



HOUSE OF LORDS

Library Note

Sunday Trading (London Olympic Games and Paralympic Games) Bill [HL] (HL Bill 139 of 2010–12)

This Library Note provides information on the Sunday Trading (London Olympic Games and Paralympic Games) Bill which is due for second reading in the House of Lords on 24 April 2012.

The Note sets out the current Sunday trading laws, examines the background to the announcement of the Bill in the 2012 Budget, and describes the provisions of the Bill and the fast-track procedure that will be used to expedite its passage through the House of Lords. It also examines reactions to the Bill and provides a brief history of Sunday trading laws in England and Wales.

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1. Introduction

The [Sunday Trading \(London Olympic Games and Paralympic Games\) Bill \[HL\]](#) was introduced in the House of Lords on 28 March 2012 and is scheduled to have its second reading on 24 April 2012. It has been agreed that the Bill will be subject to a fast-track procedure (see section 4.2 for further details). The purpose of the Bill is to enable a temporary suspension during the Olympic and Paralympic Games of the trading restrictions which limit the Sunday opening hours of large shops in England and Wales.

This Note provides background to the Bill. It begins by setting out the current Sunday trading laws in England and Wales, and the different arrangements which apply in Scotland and Northern Ireland. It then examines the background to the Chancellor's announcement of the Bill in his Budget statement in March. Section 4 describes the provisions of the Bill, and the fast-track procedure that the Government intends to use to expedite its passage through the House of Lords. Section 5 considers reactions to the Bill—while it has been welcomed by some large retailers, concerns have been expressed by those worried about its impact on shop workers and smaller shops, and those who fear it could be a pre-cursor to a permanent change in the Sunday trading laws. The final section of the Note provides a brief history of Sunday trading laws in England and Wales, from early Sunday observance laws, to the Shops Act 1950 and the numerous attempts at reform culminating in the Sunday Trading Act 1994, and attempts by two Conservative MPs in the current parliamentary session to give local authorities powers to vary Sunday trading laws in their local areas.

2. Current Sunday Trading Laws

2.1 England and Wales

Under the Sunday Trading Act 1994, large shops—defined as those with a relevant floor area over 280 sq m (3,014 sq ft)—are only allowed to open for a maximum of six hours on Sundays. The hours must be consecutive, and must be between 10am and 6pm. Some large shops are exempt from these restrictions, including: farm shops that sell their own produce; shops whose business consists wholly or mainly of selling alcohol, or motor supplies and accessories, or cycle supplies and accessories; registered pharmacies (as long as they are only selling medicinal products, veterinary medicinal products and surgical appliances); shops at designated airports; shops at railway stations; service stations and petrol filling stations; and exhibition stands.¹ Small shops are not subject to Sunday trading restrictions, and can set their own opening hours.

Part IV of the Employment Rights Act 1996 gives shop workers certain rights in relation to Sunday working. Shop workers who work on Sundays, or may be required to do so, can opt out of Sunday working by giving notice, usually three months' notice, to their employer. Conversely, shop workers who cannot be required by their contract to work on Sundays can notify their employer that they would like to work on Sundays. These rights do not apply to shop workers who are employed to work on Sundays only. The Act also protects shop workers not specifically employed to work on a Sunday from being dismissed, made redundant or suffering any other detriment for refusing to work on a Sunday.

¹ Schedule 1 to the Sunday Trading Act 1994.

2.2 Scotland and Northern Ireland

The Sunday Trading Act 1994 applies only in England and Wales. The regulation of shop opening hours is a devolved matter in both Scotland and Northern Ireland. There are no restrictions on Sunday trading in Scotland. The protections for shop workers in England and Wales contained in the Employment Rights Act 1996 were extended to shop workers in Scotland by the Sunday Working (Scotland) Act 2003.² In Northern Ireland, Sunday trading is regulated by the Shops (Sunday Trading) (Northern Ireland) Order 1997. This makes similar (but not identical) provisions to the rules that apply in England and Wales: small shops can open at any time on a Sunday, but large shops with a floor area of more than 280 sq m can open only between 1pm and 6pm. As in England and Wales, certain types of large shops are exempt. Schedule 2 to the Order gives shop workers similar rights with regard to Sunday working as those afforded to shop workers in England, Wales and Scotland.

3. Background to the Bill

3.1 Government Policy: The Red Tape Challenge

According to the *Sunday Telegraph*, the Government “wanted to announce the end of Sunday trading limits last year [2011], but the proposal was dropped just days before the Budget”.³ In July 2011, Baroness Wilcox, Parliamentary Under-Secretary of State for Business, Innovation and Skills, stated that the Government had no plans to change the law on Sunday trading.⁴ As part of its Red Tape Challenge—a two-year initiative launched in April 2011 to review rules and regulations with a view to reducing the burden of red tape on businesses and society—the Government had consulted the public on whether the existing Sunday trading regulations should be changed. The Department for Business, Innovation and Skills (BIS) received 2,695 [responses](#) about Sunday trading laws via the Red Tape Challenge website during the period that the Challenge focused on retail regulations (7 April–10 May 2011). When BIS published details in July 2011 of more than 160 regulations relating to retail that were to be scrapped or simplified, it announced that the Government had decided not to change legislation covering Sunday trading.⁵

