



Submission

to the

Department of Labour and Ministry of Justice

on the

**Easter Trading and Holidays Legislation
Discussion Document**

25 January 2008

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EASTER TRADING AND HOLIDAYS LEGISLATION

Interface between the Shop Trading Hours Act Repeal Act 1990, Sale of Liquor Act 1989 and Holidays Act 2003 Discussion Document

Introduction

This submission is presented by the New Zealand Retailers Association Incorporated. The Association is the largest trade association representing the retail industry in New Zealand.

Our membership of over 6,000 includes the major supermarkets and general merchandise chain stores, traditional department stores, and thousands of owner operators spread throughout New Zealand.

Viewed statistically we represent an industry that has annual sales of \$60b per annum and which employs some 325,000 people (17% of the workforce) in approximately 49,000 outlets spread throughout the country.

Background

The retail sector, by way of the New Zealand Retailers Association and a cross-section of its membership, contributed significantly to the Government's Quality of Regulation Review consultation process throughout 2006 and 2007. We are pleased that one of the more significant issues in regulatory anomalies raised by our sector, and others impacted, has been channelled into a consultative review programme driven by the Department of Labour (the Department) and Ministry of Justice (the Ministry).

As highlighted in the Discussion Document, the Easter Trading issue has seen 9 attempts to change the Shop Trading legislation since introduction of the 1990 Act. All cases, with the exception in 2001 where garden centres were allowed to trade on Easter Sunday, Parliament voted not to change the restrictions. The most recent attempts were by way of two private member bills introduced into the House in 2006 by Jacqui Dean MP and Steve Chadwick MP.

The Association has consulted with our membership extensively on this issue over a number of years and latterly on the proposed solution points raised in the Discussion Document to ensure that this submission is representative of the current majority viewpoint. As with Parliament and the New Zealand Public, the views of the sector are not 100% aligned but there has consistently been an overwhelming consensus from members in the last 2 series of surveys that retailers be given the right to trade on Easter Sunday, whether they then choose to do so is a personal and business decision.

The Discussion Document notes that there was a stronger call for addressing the legislative inconsistencies around Easter Trading by businesses in regions or areas that attract significant numbers of domestic holidaymakers and international tourists. We concur with this statement. Interestingly, there was a misconception publicly and within our own membership that the businesses calling for the review were likely to be larger national chain stores who were only considering the corporate dollar. This was not validated by any of our surveys or anecdotal feedback – instead **the most significant response of support to Easter Sunday Trading was from the small independent owner/operator who was tired of being forced to close on a Sunday – one of the busiest trading days of the week.**

Easter Sunday was deemed the one trading day of the current non-trading days that retailers seek legislative reprieve from. There is an incorrect public assumption that trading “creep” will ensue, whereby the relaxation of trading on Easter Sunday will quickly lead to the demise of Easter Friday, Christmas and ANZAC Day restrictions. This assumption is, in our opinion (and based on industry feedback), unfounded and we and our members support maintaining the restrictions on the remaining 2.5 days - however, it must be noted that there are some geographical regions/areas that strongly seek the right to trade on Easter Friday due to significant national events that occur in those regions over the Easter period (annually, biennially etc). This document does not seek to address those concerns but the Association’s view can be reviewed in our previous submissions to the Dean and Chadwick bills which are attached to this document.

Summary of the Association’s position

In considering the proposed solutions and our response to the Discussion Paper the following baseline position was that solutions should in addressing inconsistencies, also:

- Avoid expensive policing (and seek to remove where possible)
- Not increase costs to employers
- Recognise the important role business plays in the New Zealand Economy
- Recognise that “shopping” is a legitimate relaxation/social occasion for most families (and tourists)
- Not seek to manipulate people by trying to dictate how they relax or what activities are designated acceptable as “leisure” pursuits
- Recognise the growth in the number of New Zealanders that do not have any religious affiliation, or have non-Christian beliefs¹.

It is the Association’s **recommendation** that the following proposals proceed:

- That the trading restrictions under the Shop Trading Hours Act Repeal Act 1990 and Sale of Liquor Act 1989 for Easter Sunday are removed.
- That the Status Quo of the treatment of Easter Sunday remains (that Easter Sunday continues to be treated as a non-Public Holiday)
- Appropriate protection provisions for employees and leaseholders should be included.

