

Shop Trading Hours Act Repeal (Easter Trading) Amendment Bill

Member's Bill

Explanatory note

The purpose of this bill is to enable territorial authorities to decide whether retail shops in their districts may be open on Easter Sunday; and to require territorial authorities, before making any such decision, to consult their communities by adopting the special consultative procedure provided for in Part 6 of the Local Government Act 2002.

This bill was drafted with the assistance of the Rotorua District Council to remedy the current anomalous law that prohibits certain areas of New Zealand to trade on Easter Sunday.

The Shop Trading Hours Act Repeal Act 1990 was amended in 2001 by the Shop Trading Hours Act Repeal Amendment Act 2001 to permit garden centres to open on Easter Sunday. That amending Act contained protections for workers so that they could not be compelled to work on Easter Sunday unless both employer and employee agreed; nor could a garden centre be compelled to be open on Easter Sunday under a provision of any lease, licence, contract, covenant, or agreement entered into before that amendment came into force. This bill extends the same protections to those who may be affected by the passage of this bill.

Clause by clause analysis

Clause 1 is the Title provision.

Clause 2 provides for the bill to come into force on the day after the date on which it receives the Royal assent.

Clause 4 sets out the purpose of the bill.

Clause 5 amends section 2 of the principal Act by inserting definitions of **district** and **territorial authority**. Both terms have the same meaning as in section 5(1) of the Local Government Act 2002.

Clause 6 amends a cross-reference in section 3 of the principal Act to take account of the new section 4B proposed to be inserted by the bill.

Clause 7 inserts a new section 4B in the principal Act. New section 4B provides an exception to the section 3 restriction on shop trading on Easter Sunday in circumstances where the territorial authority for the district in which a retail shop is located has decided that shops in that district may remain open on Easter Sunday. The territorial authority must have first adopted the special consultative procedure provided for in Part 6 of the Local Government Act 2002.

Clause 8 amends section 7A of the principal Act to extend to workers who may be affected by this bill the same protection offered workers by the Shop Trading Hours Act Repeal Amendment Act 2001 which permitted garden centres to open on Easter Sunday.

Clause 9 amends section 8 of the principal Act to provide that nothing in any lease, licence, contract, covenant, or agreement entered into before this bill comes into force will compel a shop to be open on Easter Sunday.

Clause 10 amends section 9 of the principal Act to provide that any prosecution entered into before this bill comes into force must proceed as if this bill had not been enacted.

Steve Chadwick

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Shop Trading Hours Act Repeal (Easter Trading) Amendment Act **2006**.
- 2 Commencement**
This Act comes into force on the day after the date on which it receives the Royal assent. 5
- 3 Principal Act amended**
This Act amends the Shop Trading Hours Act Repeal Act 1990.

| cl 4 | Shop Trading Hours Act Repeal (Easter Trading) Amendment | |
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| 4 | Purpose The purpose of this Act is to— | |
| | (a) enable territorial authorities to decide whether retail shops in their districts may be open on Easter Sunday; | |
| | (b) require territorial authorities, before making any such decision, to consult their communities by adopting the special consultative procedure provided for in Part 6 of the Local Government Act 2002. | 5 |
| 5 | Interpretation Section 2 is amended by inserting the following definitions in their appropriate alphabetical order: | 10 |
| | “ district has the meaning given to it by section 5(1) of the Local Government Act 2002 | |
| | “ territorial authority has the meaning given to it by section 5(1) of the Local Government Act 2002”. | 15 |
| 6 | Shops to be closed on Anzac Day morning, Good Friday, Easter Sunday, and Christmas Day Section 3(1) is amended by omitting “sections 4 and 4A” and substituting “sections 4, 4A, and 4B ”. | |
| 7 | New section 4B inserted The following section is inserted after section 4A: | 20 |
| | “4B Territorial authorities’ power to allow retail shops to remain open on Easter Sunday Section 3(1) does not apply where— | |
| | “(a) the territorial authority for the district in which a retail shop is located has decided that shops in that district may remain open on Easter Sunday; and | 25 |
| | “(b) in making that decision, the territorial authority has first adopted the special consultative procedure provided for in Part 6 of the Local Government Act 2002.” | 30 |
| 8 | Further consequential protection for certain workers Section 7A is amended by repealing subsections (1) and (2) and substituting the following subsections: | |
| | “(1) An employment agreement entered into or made before, on, or after the commencement of— | 35 |

- “(a) the Shop Trading Hours Act Repeal Amendment Act 2001 must not be interpreted as requiring a person who is a shop worker in a shop to which section 4A applies to work on Easter Sunday unless the parties to the employment agreement so agree; and 5
- “(b) the Shop Trading Hours Act Repeal (Easter Trading) Amendment Act **2006** must not be interpreted as requiring a person who is a shop worker in a shop to which **section 4B** applies to work on Easter Sunday unless the parties to the employment agreement so agree. 10
- “(2) **Subsection (1)** does not apply to an employment agreement relating to a person who is a shop worker employed to work in, or from, or in relation to, any shop that, before the commencement of—
- “(a) the Shop Trading Hours Act Repeal Amendment Act 2001 was entitled to be open on Easter Sunday under section 4; and 15
- “(b) the Shop Trading Hours Act Repeal (Easter Trading) Amendment Act **2006** was entitled to be open on Easter Sunday under section 4.” 20
- 9 Effect of certain provisions and leases, etc**
Section 8 is amended by repealing subsections (2A) and (2B) and substituting the following subsections:
- “(2A) A mandatory opening provision in a lease, licence, contract, covenant, or agreement entered into, or made before, the commencement of— 25
- “(a) the Shop Trading Hours Act Repeal Amendment Act 2001 must not be interpreted as requiring a shop to which section 4A applies to open on Easter Sunday:
- “(b) the Shop Trading Hours Act Repeal (Easter Trading) Amendment Act **2006** must not be interpreted as requiring a shop to which **section 4B** applies to open on Easter Sunday. 30
- “(2B) **Subsection (2A)** does not apply to a shop that, before the commencement of— 35
- “(a) the Shop Trading Hours Act Repeal Amendment Act 2001 was entitled to be open on Easter Sunday under section 4; and

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| cl 9 | Shop Trading Hours Act Repeal (Easter Trading) Amendment | |
| | “(b) the Shop Trading Hours Act Repeal (Easter Trading) Amendment Act 2006 was entitled to be open on Easter Sunday under section 4.” | |
| 10 | Prosecutions | 5 |
| | Section 9 is amended by adding the following subsection: | |
| | “(3) Every prosecution under section 5 initiated by an information laid before the commencement of the Shop Trading Hours Act Repeal (Easter Trading) Amendment Act 2006 must proceed as if that Act had not been enacted.” | 10 |