3.2 Sunday Trading and the Olympics and Paralympics

Despite the Government’s policy of retaining the current restrictions on Sunday opening hours for large shops, some London retailers have been calling for a relaxation specifically for the duration of the Olympics. In September 2011, the New West End Company, which represents more than 600 retailers in Bond Street, Oxford Street and Regent Street, and London First, a business group whose retail members include Fortnum & Mason and Marks & Spencer, urged the Government to look at more flexible trading hours on Sundays during the period of the Games. Baroness Valentine (Crossbench), Chief Executive of London First, said that: “Deregulating Sunday trading laws would not only give visitors better access to shops but also give retailers a much

² For further background, see House of Commons Library, [Sunday Working \(Scotland\) Bill](#), RP 03/09, February 2003.

³ Robert Watts and Patrick Hennessy, ‘[Changes to Sunday shopping hours](#)’, *Sunday Telegraph*, 18 March 2012.

⁴ HL *Hansard*, 5 July 2011, col [54WA](#).

⁵ Department for Business, Innovation and Skills press release, ‘[Government axes retail red tape](#)’, 28 July 2011.

needed boost”.⁶ But, according to the *Evening Standard*, ministers had abandoned any plans to relax Sunday trading hours “to avoid a battle with Christian groups and trade unions”.⁷

In January 2012, the BBC reported that the Sunday trading laws could affect spectators wishing to buy merchandise at the closing ceremony of the Olympic Games, due to take place on Sunday 12 August.⁸ Five of the official Olympics retail outlets exceed the size at which restrictions on Sunday opening hours apply—the main megastore (40,000 sq ft) and two superstores (8,000 sq ft each) at the Olympic Park, the superstore in the Athletes’ Village (9,000 sq ft), and the main non-venue retail outlet in Hyde Park (12,500 sq ft). These stores would be allowed to open for no longer than six hours on the day of the closing ceremony, and would have to shut by 6pm, although the closing ceremony is not scheduled to start until 7pm at the earliest.⁹ According to the BBC:

The Retail People—the company responsible for running the commercial outlets at London 2012—only discovered the problem at the end of last year [2011].

They had been under the impression that the Government’s Olympic legislation would include an amendment which would have enabled all retail outlets at the Games to remain open beyond normal Sunday trading hours.

There is the potential for millions of pounds of revenue to be lost as a result.¹⁰

The BBC understood that Jeremy Hunt, Secretary of State for Culture, Media and Sport, had said it was too late to address this problem.¹¹ A leader article in the *Times* described this situation as “farcical”. It claimed that Mr Hunt was “wrong” that Parliament had no time to amend the 1994 Act and declared that “Britain is better than this. This should not be the sort of country that allows parochial inertia to impair what should be the greatest show on Earth”.¹²

3.3 2012 Budget

Press coverage the weekend before the March 2012 Budget predicted that the Chancellor would announce emergency legislation to lift Sunday trading restrictions during the Olympic and Paralympic Games.¹³ During an interview on *The Andrew Marr Show* on BBC television on 18 March, George Osborne confirmed the Government’s plans to introduce such legislation.¹⁴ As expected, in his Budget statement on 21 March,

⁶ Craig Woodhouse, ‘Owners must be able to tap into business book created by Games’, *Evening Standard*, 7 September 2011.

⁷ Ibid.

⁸ James Pearce, ‘[London 2012: Olympic closing ceremony hit by Sunday trading laws](#)’, BBC News online, 26 January 2012.

⁹ John Simpson, ‘Olympics fall foul of Sunday trading laws’, *Times*, 27 January 2012.

¹⁰ James Pearce, ‘[London 2012: Olympic closing ceremony hit by Sunday trading laws](#)’, BBC News online, 26 January 2012.

¹¹ Ibid.

¹² *Times*, ‘Lazy Sunday’, 28 January 2012.

¹³ For example Joe Churcher, ‘[Osborne’s Sunday opening plan controversial](#)’, *Independent*, 18 March 2012; Robert Watts and Patrick Hennessy, ‘[Changes to Sunday shopping hours](#)’, *Sunday Telegraph*, 18 March 2012.

¹⁴ BBC News online, ‘[Budget: Osborne plans new Sunday trading laws during the Olympics](#)’, 18 March 2012.

Mr Osborne announced:

As a country, we also want to make the most of the Olympic and Paralympic games. Some of the biggest events will be on a Sunday. When millions of visitors come to Britain to see them, we do not want to hang up a “Closed for Business” sign, so we will introduce legislation limited to relaxing the Sunday trading laws for eight Sundays only, starting on 22 July.¹⁵

4. The Bill

4.1 Provisions

The Bill as introduced in the House of Lords consists of only two clauses. Clause 1 temporarily suspends the current restrictions in the Sunday Trading Act 1994 on Sunday opening times for large shops. The suspension period would run for eight consecutive Sundays from 22 July 2012 to 9 September 2012, starting a week before the opening ceremony for the Olympic Games and ending on the day of the closing ceremony for the Paralympic Games. During the suspension period all shops, whatever their size, would be able to set their own Sunday opening times. Large shops which currently need consent from the local authority for loading/unloading before 9am on a Sunday (as specified in Schedule 3 to the Sunday Trading Act 1994) would continue to need consent during the suspension period.