This is the “desired state” from the proposals outlined, however, we discuss in further detail where some of the other options may hold merit and may be considered as a quid pro quo to ending the confusing, inconsistent and antiquated exemptions within and across the 3 pieces of legislation being addressed, while achieving the removal of trading restrictions on Easter Sunday.

¹ 2006 New Zealand Census Religion Question

What should we do about restrictions under the Shop Trading Hours Act Repeal Act 1990 and Sale of Liquor Act 1989

The options presented are:

- X** Option 1 – Retain the Status Quo
- X** Option 2 – Reinstate the exemption-making provision for shop trading to exempt specific areas from trading restrictions and enable sale of liquor exemptions to be considered at the same time
- ✓** **Option 3 - Remove the trading restrictions under the Shop Trading Hours Act Repeal Act 1990 and Sale of Liquor Act 1989 for Easter Sunday**

Option 1 fails to address the current inconsistencies and anomalies. It fails to recognise changes in geographical locations as different areas capitalise on marketing their area and experiencing growth in visitor numbers, and fails to recognise the make up of business types – where traditional products and services are blended and blurred across or within a businesses (eg. A garden centre or café in a hardware store, a chemist or bookshop that sells souvenirs).

Option 2 could not address the current issue. As the economic, societal and cultural make up and demands of our country change the goal posts would need to continually be reviewed and changed. It is an administrative nightmare in the making open to subjective scrutiny on fairness and appropriateness. It further impacts on the costs of enforcement, and continues to create confusion to businesses and consumers.

Option 3 delivers business with the right to trade if they choose to do so, consumers (domestic and international) to shop if they choose to do so, and religious New Zealanders to observe the day (a Christian celebration) in the manner to which is appropriate to them.

What should happen to the status of Easter Sunday

The options are:

- ✓** **Option 1: Retain the Status Quo**
- X** Option 2: Increase the number of public holidays to 12 by making Easter Sunday the 12th public holiday
- X** Option 3: Maintain the number of public holidays at 11 by making Easter Sunday a public holiday, subject to 'mondayisation' arrangements similar to Christmas and New Year holidays when they fall on Sunday
- X** Option 4: Treat Easter Sunday as if it were a public holiday for employees of businesses affected by new amendments to the Shop Trading Hours Act Repeal Act 1990 or the Sale of Liquor Act 1989. This would not apply to those that are currently able to trade under an exemption or exception.

Option 2, 3 & 4 all have consequential cost impacts with option 2 in particular rendering opening on Easter Sunday non-viable for the majority of businesses. There has been discussion that the wider economic impact of such a decision could be mitigated by making this amendment to the treatment of Easter Sunday as a public holiday within the Shop Trading Act rather than within the Holidays Act. This not only seems illogical but anti-competitive to burden certain business

sectors with additional employment costs, on top of the huge costs recently legislated for with the introduction of 4 weeks paid annual leave, and KiwiSaver employer contributions.

Option 1 is our preferred position, however if we assume that removing the trading restrictions on Easter Sunday also removes the protections associated with that day, then in making Easter Sunday effectively a normal day of work the ability to provide for employee protections would not be enforceable. It is not clear in the discussion paper how this may be worked around. Therefore, notwithstanding our preferred position, we would consider that Option 3, may provide the appropriate protections for employees which we believe is also important. While this option would still add costs to employers, and is less favourable than our preferred option 1, we would be willing to consider it as more viable than option 2.

Consequential Amendments

These are:

- ✓ Adequate employee protection against compulsion to work on Easter Sunday
- ✓ Adequate leaseholder protection against compulsion to open on Easter Sunday, and

We support the proposal for adequate protection against compulsion to work on Easter Sunday, and in principle, support leaseholder protections. However, we also acknowledge with the latter that further consultative work with industry and property owners in particular (eg. Major mall owners) should be undertaken to ascertain the viability/impacts of such decisions.

Removal of the current exemption regime by removing the barriers to trade on Easter Sunday nullify penalty and enforcement reviews.

