



SHOP TALK

ISSUES AND NEWS AFFECTING THE AUSTRALIAN SHOPPING CENTRE INDUSTRY

SHOPPING CENTRE
COUNCIL OF AUSTRALIA

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[Archive](#)

AUSTRALIAN ENERGY REGULATOR FINALISES ON-SELLING GUIDELINES

The Australian Energy Regulator (AER) has finalised its separate exemption guidelines for [on-selling electricity](#) (from 1 July 2012) and [network service provision](#) (from 1 January 2012) ([Shop Talk 24/11/11](#)). The SCCA broadly supports the AER's final guidelines, particularly given they acknowledge on-selling as a legitimate activity; enable deemed and registration exemptions from requiring a full authorisation for an electricity retailing or network license; and provide some national harmonisation. The final conditions attached to the exemption guidelines reflect much of our industry's concerns and, fortunately, are not too onerous. We will closely monitor the new requirements.

BUSINESS COALITION FORMED IN SOUTH AUSTRALIA TO FIGHT HOLIDAYS DECISION

A [coalition of businesses](#) which will be damaged by the SA Government's proposed legislation on public holidays is seeking to defeat the Bill ([Shop Talk 24/11/11](#) & [10/11/11](#)). The coalition has [noted](#) that the union-demanded *quid pro quo* for permitting only CBD retailers to open on public holidays is that "any business whose normal trading hours include all or part of Christmas Eve or New Year's Eve from 5pm will pay up to 275% compared to what was a standard hourly rate". It is bizarre that businesses have to fight a measure agreed by Business SA, which supposedly represents the interests of businesses. The coalition has called on Business SA to explain why "small and medium businesses from Border Village to Port McDonnell to the Birdsville Pub should bear the cost of two additional new public holidays so that a handful of traders can open their Rundle Mall properties on public holidays." The Government has now circulated the draft [Statutes Amendment \(Shop Trading and Holidays\) Bill 2012](#) and it is anticipated that debate on the Bill could begin in the SA Parliament in late February.

MEDIATION FIRST REQUIREMENT IN NSW OVERRULED BY THE SUPREME COURT

A decision by the NSW Supreme Court has confirmed that a retail tenancy dispute does not have to go to mediation first before court proceedings can commence in relation to that dispute. Section 68(1) of the NSW [Retail Leases Act](#) stipulates that a retail tenancy dispute "may not be the subject of proceedings before any court unless and until the Registrar has certified in writing that mediation [under Part 8] has failed to resolve the dispute or matter or the court is otherwise satisfied that mediation [under Part 8] is unlikely to resolve the dispute or matter". In [Fordham Laboratories Pty Ltd v Sor & Anor](#), the Supreme Court overruled a magistrate's decision to strike out a claim on the grounds that the landlord had failed to comply with section 68. The Court found: "The requirement to mediate is not a condition precedent to the commencement of proceedings but the court may not proceed to hear and determine the dispute unless satisfied that mediation [under the NSW [Retail Leases Act](#)] is unlikely to resolve the dispute." Thanks to [Raj Lawyers](#) for alerting us to this decision.

WORLD RETAIL CONGRESS ASIA PACIFIC HELD IN BEIJING ON 28-29 MARCH 2012

The World Retail Congress Asia Pacific 2012 will be held in Beijing from 28-29 March with a comprehensive list of leading retailers as speakers. Download the full program [here](#). Click [here](#) for discounted bookings before 24 February.

RETAIL TRADERS ASSOCIATION OF WA BEGINS 2012 SMART SEMINAR SERIES

The RTA of WA has begun its 2012 series of Smart Seminars around sales, capturing customers and customer service excellence. Click [here](#) to book your seminar or [here](#) for all seminars.