Clause 2 provides that the Bill is repealed at the end of the eight-week suspension period. It also provides that the Bill extends only to England and Wales. As noted in section 2.2 above, the Sunday Trading Act 1994 does not apply in Scotland and Northern Ireland. Sunday trading is not restricted in Scotland. The Department for Social Development in Northern Ireland has stated that it will not be changing Sunday trading rules for Northern Ireland during the Olympics.¹⁶

4.2 Fast-Track Procedure

It has been agreed in the usual channels that the Bill will be dealt with using a fast-track procedure.¹⁷ Fast-track legislation has been defined as “bills... which the Government of the day represents to Parliament must be enacted swiftly... and then uses its power of legislative initiative and control of Parliamentary time to secure their passage”.¹⁸ The timing of the passage of a Bill through the House of Lords is regulated both by Standing Order No 46, which provides that no two stages may be taken on the same day, and by the recommended minimum intervals between stages of a Bill. *Erksine May* explains the procedural issues relating to fast-tracking a Bill in the House of Lords as follows:

... if it is intended to take more than one stage of a bill on one day, other than the report stage of a bill which has not been amended in committee, this Standing Order [No 46] must be suspended and notice of the proposed suspension must be given (Standing Order No 86). In practice, Standing Order No 46 is often suspended for certain categories of bill which the Lords pass without amendment,

¹⁵ HC *Hansard*, 21 March 2012, col [800](#).

¹⁶ Diana Rusk, ‘Sunday trading laws unchanged in north’, *The Irish News*, 22 March 2012.

¹⁷ HL *Hansard*, 28 March 2012, col [140WS](#).

¹⁸ Evidence from the Clerk of the House of Commons to the House of Lords Select Committee on the Constitution, [Fast-track Legislation: Constitutional Implications and Safeguards](#), HL Paper 116-I of session 2008–09, p 11.

whose passage is urgent, or towards the end of a session or close to a recess when there is pressure on the time of the House.

The following minimum intervals between stages of public bills are usually observed:

- (a) Two week-ends between the first reading (whether of a new bill or one brought from the Commons) and the debate on second reading;
- (b) 14 days between second reading and the start of the committee stage;
- (c) On all bills of considerable length and complexity, 14 days between the end of the committee stage and the start of the report stage;
- (d) Three sitting days between the end of the report stage and third reading.

Notice is given whenever these minimum intervals are departed from, except when Standing Order No 46 has been suspended. Such notice is given by means of an '§' against the bill in House of Lords business.

For any legislation subject to expedited procedures ('fast-tracked') the explanatory notes accompanying the legislation will contain a full explanation of the reasons for using a fast-track procedure.¹⁹

In the [Explanatory Notes](#) to the Bill, the Government explains that it:

... came to the conclusion that the imminence of the London Olympics and Paralympics justified the exceptional use of the fast-track process for this Bill. Any delay in the legislation could mean that the full benefits to the UK economy that this Bill is designed to facilitate will not be realised... It is important that the Bill is passed as soon as possible so that businesses and shop workers can make their arrangements for the period of the Olympics and Paralympics as much in advance as possible.²⁰

The Government notes that: "Due to the nature of this Bill and the need to ensure that the suspension of the Sunday trading restrictions can take effect in time for the Olympics and Paralympics, full Committee scrutiny will not be possible".²¹ However, it points out that the Opposition and Lords Spiritual have had a chance to comment on the proposals, and it provides assurances that it intends to consult interested parties and outside groups between the Bill's first and second reading to give them the opportunity to comment and "where necessary influence the policy".²²

5. Reaction

The proposal has been welcomed by those who predict that it will provide a boost to the economy. However, concerns about the Bill have been raised by those worried it might herald a permanent change in Sunday trading laws, and those worried about the impact on shop workers and smaller shops.

¹⁹ *Erskine May: Parliamentary Practice*, 2011, pp 597–8.

²⁰ Department for Business Innovation and Skills, [Sunday Trading \(London Olympic Games and Paralympic Games\) Bill \[HL\]—Explanatory Notes](#), para 12.

²¹ *Ibid*, para 18.

²² *Ibid*, para 14.

