

Submission to the Department of Labour on the Easter Trading and Holidays Legislation

NCWNZ is an umbrella organisation representing 47 Nationally Organised Societies and National Members. It has 28 Branches throughout the country attended by representatives of those societies and some 150 other societies. It also has three satellite groups and three regional consultation groups. NCWNZ is representative of approximately 350,000 women, via its affiliated bodies. The Council's functions are to serve women, the family and the community at local, national and international levels through research, study, discussion and action.

NCWNZ welcomes the opportunity to consider this Discussion Document on Easter Trading and Holidays Legislation.

The response has been prepared by the Consumer Affairs Standing Committee with additional input from both Public Issues and Employment Standing Committees and following circulation of the questions to members of NCW for response.

In recent years, NCWNZ has made a number of submissions on related public holidays and employment matters and most recently a submission on the Shop Trading Hours Repeal (Easter Trading) Amendment Bill in July 2006. The views expressed on those occasions have been revisited when preparing this response.

It is evident that there is a wide diversity of opinion on this topic but also a perceptible shift towards a wish for more choice about extended shop trading hours on public holidays by the general community, and this is marginally reflected in the responses from our membership.

The diversity of viewpoints among NCWNZ membership persists and many members still emphasised the importance of the traditional sustained break from usual work routines that the Easter holiday provides and the need for a work/life balance and family focused activities.

This continues to reflect policy established at the National Executive meeting in 2003 –

That NCWNZ supports the provisions in the Shop Trading Hours Act Repeal Act 1990 which prohibit normal retailing on Christmas Day, Good Friday, Easter Sunday, and ANZAC Day morning.

However it has been acknowledged by NCW members that shopping is now part of many people's preferred recreational activities and also conveyed some support for the present anomalies and inconsistencies to be addressed and resolved.

NCW members' responses are detailed in the accompanying questionnaire provided with the Discussion Document. The following views reflect responses made by NCWNZ members to questions sent by email and also consultation.

1. *Do you consider that New Zealand law should in general treat Easter as a holiday weekend? What are your reasons*

Yes, all responses supported this as traditionally Easter and particularly Easter Sunday is a religious festival. Easter Holiday weekend shows respect for and facilitates social, cultural and religious significance and ensures retailers and retail workers have time to spend with family.

2. *Do you consider that the inconsistencies described above between the Shop Trading Hours Act Repeal Act 1990 and the Sale of Liquor Act 1989 and the Holidays Act 2003 need to be addressed? For example, if special rules apply over the Easter weekend should they be consistent in terms of shop trading hours, sale of liquor and statutory holidays? Please explain why or why not.*

Responses were varied – generally agreed that inconsistencies should be addressed. However need reconsideration after decision made re Easter Sunday status e.g. Public Holiday, Restricted Trading? Special rules to apply and be consistent for Easter Sunday and Good Friday which will implicate shop trading hours, sale of liquor and statutory holidays and need addressing.

3. *Do you agree with the impact of the inconsistencies described above? Can you think of any other impacts from these inconsistencies? Is there a difference when considered from the perspective of the business owner, the employee and the customer?*

Responses reflected opinions documented in Q2. Inconsistencies can only be addressed when decisions made about status of Easter Sunday. Employees would receive additional compensation if Easter Sunday was treated as a Public Holiday. It was considered the consumer had opportunities to 'shop' before Easter and on Easter Saturday. Impact from inconsistencies described above may certainly exist if Sale of Liquor Act 1989 subjected to special rules – however the social concerns relating to alcohol abuse and its impact on families if trading was allowed on restricted days was considered by members to have greater impact for all New Zealanders.

4. *Which one of the following statements best describes your view and why?*
 - a) *Shop trading and sale of liquor rules on Easter Sunday should remain as they currently are (Status quo).*
 - b) *Either or both the shop trading and sale of liquor (delete one if you wish) rules should allow for some areas or businesses to have exemptions from trading restrictions on Easter Sunday.*
 - c) *Either or both shop trading and sale of liquor (delete one if you wish) rules on Easter Sunday should be the same as any other weekend.*

Responses indicated preference for a). No support indicated for removal of restrictions under the Sale of Liquor Act 1989. Some members' responses considered b) an option to allow for some areas/businesses to have exemptions from trading restrictions on Easter Sunday. While recognising this choice a) does not address inconsistencies in the legislation. It was felt they could be addressed and solutions found to resolve them.

5. *If an exemption making power is reinstated, how would you prefer to see it implemented (e.g. should local authorities or the Minister of Labour make the decision)? Please explain your view.*

Majority of responses indicated the Minister of Labour should make the decision after consultative process. A few responses indicated support for local or regional authorities to allow for strong local wishes to be heard. Others considered this may result in further inconsistencies, anomalies and unfairness. It was considered one rule for all New Zealanders had increased likelihood of being accepted.

6. *If an exemption making power is reinstated, what criteria do you think should be applied to the granting of exemptions (e.g. is the area a significant tourist or holiday destination)?*

The criteria to be applied for granting of exemptions should be concentrated around events and places that attract significant numbers of tourists (domestic and international) over Easter. Whilst garden centres have exemption this would not necessarily continue if Easter was a Public Holiday or was considered that NZ already obliges the tourist with more shopping hours than many countries in Europe and elsewhere.

