

[Act 2002 No 132]



New South Wales

Bank Holidays Legislation Amendment Bill 2002

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament. *

Overview of Bill

The object of this Bill is to amend the *Shops and Industries Act 1962* and the *Banks and Bank Holidays Act 1912*:

- (a) to prevent banks from opening on Saturdays and Sundays unless they have an approval to do so granted by the Director-General of the Department of Industrial Relations or fall within certain exceptions, and
- (b) to enable the Director-General to deal with applications for approvals.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

* Amended in committee—see table at end of volume.

Clause 3 gives effect to Schedule 1 which contains amendments to the *Shops and Industries Act 1962*.

Clause 4 gives effect to Schedule 2 which contains amendments to the *Banks and Bank Holidays Act 1912*.

Schedule 1 Amendment of Shops and Industries Act 1962

Schedule 1 [2] inserts proposed Part 2 into the *Shops and Industries Act 1962* which enables a bank to apply for approval to open all branches or one or more branches on a Saturday or Sunday, or both.

Proposed section 6 provides that the application is to be made to the Director-General of the Department of Industrial Relations. In determining an application, the Director-General is to consider whether granting the approval will be in the interests of the public. The Director-General can impose conditions on an approval.

Proposed section 5 provides that *bank* has the same meaning as in Part 3 of the *Banks and Bank Holidays Act 1912* (see definition to be inserted by Schedule 2 [1] to the proposed Act).

Proposed section 7 provides that an approval remains in force for the period specified in the approval or, if no period is specified, until cancelled, subject to any suspension.

Proposed section 8 provides that the Director-General can vary the conditions of an approval or suspend or cancel an approval.

Proposed section 9 provides that a bank that is an applicant for an approval or the holder of an approval may apply to the Administrative Decisions Tribunal for a review of certain decisions relating to the application or the approval.

Schedule 1 [4] enables regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed amendments.

Schedule 1 [1] and **[3]** contain statute law revision amendments.

Schedule 2 Amendment of Banks and Bank Holidays Act 1912

Schedule 2 [1] inserts a definition of *bank* into Part 3 of the *Banks and Bank Holidays Act 1912*. The definition defines *bank* as an authorised deposit-taking institution within the meaning of the *Banking Act 1959* of the Commonwealth that is authorised to use the word “bank” or a word of similar import in its name. Regulations may be made excluding any such institution from the definition.

Schedule 2 [2] substitutes section 15A of the *Banks and Bank Holidays Act 1912* so as to provide that Saturdays and Sundays that are not otherwise bank holidays are bank holidays and are to be kept as close holidays in all banks in New South Wales. However, this does not prevent a bank opening in accordance with an approval granted under proposed Part 2 of the *Shops and Industries Act 1962* (to be inserted by Schedule 1 [2] to the proposed Act). Proposed section 15A does not apply to an agency of a bank unless the agency is a subsidiary of the bank or is controlled by the bank. Currently, section 15A provides for Saturdays to be bank holidays and prevents banks from opening on those days.

Schedule 2 [3] omits obsolete provisions that are covered by Commonwealth legislation.

Schedule 2 [4] enables regulations to be made for the purposes of the *Banks and Bank Holidays Act 1912* and gives effect to proposed Schedule 5 to that Act which contains savings and transitional provisions.

Schedule 2 [5] enables savings and transitional regulations to be made and contains the following specific savings and transitional provisions:

- (a) a provision that ensures that the proposed amendments to the *Banks and Bank Holidays Act 1912* do not affect the meaning of **bank holiday** or **public holiday** in any existing industrial instrument,
- (b) a provision that enables banks that were opening on the weekend during the 12-month period before the commencement of the proposed amendments to continue to so open for a further 6 months (or if they lodge an application for an approval under proposed Part 2 of the *Shops and Industries Act 1962*, until the application is finally determined) without the need for such an approval.