

SHOP TALK

ISSUES AND NEWS AFFECTING THE AUSTRALIAN SHOPPING CENTRE INDUSTRY

THURSDAY 12 NOVEMBER 2015

[SUBSCRIBE HERE](#)

NSW GOVERNMENT DELIVERS EQUITABLE BOXING DAY TRADING THROUGHOUT NSW

After a three-year struggle the NSW Legislative Council this week passed a Bill to enable all shops throughout NSW to trade on Boxing Day this year if they wish (*Shop Talk* [22/10/15](#) & [5/11/15](#)). Although the Bill is still to pass the Legislative Assembly, that is now a formality which means that this year all shops and shopping centres can benefit from the bumper Boxing Day trade, a privilege previously confined to a lucky few. The Bill was passed with a number of amendments, including severe penalties (\$11,000) on shop owners who force an employee to work on this day. In addition, even though the present law already voids any lease provision requiring a shop to be open on restricted trading days, there will now be penalties (\$22,000) on any lessor who forces a lessee to open. The new law also has a sunset provision requiring an independent review after 1 February 2017, which is to be tabled in Parliament on or before 1 September 2017.

SA GOVERNMENT ANNOUNCES EXTENDED CHRISTMAS TRADING HOURS FOR ADELAIDE

All shops in Adelaide (both in the CBD and suburbs) will be able to open this year from 9am (until 5pm) on each Sunday from 29 November through to and including 27 December. In addition all shops will be able to stay open until 12 midnight on Thursday 17 December, Friday 18 December and Wednesday 23 December. While large shops outside the CBD must close on Proclamation Day (26 December) and New Year's Day (1 January), they will be able to trade from 11am to 5pm on the Proclamation Day substitute public holiday, Monday 28 December. Full details are [here](#).

PUBLIC HOLIDAYS AND SHOP TRADING DAYS OVER THE CHRISTMAS AND NEW YEAR PERIOD

The Australian Retailers Association (ARA) has produced this handy state-by-state [Guide](#) to public holidays and shop trading days over the Christmas and New Year periods. The Guide incorporates the NSW Boxing Day decision and the South Australian announcement (both referred to above).

CONSULTANT REPORT DID NOT FIND LICENCE CHANGES WOULD DRIVE DOWN STANDARDS

In May 2015 the Victorian Government reversed the decision of its predecessor and repealed minor exemptions from real estate licensing requirements for 'large commercial property owners', who do not need or want legislative protections from their managers (*Shop Talk* [28/5/15](#)). The Minister for Consumer Affairs, Jane Garrett, justified this on the grounds that the exemption "would have driven down standards in the commercial property industry and put tenants at an unfair disadvantage in property negotiations". Her decision followed a review of the relevant Regulation by an independent consultant, ACIL Allen. The Government initially refused to release the consultant's report but this has finally been obtained by the Shopping Centre Council under the *Freedom of Information Act*. Not surprisingly, given the political nature of the Government's decision, the report does not find any evidence that the changes would have "driven down standards". Nor did it find any evidence that tenants "would be put at an unfair disadvantage in property negotiations [with landlords]". This is also not surprising given that the exemptions had no implications for the *Retail Leases Act*, which is the relevant legislation which protects retail tenants in property negotiations. This is the reason, as the consultant found, the ARA had no objection to the Regulation. The consultant's report also found no evidence that the exemptions would place non-retail tenants at a disadvantage in negotiations. The report did find a potential risk in relation to security deposits in non-retail commercial leases, which would no longer be required to be held in trust accounts under the exemptions. If the Government had believed this was a serious risk requiring government intervention, however, this could have been addressed through separate regulation. The report noted the same risk was identified in Queensland, when these exemptions were implemented (*Shop Talk* [26/11/14](#)), but the Government judged the benefits of the exemption outweighed this risk.

[PREVIOUS ISSUES](#)