5.1 Large Retailers

A number of large retailers, including Asda, Debenhams, Tesco and Boots, have welcomed the move to longer Sunday trading hours during the Olympics.²³ Lord Wolfson of Apsley Guise (Conservative), Chief Executive of the clothing retail chain Next, estimated that extending trading hours for the eight Olympic weekends would be worth an extra £5–£8million in like-for-like sales, and said that he would welcome the liberalisation being made permanent.²⁴

In a study commissioned by the online shopping comparison website Kelkoo, the Centre for Retail Research, an independent research consultancy, estimated that relaxing Sunday trading laws during the Olympics will benefit retailers by a total of £189.8 million. It calculated that 47 percent of these gains would accrue to London and a further 11 percent to the South East; the impact would be less in other parts of England and Wales, but might amount to an additional 2.8 to 2.9 percent on top of existing Sunday trading. Outside London, retailers might not choose to open extended hours if they did not expect much business. The Centre for Retail Research forecast that clothing and food stores would see the largest gains from the extended Sunday opening hours.²⁵

A *Times* leader commented that: “Relaxing trading hours during the Olympics is clearly sensible—though to argue that this will do much to bolster consumer spending overall is clearly somewhat farfetched”. But, it continued, “Britain is a nation of shopkeepers. Let them open their doors”.²⁶ The *Telegraph* columnist Janet Daly argued that restrictions on Sunday trading “are just an unnecessary limitation on personal freedom and economic growth. It is time for them to go”.²⁷

However, not all the large retail chains support the proposals. Justin King, Chief Executive of Sainsbury’s, described the existing arrangements as “a happy British compromise”, and said that he did not see a customer demand for change.²⁸ Ian Geddes, UK Head of Retail at the consulting firm Deloitte, cautioned that: “Any boost to revenue enjoyed by retailers during the Games is unlikely to be replicated if the measures become permanent”.²⁹

5.2 Small Retailers

Concerns have been expressed about the impact on small independent retailers. Meg Hillier (Labour/Co-Op), MP for Hackney South and Shoreditch, whose constituency includes part of the Olympic Park, “cautiously support[ed]” the measure as the Olympics were a “welcome global event coming to my constituency”, but she noted that smaller businesses in her area were nervous about the proposal: “The benefit of longer trading hours is very small for them, but it gives more succour to the big retailers, who are already putting a lot of pressure on such small businesses”.³⁰

²³ *Retail Week*, ‘[Retailers divided over Sunday trading](#)’, 22 March 2012.

²⁴ Kasmira Jefford, ‘[Next calls for Sunday boost as sales jump](#)’, *City AM*, 23 March 2012.

²⁵ Centre for Retail Research, ‘[London Olympics 2012](#)’, 22 March 2012.

²⁶ *Times*, ‘Proposals to relax Sunday trading laws during the Olympics are sensible’, 19 March 2012.

²⁷ Janet Daly, ‘[Budget 2012: time for UK’s absurd Sunday trading laws to go](#)’, *Daily Telegraph*, 19 March 2012.

²⁸ Andrew Cave, ‘[The Sunday Interview: Justin King, chief executive of Sainsbury’s](#)’, *Sunday Telegraph*, 7 April 2012.

²⁹ *Retail Week*, ‘[Retailers divided over Sunday trading](#)’, 22 March 2012.

³⁰ HC *Hansard*, 21 March 2012, col [860](#).

James Lowman, Chief Executive of the Association of Convenience Stores (ACS), said:

This will cost convenience stores £1,500 in sales per day, or £480m in total across the industry over the summer as big supermarkets drag trade out of towns and away from small shops. The move will also cause job losses in convenience stores. We fear this is the thin end of the wedge, and that supermarket lobbyists will persuade the Government to extend these provisions on a permanent basis.

Twice last year the Government considered this issue in detail, in its Retail Growth Review and in the Red Tape Challenge. Twice they recognised that the current position is popular and sustainable—89 percent of the public oppose further liberalization. Yet now, at the last minute and with no consultation, they are making a spurious link to the Olympics to open up superstores all over England and Wales to the detriment of local shops.³¹

The ACS has formed a coalition of retail bodies with the British Independent Retailers Association, the Federation of Wholesale Distributors, the National Federation of Sub-Postmasters and the Rural Shops Alliance, which together represent more than 60,000 shops, to fight the Bill.³²

5.3 Permanent Change?

Prior to the Budget, the *Sunday Telegraph* quoted a senior Whitehall source as saying that “the Treasury believed the move would provide evidence of the economic benefits of a permanent relaxation of Sunday trading laws”, and in his interview on *The Andrew Marr Show*, George Osborne said that maybe the Government would “learn lessons” from relaxing Sunday trading restrictions for the period of the Olympics.³³ This prompted speculation that the Government intended to use this legislation as a trial for a permanent change. It was on this point that the parliamentary response to the Sunday trading announcement in the Budget was focused. Meg Hillier was “concerned that the move could be a trial run for a permanent change in the law”.³⁴ In the Lords, the Bishop of Chichester was not against the idea of relaxing Sunday trading laws for a short period in locations close to the main events of the Games, but he too was concerned that removing all restrictions for eight weeks sounded “suspiciously like a stalking horse for the wider deregulation for which some large retailers have been campaigning for some time”.³⁵

After the Bill had been introduced, Tessa Jowell, Shadow Cabinet Minister for the Olympics and London, stated that Labour accepted “that there is a case for this short-term deregulation, but the Government must continue to reassure those who are affected that these changes are just that, and not a Trojan horse for longer term deregulation”.³⁶

The Government has sought to allay concerns about the permanence of the change in the Sunday trading laws. In answer to an urgent question on the day following the Budget, Sir George Young, Leader of the House of Commons, confirmed that the

³¹ ACS press release, ‘[Sunday trading: Local shop impact will dwarf benefits](#)’, 19 March 2012.

