

Departmental Disclosure Statement

Shop Trading Hours Amendment Bill

The departmental disclosure statement for a Government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Ministry of Business, Innovation & Employment.

The Ministry of Business, Innovation & Employment certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

14 October 2015.

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Part One: General Policy Statement

The purpose of the Bill is to allow the statutory restrictions on shops opening on Easter Sunday to be removed by granting the territorial authorities the power to create bylaws to permit all shops to open in all or part of their districts on Easter Sunday. This allows community choice on whether shops open on Easter Sunday in the whole or part(s) of their district.

The Bill does not make any changes to the exemptions from trading restrictions already in place.

The Bill recognises the significance of Easter Sunday and allows all shop workers the right to refuse to work on Easter Sunday. It provides shop workers the right to raise a personal grievance where an employer compels a shop worker to work on Easter Sunday or treats a shop worker adversely because he or she refused to work on that day. Shop workers will not be required to provide a reason for that refusal and must be informed by their employer of their right to refuse to work.

The Bill achieves this by amending the Shop Trading Hours Act Repeal Act 1990 (the Act) to:

- grant territorial authorities a limited power to create bylaws that allow shop trading in defined areas within their boundaries on Easter Sunday
- enable shop workers the ability to refuse work on Easter Sunday without giving a reason
- enable shop workers to bring a personal grievance against an employer who compels them to work on Easter Sunday or treats them adversely because of their refusal to work on Easter Sunday.

The Bill also amends the title of the Act from the Shop Trading Hours Act Repeal Act 1990 to the Shop Trading Hours Act 1990, for the purposes of simplifying name of the Act.

The Bill will preserve the following parts of the Act:

- the current status of Easter Sunday (not create a new public holiday)
- the current restrictions related to alcohol for Easter Sunday
- the Ministry of Business, Innovation & Employment will continue to be responsible for the enforcement of the Act to ensure a consistent approach for all the restricted trading days in the Act
- the current penalties for breaches of shop trading on Easter Sunday
- the historic exemptions to shop trading on Easter Sunday.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	NO

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO

Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
Easter Sunday Shop Trading, Ministry of Business, Innovation & Employment, July 2015 A copy of the RIS will be found at http://www.mbie.govt.nz/info-services/employment-skills/legislation-reviews once the Bill has been introduced in the House.	

2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?	NO
The RIS was assessed by the internal MBIE RIS panel because a Preliminary Impact Risk Assessment concluded that the RIS did not meet the threshold for RIA involvement.	

2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	NO

Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO

2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	NO
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO
The RIS acknowledges that there will be costs for territorial authorities to create bylaws. However, the analysis considered that the potential economic benefit to the area to allow shop trading on Easter Sunday may offset that cost.	

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	NO
(b) the nature and level of regulator effort put into encouraging or securing compliance?	NO

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?

MBIE's International Services Team was consulted on consistency with New Zealand's international obligations and no significant issues were identified.

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

Te Puni Kōkiri was consulted on the Cabinet paper seeking introduction of the Bill and a draft of the Bill itself. The Bill is consistent with the principles of the Treaty of Waitangi.

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?

YES

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:

(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?

NO

(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?

NO

Clause 16 of the Bill grants shop workers the right to refuse work on Easter Sunday. If a shop worker is compelled to work on the day or is discriminated or disadvantaged for refusing to work, they can take a personal grievance against their employer, pursuant to the Employment Relations Act 2000.

3.4.1. Was the Ministry of Justice consulted about these provisions?

YES

The Ministry of Justice was consulted on the Cabinet paper seeking the policy decisions that form the basis of the Bill, as well as on the Cabinet paper seeking introduction of the Bill and a draft of the Bill itself.

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?

NO

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
Local Government New Zealand was consulted on the policy proposals to be given effect to by the Bill.	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	YES
The Department of Internal Affairs have provided advice on the policy proposals and the Bill.	

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO

Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO

Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO

Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO

Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO

Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	YES
Clause 16 of the Bill allows territorial authorities to create a bylaw, in accordance with the Local Government Act 2002, that will allow shops within their boundaries to trade on Easter Sunday	

4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO

Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO