

Monday, 6 July 2015

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Finance and Administration Committee

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Re: SDA Queensland Submission -The Holidays and Other Legislation Amendment Bill 2015

The Shop Distributive and Allied Employees Association (Queensland Branch) ['SDA'] commends the Government for carrying out its pre-election commitment to honour the true Labour Day and restore its traditional place as a public holiday on the first Monday in May each year. We also acknowledge and support the commitment providing for the movement of the Queen's Birthday public holiday from June to October. Whilst the SDA supports the proposed Bill, we also advocate for the Government to make further amendments to the *Public Holidays Act 1983*.

The SDA is a significant stakeholder representing a membership of 32,000 with an overwhelming majority of those members working in retail and fast food establishments. Consequently, there are significant impacts relating to Easter Sunday for our members and retail workers in general. Throughout regional areas of Queensland many workplaces choose to open on this day and expect employees to work disregarding any substantive religious or social reasons for the day to be a public holiday.

Without reservation the SDA supports the proposition that Easter Sunday should be a public holiday to rectify the historic anomaly that has maintained a situation that currently causes consumer confusion and in some instances employee dissatisfaction. In addition to advocating the change for Easter Sunday the SDA also proposes that legislation allow Christmas Eve and New Years Eve to be declared part day public holidays.

The Significance of Easter Sunday

Easter Sunday remains a significant religious event and celebration. Our view based on anecdotal evidence from members and general research indicates that even today approximately 30% of the population attend a Christian Church for a religious event at least twice a year.

Whilst religious participation occurs infrequently and as little as twice a year, it is reasonable to conclude that participation is most likely to occur on Christmas Day and Easter Sunday. It is commonly accepted that Church attendances are significantly higher on those two days and the SDA submits that a significant proportion of the general population and its membership might wish to or do attend Church services on Easter Sunday.

Australia has always been a nominally Christian nation; Christianity and Christian celebrations are the basis for Christmas and Easter public holidays in the first instance. Easter Sunday is the most important day in the Christian calendar as it signifies a fundamental Christian teaching when Christ rose from the dead on the third day – Easter Sunday. Importantly it is a significant day when Christians would be most likely to attend religious ceremonies.

Easter Sunday is not solely significant for religious reasons, for many people who are not religious it represents an incongruous work period that falls awkwardly and inconveniently in the middle of an important extended holiday period. The Easter long weekend period represents the last significant



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block of summer time for the populace to rest, socialise and spend important family time before entering winter and having any other significant holiday period.

For the secular, Easter Sunday is also culturally significant, it's when the Easter bunny comes, it's when children go on Easter egg hunts, it's the day for picnics in the park and barbeques with family and friends. This is denied to those who are required to work on this day.

The situation caused by not having Easter Sunday as a public holiday is illogical. We question why Good Friday, Easter Saturday and Easter Monday are public holidays but not Easter Sunday? We simply suggest that it is not logical that the most significant day over the Easter period is not a public holiday. Accordingly we submit that Easter Sunday should be a public holiday in addition to Good Friday, Easter Saturday and Easter Monday.

Queensland needs to recognise that the concept of Easter Sunday being a public holiday is not unique, many nations already recognise the event as a public holiday, these include:

Europe		Other
Norway	Denmark	Lebanon
Sweden	Finland	Syria
Netherlands	Poland	Egypt
Lithuania	Estonia	Eritrea
Iceland	Italy	Ethiopia
San Marino	Albania	Sudan
Greece	Romania	Papua New Guinea
Bulgaria	Vatican	
Bosnia Herzegovina	Portugal	
Moldova	Georgia	
Coatia	Serbia	
Hungary	Slovenia	
Latvia	Ukraine	

Whilst in other countries such as England, Wales and New Zealand trading restrictions apply to stores and they are not permitted to trade on Easter Sunday other countries trade on Sundays (including Easter Sunday) is restricted or not permitted; these include France, Germany and Austria. We submit that if these countries can recognise the significance of the day it is also correct for the State of Queensland to do so.