Conclusion

The Association commends the work undertaken by the Government's Quality of Regulation Review in identifying the issues and directing the Department and Ministry to undertake the Easter Trading and Holidays Legislation consultation. We believe there is the need for further industry consultation prior to the implementation of proposed recommendations. The Association has a vital role to play in that consultation, and wish to offer our services in that regard.

But what is quite clear, although reiterated through the past 8 unsuccessful attempts at seeking change to Easter Trading legislation (but continues to be conveniently disregarded) is that the economic, social and cultural landscape of our nation has changed vastly and rapidly in the past 18 years. Simplification of the Easter Trading issue is required and a realignment of legislation with reality continues to be called for and is eagerly welcomed.

Therefore, in regards to the Discussion Document proposals, the Association recommends:

- That the trading restrictions under the Shop Trading Hours Act Repeal Act 1990 and Sale of Liquor Act 1989 for Easter Sunday are removed.
- That the Status Quo of the treatment of Easter Sunday remains (that Easter Sunday continues not to be treated as a Public Holiday)

- Appropriate protection provisions for employees and leaseholders should be included.

The Association wishes to continue to be informed of the progress of this discussion paper and its recommendations, and is available for further discussion and consultation.

New Zealand Retailers Association

January 2008



Submission

to the

Commerce Select Committee

on the

Easter Sunday Shop Trading Amendment Bill

(Private Members Bill introduced by Jacqui Dean MP)

28 July 2006

P O Box 12 086
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Ph: 04 472 3733
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Industry profile and description of the Association

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Our membership embraces the major supermarket and general merchandise chains, specialised retail chains, traditional department stores and thousands of owner operators spread throughout the country. Our membership also includes a number of specialist wholesale and retail trade groups including plumbing materials suppliers, metal fastener distributors, bicycle dealers, pet shops, jewellers and equestrian suppliers.

The retail industry is a substantial contributor to the New Zealand economy and a very large employer. Statistics New Zealand's Annual Enterprise Survey notes that there are over 325,000 people (estimated to be 17% of the total workforce) employed in some 49,000 retail outlets throughout the country. Annual retail sales in total now exceed NZ\$58 billion.

Introduction

We will be but one of a number of groups to present the view that New Zealand, through the very change in the make up of our society alongside a greater expectation of freedom of choice, has undergone a paradigm shift from accepting to challenging the appropriateness of restrictions against the right to trade and shop at Easter.

While the opportunity to present change comes in the form of this, and one other private members bill, the overarching debate in our view is fundamentally based on the freedom of choice; be it the choice to work, the choice to shop, the choice to pay homage, or even the choice not to choose. Quite simply without the changes required to existing legislation, that basic right continues to be withheld from the majority while a hotchpotch of exemptions extended to the minority continue to become ever more irrelevant as they are challenged by the dynamics of a changing retail environment.

Our approach to this submission is to address the bill, but also to set the context for the committee by providing a wider overview of the Easter Trading issues from the retail perspective. In providing recommendations therefore, not only do we provide recommendations in response to the bill as drafted, but go further to propose some solutions for a way forward for the committee's consideration, that in our opinion can put this matter to rest. This submission is therefore structured into three parts:

Part 1 - Overview of the Easter Trading Issue (The Retail Perspective)

Highlights the anomalies and out-datedness of the current legislation, identifies the preferences of the retail sector for legislative change (based on a survey of our membership), and in so doing provides a wider context for the committee on which to assess the Bill.

Part 2 - Easter Sunday Shop Trading Amendment Bill

Comments on the intent and application of the Bill.

Part 3 - Recommendations & Conclusions

Part 1 – Overview of the Easter Trading Issue (The Retail Perspective)

Introduction

The Easter Trading issue has presented itself on the Parliamentary and Government agenda's on a number of occasions previously, and while there has only been a partial rather than a total solution applied, we now have the opportunity to provide some redress with a solution that provides clarity and simplicity.

Firstly, it is necessary to provide a back-drop that is the rationale for the recommendations in our submission.

Shop Trading Hours – Current Exemptions & Anomalies

Part of the issue with “Easter Trading” is the current exemptions. These were set in place in the early 1990's and over the intervening period much has changed in the retail landscape.

