

Shop Trading Hours Act 1990 Repeal (Easter Sunday Local Choice) Amendment Bill

Member's Bill

Explanatory note

General policy statement

This Bill addresses the current restrictions in relation to shop opening hours on Easter Sunday and discrimination against local communities and territorial authorities in their desire to allow trade on this day. It recognises the inequalities of the Shop Trading Hours Act Repeal Act 1990, whereby some parts of New Zealand and some types of shops are free from trading restrictions on Easter Sunday, by providing a mechanism for territorial authorities to decide upon acceptable and responsible local practice in a district, or part thereof, under their control, through making bylaws. It allows territorial authorities to allow, or restrict, trading on Easter Sunday.

This Bill does not compel any territorial authority to remove restrictions, nor does it weaken current measures to ensure the protection of workers' rights or insist upon the opening of a shop. It merely provides for local communities to have a role in decision-making in respect of trading restrictions on Easter Sunday.

Tourism is of increasing economic importance to many local economies. New Zealand receives more than 2.5 million international visitors each year. A number of tourist destinations for which Easter trading holds importance are prohibited from opening

shops on Easter Sunday, whilst neighbouring communities remain free from restriction. This Bill offers these local communities choice and equal treatment.

Todd McClay

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Shop Trading Hours Act 1990 Repeal (Easter Sunday Local Choice) Amendment Act **2009** .
- 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.

Part 1 10
Preliminary provision

- 4 Purpose**
The purpose of this Act is to—
- (a) address inequalities and discrimination between territorial districts that exist in relation to shop trading restrictions on Easter Sunday; and 15
 - (b) recognise the importance of tourism-related trade to local economies on Easter Sunday; and
 - (c) offer local communities the opportunity to decide shop trading arrangements on Easter Sunday; and 20
 - (d) allow the exemption of shops located within a district, or part thereof, of a territorial authority from the requirement in the Shop Trading Hours Act Repeal Act 1990 to remain closed on Easter Sunday.

Part 2 Amendments to the principal Act

- 5 Interpretation**
Section 2 is amended by inserting the following definitions in their appropriate alphabetical order: 5
“**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”.
- 6 Shops to be closed on Anzac Day morning, Good Friday, Easter Sunday, and Christmas Day** 10
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: 15
“**4B Certain shops may remain open on Easter Sunday**
Section 3(1) does not apply to a shop on Easter Sunday if that shop is located in the district, or part thereof, of a territorial authority where that territorial authority has made a bylaw under section 10 allowing shops to remain open on Easter Sunday.” 20
- 8 New section 7B inserted**
The following section is inserted after section 7A:
“**7B Further consequential protection for other shop workers**
“(1) An employment agreement entered into or made before, on, or after the commencement of the Shop Trading Hours Act 1990 Repeal (Easter Sunday Local Choice) Amendment Act **2009** 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 agreement so agree. 25
“(2) **Subsection (1)** does not apply to an employment agreement relating to a person who is a shop worker employed in, or from, or in relation to, any shop that, before the commencement of the Shop Trading Hours Act 1990 Repeal (Easter Sunday Local Choice) Amendment Act **2009**, was entitled to be open on Easter Sunday under sections 4 and 4A. 30 35

- “(3) In this section—
“**employment agreement** has the same meaning as in section 5 of the Employment Relations Act 2000
“**shop worker** has the same meaning as in section 7(1)”.
- 9 Effect of certain provisions in leases, etc** 5
Section 8 is amended by inserting the following subsections after subsection (2B):
- “(2C) A mandatory opening provision in a lease, licence, contract, covenant, or agreement entered into, or made before a bylaw made under section 10 comes into effect, must not be interpreted as requiring a shop to which **section 4B** applies to remain open on Easter Sunday. 10
- “(2D) **Subsection (2C)** does not apply to a shop that, before a bylaw made under section 10 comes into effect, is entitled to be open on Easter Sunday under section 4 or 4A.” 15
- 10 Prosecutions**
Section 9 is amended by adding the following subsection:
- “(3) Every prosecution under section 5 initiated by an information laid before a bylaw made under **section 10** comes into effect must proceed as if the decision had not been made.” 20
- 11 New sections 10 and 11 added**
The following sections are added after section 9:
- “**10 Bylaws allowing shops to remain open on Easter Sunday**
“(1) A territorial authority may make bylaws allowing shops to remain open on Easter Sunday. 25
“(2) A bylaw made under this section must be made in accordance with the Local Government Act 2002 and is deemed to have been made under that Act.
“(3) To avoid doubt, a bylaw made under this section may be revoked in accordance with the Local Government Act 2002. 30
- “**11 Reporting**
After a bylaw is made in accordance with **section 10**, the territorial authority must report to the Chief Executive of the Department of Labour.”

Transitional provision

12 Effect on existing exemptions

Section 4B overrides section 4 to the extent that section 4 authorises shops to remain open on Easter Sunday.
