

Short-Form Supplementary Departmental Disclosure Statement

Shop Trading Hours Amendment Bill

A short form supplementary disclosure statement for proposed government amendments to a Bill seeks to bring together in one place some selected information to support and enhance the Parliamentary and public scrutiny of those proposed amendments.

It highlights certain significant powers or features in the proposed amendments that might be of particular Parliamentary or public interest and warrant an explanation.

It provides a limited supplement to the original disclosure statement for the Shop Trading Hours Amendment Bill, dated 14 October 2015, which can be found at this link <http://disclosure.legislation.govt.nz/bill/government/2015/81/>

This supplementary 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.

18 May 2016.

Significant Legislative Features

Offences, penalties and court jurisdictions

1. Do the proposed amendments create, amend, or remove:	
(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalties)?	YES
(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	NO
<p>The Supplementary Order Paper (SOP) makes two amendments to protections for Shop Employees. The first amendment is to the definition of “compels”, in cl 15 s 5K(2). An employer who requires a shop employee to work without notifying them of their right to refuse to work is included in the definition of compels.</p> <p>The second amendment, cl 15 s 5K(3), the definition of “treat the shop employee adversely” is aligned with the definition of “treats an employee adversely” in s 67F of the Employment Relations Act 2000.</p> <p>These provisions are on shop employee protections, a breach of these protections may result in an employee taking a personal grievance against their employer or the employer’s representative.</p>	

1.1. Was the Ministry of Justice consulted about these provisions?	NO
<p>The Ministry of Justice does not routinely vet Supplementary Order Papers for compliance with the New Zealand Bill of Rights Act 1990. We do not consider that the proposed amendment would alter the conclusion in the Bill of Rights advice on the Bill as introduced.</p> <p>A copy of that advice is available here: http://www.justice.govt.nz/policy/constitutional-law-and-human-rights/human-rights/bill-of-rights/shop-trading-hours-amendment-bill</p>	

Privacy issues

2. Do the proposed amendments create, amend, or remove any provisions relating to the collection storage, access to, correction of, use or disclosure of personal information?	NO

Compulsory acquisition of private property

3. Do the proposed amendments contain any provisions that could result in the compulsory acquisition of private property?	NO

Charges in the nature of a tax

4. Do the proposed amendments create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO

Retrospective effect

5. Do the proposed amendments affect rights, freedoms, or impose obligations, retrospectively?	NO

Strict liability or reversal of the burden of proof for offences

6. Do the proposed amendments:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for any offence or civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

7. Do the proposed amendments create or amend a civil or criminal immunity for any person?	NO

Significant decision-making powers

8. Do the proposed amendments 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

9. Do the proposed amendments 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
<p>The SOP changes the enabling mechanism by which territorial authorities can permit shop trading to take place within their districts on Easter Sunday. This change is set out in Clause 15 ss 5A to 5F. Territorial authorities will be required to use the special consultative procedure set out in the Local Government Act 2002 when making a decision to permit shop trading on Easter Sunday, or to review a local policy that permits shop trading.</p> <p>Provisions in the Local Government Act 2002 that apply to bylaws to restrict the delegation of decision making have been applied to the process for making a local policy under this Bill.</p> <p>Clause 15 s 5B has been removed from the Bill. This provision required territorial authorities to make a determination whether a proposed bylaw gave rise to any implications under the New Zealand Bill of Rights Act 1990. This has been removed as the Bill does not require the territorial authority to make any determination, but states clearly that shop trading restrictions on Easter Sunday can only be removed through a local policy. The decisions of public bodies such as territorial authorities are subject to the New Zealand Bill of Rights Act 1990.</p>	

10. Do the proposed amendments create or amend any other powers to make delegated legislation?	NO

Any other unusual provisions or features

11. Do the proposed amendments contain any provisions (other than those noted above) that are unusual or call for special comment?	NO