

ACTS AMENDMENT AND REPEAL (COMPETITION POLICY) BILL 2002

Second Reading

Resumed from 27 November 2002.

MRS C.L. EDWARDES (Kingsley) [3.30 pm]: I am not the lead speaker on this matter. This Bill repeals and amends a number of laws in accordance with the recommendations of the national competition policy review, which identifies restrictions on competition and considers whether the restrictions are in the public interest.

My particular interest in national competition policy and the competition policy unit relates to what we have heard from the Government this year about retail trading hours. It has made much of the fact that Western Australia may lose a sum of money if retail trading hours are not deregulated and that it is therefore in the public interest to deregulate. It was originally claimed that something in the vicinity of \$70 million would be lost; however, there have since been suggestions that only about \$20 million would be lost. I ask the Government of the day, and particularly the Minister for Consumer and Employment Protection, how much the re-regulation of industrial relations laws will cost the State. The restrictions to which the community, employers and employees are again subject would clearly be against the public interest. I am sure the competition policy unit would have a very clear and significant interest in this regard. I have brought the matter to its attention, and I look forward at some future time to being able to advise this House what those laws will cost this State.

Mr J.C. Kobelke: It is an interesting point, but it is not covered by the Bill. Industrial relations is not covered by competition policy.

Mr C.J. Barnett: It should be.

Mrs C.L. EDWARDES: It absolutely should be, particularly with the cost and impact the re-regulation of the industrial relations laws are having on the business community. The Government has made a hoo-ha about retail trading hours, but quite clearly it is all huff, puff and bluster. As we have seen from the re-regulation of industrial relations laws in this State, the Government is not really concerned about the impact its actions have on businesses.

MR C.J. BARNETT (Cottesloe - Leader of the Opposition) [3.33 pm]: The Acts Amendment and Repeal (Competition Policy) Bill 2002 is an omnibus Bill that relates to a number of fairly minor, even insignificant, changes. The Bill had its origins in the previous Government. Some additions have since been made. The Bill is almost of a machinery nature, and the Opposition will support it. The Bill repeals and amends laws in accordance with national competition policy. A number of restrictions on competition have been identified through that process, which also had to have consideration for whether those restrictions were in the public interest. As I said, the changes in this Bill are fairly straightforward and, I believe, uncontroversial in nature. It is an omnibus piece of legislation that repeals two Acts and amends 13 other Acts. The previous coalition Government introduced the Acts Amendment and Repeal (Competition Policy) Bill 2000; however, that Bill lapsed with the prorogation of Parliament and change of government. Most of the amendments in the current Bill are identical to those in the previous Bill. In other words, this legislation was endorsed by the Cabinet and party room of the previous Government.

The Bill repeals the Bread Act 1982 and makes consequential amendments to the Consumer Affairs Act 1971. The Bread Act regulates the use of bakehouses and the time bread may be baked and delivered and prescribes the identification of bread delivery vehicles. It is quaint that we have legislation that designates when bread can be baked and what type of vehicles can be used to deliver it. They are issues of a different era. Those restrictions are obviously outdated and somewhat arbitrary. The Bread Act does not deal with issues of health and occupational safety.

Mr J.C. Kobelke: I am losing part of my empire!

Mr C.J. BARNETT: Some people fight to keep everything, and I think the minister should put up a battle to retain that Act. It would be interesting to watch him regulate and monitor the times that bread is baked. The repeal of this Act was contained in the coalition's Bill.

The other Act to be repealed is the Wheat Marketing Act 1989. That part of the Bill also makes consequential amendments to the Bulk Handling Repeal Act. This is related to the national Wheat Marketing Board, which is no longer in operation, and follows changes to commonwealth wheat marketing arrangements. The Act therefore is redundant and should be repealed. This provision was not in the coalition's original Bill.

The Bush Fires Act 1954 will be amended. Currently land occupied by state government agencies can be exempt from local authority fire management laws. This exemption is not proper if it gives a state-owned business an advantage over private sector competitors. This Bill provides for prescribed agencies, including

state-managed timber plantations on private land, to be covered, as they should, by local authority fire planning. The same amendment was in the coalition's Bill.

