

WE KNOW

# HUMAN RESOURCES

## SHOP TRADING HOURS – EASTER SUNDAY

From February 2018

QUICK GUIDE

This Quick Guide provides summarised information about shop trading hours

The Shop Trading Hours Amendment Act 2015 amended the principal Act, formerly known as the Shop Trading Hours Repeal Act 1990 and now titled simply the Shop Trading Hours Act 1990.

Its two chief features were:

Firstly, to allow Territorial Authorities to adopt an Easter Sunday Shop Trading policy in respect of a designated territorial area, allowing shop trading on Easter Sunday and secondly, making it unlawful to *require* any shop employee to work on Easter Sunday.

### EASTER SUNDAY SHOP TRADING POLICY

Territorial Authorities now have the responsibility for determining whether or not shops are to be permitted to trade on Easter Sunday. Except for businesses already exempt from the Act's restrictions around Easter Sunday trading (and trading on other special days) it will be necessary for the local Territorial Authority to adopt a policy permitting trading before a business may lawfully do so.

The Territorial Authority must follow a special consultative process before it can adopt such a policy and it may not restrict the application of the policy in any way other than in terms of its designated area of operation i.e. it can apply to the entire territorial area or any part of it but may not apply restrictions for any other reason e.g. restrict trading to sale of certain goods or times.

If a territorial authority adopts an Easter Sunday Trading policy it must be reviewed not later than 5 years after it takes effect and if not reviewed it will lapse after 7 years.

### EMPLOYMENT OF SHOP WORKERS ON EASTER SUNDAY

The new law prohibits an employer from compelling an employee to work on Easter Sunday or making work on Easter Sunday a condition of employment (including under an availability provision).

Employees may refuse to work on Easter Sunday and are not required to give reasons.

Employers wishing to have employees work on Easter Sunday must provide them with **written notice**

- Between 8 and 4 weeks prior to Easter Sunday – if employment commenced more than 4 weeks before Easter Sunday

- As soon as practicable – in all other cases

Notice must be delivered in person *or* by email *or* in a manner specified in the relevant employment agreement – *and must include advice of the right to refuse to work on Easter Sunday.*

If an employee intends to refuse to work on Easter Sunday, they must give written notice to their employer –

- No later than 14 days after receiving notice from the employer – if employment commenced more than 14 days before Easter Sunday, or
- As soon as reasonably practicable after receiving notice – if employment commenced 14 days or less before Easter Sunday, and

must be delivered in person to the employer *or* by email *or* in such manner specified in the relevant employment agreement.

Employees must not be treated adversely if they refuse to work on Easter Sunday. They –

- Cannot be compelled to work
- Cannot be subject to a condition of employment requiring them to work

An employer may not –

- exert undue influence with a view to inducing an employee to work,
- require an employee to work without giving the required notice of the right to refuse work

Breaches of these provisions will be grounds for a Personal Grievance.

#### **Position of Retailers exempt under Section 4**

It would appear that retailers currently permitted to trade on Easter Sunday under s4 of the Shop Trading Hours Act 1990 – and therefore lawfully able, up to this point, to require employees to work on Easter Sunday (which is not a public holiday) as a condition of their employment, may now be placed in the same position as retailers generally in not being able to *require* employees to work on Easter Sunday but instead be obliged to obtain their *agreement* on each occasion as set out above. Whether or not this was intended is not entirely clear.

#### **Territorial authority status on Easter opening as at February 2018.**

Christchurch City Council – No change to Easter trading for 2018 - confirmed

Selwyn District – No change to Easter trading for 2018 - confirmed

Waimakariri District - No change to Easter trading for 2018 - confirmed

Kaikoura District – Allowing traders the freedom to decide if they want to trade - confirmed

Hurunui District – Report to go to Council in February so undecided as yet

Grey District – Allowing traders the freedom to decide if they want to trade - confirmed

Timaru District - Allowing traders the freedom to decide if they want to trade – confirmed

Waimate District – No Change to Easter trading for 2018 – Consultation to occur under L.T.P - confirmed

Mackenzie District – No Change to Easter trading for 2018 - confirmed

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For assistance with any other Employment Relations/Human Resources issues please contact the Canterbury Employers' Chamber of Commerce, phone 03 366 5096 or email [info@cecc.org.nz](mailto:info@cecc.org.nz).