

## Changes to Retail Trading Arrangements

The Retail Trading Amendment Act 2015 brought about some significant changes which retailers need to understand and comply with. In September 2017, laws were passed that ensured the changes made in 2015 continued permanently. The key elements are summarised in this Fact Sheet.

### The key changes

- Retail shops are permitted to open on Boxing Day
- There is an essential condition that must be complied with – ‘freely elect to work’
- Overrides any lease conditions or arrangements which compel shops to open
- Significant new penalties for breaches of the Act

### Boxing Day trading

Since Boxing Day 2015 retail shops that were previously required to remain closed under the Retail Trading Act 2008 on 26 December, may now open for trade on the condition that all persons working in the shop freely elect to do so.

### Freely elect to work

Shops may only open on Boxing Day if all persons working in the shop **freely elect to do so**. This means that persons volunteer to work without any coercion, harassment, threat or intimidation by or on behalf of the retailer. Simply rostering a person to work does not mean that they have freely elected to work.

Retailers including those in the former Sydney Trading Precinct that want to open on Boxing Day **must ensure** that they comply with this condition. Significant penalties apply for breaches of this condition.

### NSW IR contact details

Should you have any questions about your rights and the obligations about retail trading on Boxing Day please contact NSW Industrial Relations on 131 628.

### Lease provisions and arrangements

Any provision of a lease is void to the extent that it requires the shopkeeper to keep the shop open at any time on Boxing Day or any other restricted day. This applies even if the shopkeeper may be allowed to open under the Retail Trading laws, including the Boxing Day exemption.

This includes either an agreement or arrangement between the shopkeeper and the owner of the premises in which the shop is located, or if the shopkeeper is a sub-lessee, between the shopkeeper and the lessee. Significant penalties apply for breaches of this condition.

### Significant new penalties

Retailers that want to open should take care to ensure they comply with the freely elect to work conditions. Fines of up to \$11,000 per person found to have been coerced to work may apply. A landlord that compels a shopkeeper to open on Boxing Day or any other restricted trading day may be liable for a fine of up to \$22,000.

### Compliance measures

NSW IR's Compliance Branch is devoting resources to ensure any complaint made about a person being forced to work or a shopkeeper being forced to open on Boxing Day will be comprehensively investigated.

NSW IR is also undertaking increased education activities in the lead up to Boxing Day so that retailers and their staff know their rights and responsibilities.

### Further information

[www.industrialrelations.nsw.gov.au](http://www.industrialrelations.nsw.gov.au)