The Chicken Meat Industry Act 1977 will be amended. This Bill deletes the definitions that determine the establishment of a processing plant. Health, safety and planning laws are already in place to cover this area. The Bill allows regulations to be made for environmental, animal welfare and health standards, which will determine approvals for growing premises. The same amendments were in the coalition's Bill.

The Conservation and Land Management Act 1984 will be amended to remove the requirement that the minister responsible for the Act concur with the minister responsible for the Mining Act 1978 in administering the Greenbushes state forest. This section was originally included to promote investment associated with the mining of tin in this area. Other mechanisms are now in place to provide this protection. The Bill also removes a rated exemption applying to plantation forest under the ownership of the Department of Conservation and Land Management.

There are also amendments to the Eastern Goldfields Transport Board Act 1984 to remove the crown agency status of the Eastern Goldfields Transport Board and make it subject to local government rates, as it should be, and the same laws that apply to other local government businesses. The same amendments appeared in the coalition's Bill.

The Edith Cowan University Act 1984 will be amended to give ECU trustee and investment powers commensurate with those of other universities. Currently its powers are more limited than those of other universities. When I was education minister I similarly tried to bring a degree of consistency to the legislation establishing our universities.

There is an amendment to the Gold Corporation Act 1987. Gold Corporation and its subsidiaries will be made liable to pay charges and taxes in a similar manner as other state government trading enterprises. The principle behind this is that government businesses should be subject to trading conditions similar to those of their private sector counterparts, and clearly that should apply to Gold Corporation. The Bill also makes amendments to the Hire-Purchase Act 1959. The consumer protection provisions contained in this Act are now achieved through the 1996 Consumer Credit Code; therefore, the Hire-Purchase Act should be changed accordingly. These amendments were in the coalition's Bill. The Licensed Surveyors Act 1909 will be amended to replace an undefined requirement that a surveyor be of good fame and character with more objective provisions. In any case, consumer representation on the Land Surveyors Licensing Board has provided for this. Again, this was part of the coalition's Bill.

There is an amendment to the Perth Market Act 1926 to remove restrictions on auction sales outside the Canning Vale market complex. The amendment removes the power of the Perth Market Authority to set market times for all businesses within its precincts and on other sites. It removes the power of the authority to restrict the establishment of the markets. To my knowledge this is the only topic in the overall Bill that has raised any sort of discussion in the community.

The Bill amends the Sandalwood Act 1929 to remove a rule that prevents more than 10 per cent of the total approved sandalwood harvest in any year coming from private land. Licences will be based on the consideration of environmental laws and policy rather than the harvest's location on crown or private land.

The State Supply Commission Act 1991 will be amended. Again, the Bill removes the exemption from stamp duty on the transfer of property. There is also an amendment to the Valuation of Land Act 1978. The requirement that the Valuer General be a valuer is replaced with a competency requirement, and the minister's power to authorise the Valuer General to release information to the public is clarified. It also removes the disparity of qualification requirement between valuers engaged by local authorities and those employed by the Valuer General.

Finally, there are amendments to the Western Australian Meat Industry Authority Act 1976. It confirms the primary status of the authority as a regulator by preventing its operating saleyards and abattoirs other than the Midland saleyards unless the minister is satisfied that exceptional circumstances require such action by the authority. It removes the power of the authority to reject an application to establish an abattoir on the ground that the area is already serviced by another such facility. The authority also will not be able to limit the expansion of abattoir facilities on the basis that that will affect the throughput of the facility and thereby affect other abattoirs in the area.

That summarises the main provisions of the Bill. As I said, the only area that to my knowledge has attracted some public attention and debate has been the provision relating to the Perth Market Act 1926. This was discussed within the Parliamentary Liberal Party room. I know there are some concerns within that sector, particularly about the ability of the Perth Market Authority to regulate its trading hours. It is more a practical consideration. Perhaps that issue will be raised by another speaker.

Mr E.S. Ripper: Did the Liberal Opposition take a position on that?

Mr C.J. BARNETT: There were some discussions. We accepted the Bill, and the minister might make some comment on that issue. I thought someone else would speak about that aspect of the Bill, but that may not happen. As I recall, it was a practical consideration. The Perth Market Authority believes that it needs some ability to regulate, perhaps not for the original reasons, but simply to make the place, in a pragmatic sense, operate effectively and sensibly. We had a qualified doubt about that.