Essentially there are 6 classes of exemption:

(1) Open “All Hours”

The following stores can open 365 days per year without restrictions:

- Dairy – food, drink, household items, personal items, petrol, oil, car parts and accessories. These are meant to be products that you need and can't put off buying until the next day (meet the needs of the local catchment)
- Service Stations – as for dairies
- Take Away Bar/Restaurants/Cafes – sell food that is already cooked or prepared, and is ready to be eaten
- Duty Free Store – sell duty free items only
- Services – e.g. Video Rental/Hairdresser etc – provide the service but not sell products
- Pharmacies – no restrictions
- Souvenirs – souvenirs must be in some way connected to a place or culture in NZ (to be defined by the Department of Labour)
- Shop at Public Transport Terminal or Station – limited to books, magazines, newspapers, duty free items, souvenirs, ready to eat food
- Markets, Craft Shows, Stalls at Exhibitions and Shows – must be within the premises of a bona fide exhibition or show

That may sound very straight forward and it probably was at the time the exemptions were granted. However, the retail market has continued to evolve. Therefore, consider the following:

- Service stations now have significant grocery operations, some almost bordering on being a small supermarket
- Supermarkets and hypermarkets now have in-store pharmacies and this is a trend that is likely to grow
- How does one define a dairy?
- Where do souvenirs start and end? Are photographs of “a place in NZ” a souvenir? To the tourist they certainly would be (even more so than a postcard). So, is a photographic shop a souvenir shop?
- Pharmacies have no restrictions – their range of merchandise has expanded considerably over time – cosmetics, photographic processing and supplies, giftware etc.

These issues raise a number of questions:

- A pharmacy can offer a photographic printing and developing service but a photographic specialist store can't (unless he can prove he is selling souvenirs)
- A service station can sell magazines, newspapers, stationery, books etc but a specialist book store can't open
- The service station can sell a whole range of grocery/food products but the supermarket can't open
- The video shop can open but the bookshop or supermarket with a video hire business can't open.

We can begin to appreciate some of the interesting issues underpinning the confusion and frustration experienced by retailers and we haven't got to the other exemption types yet.

(2) Open on Easter Sunday Only

- Garden centres
- Parnell Road, Auckland
- Arts Centre, Christchurch
- Market Place/Collins Road, Hamilton
- Harbour Market, Napier
- Taupo

(3) Open on Easter Sunday & ANZAC Day

- Carnegie Centre, Dunedin (arts/crafts/children's books only during a performance)
 - Wanaka, Pembroke Mall, Stage 1
- (4) Open on ANZAC Day (all day) – if falls on a Monday or Friday
- Whitianga
 - Whangamata
 - Tairua
- (5) Open on Good Friday and Easter Sunday
- Queenstown
 - Picton – Mariners Mall (only if a cruise ship is in port)
 - Paihia (also ANZAC Day)
- (6) Other Options
- Nelson – any day providing Founders Park is open (sale of crafts only)
 - Thames – Richmond Court – Christmas Day (if Sunday) and Easter Sunday (if in March) for the sale of arts and crafts (own work).

Obviously this full range of exemptions as they stand, create confusion, uncertainty and regional bias.

The Current Views of Retailers

In formulating our views for this submission, we undertook a survey of our membership. We received over 420 responses which comparative to other surveys we have initiated was over three times the average response, and reaffirmed to us the high level of interest and desire for action our members have in this issue.

Given that the diversity of our membership is somewhat akin to the diversity of our nation it is hardly surprising that the responses ranged from those who were “raving fans” of full liberalisation of Easter Trading through to those who value dedicated time out of their business (for themselves and their staff) to spend with their own families. However, it was interesting to note the middle ground has certainly shifted from previous survey's undertaken by the Association to see greater support for the right to trade on Easter Sunday.

