

COMMERCIAL TENANCY (RETAIL SHOPS) AGREEMENTS AMENDMENT BILL 2011

Consideration in Detail

Resumed from an earlier stage of the sitting.

New clause 21A —

Debate was interrupted after the new clause had been partly considered.

Mr A.P. O’GORMAN: The opposition moved this amendment of inserting new clause 21A into the Commercial Tenancy (Retail Shops) Agreements Amendment Bill 2011. As I said previously, the principal reason for moving the new clause is that the Premier and the Leader of the Opposition came to an agreement to introduce this legislation in response to extended trading hours in a number of areas. The provision will provide further protection for small business. One part of that agreement that was dropped out again, just revealing that we cannot trust the Premier when he gives his word, was a lease register. The proposal in this new clause is not the best lease register arrangement that we want, but it is all that the Premier would agree to at the time. The main reason for moving this new clause is to keep the Premier honest and to ensure that his word is his word. I am interested to hear that the minister is going to reject this amendment; I would like to hear his reasons for that rejection. I think he was starting to say something about further consultation with the industry.

Mr T.R. BUSWELL: Before I start, I ask members opposite whether they can provide me with some assistance. Hansard has asked me for the correct spelling of Mr Bonza. I am assuming that a member opposite will know him better than I do.

Mr A.P. O’Gorman: B-o-n-s-e-r.

Mr T.R. BUSWELL: No, that is Bonser. That is Liz Bonser.

Mr M. McGowan: B-o-n-z-a.

Mr A.P. O’Gorman: We’ll give him a call.

Mr T.R. BUSWELL: I will give that a go. I am sure he can correct the record if he feels aggrieved.

In rejecting this amendment, I say again that we are not ruling out the introduction of a lease register at a future date. It is our view that we need to engage in a more thorough round of formal consultations with stakeholders to assist the government in its deliberations around the lease register. As the member has pointed out, there are some significant benefits to a lease register. Some people argue that there are some issues with a lease register. I think we need to go back to stakeholder groups, whether they be landlords or tenants, and seek feedback specifically on that issue. That is not to say that the issue will not be brought back into this place in the future, but it will not be dealt with as part of the passage of this bill simply because we want to carry out proper consultation and not hold up the bill. I accept the member’s argument that some benefits are involved with the lease register, but the government will not support the proposed new clause at this stage.

Mr A.P. O’GORMAN: I am quite pleased to hear that the minister is going to go back to consult. Can he give some idea about how that consultation will be conducted? The previous consultation basically recommended to government what the opposition has prepared with this new clause, and that is the reason it was agreed to by the Premier and the Leader of the Opposition. Can the minister give an indication of whom he is consulting? Is he putting a closed point on that consultation and is he also putting an implied recommendation into that consultation, which is what stifled it before? This register is the crux of commercial tenancies. It is what gives small operators a basis for determining whether the cost of a lease will assist them in operating their businesses.

As I said earlier today, one reason businesses are going to the wall is the exorbitant cost of leasing space. This amendment will provide small retailers, the tenants, with an opportunity to look at a register and understand what other people are paying in a particular shopping centre. They will have an understanding of what the large retailers are getting away with, if they are getting away with anything, and an understanding of how much their rent and outgoings will subsidise these larger organisations. That is essentially what is happening. A small retailer paying over \$1 100 a square metre is subsidising the larger organisations, some of which are paying as little as \$180 a square metre, again because there is no lease register in this state, with varying arrangements about outgoings. Realistically, if the minister has a better proposal, I am willing to listen to it, I am willing to put it to my party room and I am willing to support it.

Mr T.R. BUSWELL: Thank you, member. I have a couple of notes from people involved in that consultation. Again, I make the point that I have spoken to the small business operators—not a lot but some—who are opposed to the introduction of a lease register for a range of reasons that they put to me. There are varying views. I think the member for Joondalup makes some very valid points about that. I also say that there are businesses

that are going broke. Cost pressures are part of that. A multiplicity of other factors, unfortunately, cause a lot of small businesses to go out of business.

It is my understanding that the consultation paper will not recommend the preferred option. It will canvass three views on the way information on leases is provided to other people. The first is a lease register, which we talked about, and there are variations on that; the second is compulsory registration on the title; and, the third is, basically, what we do now, which is provide valuers with access to information and allow some minor extensions to leases. It is the status quo and a variety of other changes. They are all, I suppose, seeking to provide the potential for greater transparency of the sorts of information the member is talking about. But there is no implied recommendation. The consultation will be broad—with landlords, tenants and government organisations. The consultation will also work through the network of the Small Business Development Corporation to tap into feedback from the small business sector in WA. Ultimately, prior to government considering any recommendation, as part of our regulatory review process we will conduct what we can call a proper cost–benefit analysis. It is a regulatory impact statement, really, to understand the impact of what we are doing on the benefits and cost to business.

I cannot provide any more advice on the timing of that other than to say that the first step, which is the development of the consultative paper that canvasses those three ideas, has been put forward. It is underway. The fact that it is underway means that we are unable to support the amendment the member has moved today.

New clause put and negatived.

Clauses 22 to 25 put and passed.

Title put and passed.