³² ACS press release, ‘[High street retailers unite to fight £480 million loss to small stores](#)’, 5 April 2012.

³³ Robert Watts and Patrick Hennessy, ‘[Changes to Sunday shopping hours](#)’, *Sunday Telegraph*, 18 March 2012, and BBC News online, ‘[Budget: Osborne plans new Sunday trading laws during the Olympics](#)’, 18 March 2012.

³⁴ HC *Hansard*, 21 March 2012, col 860.

³⁵ HL *Hansard*, 22 March 2012, col 1042.

³⁶ Labour Party, ‘[Government accepts Labour’s amendments to protect Sunday Trading rights](#)’, 29 March 2012.

changes would be “strictly confined” to the Olympic period and that the Government had no intention of making wider reforms.³⁷ This point was repeated in a written answer by Norman Lamb, Minister for Employment Relations and Consumer Affairs, who stressed that the measure was not a trial or pilot for a wider liberalisation of Sunday trading. He said that: “Should the Government ever decide that a more permanent suspension of the Sunday trading rules is necessary, legislation and a full consultation would be required”.³⁸

5.4 Shop Workers

The Labour Party’s response to the measures in the Bill has focused on the potential impact on shop workers. Appearing on *The Andrew Marr Show* alongside George Osborne, Ed Balls, the Shadow Chancellor, said that: “Today on Mothering Sunday there are mums at home with their kids, because Sunday trading means that they can have the morning off and I actually think that we should be very careful about breaking the Sunday trading thing just like that”.³⁹

John Hannett, General Secretary of the Union of Shop, Distributive and Allied Workers (USDAW), also expressed concerns about the impact on shop workers and their families:

Our members are vehemently opposed to any further deregulation of Sunday trading hours and the Government’s own consultation on this just last year showed that there is no widespread support from either retailers or the general public for change.

Deregulation would do little to stimulate growth or create jobs, but would have a very detrimental impact on the lives of millions of shopworkers and their families. Any change would fly totally in the face of the Government’s commitment to be family-friendly.

To suggest that the current legislation, which allows shops to open for 150 hours a week, means Britain is ‘closed for business’ is frankly ridiculous.⁴⁰

Mr Hannett was, however, “encouraged” that Jeremy Hunt had agreed to an urgent meeting with USDAW. Subsequently, in a written statement on the day of the Bill’s introduction to the House of Lords, Lord Sassoon, Commercial Secretary to the Treasury, stated that: “The Government have undertaken to hold discussions before Second Reading in the House of Lords on 24 April with the Opposition, retailers, employers’ groups and unions with a view to tabling a government amendment to ensure the better protection of shop workers, probably by shortening the notice period to opt out of Sunday working from three months to two months”.⁴¹

Labour welcomed this move, declaring on its website that the Government had “accept[ed] Labour’s amendments to protect Sunday trading rights”.⁴² Chuka Umunna,

³⁷ HC *Hansard*, 22 March 2012, col 948.

³⁸ HC *Hansard*, 26 March 2012, col 1003W.

³⁹ Video clip available from BBC News online, ‘Budget’, 18 March 2012.

⁴⁰ USDAW, ‘[USDAW vehemently opposed to any further deregulation of Sunday trading laws](#)’, 18 March 2012.

⁴¹ HL *Hansard*, 28 March 2012, col 140WS.

⁴² Labour Party, ‘[Government accepts Labour’s amendments to protect Sunday Trading rights](#)’, 29 March 2012.

the Shadow Business Secretary, said:

There are good, practical reasons for allowing shops to be open longer during the unique period of the Olympics and we recognise that some people will want to have the opportunity to work and earn more and others who won't want to do this. They should not be forced. That is why we pressed the Government to change its proposals to make sure this happens and they have said they will.⁴³

The GMB union declared it would refuse the Government's invitation to discuss pay and working hours for shop and distribution workers during the Olympics with Mark Prisk, the Minister of State for Business and Enterprise, describing the talks as "a sham consultation". The GMB has called for an "Olympic premium" for shop and distribution workers required to work longer hours, particularly in London, and compensation for the extra time taken to travel to work in the capital during the Olympics.⁴⁴ Gary Smith, the union's National Secretary for Retail, said:

There is no recognition of the disruption that extending opening hours will have on well over a million shop and distribution workers across the country. We're concerned that they will be bullied into working and where's the fairness? Retailers will be making so much money and workers should share in that.⁴⁵

In its objections to the Bill, the Keep Sunday Special Campaign (KSS) has also highlighted the potential impact on shop workers and their families, and disputed that there is an economic argument in favour of extending Sunday trading hours for the Olympics:

David Cameron came into Government promising to make this country the most family friendly in Europe. But over one million families have at least one parent working on both weekend days, meaning they have little time to spend with their children at a time when they are not at school...

