



NSW Legislative Council Hansard

Shops and Industries Amendment (Special Shop Closures) Bill

Extract from NSW Legislative Council Hansard and Papers Tuesday 7 December 2004.

Second Reading

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Commerce, Minister for Industrial Relations, Assistant Treasurer, and Minister for the Central Coast) [5.54 p.m.]: I move:

That this bill be now read a second time.

The Shops and Industries Amendment (Special Shop Closures) Bill 2004 provides for general shops, that is, retail shops other than scheduled shops and small shops, to be kept closed on Saturday 25 December 2004 and on Sunday 26 December 2004. The bill provides a limited exemption for general shops in tourist areas to trade on 26 December where trading is normally permitted by a current ministerial order under section 89B of the Shops and Industries Act 1962 and where those shops are staffed by persons who freely elect to work on that day. These restrictions will be effected through the amendment of the Shops and Industries Act 1962 by the insertion of proposed new sections 89E and 89F.

In line with the Government's family friendly policies, it gives me great pleasure to introduce a bill that has as its main purpose the preservation of the tradition of families spending the Christmas weekend together. As honourable members will recall, the precedent for this type of legislation was set in 1999 with the enactment of the Shop Trading (Special Provisions) Act 1999. The exemption enabling general shops to trade in tourist areas on 26 December provides a sensible compromise between the commercial interests of shopkeepers and the family commitments of staff. It also caters for post-Christmas Day trade in tourist areas where families often travel to coastal tourist areas as part of their post-Christmas celebrations.

In order that honourable members understand proposed sections 89E and 89F I inform them that general shops include shops such as furniture, electrical and hardware stores, food supermarkets, department stores, and clothing and jewellery shops. Scheduled shops that satisfy everyday consumer demand, including newsagencies, chemists, takeaway food shops, souvenir shops and video shops will not be affected by the bill and will be free to trade on 25 and 26 December. Small shops, being small family-type businesses, will not be affected by the bill. Such scheduled shops and small shops are free to trade seven days a week under the Shops and Industries Act. In respect to Sunday trading by general shops, section 84 of the Shops and Industries Act provides that general shops are to be kept closed on Sundays, except for the two Sundays immediately preceding Christmas Day. This restriction does not extend to scheduled shops or to small shops.

Section 85 of the Shops and Industries Act provides that general shops, other than small shops, are to be kept closed on public holidays. These are defined under section 78 of the Act to include the publicly observed Christmas Day and Boxing Day holidays. Section 78A of the Shops and Industries Act enables the Director-General of the Department of Commerce to grant exemptions from the prohibitions in sections 84 and 85. A number of these exemptions have been granted since this section 78A was first enacted and an exemption under the section enables certain general shops to open on Christmas Day and more usually on Sunday 26 December 2004. The day 26 December will not be a public holiday under section 85 of the Shops and Industries Act as the Boxing Day holiday will be observed on Monday 27 December 2004 under the automatic contingency arrangements of the Banks and Bank Holidays Act 1912. Therefore, trading on 26 December by general shops will not be prohibited under section 85, but will be subject to the Sunday prohibition under section 84 of the Shops and Industries Act.

Under the provisions of the bill proprietors of general shops in New South Wales who have previously received an approval under section 78A of the Shops and Industries Act to trade on a public holiday and a Sunday will have that approval suspended in respect of the Christmas Day public holiday and Sunday 26 December 2004. This suspension will extend to orders made by the Minister, pursuant to section 89B of the Shops and Industries Act, which would permit general shops in tourist areas to trade on Christmas Day. However, these shops will be permitted to trade on 26 December if staffed by persons who have freely elected to work on that day, irrespective of normal rostering arrangements.

In this regard, the bill provides that no exemptions under sections 78A or 89B made before, on or after the commencement of proposed section 89E will apply in respect of Christmas Day trading, and a similar provision is made for section 78A exemptions that apply in respect of general trading on 26 December. The existing penalty provisions of the Shops and Industries Act will apply to general shop trading on 25 and 26 December, in contravention of the new provisions. In conclusion, the bill will provide for the automatic repeal of the new sections at the beginning of 27 December 2004. I commend this bill to the House in furtherance of the Government's commitment to family friendly policies.