

# DRAFT FOR CONSULTATION

## **Repeal of Good Friday and Easter Sunday as Restricted Trading Days (Shop Trading and Sale of Alcohol) Amendment Bill**

Member's Bill

### **Explanatory note**

#### **General policy statement**

This Bill seeks to remove an extra burden on businesses by removing the restriction on trading and selling alcohol on Good Friday and Easter Sunday. On these days businesses are prevented from opening or are unnecessarily restricted in their operations. This represents a level of state control and bureaucracy which is not required and indeed detrimental.

The impact of this is felt most severely by small businesses who generally have a smaller pool of cash reserves and tighter allowances. Small businesses makeup 97% of all businesses and employ around 30% of the total New Zealand working population.

By removing these restrictions, trading will be permitted throughout these days. This allows businesses to self-determine which days they would like to open, which is more consistent with a free society. The Bill retains the existing employee protections under the Shop Trading Hours Act 1990 that apply in respect of Easter Sunday and extends these protections to Good Friday.

Overall, this Bill seeks to remove burdens and unnecessary restrictions placed on businesses which provide an obstacle to trading while also being more compatible with the principles of a free society.

#### **Clause by clause analysis**

*Clause 1* is the Title clause.

*Clause 2* is the commencement clause.

## Part 1

### Amendments to the Shop Trading Hours Act 1990

*Clause 3* identifies the Shop Trading Hours Act 1990 as the Act being amended by this Part (the **principal Act**).

*Clause 4* amends section 3 of the principal Act to no longer require shops to be closed on Good Friday or Easter Sunday.

*Clause 5* repeals sections 4A and 4B of the principal Act (which relate to certain shops being permitted to remain open on Easter Sunday).

*Clause 6* repeals subpart 1 of Part 2 of the principal Act, which provides for Local Easter Sunday shop trading policies.

*Clause 7* replaces the heading to Part 2 to identify this Part as relating to shop employee rights.

*Clause 8* repeals the heading to subpart 2 of Part 2.

*Clauses 9 to 13* amend various provisions of subpart 2 of Part 2 of the principal Act to extend employee protection rights that currently apply to Easter Sunday, to include Good Friday.

*Clause 14* amends section 2 of the principal Act (Interpretation) to delete definitions that are no longer required.

*Clause 15* amends section 8 of the principal Act to provide that a mandatory opening provision in a lease or other document entered into or made before this Bill commences must not be interpreted as requiring a shop to open on a Good Friday or Easter Sunday.

*Clause 16* provides for prosecutions commenced before this Bill commences to continue as if this Bill was not enacted.

*Clause 17* amends Schedule 1AA, to provide for transitional, savings, and related provisions relating to amendments made by this Bill.

## Part 2

### Amendments to Sale and Supply of Alcohol Act 2012

*Clause 18* identifies the Sale and Supply of Alcohol Act 2012 as the Act being amended by this Part (the **principal Act**).

*Clauses 19 to 21* amends various provisions of the principal Act to remove the default restriction on the sale and supply of alcohol on Good Friday and Easter Sunday.

*Cameron Luxton*

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**Schedule**

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**New Part 2 inserted into Schedule 1AA**

**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Repeal of Good Friday and Easter Sunday as Restricted Trading Days (Shop Trading and Sale of Alcohol) Amendment Act **2022**.

**2 Commencement**

This Act comes into force on the day after the date on which it receives the Royal assent.

**Part 1**

**Amendments to the Shop Trading Hours Act 1990**

**3 Principal Act**

This Part amends the Shop Trading Hours Act 1990 (the **principal Act**).

Subpart 1—Repeal of Good Friday and Easter Sunday as restricted  
trading days

**4 Section 3 amended (Shops to be closed on Anzac Day morning, Good Friday, Easter Sunday, and Christmas Day)**

- (1) In the heading to section 3, delete “, **Good Friday, Easter Sunday,**”.
- (2) In section 3(1)(b), delete “any day that is Good Friday, Easter Sunday, or”.

**5 Sections 4A and 4B repealed**

Repeal sections 4A and 4B.

**6 Subpart 1 of Part 2 repealed**

Repeal subpart 1 of Part 2.

Subpart 2—Amendments to shop employee rights

**7 Heading to Part 2 replaced**

Replace the heading to Part 2 with:

**Part 2**  
**Shop employee rights**

**8 Heading to subpart 2 of Part 2 repealed**

Repeal the heading to subpart 2 of Part 2.

**9 Section 5G amended (Provision requiring shop employee to work, or be available to work, on Easter Sunday unenforceable)**

- (1) In the heading to section 5G replace “**Easter Sunday**” with “**Good Friday or Easter Sunday**”.
- (2) In section 5G, replace “Easter Sunday” with “Good Friday or Easter Sunday”.

**10 Section 5H amended (Shop employee’s right to refuse to work on Easter Sunday)**

- (1) In the heading to section 5H replace “**Easter Sunday**” with “**Good Friday or Easter Sunday**”.
- (2) In section 5H, replace “Easter Sunday” with “Good Friday or Easter Sunday” in each place.

