



Legislative Council

Bank Holidays Legislation

Amendment Bill Hansard - Extract

12/11/2002

Second Reading

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Industrial Relations, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast) [9.33 p.m.]: I move:

That this bill be now read a second time.

As the second reading speech is lengthy and was delivered in the other place, I seek leave to have it incorporated in *Hansard*.

Leave granted.

The *Bank Holidays Legislation Amendment Bill 2002* will provide for a scheme permitting bank branches within New South Wales to open on a Saturday or a Sunday, or both days.

This Bill will be used for the purpose of consulting with the banking industry sector, the Finance Sector Union and other interested parties.

Currently, section 15A of the *Banks and Bank Holidays Act 1912* stipulates that Saturdays are closed holidays within New South Wales for all banks, other than agencies of savings banks.

This Saturday prohibition has been in existence since January 1962 and was designed, at the time, to bring New South Wales into line with the world and other States' banking practices.

Since the enactment of section 15A there have been changes to the *Banking Act 1959* of the Commonwealth, which have removed the definition of 'savings bank'.

This has created uncertainty as to the current application of the Saturday closing exemption for savings bank agencies.

The Bill will clarify this issue by inserting a new definition in the *Banks and Bank Holidays Act* which is consistent with the current definition under the Banking Act. This will not affect credit unions and building societies which will continue to trade without restriction.

There are currently no provisions under the *Banks and Bank Holidays Act* prohibiting trading on a Sunday. Nor were there any provisions under the Act's predecessor New South Wales and English Acts. At the outset the Bill will make Sunday a close holiday for banks, but will apply the approval scheme to branch openings on a Sunday.

The legislative adoption of a scheme facilitating Saturday bank opening whilst maintaining the current Act default capability for unrestricted Sunday opening is untenable from a policy perspective.

It would be an Act anomaly to have a bank justify its case for a particular branch's Saturday opening, whilst the same branch could freely open on a Sunday without any restriction.

Many of the arguments for liberalised Saturday trading by banks may also apply to the needs of retail traders and consumers on a Sunday.

Over the last several years the Australian Bankers' Association has made representation to this Government and Governments in other jurisdictions for Saturday bank trading.

Currently, New South Wales and Western Australia remain the only jurisdictions which restrict Saturday bank trading.

The ABA has argued that, apart from the equity amongst financial institutions justification, there is a public demand for banking on a Saturday as a logical extension of the overwhelming demand exhibited by the public for Saturday shopping.

A relaxation of the legislative prohibition was trialed in 2000 in connection with the staging of the Sydney Olympic and Paralympic Games.

The *Olympic Arrangements Act 2000* facilitated weekend opening by banks in Greater Metropolitan Sydney for the 2 months Games period. Expressly overriding the 1912 Act prohibition, the later Act left it as a commercial decision for each banking company to decide whether to open particular branches on a weekend.

The experience of the Games period can be drawn upon by the banks when making applications under the proposed scheme.

Westpac Banking Corporation has in recent months sought a change to permit some of its branches to open on Saturdays. Westpac wants to establish a Saturday trading trial in a limited number of Sydney sites, being generally within shopping centre areas having heavy retail customer traffic.

Westpac has argued that the former social issues militating against Saturday work are no longer prevalent as conditions of employment can be adequately protected under flexible industrial instruments.

The current prohibition is not sustainable in the current economic climate. Flexibility in the provision of banking services is required to ensure that the development of industry and commerce within New South Wales is not disadvantaged.

Saturday trading will also ensure that banks are given the same opportunity to compete on a level playing field with other financial institutions that currently provide weekend banking services to customers.

The Bill aims to introduce an approval scheme, similar to that for Sunday shop trading under the *Shops and Industries Act 1962*.

Individual banks will have the option of applying for an approval to open all branches or one or more branches on a Saturday or Sunday, both.

In determining an application by a bank the Director-General of the Department of Industrial Relations is to consider whether the granting of an approval will be in the interests of bank employees and the general public.

Whilst the Government accepts that the current restriction on Saturday trading is antiquated, it is necessary to ensure that employees who perform weekend work do so freely and receive appropriate employee entitlements.

It should also be recognised that although the introduction of electronic banking services has been seen as an important alternative to those provided at the branch level, it has often failed to consider the limitations faced by the elderly and disadvantaged members of the community.

The Director-General will be able to take into account the likely effect which an approval will have on particular sections of the public including customers and employees of the bank. The Director-General is also empowered to impose conditions on an approval.

The Bill will also address the current uncertainty within the banking industry as to whether section 15A applies to former building society banks and to subsidiary branches of foreign owned banks.

All banks currently operating on a Saturday will be required to seek approval of the Director-General within six months of the commencement of the Bill. Transitional provisions will preserve existing rights to operate on a Saturday for the six month period. Where an application has been lodged with the Director-General, the six month period will be extended until the application is finally determined.

These transitional provisions will not apply to bank agencies such as those operated through chemists and other non banking retail outlets. Bank agencies, other than those that are wholly owned subsidiaries of banks or which are controlled by banks, will be exempted from the Saturday and Sunday trading restrictions.

The approval process provides a valuable opportunity for the banks to demonstrate publicly their commitment to the provision of flexible and competitive banking services.

The Bill will enable the Director-General to develop guidelines in consultation with the banking sector industry, to assist banks in the making of applications. This will provide an additional opportunity for the banks to consult with the Department of Industrial Relations and to have input into the approval process.

To ensure fairness within the approval process, there will be an appeal right to the Administrative Decisions Tribunal for a review of a decision by the Director-General.

A decision by the Director-General resulting in the refusal to grant an approval, or in the imposition, or variation, of conditions relating to an approval will be reviewable by the Tribunal. In addition, a decision by the Director-General to suspend or cancel an approval will also be reviewable by the Tribunal on the application of the affected bank.

The Bill also seeks to omit from the *Banks and Bank Holidays Act* those provisions relating to the calculation of time for cheques and Bills of exchange. These provisions are no longer applicable because of the operation of Federal legislation.

This Bill represents an equitable balance between the commercial interests of the banks, the industrial rights of employees and the interests of consumers, in working towards a socially acceptable outcome to weekend trading by banks.

It is with pleasure that I table the Bill to facilitate consultation with the banking industry sector and other interested parties.