KSS has always promoted Sundays as a day for shared activities. No changes to Sunday trading legislation are needed to enable all Olympic visitors to have a great day out with family and friends. When did shopping become an Olympic sport? Why are the Olympics deemed to be a special case?

Nor will the proposed changes do anything to increase economic growth as all the evidence suggests that existing spending would not increase, but be spread over a longer period.⁴⁶

Writing on the *Spectator's* website, Melanie McDonagh argued that Sunday trading laws have an impact on all families, not just those of shop workers:

... the grim assumption underlying liberalisation of the British trading laws is that the consumer imperative is the overriding one, that the individual's need to shop, to consume, is more important than any larger needs on the part of the community. And those needs are harder to define: a communal breathing space, a time when we can be assumed to be less busy than on other days, a fixed day of the week when families can, by and large, get together... Sunday, when it ceases to be a legally protected day of rest, can only be sustained as one with a

⁴³ Ibid.

⁴⁴ Mark Leftly, '[Workers bullied' as shop hours extended for Games](#)', *Independent*, 16 April 2012.

⁴⁵ Ibid.

⁴⁶ KSS press release, '[KSS totally opposes any change for Olympics](#)', 30 March 2012.

real effort to ride against the culture. And anyone who has tried to ensure that their family does not take advantage of the existing, restricted Sunday trading knows how impossible that is.⁴⁷

5.5 Religious Views

A Church of England spokesman said that:

It is understandable that special arrangements will be made in various ways as the country hosts the Olympics and Paralympics. The Church of England would however strongly oppose any further attempts to erode the special nature of Sunday, which legislation still reflects.⁴⁸

The Catholic commentator Cristina Odone set the plans within the wider context of what she portrayed as “an attack on Christian Britain”; she cited moves to legalise gay marriage, to remove the Bishops from the House of Lords and to ban prayers at the start of council meetings as other examples. She said that:

... I’m not alone in hearing alarm bells: if it brings in enough to his coffers [George Osborne] is prepared to dispense with the (very modest) trading restrictions of the Sunday Trading Act 1994.

Who does Osborne and co think we are? 24/7 consumerists or people with an inner life? One day in seven to keep for faith and family does not seem a great deal to ask. But these are hard times and tolerance for religious sensibilities in limited supply. I fear Sundays will never be special again.⁴⁹

The columnist Janet Daly, however, contrasted the UK’s Sunday trading laws with the lack of restrictions in the US, which she described as “the most religiously observant country in the developed world [where] Sunday trading is the norm”.⁵⁰

6. History of Sunday Trading Laws

6.1 Origins and the Shops Act 1950

The first prohibition on Sunday trading dates back to the Fairs and Markets Act 1448 which forbade the showing of goods on Sundays and certain feast days. The Sunday Observance Act 1627 prohibited butchers from selling meat on Sundays, and more general restrictions on Sunday trading were contained in the Sunday Observance Act 1677. By the 1930s it had become apparent that these dated Sunday observance laws were no longer serving their purpose, and the Hairdressers’ and Barbers’ Shops (Sunday Closing) Act 1930, the Retail Meat Dealers’ Shops (Sunday Closing) Act 1936 and the Shops (Sunday Trading Restriction) Act 1936 were passed. These resulted from Private Members’ Bills promoted by the hairdressing trade, the National Federation of Meat Traders and the Early Closing Association which sought to ensure a day of rest for shop

⁴⁷ Melanie McDonagh, ‘[Sundays should be about more than just economics](#)’, *The Spectator*, 19 March 2012.

⁴⁸ Martin Beckford, ‘[Church warns against Sunday trading laws being relaxed by the back door](#)’, *Daily Telegraph*, 19 March 2012.

⁴⁹ Cristina Odone, ‘[Sunday trading is just another attack on Christian Britain](#)’, *Daily Telegraph*, 19 March 2012.

⁵⁰ Janet Daly, ‘[Budget 2012: time for UK’s absurd Sunday trading laws to go](#)’, *Daily Telegraph*, 19 March 2012.

workers, to protect the interests of small traders and to maintain the separate and traditional character of Sundays.⁵¹

The law regulating retail trading was consolidated in the Shops Act 1950. Part IV of this Act contained a general prohibition on Sunday trading in England and Wales (but not in Scotland, except for barbers and hairdressers). Schedule 5 to the Act contained a number of exceptions to the general prohibition, however, meaning that it was legal to sell fresh fruit and vegetables, confectionary and tobacco, medicines, newspapers, motor accessories and meals or refreshments on or off the premises, except fish and chips. The terms of the Act gave rise to a number of infamous anomalies: it was possible to buy a pornographic magazine (because it was a periodical) but not a bible (because it was a book), or to buy fish from a fishmonger but not meat from a butcher.⁵² In the 30 years or so following the 1950 Act, no less than 19 Bills (one Government Bill, twelve Private Members' Bills in the Commons and six Private Members' Bills in the Lords) were introduced to Parliament which sought to change the Sunday trading laws in some way, but none succeeded in passing both Houses.⁵³

6.2 1986 Shops Bill

By the 1980s, pressure for reform had increased. As one academic has put it:

Not only was the law coming to be seen as an anachronism but, with the growth of DIY stores and garden centres, which saw Sundays as one of their main days for trade, it was increasingly being ignored. Enforcement by the local authorities, whose responsibility it was, was sporadic.