The key survey results were that:

1. In the main, retailers would prefer to see exemptions removed, and be given the choice to open on Easter Friday and Easter Sunday. If that was not possible, there was a preference to trade on Easter Sunday only rather than Easter Friday only.
2. As noted the preference is for no exemptions, however if exemptions were to continue, there was a marginal preference for these to be managed at a local authority vs national body level.
3. In posing the question that Easter Sunday be made a Public Holiday, overall, it was felt that this would not be a beneficial solution for retailers.
4. There was a very high response from those who were trading on Easter Sunday with exemptions that all or most of their staff preferred to work over this period.
5. Employers preferred to pay normal rates to staff for Easter Sunday rather than a public holiday rate, however it would be necessary to meet market rates in order to attract staff to work if exemptions were lifted.
6. It was comforting to note that respondents overwhelmingly supported the inclusion of protections for workers so that they could not be compelled to work on Easter Sunday unless both employer and employee agreed.

Survey conclusions

- Most retailers would prefer to have exemptions removed, and the choice to open on Easter Friday and Easter Sunday
- Second most preferred option would be to remove exemptions and allow retailers the choice to open on Easter Sunday

- If exemptions were still to be included, (existing and new) these should be managed by a body, and the preference was marginally higher for local bodies over a national body to be that authority.
- There is overwhelming support to contain provisions for protection of workers, and in our opinion this should also be extended to leaseholders
- While retailers would prefer not to pay public holiday wages on Easter Sunday, it is noted that they will need to pay appropriate market rates to attract staff to work

The Preferred outcome for Retailers

Firstly we need to address solutions to resolve the archaic exemptions regime.

If all retailers were able to open on Easter Sunday, much of the debate would go.

If this was adopted, who would still have a marketing advantage that would leave some retailers feeling disadvantaged? Ignoring the more obscure exemptions (craft markets etc) there would be:

- 1) Queenstown/Mariners Mall, Picton/Paihia would be the only regional exemptions for Good Friday
- 2) Whitianga/Whangamata/Tairua would have an advantage of 4 hours when ANZAC Day falls on a Monday or Friday
- 3) The store type exemptions would still cause some issues
- 4) Garden centres would still have an issue over Good Friday (prime gardening time)

In considering the above, and also the views expressed in our member survey, our preference is for the following:

- Open up Easter Sunday to all retailers (and Good Friday to garden centres)
- Remove all area exemptions
- Retain exemptions under primary Act (dairies/service stations/pharmacies/souvenirs (and redefine souvenirs))

- Give local authorities the power to exempt specific areas on the other “closed days” when there is a “significant event”. The definition being an event that should be regarded as significant to an audience outside of the region when it creates significant economic benefit for the region e.g. Wanaka air show on Easter Friday.
- Provide protections for employees and leaseholders
- Allow for appropriate market rates for staff

The proposal not only provides clarity in contrast to the confusion that is currently in place, but addresses the regional disparities that are also a fundamental cause for concern amongst retailers.

Part 2 – Easter Sunday Shop Trading Amendment Bill

The Bill recognises the nature of the retail environment in communities with a significant visitor industry, acknowledges the business community and allows it to service and satisfy the retail demand accordingly. It provides for partial exemption to allow shops in communities with a significant visitor industry to open on Good Friday and Easter Sunday during the period from 10am to 5pm if they so choose.

As drafted, the Bill is applicable to Wanaka and Tauranga areas only (as listed within schedule 2 of the Bill).

The Association supports the Bill in principle and recommends that it proceed.

We wish to make the following points in respect of technicalities of the Bill:

- The Bill allows retailers in an area with a significant visitor industry to be exempt as outlined above, however it is not clear what criteria will be used to measure a “significant visitor industry”. We recommend that the criteria is outlined and clarified – e.g. does this refer to a significant visitor industry per se, or over the Easter period only?
- We note that in drafting the Bill, the member has only included Wanaka and Tauranga within the Schedule, as they did not want to presume to add other Towns or Cities without consulting them first, and it is thought that the Select Committee stage may provide for additions to the Schedule.

However, the Bill does not currently provide for an alternative process (other than further amendments to the Act should the Bill be adopted) to allow later inclusion of any Town or City that, for whatever reason, fails to make a request to be on this Bill’s Schedule prior to any subsequent enactment.

This may be an oversight in the drafting, as we do not believe that the member intends for amendments to have to go through such an arduous process.

