

PUBLIC AND BANK HOLIDAYS AMENDMENT BILL 2004

EXPLANATORY MEMORANDUM

Introduction

The purpose of the *Public and Bank Holidays Amendment Bill 2004* (the Bill) is to amend the *Public and Bank Holidays Act 1972* (the Act) to allow banks in Western Australia to open on Saturdays. The proposal is consistent with the Government's desire to improve services to regional and local communities. The proposed amendments will permit banks to open on Saturdays, while retaining the term "bank holiday" in the Act so as not to interfere with existing Commonwealth and State legislation. The amendments will bring Western Australia in line with other Australian jurisdictions that already allow Saturday banking and provide parity with other types of financial institutions, such as credit unions and building societies, which are already able to open legally on Saturdays in this State.

Amendments to the Act

Clause 4 – This clause repeals and replaces the existing section 6 of the Act so it simply states that Saturday is to be a bank holiday in Western Australia. With the new amendments, sub-sections 6(2) and (3) are no longer necessary. The significance of retaining Saturday as a "bank holiday" is that it prevents interference with the operation of the definition in any other Commonwealth and State legislation. For example, by retaining Saturday as a "bank holiday", it maintains its status as a "non business day" for the purposes of section 98 of the *Bills of Exchange Act 1909 (Cth)* that provides for the manner of calculating time for doing any act or thing under that Act.

The amendments will not restrict the type of products or services a bank is able to provide on a Saturday, including trading in promissory notes and bills of exchange, presenting cheques or exchanging foreign currency. However, the amendments maintain the position that a bill of exchange or promissory note which fell due and payable on a bank holiday will fall due and payable on the next day that is not a bank holiday.

Clause 5 – This clause amends section 10 of the Act by repealing subsection 10(2) and replacing it with new subsections 10(2) and (3). The effect is that on all bank holidays **besides Saturdays**, banks are to "close their premises to the public". This clarifies what being "closed" means and reflects the modern realities of electronic and mobile banking that occurs without banks having to physically open their premises.

The new subsection 10(2) clarifies that a Saturday is a bank holiday by virtue of section 6 and not a bank holiday by virtue of any other section, including new subsection 10(1). The result is that banks are not required to close on a Saturday like on other bank holidays.