... the Prime Minister also saw regulation as an unnecessary and undesirable restriction on the right of shops to trade how and when they wanted.⁵⁴

In the 1985-86 parliamentary session, Margaret Thatcher's Government introduced a Shops Bill, which would have abolished all restrictions on shop opening hours on Sundays. This followed the recommendations of a Committee of Inquiry that had been appointed by the Home Secretary in 1983 to consider what changes were necessary to the 1950 Act, and which had concluded that any form of partial deregulation of Sunday trading was impracticable. The Bill was introduced in the House of Lords in December 1985 and enjoyed "a smooth passage", with the debates "marked by a high degree of commonsense and by the clear desire of all sides to seek a practical solution to the problem of trading hours".⁵⁵

But in April 1986, the Bill was defeated at second reading in the House of Commons by a majority of 14. Following a well-organised campaign against the Bill which united Christian groups and trade unionists, 72 Conservative backbenchers defied a three-line whip and voted against the Bill. It was only the second time since 1924 that a Government Bill had been defeated at second reading in the Commons. Amongst many reasons that contributed to the Bill's failure, one academic has highlighted an assumption on the part of its supporters in and outside Parliament that a Government Bill

⁵¹ For further information on the history of Sunday trading legislation, see Home Office, [*The Shops Act—Late-Night Opening and Sunday Opening: Report of the Committee of Inquiry into Proposals to Amend the Shops Acts*](#), November 1984, Cmnd 9376, paras 9–19 and Appendix 4.

⁵² Paul Regan, 'The 1986 Shops Bill', *Parliamentary Affairs* 41:2, 1988, p 218.

⁵³ For a full list, including a summary of provisions and details of how far each Bill progressed, see Appendix 4 of Home Office, *op. cit.*

⁵⁴ Paul Regan, *op. cit.*, pp 218–19.

⁵⁵ *Ibid*, p 222.

was bound to pass, and the Government's lack of willingness to compromise on a partial deregulation of Sunday trading, which both USDAW and many MPs who voted against the Bill would have been prepared to accept.⁵⁶

6.3 Sunday Trading Act 1994

Further Private Members' Bills failed to make headway in the late 1980s, and retailers, undeterred by the prospect of a £2,500 fine, particularly the large DIY chains, continued to open on Sundays. Local authorities continued to enforce the 1950 Act "with varying degrees of diligence".⁵⁷ In 1993, the Home Secretary Michael Howard (now Lord Howard of Lympne) introduced a new Bill, which was, he explained, somewhat unusual:

When Parliament rejected the Government's Shops Bill in 1986, it set itself and the Government a rare problem. Few, if any, hon. Members believed that the Sunday trading provisions of the Shops Act made sense. Most hon. Members, if not all, wanted the muddle over Sunday trading to be resolved, but there was no obvious agreement about what should replace those provisions.

This Bill was devised to unravel that riddle. It does so in a unique way. It presents Parliament with a choice between the leading options for reform. Each option has been drafted by parliamentary counsel. Each reflects the policy aims of the campaigning group that supports it. Parliament can compare and contrast the options and, on a free vote, choose between them.

There is no doubt that reform is needed. Changes in retailing and leisure activities have put pressure on the Shops Act regime. As a result, the Sunday trading provisions of the 1950 Act are well past their sell-by date.⁵⁸

The options were:

... firstly, total deregulation, which would give 'complete freedom of choice and allow opening to be determined by commercial judgments of the wishes of the public'; secondly, partial deregulation, incorporating the proposals of the Shopping Hours Reform Council, allowing small shops to open all day on Sunday but permitting larger shops to open for a limited period of six hours; and thirdly, no deregulation, and a tightening up of the Sunday trading laws. This heading included a choice of two regulatory models, one incorporating the proposals of the Keep Sunday Special Campaign [which would have prevented most shops from opening except on the four weekends up until Christmas], the other the proposals of the Retailers for Shops Act Reform.⁵⁹

In a free vote, the House of Commons voted in favour of partial deregulation, by 333 votes to 258.⁶⁰ The option for total deregulation was defeated by 404 votes to 174, and the regulatory scheme proposed by the Keep Sunday Special Campaign was rejected by 304 votes to 286.⁶¹ The Bill as introduced in the House of Lords therefore contained provisions to bring in partial deregulation, but the Lords were also given the opportunity to vote on replacing this with either of the other two options previously rejected in the

⁵⁶ Ibid, p 232.

⁵⁷ Catherine Barnard, 'Sunday Trading: A Drama in Five Acts', *Modern Law Review* 57:3, 1994, p 450.

