Christmas Day and New Year’s Day (Trading) (Scotland) Bill

Bill Number: SP Bill 59
Introduced on: 20 March 2006
Introduced by: Karen Whitefield (Member’s Bill)
Passed: 7 March 2007
Royal Assent: 13 April 2007

Passage of the Bill

The Christmas Day and New Year’s Day (Trading) (Scotland) Bill was introduced in the Parliament by Karen Whitefield MSP on 20 March 2006. Stage 1 began on 5 September 2006 with the Justice 2 Committee as the lead committee. The Committee’s Stage 1 report, published on 14 November 2006, recommended by majority, support of the general principles of the Bill. The Stage 1 debate took place in the Parliament on 22 November 2006 and the Parliament agreed to the general principles of the Bill. Stage 2 was completed on 16 January 2007. The Stage 3 debate took place on 7 March 2007 and the Bill was passed.

Purpose and objectives of the Bill

The objective of the Bill is to prohibit large retail shops from opening in order to engage in retail trading on Christmas Day and New Year’s Day. This is in response to what is considered could become a trend of larger shops trading on these days.

Provisions of the Bill

With the exception of a number of exempted categories the Bill would prohibit large shops (those with 280 square metres or more of relevant floorspace) from opening on both Christmas Day and New Year’s Day for the purpose of making retail sales. Exemptions include cafes, pubs, takeaways, registered pharmacies, transport related shops (in ports, railways stations, airports, and motorway service stations) and petrol stations. The penalty for allowing a shop to trade would be a fine not exceeding £50,000.

Parliamentary consideration

The Public Petitions Committee discussed a petition on the same topic on 21 January 2004 and agreed by division to support its general principles and to
write to the Executive seeking its views. The Executive reserved its position on the proposal.

Karen Whitefield, the Member in charge of the Bill, carried out a consultation on the draft Bill between November 2004 and February 2005.

The Bill was introduced in the Parliament on 20 March 2006. The Justice 2 Committee was nominated as the lead Committee and Stage 1 began on 5 September 2006.

The general principles of the Bill were supported by some witnesses such as the Union of Shop, Distributive and Allied Workers (USDAW), the Scottish Churches Parliamentary Office, the Humanist Society, and some retailers. A number of witnesses expressed concerns about the Bill, including the Scottish Retail Consortium, some retailers, VisitScotland and the interest group Deregulate. Most concerns were expressed in relation to the impact of the ban on New Year’s Day. However the Committee heard fewer objections to the proposals to prevent large shops from trading on Christmas Day.

The Scottish Executive took no formal position and stated it was still weighing up the merits of the arguments.

In its Stage 1 report the Committee noted the general lack of robust evidence in relation to the economic impact of the Bill. This included a lack of evidence on the impact of the Bill on the retail and tourism sectors and a lack of reliable data to estimate the numbers of employees that would be ‘caught’ by the Bill. Although a number of those responding to the consultation and appearing as witnesses argued the case for treating the two days separately, the Committee acknowledged that an attempt to remove one of the days from the Bill could be viewed as a wrecking amendment.

By majority the Committee recommended that the general principles of the Bill be agreed to. Three Members dissented (Stewart Maxwell MSP, Jeremy Purvis MSP and David Davidson MSP).

The Stage 1 parliamentary debate was held on 22 November 2006 and the general principles of the Bill were agreed to.

At Stage 2, on 16 January 2007, the Deputy Minister for Justice explained that the Executive had not reached a position on the Bill but lodged a number of amendments in order to allow a debate to take place. The amendments offered the Committee the opportunity to remove New Year’s Day from the Bill, or alternatively to give ministers the power to lay an order introducing a ban on trading on New Year’s Day (subject to the affirmative resolution procedure) at a later date, potentially with the requirement that a social and economic impact report be carried out. These amendments were all rejected by the Committee.

In the Stage 3 debate on 7 March 2007 the Parliament accepted a group of Executive amendments concerning the application of the bill to New Year’s Day. The Bill still banned Christmas Day trading, but conferred an order making power on Scottish Ministers to ban New Year’s Day trading at a later
date. Such an order would only follow a consultation, a report on the economic impact and impact on family life and a statement of the Executive’s reasons for introducing the order. The Parliament agreed that the Bill be passed with 100 voting for, 17 against, and with two abstentions.