



## Bill Summary

# Shop (Regulation of Hours) Bill 2016

## Bill No. 45 of 2016

### Introduction

The *Shop (Regulation of Hours) Bill 2016* ('**Bill**') is a new law that seeks to prescribe the opening hours of any shop in any area throughout Fiji and related matters.

In this particular Bill, any shop may operate for up to 24 hours within a day including public holidays. However, this Bill does not apply to licensees under the *Liquor Act 2006*.

An important feature of this Bill is that the Minister responsible may by notice in the Gazette order the closure of any shop for times as prescribed in the notice.

This Act comes into force on 1 August 2016 and repeals the *Shop (Regulation of Hours and Employment) Act (Cap. 100)* and all the subsidiary laws made under it.

### Objectives, scope and intent of the Bill

The main purpose of the bill is to prescribe the **opening hours of any shop** in any area throughout Fiji and other related matters.

### Bill Summary of provisions

#### Short title and commencement

**Clause 1 (1)** – this Act may be cited as the *Shop (Regulation of Hours) Act 2016*

**Clause 1 (2)** – the Act comes into force on 1 August 2016

**Clause 2** provides for the interpretation of the Act.

**Clause 3** provides that any shop in any area throughout Fiji may operate for up to 24 hours within a day, including public holidays.

**Clause 4** provides that the Act does not apply to licensees under the Liquor Act 2006. The sale of liquor throughout Fiji is governed by the Liquor Act 2006.

**Clause 5** ensures that any person working in any shop, or engaged in any trade or business including any shop assistant, is entitled to the rights and privileges provided under the Employment Relations Promulgation 2007 and also their health and safety is protected pursuant to the Health and Safety at Work Act 1996.

**Clause 6** provides the Minister with the power to order the closure of any shop for such time or times as prescribed by notice in the Gazette.

**Clause 7** gives power to the Minister to make regulation pursuant to the Act.

**Clause 8** provides that the Act repeals the *Shop (Regulation of Hours and Employment) Act (Cap. 100)* and all subsidiary laws made under it.



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**Ministerial Responsibility** - The explanatory notes says that the Act comes under the responsibility of the Minister responsible for Trade.

### International comparisons

#### Victoria, Australia

*Shop Trading Reform Act 1996* Version No. 044; No. 38 of 1996 (Version incorporating amendments as at 17 June 2015)

*“The purpose of this Act is to provide for the management of shop trading in Victoria.*

*shop means the whole or any part of a building, structure or place or any vehicle—*

*(a) that is used wholly or predominantly for the retail sale of goods; and*

*(b) in or at which goods are sold or exposed or offered for sale by retail on one or more occasions.”*

Exempt shops, which is their predominant business include: Chemist, petrol shop, restaurants, cafes, takeaways or a shop of a prescribed kind, where 20 or less are employed and over a period of 7 days, does not exceed 100 employees.

*Ordinary shop closing times (1) All shops, except exempt shops, must be closed and kept closed during ordinary shop closing times.*

*ordinary shop closing times means—*

*(a) all times on Good Friday and Christmas Day;*

*(b) between the hours of 12:01 am and 1:00 pm on ANZAC Day;*

There are no definitions for “Minister” or “shop assistant” in this Act. Further, there is no mention of liquor or alcohol. Also, there is no reference to employment Acts. Shops, as described above can be open 24/7 except for the closing times, and exempt shops.<sup>1</sup>

#### New Zealand

*Shop Trading Hours Act Repeal Act 1990*

The *Shop Trading Hours Amendment Bill (2015)* Explanatory note, General Policy statement says:

The purpose of the Bill is to allow the statutory restrictions on shops opening on Easter Sunday to be removed by granting the territorial authorities the power to create bylaws to permit all shops to open in all or part of their districts on Easter Sunday. This allows community choice on whether shops open on Easter Sunday in the whole or part(s) of their district.

The Bill does not make any changes to the exemptions from trading restrictions already in place.

The Bill recognises the significance of Easter Sunday and allows all shop workers the right to refuse to work on Easter Sunday. It provides shop workers the right to raise a personal grievance where an employer compels a shop worker to work on Easter Sunday or treats a shop worker adversely because he or she refused to work on that day. Shop workers will not be required to provide a reason for that refusal and must be informed by their employer of their right to refuse to work.