Therefore we suggest that the Bill be amended to provide an administrative mechanism to allow other areas to be added to the schedule without the need to go through a formal legislative or regulatory amendment process.

We also wish to note that while we support the Bill proceeding, the solution continues to only partially address the issues that were outlined in Part 1 of this submission.

Part 3 – Recommendations & Conclusions

Recommendations

The Association **recommends** that:

- a) the Easter Sunday Shop Trading Amendment Bill **proceeds and includes** an administrative mechanism to allow other areas to be added to the schedule without the need to go through a formal legislative or regulatory amendment process

- b) the Committee gives further consideration to the Association's recommendation that the Shop Trading Hours Act Repeal Act 1990 be amended to:
 - I. Allow all businesses to open on Easter Sunday
 - II. Allow Garden Centres to trade on Easter Friday
 - III. Remove all area exemptions
 - IV. Retain exemptions under the primary Act (dairies/service stations/pharmacies/souvenirs)
 - V. Redefine "Souvenir" and include photographs
 - VI. Give local authorities the power to exempt specific areas on the other "closed days" when there is a "significant event". The definition being an event that should be regarded as significant to an audience outside of the region when it creates significant economic benefit for the region e.g. Wanaka air show on Easter Friday.
 - VII. Ensure amendments to the Shop Trading Hours Act Repeal Act 1990 are reflected in the Sale of Liquor Act as appropriate.

The Association wishes to note our willingness to be a part of any group tasked to work through the details of defining the criteria noted above.

Conclusion

As this submission is lodged, the Association are engaging with the National Distribution Union and have indicated our willingness to participate in a process for seeking a mutually beneficial way forward in addressing the Easter Trading issue for our respective members.

Our members believe that this issue's resolution is long overdue, and would prefer an outcome for Easter 2007. However, we acknowledge that it may take longer than six months to provide a satisfactory national solution to the problem, and if that should be the case, we would request the Committee to consider making an interim report available as early as possible that states a solution is unlikely before Easter 2007 and in all probability will not be delivered until Easter 2008. We would be prepared to support an extended timeline if it allows Parliament to fix this problem once and for all.

We are confident that in endorsing our recommendations, and in returning the right to choose back to society, the committee will provide a balanced and appropriate solution to Parliament. In doing so, it will ensure that the issue no longer continues to appear repeatedly on its agenda in the future.

The Association requests that we be given the opportunity to speak to our submission.

John Albertson

Chief Executive



Submission

to the

Commerce Select Committee

on the

Shop Trading Hours Act Repeal (Easter Trading) Amendment Bill

(Private Members Bill Introduced by Steve Chadwick MP)

28 July 2006

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Part 2 - The Shop Trading Hours Act Repeal (Easter Sunday) Amendment Bill

Comments on the intent and application of the Bill.

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5. Employers preferred to pay normal rates to staff for Easter Sunday rather than a public holiday rate, however it would be necessary to meet market rates in order to attract staff to work if exemptions were lifted.
6. It was comforting to note that respondents overwhelmingly supported the inclusion of protections for workers so that they could not be compelled to work on Easter Sunday unless both employer and employee agreed.

Survey conclusions

- Most retailers would prefer to have exemptions removed, and the choice to open on Easter Friday and Easter Sunday
- Second most preferred option would be to remove exemptions and allow retailers the choice to open on Easter Sunday

- If exemptions were still to be included, (existing and new) these should be managed by a body, and the preference was marginally higher for local bodies over a national body to be that authority.
- There is overwhelming support to contain provisions for protection of workers, and in our opinion this should also be extended to leaseholders
- While retailers would prefer not to pay public holiday wages on Easter Sunday, it is noted that they will need to pay appropriate market rates to attract staff to work

The Preferred outcome for Retailers

Firstly we need to address solutions to resolve the archaic exemptions regime.

If all retailers were able to open on Easter Sunday, much of the debate would go.

