



Government of Western Australia
Department of Commerce

EXPLANATORY MEMORANDUM

Retail Trading Hours Amendment Bill 2012

RETAIL TRADING HOURS AMENDMENT BILL 2012

Overview of Bill

The purpose of the Bill is to amend the *Retail Trading Hours Act 1987* to allow all general retail shops in the metropolitan area to trade on Sundays from 11.00am to 5.00pm, abolish special trading precincts, and give the Minister discretion to vary trading hours for metropolitan general retail shops on all public holidays except Christmas Day, ANZAC Day or Good Friday by Ministerial order.

Part 1 – Preliminary

- Clause 1 Sets out the name of the Act.
- Clause 2 Provides for the commencement of sections 1 and 2 of the Act on the day on which it receives Royal Assent, while the rest of the Act is to commence on a day fixed by proclamation.
- Clause 3 Provides that the Act amends the *Retail Trading Hours Act 1987*.
- Clause 4 (Subclause 1)
Provides that general retail shops in the metropolitan area may additionally open on Sundays from 11.00am to 5.00pm.

Arrangements for the trading hours of general retail shops located outside the metropolitan area remain unaffected.

(Subclause 2)
Deletes the reference to 'special trading precinct' in subsection 12(4)(a), and deletes subsection 12(4)(b), which referenced any orders setting the trading hours for general retail shops located in the immediate vicinity of a special trading precinct.
- Clause 5 (Subclause 1)
Amends section 12A by deleting all references to special trading precincts including in:
- 12A(1) which relates to Ministerial orders for fixing times when general retail shops must remain closed; and
 - 12A(2) which identifies where, and to which shops, such orders may apply.
- The amendments do not affect existing arrangements or orders for the trading hours of general retail shops in holiday resorts.

The holiday resorts remain set out in 12A(4) of the *Retail Trading Hours Act 1987* and include Rockingham, Rottnest Island, and Wanneroo (Two Rocks and Yanchep).

The existing Ministerial order setting out trading times in the Rottnest Island holiday resort allows general retail shops to trade from 7.00am to 9.30pm every day, including Sundays and all public holidays.

The existing Ministerial orders setting trading times in the Rockingham and Wanneroo holiday resorts already provide for Sunday trading by general retail shops in certain holiday periods, and will require reissue to incorporate Sunday trading in non-holiday periods.

(Subclause 2)

Deletes 12A(3), which relates to making orders setting the trading hours of general retail shops in the immediate vicinity of a special trading precinct.

(Subclause 3)

Deletes the definition of special trading precinct, and the definitions of the Armadale, Fremantle, Joondalup, Midland and Perth special trading precincts, in 12A(4).

(Subclause 4)

Deletes 12A(5), which provided that following the commencement of section 5 of the *Retail Trading Hours Amendment (Joondalup Special Trading Precinct) Act 2010*, all references to 'tourism precinct' or to the Perth or Fremantle 'tourism precincts' in any document or instrument, were to be construed as references to 'special trading precinct' or to the Perth and Fremantle 'special trading precincts'.

Clause 6

(Subclause 1)

Extends the 12E(2) power for the Minister to issue orders varying trading hours for general retail shops in the metropolitan area.

Previously, a section 12E order varying the hours of metropolitan general retail shops, could only have effect within the period of 28 days ending on 1 January. This encompasses the pre-Christmas trading and after Christmas sale period.

Section 12E orders in the metropolitan area may now also be issued to allow metropolitan general retail shops to trade on any public holiday, except for Christmas Day (25 December), ANZAC Day (25 April) or Good Friday.

On occasions where Christmas Day or ANZAC Day fall on a weekend, so that an additional public holiday is granted, Ministerial orders may be issued allowing metropolitan general retail shops to trade, on the additional public holiday only.

The clause and the Bill make no change to existing Ministerial orders, made under section 12E, that apply to shops outside the metropolitan area.

(Subclause 2)

Deletes “subject to subsection (2)” from 12E(3). The reference to 12E(2) is no longer required, because new 12E(2) is expressed to operate “without limiting the effect of subsection 3A, but despite any other provision of this section”.

The Minister’s ability to issue orders varying the trading hours of metropolitan general retail shops remains constrained by 12E(2), to the period within the 28 days ending on 1 January, and any public holiday. Due to the new 12E(3A), no order may be issued allowing metropolitan general retail shops to open on 25 December, 25 April or Good Friday.

(Subclause 3)

Amends 12E(8) to insert in alphabetical order the meaning of an ‘order’ in this section. Because the new definition references an order made under 12E(1), (that is, a variation order), it reinforces that orders made under section 12A, which set the trading times for general retail shops in holiday resorts, are not affected by section 12E.

Clause 7	Repeals the <i>Retail Trading Hours (Special Trading Precincts) Order (No.2) 2010</i> .
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