The Bill achieves this by amending the *Shop Trading Hours Act Repeal Act 1990* (the Act) to:

- grant territorial authorities a limited power to create bylaws that allow shop trading in defined areas within their boundaries on Easter Sunday:
- enable shop workers the ability to refuse work on Easter Sunday without giving a reason:

<sup>1</sup> Shop Trading Reform Act 1996 – Victorian Legislation <http://www.legislation.vic.gov.au/>



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- enable shop workers to bring a personal grievance against an employer who compels them to work on Easter Sunday or treats them adversely because of their refusal to work on Easter Sunday.

The Bill also amends the title of the Act from the *Shop Trading Hours Act Repeal Act 1990* to the *Shop Trading Hours Act 1990*, for the purposes of simplifying name of the Act.

The Bill will preserve the following parts of the Act:

- the current status of Easter Sunday (not create a new public holiday):
- the current restrictions related to alcohol for Easter Sunday:
- the Ministry of Business, Innovation & Employment will continue to be responsible for the enforcement of the Act to ensure a consistent approach for all the restricted trading days in the Act:
- the current penalties for breaches of shop trading on Easter Sunday:
- the historic exemptions to shop trading on Easter Sunday.<sup>2</sup>

## Gender analysis

The Bill does not have any disproportionate impact on women and men.

## Further information

- *Shop (Regulation of Hours) Bill 2016* – No. 45 of 2016. Available at: [http://www.parliament.gov.fj/getattachment/Parliament-Business/Bills/2016-Bills/Bill-No-45-Shop-\(Regulation-of-Hours\)-\(1\).pdf](http://www.parliament.gov.fj/getattachment/Parliament-Business/Bills/2016-Bills/Bill-No-45-Shop-(Regulation-of-Hours)-(1).pdf).
- *The Shop (Regulation of Hours and Employment) Act*. Available at: [http://www.paclii.org/cgibin/sinodisp/fj/legis/consol\\_act/sohaea426/sohaea426.html?stem=&synonyms=&query=shop%20regulation](http://www.paclii.org/cgibin/sinodisp/fj/legis/consol_act/sohaea426/sohaea426.html?stem=&synonyms=&query=shop%20regulation)
- Victorian Legislation - *Shop Trading Reform Act 1996* Available at: [http://www.legislation.vic.gov.au/domino/Web\\_Notes/LDMS/LTObject\\_Store/ltobist9.nsf/DDE300B846EED9C7CA257616000A3571/E9208D250603E7B9CA257E67000171EF/\\$FILE/96-38aa044%20authorised.pdf](http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/LTObject_Store/ltobist9.nsf/DDE300B846EED9C7CA257616000A3571/E9208D250603E7B9CA257E67000171EF/$FILE/96-38aa044%20authorised.pdf)
- New Zealand Legislation – *Shop Trading Hours Amendment Bill* Available at: [http://www.legislation.govt.nz/bill/government/2015/0081/latest/DLM6632705.html?search=ts\\_act%40bill%40regulation%40deemedreg\\_shop\\_resele\\_25\\_a&p=1](http://www.legislation.govt.nz/bill/government/2015/0081/latest/DLM6632705.html?search=ts_act%40bill%40regulation%40deemedreg_shop_resele_25_a&p=1)

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<sup>2</sup>New Zealand Legislation – Shop Trading Hours Amendment Bill  
[http://www.legislation.govt.nz/bill/government/2015/0081/latest/DLM6632705.html?search=ts\\_act%40bill%40regulation%40deemedreg\\_shop\\_resele\\_25\\_a&p=1](http://www.legislation.govt.nz/bill/government/2015/0081/latest/DLM6632705.html?search=ts_act%40bill%40regulation%40deemedreg_shop_resele_25_a&p=1)



## Annex A - Definitions used in the Bill

“Minister” means the Minister responsible for trade;

“public holiday” has the same meaning as in the Employment Relations Promulgation 2007;

“shop” means any premises in which any trade, commerce or business is carried out under a licence issued pursuant to the Business Licensing Act (Cap. 204); and

“shop assistant” means any person employed for hire or reward in a shop in connection with the receipt of orders or the serving of customers who are in the shop and for the purpose of any particular trade or calling, the Minister may declare by notice in the Gazette any person employed for hire or reward in a shop to be a shop assistant for the purposes of this Act.