If this was adopted, who would still have a marketing advantage that would leave some retailers feeling disadvantaged? Ignoring the more obscure exemptions (craft markets etc) there would be:

- 1) Queenstown/Mariners Mall, Picton/Paihia would be the only regional exemptions for Good Friday
- 2) Whitianga/Whangamata/Tairua would have an advantage of 4 hours when ANZAC Day falls on a Monday or Friday
- 3) The store type exemptions would still cause some issues
- 4) Garden centres would still have an issue over Good Friday (prime gardening time)

In considering the above, and also the views expressed in our member survey, our preference is for the following:

- Open up Easter Sunday to all retailers (and Good Friday to garden centres)
- Remove all area exemptions
- Retain exemptions under primary Act (dairies/service stations/pharmacies/souvenirs (and redefine souvenirs))

- Give local authorities the power to exempt specific areas on the other “closed days” when there is a “significant event”. The definition being an event that should be regarded as significant to an audience outside of the region when it creates significant economic benefit for the region e.g. Wanaka air show on Easter Friday.
- Provide protections for employees and leaseholders
- Allow for appropriate market rates for staff

The proposal not only provides clarity in contrast to the confusion that is currently in place, but addresses the regional disparities that are also a fundamental cause for concern amongst retailers.

Part 2 – Shop Trading Hours Act Repeal (Easter Sunday) Amendment Bill

The Bill seeks to remedy the current anomalous law that prohibits certain areas of New Zealand to trade on Easter Sunday by empowering district or territorial authorities with accountability for choosing what is best for their area, and upon due consultation, to make the appropriate decision.

The Bill also extends the protections for workers and leaseholders provided to Garden Centres in the Shop Trading Hours Act Repeal Amendment Act 2001 to also apply to those in territorial authorities who may be affected by the passage of the Bill.

Accordingly this inclusion provides protections for workers so that they can not be compelled to work on Easter Sunday unless both employer and employee agree, nor can a business be compelled to be open on Easter Sunday under a provision of any lease, licence, contract covenant, or agreement entered into before the amendment comes into force. The Association believes that these provisions in the Bill are not contestable should any amendments be recommended and made prior to any subsequent passage.

The Association supports the Bill in principle and recommends that it proceed.

However we also wish to note that while we support the Bill proceeding, the solution continues to only partially address the issues that were outlined in Part 1 of this submission.

Part 3 – Recommendations & Conclusions

Recommendations

The Association **recommends** that:

- a) the Shop Trading Hours Act Repeal (Easter Sunday) Amendment Bill **proceeds**

- b) the Committee gives further consideration to the Association's recommendation that the Shop Trading Hours Act Repeal Act 1990 be amended to:
 - VIII. Allow all businesses to open on Easter Sunday
 - IX. Allow Garden Centres to trade on Easter Friday
 - X. Remove all area exemptions
 - XI. Retain exemptions under the primary Act (dairies/service stations/pharmacies/souvenirs)
 - XII. Redefine "Souvenir" and include photographs
 - XIII. Give local authorities the power to exempt specific areas on the other "closed days" when there is a "significant event". The definition being an event that should be regarded as significant to an audience outside of the region when it creates significant economic benefit for the region e.g. Wanaka air show on Easter Friday.
 - XIV. Ensure amendments to the Shop Trading Hours Act Repeal Act 1990 are reflected in the Sale of Liquor Act as appropriate.

The Association wishes to note our willingness to be a part of any group tasked to work through the details of defining the criteria noted above.

Conclusion

As this submission is lodged, the Association are engaging with the National Distribution Union and have indicated our willingness to participate in a process for seeking a mutually beneficial way forward in addressing the Easter Trading issue for our respective members.

Our members believe that this issue's resolution is long overdue, and would prefer an outcome for Easter 2007. However, we acknowledge that it may take longer than six months to provide a satisfactory national solution to the problem, and if that should be the case, we would request the Committee to consider making an interim report available as early as possible that states a solution is unlikely before Easter 2007 and in all probability will not be delivered until Easter 2008. We would be prepared to support an extended timeline if it allows Parliament to fix this problem once and for all.

We are confident that in endorsing our recommendations, and in returning the right to choose back to society, the committee will provide a balanced and appropriate solution to Parliament. In doing so, it will ensure that the issue no longer continues to appear repeatedly on its agenda in the future.

The Association requests that we be given the opportunity to speak to our submission.

John Albertson

Chief Executive