⁵⁸ HC *Hansard*, 29 November 1993, cols 815–16.

⁵⁹ Catherine Barnard, *op. cit.*, pp 459–60.

⁶⁰ HC *Hansard*, 8 December 1993, col 418.

⁶¹ Ibid, cols 409 and 414.

Commons. The Lords rejected total deregulation of Sunday trading by 303 votes to 46, and the Keep Sunday Special scheme by 206 votes to 151.⁶² At the Bill's second reading, Earl Ferrers, then Home Office Minister of State and the Bill's sponsor in the Lords, remarked that "few laws can have attracted so many attempts at reform but with such little success as has been the case with Sunday trading laws".⁶³ The Sunday Trading Act 1994 eventually received Royal Assent on 5 July 1994.

6.4 Review 2006

In 2006, the Labour Government launched a review of the 1994 Act. Alan Johnson, then Secretary of State for Trade and Industry, announced that:

The current Sunday trading laws have been in place for more than ten years. Consumers now have greater expectations. Many more people are in employment, often benefiting from flexible working outside core 9-5 weekday hours. We are a more multicultural society. There is greater recognition that we should only regulate where it is necessary to do so. We believe the time has come to have a fresh look at the issues around Sunday trading.⁶⁴

However, following a wide consultation, the Labour Government decided that no change in the existing laws was necessary. Alistair Darling, who had by then replaced Mr Johnson as Secretary of State for Trade and Industry, announced in July 2006:

As part of our review we commissioned an independent cost benefit analysis and sought a wide range of views on the subject in an informal consultation.

We received nearly 1,000 responses to the consultation from consumers, religious groups, employees and business, with no substantial demand for change. On that basis, and having considered all the evidence from the review, we have concluded that there should be no change to the Sunday trading laws.⁶⁵

6.5 Localism Bill and Sunday Trading (Amendment) Bill 2010–12

More recently, two Conservative MPs have sought to change the law to allow local authorities to vary Sunday trading restrictions in their own areas; one of these proposals was specifically in connection to the Olympics. During the passage of the Localism Act 2011, Philip Davies tried to introduce a new clause which would have given local authorities the power to reduce or extend the Sunday trading hours of large shops. He argued that: "If people want to shop on a Sunday or work for certain hours, I do not really see what business the Government have telling them what hours they can do". As people in Scotland could already shop or work in shops at a time of their choosing on Sundays, Mr Davies said he would like to see workers and shoppers in England and Wales have exactly the same rights. Nevertheless, Mr Davies explained that his new clause would also allow local authorities to restrict Sunday trading hours further if they so wished, because: "If we believe that decisions should be taken locally, we should give local authorities the widest possible ability to make decisions to suit their areas".⁶⁶ Mr Davies' proposed new clause was not accepted.

⁶² HL *Hansard*, 29 March 1994, cols 1044 and 1050.

⁶³ HL *Hansard*, 8 March 1994, col 1340.

⁶⁴ Department of Trade and Industry press release, 'DTI seeks views on Sunday trading law', 13 January 2006.

⁶⁵ Department of Trade and Industry press release, 'No change to Sunday trading laws', 6 July 2006.

⁶⁶ HC *Hansard*, 17 May 2011, cols [220–1](#).

In July 2011, Mark Menzies, whose background is in the retail sector, presented a Ten Minute Rule Bill—the Sunday Trading (Amendment) Bill 2010–12—which would have required the Secretary of State to allow local authorities to vary existing Sunday trading laws for the period of the Olympic and Paralympic Games (defined in his Bill as 27 July–9 September 2012). Mr Menzies explained that:

The objective of this measure is to provide a temporary and modest economic stimulus during the period of the Olympic Games. This will be an exceptional period. Britain has invested billions in the games, and we must maximise the revenue opportunities from the hundreds of thousands of new tourists who will come into Britain at the time. My desire is therefore to help to offset the huge cost of the event by ensuring that every opportunity is taken to boost the economy during those six weeks or so.⁶⁷

Thérèse Coffey (Conservative) spoke against the Bill. She questioned why Mr Menzies was “trying to restrict his proposal to the Olympics if he believes that it would be helpful as an economic stimulus” and warned that the temporary application of such provisions “usually set us on the road to permanent change”. She doubted that an extension of Sunday trading laws for a few weeks would create new jobs, but argued that more thought needed to be given to “reinforc[ing] the role of small, independent stores or smaller high street stores in boosting economic activity”.⁶⁸

The Bill did not go on to receive a second reading, but when news of the Government’s proposals broke before the 2012 Budget, Mr Menzies said that he was “absolutely delighted” that the plan to change Sunday trading laws for the Olympics had been taken up by the Chancellor.⁶⁹

⁶⁷ HC *Hansard*, 6 July 2011, col [1529](#).

⁶⁸ *Ibid*, col [1532](#).

⁶⁹ James Chapman and Sean Poulter, ‘[Shop opening laws on Sundays will be eased for Olympics](#)’, *Daily Mail*, 19 March 2012.