I would be interested in any comments passed to the minister by his advisers about that issue. However, that was the only issue within the Bill that has raised any concern. If that matter is still not resolved, there may be some consideration about whether we should proceed with it at this stage. To the best of my knowledge it is accepted, but there was some debate about it. I know that that is not clear at all. If we go into consideration in detail, it will be just for that point so that the minister will have an opportunity to access his advisers and seek from them some comment on exactly what the issue is. I saw it as an antiquated provision, but it is one that had some practical application in the commonsense operation of the various businesses within the Perth market. The Opposition supports the Bill, but I seek some comment from the minister about the Perth Market Act 1926.

MR E.S. RIPPER (Belmont - Treasurer) [3.43 pm]: I thank the Leader of the Opposition for his comments. It is true that a large part of the Bill relates to decisions made by the previous Government, which have been reaffirmed by this Government and included in the Bill. Some small amendments that have been made to the Bill are different from the positions reached by the coalition, but I regard most of those provisions as having no controversy value whatsoever.

On the question of the Perth market hours, I am aware that there has been some concern about whether the Perth Market Authority should continue to have the power to control opening hours. I have become aware of this debate only in recent days, although other people in the Government have been aware of it for a little longer than that. The key point in my mind is whether there is any discrimination between buyers or sellers that gives anyone a competitive advantage in the circumstances. A quick look at the extent of the power leaves me feeling uneasy about the current wording of the provision that gives the Perth Market Authority the power to control hours, because it enables the authority to have different rules for different classes of people and different classes of produce. Although I do not think it would seek to use those rules in an anticompetitive fashion, from my reading of the current Act there is at least the possibility that it might be able to use that power for anticompetitive purposes.

I intend to seek the endorsement of the Bill by this House. However, the Bill will go to another place. Between consideration of the Bill by this House and consideration of the Bill by the other House, I will get more advice from the competition policy unit in the Department of Treasury and Finance on the matter that has been raised about the power of the Perth Market Authority, and I will consult with my colleague the Minister for Agriculture, Forestry and Fisheries. The Government will then consider whether there should be a changed position on that matter when the legislation is before the upper House. Is that a satisfactory way to deal with it?

Mr C.J. Barnett: Yes, that is fair enough. In broad terms we support the Bill, but there is an issue there. Perhaps that can be dealt with and discussed before it goes to the upper House.

Mr E.S. RIPPER: I have had a preliminary examination made of the issue. Public interest grounds would need to be established for maintaining the power of the Perth Market Authority in that regard. One view that has been put to me is that there are not sufficient public interest reasons to retain that power in the legislation. I have my own view; that is, if such a power is to be retained in the legislation, it should not be available for use in a way that discriminates between different sorts of buyers or wholesalers. I know that my colleague the Minister for Agriculture has an interest in this issue, and I need to consult with him and perhaps with other colleagues before the Government gives a definitive answer on whether the late bid by certain people to dispense with or amend this provision will be endorsed. Given that we have a bicameral system, we can send this legislation to the upper House and then have time to examine the matter.

Mr C.J. Barnett: Given that the Minister for Agriculture is in the upper House, I think there is a certain logic to that. I presume that the various interests are talking to him, so that would be better. It is an omnibus Bill. It does not lend itself to debating the matter in this Chamber.

Mr E.S. RIPPER: That is right. In the first instance, the Minister for Agriculture is the responsible minister and the lobby groups have spoken to him. I do not think much more needs to be said. Almost all this Bill is non-controversial and is supported on a bipartisan basis. The Leader of the Opposition and I seem to at least be approaching within the same overall framework the issue of the power of the Perth Market Authority to set hours. Each of us probably needs to reflect some more with our colleagues before the matter is dealt with in the upper House.

Mr B.J. Grylls: The Treasurer has just said that he will speak with the Minister for Agriculture about the Perth Market Authority, and he may have already explained this. We were hoping to have that whole provision removed. Is that the case?

Mr E.S. RIPPER: The member has missed quite a bit of the debate. The intention is for the Government to re-examine that matter before it goes to the upper House. I am not saying that we will remove that provision, but we will re-examine it in the light of the representations that have been made.

Question put and passed.

Bill read a second time, proceeded through remaining stages without debate, and transmitted to the Council.