

Legislative Council

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South Australia

Shop Trading Hours (Extension of Hours) Amendment Bill 2022

A BILL FOR

An Act to amend the *Shop Trading Hours Act 1977*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Shop Trading Hours (Extension of Hours) Amendment Act 2022*.

2—Commencement

This Act comes into operation on a day to be fixed by proclamation.

Part 2—Amendment of *Shop Trading Hours Act 1977*

3—Amendment of section 4—Interpretation

- (1) Section 4(1), definition of *exempt shop*, (d)(i)—after "which is" insert:
wholly or predominantly
- (2) Section 4(1), definition of *Glenelg Tourist Precinct*—delete the definition
- (3) Section 4(1), definition of *Greater Adelaide Shopping District*, (c)—delete paragraph (c)
- (4) Section 4(1)—after the definition of *Inspector* insert:
interested party, in relation to a proposed exemption under section 5 or a notice under section 13(2)(d), means—
 - (a) any industry association representing the interests of shopkeepers in shops that would be the subject of the exemption or notice; or
 - (b) any of the following entitled to represent employers, or employees, in shops that would be the subject of the exemption or notice:
 - (i) organisations registered under the *Fair Work (Registered Organisations) Act 2009* of the Commonwealth;
 - (ii) associations registered under the *Fair Work Act 1994*;
- (5) Section 4(1), definition of *the Metropolitan Shopping District*—delete "or the Glenelg Tourist Precinct"
- (6) Section 4(1), definition of *shopping district*, (ba)—delete paragraph (ba)

4—Amendment of section 5—Exemptions

- (1) Section 5(1)—after "provisions of this Act" insert:
, in accordance with this section
- (2) Section 5(4)—delete "30 days" and substitute:
14 days
- (3) Section 5(8)—delete subsection (8) and substitute:
 - (5) In deciding whether to grant or declare an exemption, the Minister may have regard to any matters that the Minister considers relevant and must have regard to the following:
 - (a) whether the proposed exemption is appropriate in order—
 - (i) to enable a shop or shops to be open at an exhibition or show, to facilitate or support a local or special event or to conduct a special trade event; or
 - (ii) to meet the requirements of tourists and other visitors to the area where the relevant shop, or shops, are located;

- (b) the extent to which there has been consultation within the community on the proposed exemption and the outcome of that consultation;
 - (c) the notice that would be given to the community if the proposed exemption were to be granted.
 - (6) The Minister must not grant or declare exemptions under this section that are so extensive as to undermine the controls on shop trading hours set out in this Act.
 - (7) The Minister must not grant or declare an exemption unless the Minister—
 - (a) has consulted with interested parties (if any) (in such manner as is determined by the Minister); and
 - (b) is satisfied that the proposed exemption is supported by a majority of interested parties (if any), including—
 - (i) at least 1 interested party representing the interests of employees of shops that would be the subject of the proposed exemption (if any); and
 - (ii) at least 1 interested party representing the interests of employers in shops that would be the subject of the proposed exemption (if any).
 - (8) An interested party in relation to a proposed exemption may apply for judicial review of a decision made under this section in relation to the proposed exemption.
- (4) Section 5(15)—after "section 13A" insert:
or 13B

5—Amendment of section 7—Inspectors

- (1) Section 7(1)—delete "Governor" and substitute:
Minister
- (2) Section 7—after subsection (2) insert:
 - (3) An appointment may be made subject to conditions specified in the instrument of appointment.
 - (4) The Minister may, at any time, revoke an appointment or vary, revoke or add a condition of an appointment.

6—Amendment of section 13—Hours during which shops may be open

- (1) Section 13(1), (2) and (5)—delete subsections (1), (2) and (5) and substitute:
 - (1) Subject to this section, the shopkeeper of a shop situated in the Greater Adelaide Shopping District may open the shop—
 - (a) until 9.00 p.m. on every weekday; and
 - (b) until 5.00 p.m. on a Saturday; and
 - (c) from 9.00 a.m. to 5.00 p.m. on a Sunday,

but is not entitled to open the shop on 1 January, Easter Sunday, 25 December or any other day that is a public holiday in any year.

- (2) Despite subsection (1) (but subject to subsections (5aa), (5a), (5b) and (5e)), the shopkeeper of a shop situated in the Greater Adelaide Shopping District may open the shop—
- (a) until 5.00 p.m. on the day after Good Friday in each year; and
 - (b) if the business of the shop is not wholly or predominantly the sale of foodstuffs—from 9.00 a.m. to 5.00 p.m. on 26 December in each year; and
 - (c) until midnight on the day after the fourth Thursday in November in each year; and
 - (d) until midnight on no more than 3 weekdays during the period commencing on 11 December and ending on 23 December in each year (being days specified by the Minister by notice in the Gazette); and
 - (e) from 9.00 a.m. to 5.00 p.m. on any additional public holiday; and
 - (f) if the shop is situated in the Central Business District (CBD) Tourist Precinct—
 - (i) from 11.00 a.m. to 5.00 p.m. on a public holiday (not being a public holiday referred to in a preceding paragraph) other than Good Friday, 25 December and 25 April; and
 - (ii) from 12 noon to 5.00 p.m. on 25 April.
- (3) The Minister must publish the notice referred to in subsection (2)(d) on or before 1 November in each year (after consulting with interested parties in such manner as the Minister thinks fit).
- (4) Subject to this section, the shopkeeper of a shop situated in a shopping district outside the Greater Adelaide Shopping District may open the shop—
- (a) until 6.00 p.m. on every weekday other than a Thursday; and
 - (b) until 9.00 p.m. on a Thursday; and
 - (c) until 5.00 p.m. on a Saturday,

but is not entitled to open the shop on 1 January, Easter Sunday, 25 December, 26 December or any other day that is a public holiday in any year.

- (2) Section 13(5d)—delete "subsection (1), (2), (5aa) or (7)" and substitute:
subsection (1), (2) or (5aa)
- (3) Section 13(5e)—delete "subsection (1), (2), (5) or (5aa)" and substitute:
subsection (1), (2), (4) or (5aa)

- (4) Section 13(5e)—delete "Sunday or"
- (5) Section 13(6), (6a) and (7)—delete subsections (6), (6a) and (7) and substitute:
 - (6) In this section—

additional public holiday means any of the following:

 - (a) a Monday that is a public holiday by virtue of section 3(1)(b) of the *Holidays Act 1910*;
 - (b) a Tuesday that is a public holiday by virtue of section 3(2)(b) of the *Holidays Act 1910*.

Note—

The requirements of this section will not apply to exempt shops as defined in section 4(1).

7—Amendment of section 13A—Restrictions relating to Sunday trading

Section 13A(3)—delete subsection (3)

8—Insertion of section 13B

After section 13A insert

13B—Work on Sundays and public holidays

The shopkeeper of a shop is only entitled to open the shop on a Sunday or a public holiday in accordance with section 13 if each employee who works in the shop during that Sunday or public holiday has voluntarily accepted an offer by the shopkeeper to work on that day.

9—Repeal of Schedule 1A

Schedule 1A—delete the Schedule

Schedule 1—Transitional provision

1—Inspectors appointment to continue

An appointment in force under section 7 of the *Shop Trading Hours Act 1977* immediately before the commencement of section 5 of this Act continues in force as if it were an appointment by the Minister under section 7 of the *Shop Trading Hours Act 1977* as amended by this Act.