Christmas Day and New Year's Day Trading (Scotland) Act 2007

2007 asp 13

The Bill for this Act of the Scottish Parliament was passed by the Parliament on 7th March 2007 and received Royal Assent on 13th April 2007

An Act of the Scottish Parliament to prohibit the opening of large shops on Christmas Day and to confer power to prohibit the opening of such shops on New Year's Day for the purpose of retail trading.

1 Large shops not to open on Christmas Day

No large shop is to open for the purpose of making retail sales on Christmas Day unless it is exempted by section 3.

2 Application of section 1 to New Year's Day

(1) The Scottish Ministers may, by order made by statutory instrument, provide that section 1 applies in relation to New Year's Day as it applies in relation to Christmas Day.

(2) An order under subsection (1) is to be made only if a draft of the order has been laid before and approved by a resolution of the Scottish Parliament.

(3) The Scottish Ministers may not lay a draft of an order under subsection (1) before the Parliament in pursuance of subsection (2) unless, having consulted the persons mentioned in subsection (4), they have laid before the Parliament—

(a) a report about the economic impact, and the impact on family life, of large shops opening for the purpose of making retail sales on New Year's Day; and

(b) a statement that they are of the view, having considered the matters in the report, that the order should be made and setting out their reasons for being of that view.

(4) The persons referred to in subsection (3) are—

(a) every council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39);

(b) such persons as appear to the Scottish Ministers to be representative of the interests of those who carry on business;

(c) such persons as appear to the Scottish Ministers to be representative of those who work in large shops; and

(d) such other persons as the Scottish Ministers think fit.

3 Exemptions

A shop is exempt from section 1 if—

(a) the trade or business carried on consists wholly or mainly of the sale of—

(i) meals, refreshments or alcohol for consumption on the premises on which they are sold; or

(ii) meals or refreshments prepared to order for consumption off those premises;

(b) it is a registered pharmacy and is open solely for the purpose of the dispensing of drugs, medicines or appliances on prescription;

(c) it is within a port, railway station or commercial airport;

(d) it is at a motorway service area; or

(e) the trade or business carried on consists wholly or mainly of the sale of fuel for motor vehicles.

4 Offence

If section 1 is contravened—

(a) the occupier of the shop; and

(b) if different, the person responsible for controlling or managing the operations carried on at the shop on the day in question,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50,000.

5 Offences by bodies corporate, etc.

(1) Where an offence under this Act committed by a body of persons—

(a) was committed with the consent or connivance of—

(i) a person concerned, or purporting to be concerned, in the management or control of the body; or

(ii) a relevant person; or

(b) was attributable to any neglect on the part of such person,

that person, as well as the body, is guilty of the offence.

(2) In this section—

a "body of persons" means a body corporate, a partnership, a body of trustees or an unincorporated association other than a partnership; and

"relevant person" means a director, secretary or other officer of a body corporate, a partner in a partnership, a trustee of a trust or any member of an unincorporated association.

6 Defence of due diligence

The offence under section 4 is one of strict liability, but it shall be a defence for an accused to prove that the accused or a person under the control of the accused took all reasonable precautions and exercised all due diligence to avoid its commission.

7 Interpretation

In this Act—

"the 1968 Act" means the Medicines Act 1968 (c. 67);

"alcohol" has the meaning given by section 2 of the Licensing (Scotland) Act 2005 (asp 16);

"appropriate person" has the meaning given by article 2 of the Prescription Only Medicines (Human Use) Order 1997 (SI 1997/1830);

"commercial airport" means any airport (within the meaning of section 82(1) of the Airports Act 1986 (c. 31)) at which facilities are provided for use by members of the general public travelling by air;

"large shop" means a shop which has a relevant floor area exceeding 280 square metres;

"on prescription" means prescribed by a person who, as an appropriate person, is authorised by section 58 of the 1968 Act to prescribe medicinal products that are available on prescription only;

"medicinal product" has the meaning given by section 130 of the 1968 Act;

"motorway service area" means an area of land comprising service area development within the meaning of section 119(2) of the Roads (Scotland) Act 1984 (c. 54);

"registered pharmacy" has the meaning given by section 74 of the 1968 Act;

"relevant floor area" means so much of the floor area of a shop as is used for making retail sales or for the display of goods in connection with such sales;

"retail sale" means any sale of goods for consumption or use, whether or not by the buyer, for purposes unconnected with a trade or business;

"shop" means any premises within a building where there is carried on a trade or business consisting wholly or mainly of the retail sale of goods; and

"trustee" has the meaning given by section 2 of the Trusts (Scotland) Act 1921 (c. 58).

8 Short title

This Act may be cited as the Christmas Day and New Year's Day Trading (Scotland) Act 2007