7. *If the exemption making power is reinstated, should shop trading and sale of liquor restrictions/exemptions be considered at the same time? Please explain why or why not.*

No.

Responses considered that should exemption-making power be reinstated, only the shop trading restrictions/exemptions be considered. No change recommended to Sale of Liquor restrictions/exemptions. Responses indicated there were adequate shopping opportunities prior to Easter and on Easter Saturday to meet any supply needs for restricted trading days. A range of entertainment venues can provide liquor on their premises as allowed in the Sale of Liquor Act 1989.

8. *What information do you have on the potential costs/benefits of any of these options? Please provide any supporting information.*

Few responses were received to this question. Generalised comments were made – indicated that NZ citizens have many days to ‘shop’ throughout the year and probably the gross annual income of businesses trading on Easter Sunday may not markedly increase as discretionary spending would apply over the whole year.

9. *Do you consider that Easter Sunday should or should not be treated as a public holiday? Please explain why or why not.*

Yes.

Responses indicated strong support for Easter Sunday to be treated as a Public Holiday. Reasons given were – Christmas Sacred Day; main holy date of the year for Christians; Treaty of Waitangi was signed in NZ and many Maori Chiefs were Christians; considered paradoxical that Christmas Day and Good Friday are Public Holidays but Easter Sunday is not; Family day; work/life balance importance.

10. *If you consider Easter should be treated as a public holiday, which one of the following statements best describes your view and why?*
- Increase the number of public holidays to 12 by making Easter Sunday the 12th public holiday.*
 - 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 Sundays.*

- c) *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.*

NCWNZ members indicated support for b) with limited support for c) as an alternative. Agreed that option b) would provide some protections to employees required to work on Easter Sunday. They observe the day free from work or receive additional compensation. Would help lessen costs and it was agreed could help mitigate negative reaction from businesses. If retailers reconsidered opening if made a Public Holiday – would be beneficial outcome for employees to have Easter Sunday free from work.

11. *What information do you have on the potential costs/benefits of any of these options? Please provide any supporting information.*

Potential benefits would be those listed in Question 10 outlining why option b) was preferred. If public holidays maintained at 11, by making Easter Sunday a public holiday and subject to 'mondaysation' arrangements, costs would be reduced for businesses.

12. *If there are changes to shop trading and sale of liquor restrictions do you consider that there should be additional protections for employees? Please explain why or why not.*

Yes – responses support additional protection for employees if there are changes made. Particularly adequate employee protection against compulsion to work on Easter Sunday, where employees chose to exercise their right not to work. Then employers would be able to engage casual staff. Reasonable notice of intention to trade should be given to employees to determine availability.

13. *Do you consider that the above proposals are adequate and appropriate? Please explain why or why not.*

Members responses considered all employees should have additional protections if Easter Sunday is treated as a public holiday. Not only to shops opening as a result of exemption or amendment, but also to shops who may already open to trade on Easter Sunday.

14. *If there are changes to shop trading and sale of liquor restrictions do you consider that employee protections should be targeted to only apply to employees affected by these changes? Please explain why or why not.*

No - if there are changes members considered that employer protections should apply to all employees in businesses affected by changes and not only to shops – retail outlets opening as a result of the new exemption or amendment.

15., 16., 17. – no responses received.

18. *Do you consider that penalties for breaching shop trading restrictions need to be increased? If so, which option do you support for increasing penalties? Please explain why you do or do not support this option or options.*

The majority of responses indicated support for increasing penalties consistent with employment relations legislation. All options were supported for increasing penalties. It was considered

imperative for repeat offending to be penalised. Comments were made the smaller penalties may only encourage shop trading restrictions to be breached. One response recommended no penalties be enforced.

19. *Do you consider that Labour Inspectors' powers of enforcement need to be increased? If so, is this option adequate and appropriate? Please explain why you do or do not think this is the case.*

No – it was considered that too often powers of enforcement are abused by Inspectors and those who offend may become abusive to Inspectors. It was suggested that instant fines and closure would be more effective and negate the necessity for legal representation and costly court cases. Increased powers of enforcement are seen as an alternative only if no other suitable options are appropriate or effective.

20. *Do you have any other comments?*

A proposal from a group of members responding to the questions was to consider Easter Sunday a Restricted Trading Day until 1pm as exists on ANZAC day. They considered this would then cover all options and meet the concerns that exist with present or proposed legislation changes.

Conclusion

The majority of NCWNZ members who responded do not support the concept of Easter Sunday trading being a territorial authority responsibility, even if it is combined with full public consultation. It is still considered to be an issue which must be resolved by nationwide legislation based on community and sector consultation. Any attendant costs to be the responsibility of central government.

The discussion required to make a submission on this Bill created the opportunity to gain NCWNZ membership opinion on the issue of Easter Sunday Trading.

While it is recognised that the legal ability to trade does not compel an establishment to open, the current trend for most retail sectors to either remain closed or have more limited hours on Sundays in many areas of NZ seems to meet with society's approval generally. Although there was no clear consensus the NCWNZ membership opinion again reflected that Easter Sunday should continue to have restricted trading, with no change to the Sale of Liquor Act 1989. The majority of responses indicated support for Easter Sunday to be a public holiday subject to 'mondayisation' arrangements.

Thank you for the opportunity to comment on this Bill.

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