**11 Section 5I amended (Employer’s obligation to notify shop employee of right to refuse to work on Easter Sunday)**

- (1) In the heading to section 5I replace “**Easter Sunday**” with “**Good Friday or Easter Sunday**”.

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- (2) In section 5I(1), replace “Easter Sunday” with “Good Friday or Easter Sunday” in each place.
- (3) In section 5I(2)(b), replace “Easter Sunday” with “Good Friday or Easter Sunday” in each place.

**12 Section 5J amended (Shop employee’s obligation to notify employer of intention to refuse to work on Easter Sunday)**

- (1) In the heading to section 5J replace “Easter Sunday” with “Good Friday or Easter Sunday”.
- (2) In section 5J(1), replace “Easter Sunday” with “Good Friday or Easter Sunday”.
- (3) In section 5J(2)(b), replace “Easter Sunday” with “Good Friday or Easter Sunday” in each place.

**13 Section 5K amended (Employer’s obligation not to take certain actions)**

- (1) In section 5K(1), replace “an Easter Sunday” with “a Good Friday or Easter Sunday” in each place.
- (2) In section 5K(2)(a) and (b), replace “an Easter Sunday” with “a Good Friday or Easter Sunday” in each place.
- (3) In section 5K(2)(c), replace “Easter Sunday” with “Good Friday or Easter Sunday”.

**Subpart 3—Consequential amendments and transitional provisions**

**14 Section 2 amended (Interpretation)**

In section 2, repeal the definitions of **district, local Easter Sunday shop trading policy, publicly available, special consultative procedure, and territorial authority.**

**15 Section 8 amended (Effect of certain provisions in leases, etc)**

After section 8(2D), insert:

- (2E) A mandatory opening provision in a lease, licence, contract, covenant, or agreement that was entered into or made before the commencement of the Repeal of Good Friday and Easter Sunday as Restricted Trading Days (Shop Trading and Sale of Alcohol) Amendment Act **2022** must not be interpreted as requiring a shop to open on Good Friday or Easter Sunday.
- (2F) **Subsection (2E)** does not apply to a shop that, before the commencement of the Repeal of Good Friday and Easter Sunday as Restricted Trading Days (Shop Trading and Sale of Alcohol) Amendment Act **2022**, was entitled to open on Good Friday or Easter Sunday in accordance with this Act or any other enactment.

**16 Section 9 amended (Prosecutions)**

After section 9(2), insert:

- (3) Every prosecution under section 5 initiated by filing a charging document before the commencement of the Repeal of Good Friday and Easter Sunday as Restricted Trading Days (Shop Trading and Sale of Alcohol) Amendment Act **2022** must proceed as if that Act had not been enacted.

**17 Schedule 1AA amended (Transitional, savings, and related provisions)**

After Part 1 of Schedule 1AA, insert the Part 2 set out in the **Schedule** of this Act.

**Part 2**

**Amendments to the Sale and Supply of Alcohol Act 2012**

**18 Principal Act**

This Part amends the Sale and Supply of Alcohol Act 2012 (the **principal Act**).

**19 Section 43 amended (Default national maximum trading hours)**

In section 43(2), delete “, Good Friday, Easter Sunday, ”.

**20 Section 47 amended (Sale and supply on Anzac Day morning, Good Friday, Easter Sunday, and Christmas Day restricted: on-licences)**

- (1) In the heading to section 47, delete “, Good Friday, Easter Sunday,”.  
(2) In section 47(1), delete “Good Friday, Easter Sunday, or”.

**21 Section 48 amended (Sale on Anzac Day morning, Good Friday, Easter Sunday, and Christmas Day restricted: off-licences)**

- (1) In the heading to section 48, delete “, Good Friday, Easter Sunday,”.  
(2) In section 48(a), delete “Good Friday, or ”.  
(3) Repeal section 48(b).

**Schedule**  
**New Part 2 inserted into Schedule 1AA**

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**Part 2**  
**Provisions relating to Shop Trading Hours (Repeal of Restricted  
Trading Days) Amendment Act 2022**

**3 Interpretation**

In this Part,—

**amendment Act** means the Repeal of Good Friday and Easter Sunday as Restricted Trading Days (Shop Trading and Sale of Alcohol) Amendment Act **2022**

**commencement date** means the date on which the amendment Act comes into force

**existing local Easter Sunday shop trading policy** means a policy adopted by a territorial authority under subpart 1 of Part 2 of this Act prior its repeal on the commencement date

**pending local Easter Sunday shop trading policy** means a proposed local Easter Sunday shop trading policy that—

- (a) was subject to the procedure in section 5B before the commencement date; and
- (b) as at the commencement date had not been finally adopted

**pending review** means a review under section 5C that was commenced before the commencement date and as at that day had not been completed.

**4 Existing local Easter Sunday shop trading policies revoked**

On commencement date, all existing local Easter Sunday shop trading policies are revoked.

**5 Matters pending on commencement date**

- (1) All pending local Easter Sunday shop trading policies must be discontinued and the territorial authority must not take any action to progress these policies.
- (2) All pending reviews must be discontinued and the territorial authority must not take any action to progress any of the reviews.