

SHOP TRADING BILL 2008

Page: 8363

Bill introduced on motion by Ms Tanya Gadiel, on behalf of Mr Joseph Tripodi.

Agreement in Principle

Ms TANYA GADIEL (Parramatta—Parliamentary Secretary) [10.45 a.m.]: I move:

That this bill be now agreed to in principle.

It is my privilege to introduce the Shop Trading Bill 2008. The bill will simplify and further deregulate shop trading hours in New South Wales. In particular, the bill will remove restrictions on Sunday retail trading. It will also streamline and clarify the restrictions that apply on major public holidays. The New South Wales Government is committed to ensuring that regulation is required, reasonable and responsive. We are continuously seeking ways to reduce regulatory burden and red tape. With that end in mind, in 2006 the New South Wales Government asked the Independent Pricing and Regulatory Tribunal [IPART] to investigate any unnecessary regulatory burden imposed on business and the community in New South Wales and to make recommendations as to how we can reduce that burden.

On 5 October 2006 IPART provided the Government with a final report of its investigation into the burden of regulation and improving regulatory efficiency. In its initial response to IPART's report the New South Wales Government announced a number of reforms to regulatory processes. These included a strengthened role for the Minister for Regulatory Reform and the establishment of a Better Regulation Office to ensure that the processes by which regulation is developed are best practice. One of the specific recommendations made by IPART was that consideration be given to reforming shop trading hour restrictions. To implement that recommendation the Better Regulation Office was charged with undertaking a review of shop trading hour regulation in New South Wales. That review included a full public consultation process.

The reforms contained in this bill are the outcome of that review and consultative processes, and implement most of the recommendations made by the Better Regulation Office. The review into shop trading hours is the first of a continuous process of improving regulation in New South Wales and of removing unnecessary red tape.

I turn now to the detail of the bill. The bill repeals the Shop and Industries Act 1962. That Act, which is now almost half a century old, purports to regulate, in minute detail, which shops can and cannot open on Sunday and on public holidays. The Act is complex, arcane and outdated. I think it would surprise most people to discover that the Act currently states that no general shop in New South Wales can trade on a Sunday. Of course, shops in New South Wales are open on a Sunday. We live in a 24-hour-a-day, 7-days-a-week economy. People are juggling busy family and work lives. They need the flexibility to shop at times that are convenient to them. The public need and expect to be able to shop on a Sunday, given modern lifestyles. Currently, though, for general shops to be open on a Sunday—and that includes every Coles, Woolworths, David Jones, and Myers—they must apply for a specific exemption from the Director General of the Department of Commerce. Literally thousands of these exemptions have been granted. Exemptions have been granted for shops in almost 70 per cent of local government areas throughout New South Wales.

The few places where Sunday trading does not occur are relatively remote regional areas with insufficient population density to make Sunday trading economically viable. This bill will do away with the unnecessary red tape. Under the bill, the need to apply for a specific exemption to trade on a Sunday will be abolished. Retailers will have the flexibility to open their doors on Sunday whenever their customers want them to and whenever they consider it is economically viable for them to do so. The bill will retain trading restrictions for major retailers on only a few of the most significant public holidays—on Good Friday, Easter Sunday, Christmas Day, Boxing Day and before 1.00 p.m. on Anzac Day. These are our most significant public holidays.

The bill clears up an anomaly that exists under the current legislation. At present public holiday trading restrictions apply on the day on which the public holiday is observed, rather than the actual day of significance. That means, for example, that if Christmas Day falls on a Sunday shops are prohibited from opening on the holiday Monday rather than on Christmas Day itself. In previous years, when Christmas has fallen on a weekend, special legislation has been necessary to deal with this anomaly. This bill does away with that anomaly altogether. The bill also streamlines and clarifies the application of trading restrictions on these 4½ public holidays, making it much easier to work out which shops are subject to the restriction. Small shops and certain

categories of shops—shops such as chemists, restaurants and florists—have always been exempt from trading restrictions.

The bill will retain the current exemptions for small shops. This means that those small stores that are currently able to trade, even on public holidays, will be able to continue to do so. The bill also retains exemptions for particular categories of shops. These comprise a limited range of shops to which the public needs to have access on public holidays, or which customarily have been able to trade on public holidays, such as chemist shops. The Government considers that these thresholds strike an appropriate balance between ensuring the freedom of small businesses to trade and customers to shop at times that are convenient to them, while at the same time recognising the importance of those days that have special community significance.

The bill contains transitional provisions which mean that no shop that currently enjoys unrestricted trading hours will become subject to new restrictions under this bill. These include the grandfathering of existing exemptions which have previously been granted to allow trading on public holidays in certain "holiday resort" areas. The Director General of the Department of Commerce will also retain a power to grant exemptions from the trading restrictions. This power has been simplified and clarified, including by setting out in the legislation specific criteria that need to be considered before granting an exemption. Retail companies will be able to apply for an exemption for all their shops at once, for one or more restricted trading days. The process will be more user friendly and flexible.

Of course, given that trading restrictions will now apply only on a handful of our most significant public holidays, the need for such exemptions should be significantly reduced. I make it clear that nothing in this bill will affect the establishment and observance of public holidays in New South Wales; nor will the bill in any way affect industrial entitlements. Public holidays in New South Wales are provided for under the Banks and Bank Holiday Act. Nothing in this bill will affect those provisions. This bill does not take away any public holidays. The bill also does not affect existing industrial entitlements in respect of public holidays. It does not affect entitlements to public holiday penalty rates. The bill is only concerned with shop trading restrictions. The reforms contained in this bill again demonstrate the Government's firm and ongoing commitment to reducing red tape. They follow a public consultation process. The reforms once again underscore that New South Wales is "open for business". I commend the bill to the House.