



Government of **Western Australia**
Department of **Commerce**

EXPLANATORY MEMORANDUM

Retail Trading Hours Amendment Bill 2015

RETAIL TRADING HOURS AMENDMENT BILL 2015

Overview of Bill

The purpose of the Bill is to amend the *Retail Trading Hours Act 1987* (the Act) to implement the following changes:

- remove the distinction between the types of filling stations;
- abolish the concept of holiday resorts and exclude Rottnest Island from the application of the Act; and
- exclude retail shops located in short-term markets from the application of the Act. Currently, stall holders are required to apply for a certificate in order to be classified as a small shop or special shop each time they trade at a different market if the market is to be open outside the hours for general shops. The amendments have been drafted so that a retail shop will not be subject to the Act when it operates at a short-term market.

PART 1 PRELIMINARY

Clause 1 Short Title

Sets out that this is the *Retail Trading Hours Amendment Act 2015*.

Clause 2 Commencement

Provides that this Act comes into operation as follows:

- Part 1 - on the day on which this Act receives the Royal Assent;
- the rest of the Act – on a day fixed by proclamation, and different days may be fixed for different provisions.

PART 2 RETAIL TRADING HOURS ACT 1987 AMENDED

Clause 3 Act amended

Provides that this Part amends the *Retail Trading Hours Act 1987*.

Clause 4 Section 4 amended

Clause 4(1) Inserts subsection 2A to provide that despite subsection (1), the Act does not apply to Rottneest Island.

Clause 4(2) Inserts subsection 4(3)(e) to provide the Act does not apply to a retail shop located in a short-term market.

Clause 4(3) Inserts subsection 4A after section 4(3) to define when a retail shop is located in a short-term market.

A retail shop will be located in a short-term market if:

- it is one of a group of retail shops that are placed at a particular location on a particular day and removed from that location before midnight on that day; and
- some or all of the retail shops in the group are operated by different persons; and
- none of the shops in the group is a motor vehicle shop.

The requirement that a market be constituted by more than one person is intended to ensure that retailers do not attempt to circumvent the Act by setting up temporary stalls at their premises, for example, in a car park.

Clause 5 Section 5 amended

Amends section 5(2) to delete the reference to section 14B(4) as this provision will be deleted.

Clause 6 Section 12 amended

Clause 6(1) Deletes section 12(2) and inserts a new section 12(2) to provide that subsection 12(1) does not apply to a motor vehicle shop. New section 12(2) also no longer contains any reference to general retail shops in holiday resorts as the concept of holiday resorts is to be abolished.

Clause 6(2) Deletes section 12(4) and inserts a new section 12(4) to provide that section 12(3) does not apply to a motor vehicle shop. New section 12(4) also no longer contains any reference to general retail shops in holiday resorts as the concept of holiday resorts is to be abolished.

Clause 7 Section 12A deleted

Deletes section 12A. The concept of holiday resorts is to be abolished.

Clause 8 Section 14A amended

Amends section 14A to delete subsections (1)(c) and 1(d). These provisions are no longer required as the distinction between different types of filling station is to be removed.

Clause 9 Sections 14B and 14C deleted

Deletes section 14B as the distinction between types of filling stations is to be removed.

Deletes section 14C as this provision will be redundant following the removal of the distinction between types of filling stations.

Clause 10 Section 15 amended

Amends section 15(1)(e)(iii) to reflect the fact there will no longer be a distinction between types of filling stations.

Clause 11 Section 25 amended

Deletes section 25(2) as this provision will be redundant following the removal of the distinction between types of filling stations, and inserts new section 25(2) whereby the provision will only apply to a person who operates a retail shop that is certified to be a small retail shop under section 10(3)(c).

PART 3 SUBSIDIARY LEGISLATION REPEALED

Clause 12 Regulations repealed

The *Retail Trading Hours (Holiday Resorts) Regulations 2012* are repealed as the concept of holiday resorts is to be abolished.

Clause 13 Orders repealed

The following orders are repealed as the concept of holiday resorts is to be abolished:

- the *Retail Trading Hours (Rottnest Island Holiday Resort) Order 2007*;
- the *Retail Trading Hours (Rockingham Holiday Resort) Order 2012*;
- the *Retail Trading Hours (Wanneroo Holiday Resort) Order 2012*.

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