject to this Act,
[
[

Text inserted by a majority

Rodney Hide

((Shop Trading Hours (Abolition of Restrictions))) Shop Trading Hours Act Repeal Act (Abolition of Restrictions) Amendment Bill

Member's Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the **((Shop Trading Hours (Abolition of Restrictions))) Shop Trading Hours Act Repeal Act (Abolition of Restrictions) Amendment Act 1999**.

1A Commencement

- (1) In this Act, the Shop Trading Hours Act Repeal Act 1990¹ is called the "principal Act".
- (2) This Act comes into force on the day after the date on which it receives the Royal assent.

¹ 1990 No 57

New (majority)

2AA Interpretation

Section 2 of the principal Act is amended by inserting, in their appropriate alphabetical order, the following definitions:

employment agreement has the same meaning as in section 5 of the Employment Relations Act 2000

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Restrictions))) Shop Trading Hours Act
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cl 2AA

New (majority)

garden centre means a shop the sole or principal business of which is the sale of plants or garden supplies (or both)

shop worker means a person who is employed to work in, or from, a shop or whose employment is at any time dependent on a shop being open at that time.

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2 When shops to be closed

New

(1AA) Section 3 of the principal Act is amended by omitting the heading, and substituting the heading “**Shops to be closed on certain days**”.

(1) Section 3 of the principal act is amended by repealing subsection (1), and substituting the following subsection:

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“(1) ~~((Subject to section 4,))~~ Every shop must remain closed before 1 p.m. on Anzac Day.

New

“(1A) Every shop must remain closed on Christmas Day.

“(1B) Every shop must remain closed on Good Friday.”

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Struck out (majority)

“(1C) Every shop must remain closed on Easter Sunday.”

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Restrictions)) Shop Trading Hours Act*
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cl 2E

New

2A Certain shops may remain open

- (1) Section 4(1) of the principal Act is amended by omitting the expression “Section 3(1)”, and substituting the words “Section 3 (except subsection (2))”.
- (2) Section 4(2) of the principal Act is amended by omitting the expression “Section 3(1)”, and substituting the words “Section 3 (except subsection (2))”.

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Struck out (majority)

2B Garden centres may remain open on Easter Sunday

Section 4A of the principal Act is amended by omitting the expression “Section 3(1)”, and substituting the expression “**Section 3(1C)**”.

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New (majority)

2B Section 4A repealed

Section 4A of the principal Act is repealed.

2C Consequential protection for certain workers

Section 7(1) of the principal Act is amended by repealing the definition of **shop worker**.

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2D Further consequential protection for certain workers

- (1) Section 7A(1) of the principal Act is amended by omitting the words “shop to which section 4A applies” and substituting the words “garden centre”.
- (2) Section 7A(3) of the principal Act is repealed.

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2E New section 7B inserted

The principal Act is amended by inserting, after section 7A, the following section:

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Restrictions)) Shop Trading Hours Act
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Restrictions) Amendment~~

cl 3

New (majority)

“(2D) **Subsection (2C)** does not apply to a shop that, before the commencement of the Shop Trading Hours Act Repeal Act (Abolition of Restrictions) Amendment Act **2004**, was entitled to open on Easter Sunday under section 4.”

Struck out

3 Repeals

The following provisions of the principal Act are repealed:

- (a) section 6(1), (4), (5), (6), (7), (8), and (9):
- (b) sections 7, 8, and 9:
- (c) the Schedule.

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***((Shop Trading Hours (Abolition of
Restrictions)) Shop Trading Hours Act
Repeal Act (Abolition of
Restrictions) Amendment***

Legislative history

1 March 1999	Introduction and first reading (Bill 272-1)
28 April 1999	Second reading and referral to Justice and Law Reform Committee
30 June 2000	Reported from Justice and Law Reform Committee
2 August 2000	Referred to Commerce Committee
1 August 2001	Reported from Commerce Committee
13 December 2001	Consideration of report
20 February 13, 27 March 2002	Committee of the whole House (Bill 272-2)
15 May 2002	Order of the day for third reading discharged. Referred to Commerce Committee