It is important to note that there is precedent in Australia for establishing public holidays. For Easter Sunday both New South Wales (already legislated) and Victoria (in the process of legislating) have accepted the day should be a public holiday. South Australia also set a precedent by declaring part day Public holidays for Christmas Eve and New Years Eve in 2012. Easter Sunday was gazetted in Victoria in February 2015 and we anticipate that the permanent legislative change will occur later this year.

It is certainly significant that the Australian Labor Party in the largest Australian State (NSW) introduced a change to legislation in 2010 making Easter Sunday a public holiday. It was passed unanimously by Parliament and by all major political parties (ALP, Liberal Party, National Party, Greens and Christian Democrats). The current Liberal/National Government in NSW has since not reversed the Legislation.

There appears to be no anecdotal evidence or groundswell of opinion over the last five (5) years in NSW that has identified or alleged any adverse effects on business from Easter Sunday being a public holiday.



What our members tell us

As the overwhelming majority of SDA members work in the retail and fast food industries a public holiday or not working on Easter Sunday and/or being able to access a part day holiday on Christmas Eve or New Years Eve are significant matters.

The SDA conducted research by way of a membership questionnaire on these important issues to ascertain its members views. Findings suggest that @ 46% of SDA members incorrectly believe Easter Sunday is already a public holiday in Queensland. When advised this was not the case @ 93% of SDA members wanted Easter Sunday to be legislated as a public holiday.

Furthermore @ 80% of SDA members believed that Easter Sunday was a significant day for them and wanted it to be a public holiday and a closed trading day throughout the whole of the State.

Results indicated that even if Easter Sunday had no religious significance for them @ 93% of members wanted the right to spend time away from work with a significant proportion focused on being together with their families.

Almost 89% of those answering surveys wanted Christmas Eve to be a part day public holiday from 6pm until 12pm. Approximately 82% wanted New Years Eve to be a part day holiday in similar terms as outlined for Christmas Eve.

The results reasonably indicate that retail and fast food workers generally want access to these holidays. The results indicate that generally employees in the retail industry highly value family time, wanting greater opportunities to have a legislated day off or if having to work retain the right to be compensated with the payment of penalty rates especially if having to work unsociable hours on Christmas Eve or New Years Eve.

The anomaly of Non Exempt Stores and Trading Hours on Easter Sunday in South East Queensland

The SDA submits that initially when Sunday trade for non-exempt shops was first applied for in the South East Queensland Area, the Retail Association of Queensland (RAQ – now the NRA) consulted with the SDA on the matter. The SDA consulted with its affected members who instructed the SDA not to oppose the application on the following agreed basis with the RAQ:

- That work on Sundays be voluntary for all existing employees, and those employees coming into the industry after the effective date would do so with the full knowledge that they could be required to work Sundays;
- The trading hours be restricted to 10:00am and 4:30pm; and
- There be a clearly defined boundary of the affected area.

Whilst the QIRC approved the application, for reasons best known to itself, it re-defined the area that the agreement applied to. All parties involved in these proceedings did not agree with the newly redefined area. As a result, the RAQ approached the Beattie Government to legislate and amend the decision. This was completed without consultation with the SDA.

The Beattie Government subsequently legislated and amended the defined area, significantly increasing the allowable trading hours from 9:00am to 6:00pm and the non-exempt stores to open on six public holidays where previously they had not been able to trade.

The resulting anomaly allowed stores to trade to 6:00pm on a Sunday when Saturdays generally close between 5:00 or 5:30pm. The discrepancy is again an illogical consequence and generally does not make sense to consumers. The trading hours anomaly has lead to industry confusion and further



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pressured the NRA to make applications for Non Exempt Stores to increase trading hours on Saturdays to correlate to Sundays. We submit that such confusion was unnecessary if proper consultation and a sensible approach had been taken previously. Accordingly we suggest that the proposal put forth by the SDA in this submission is such an approach.

We submit that the above processes left the SDA in a very difficult position and after expressing its extreme concerns over the extension of trade and the trade area the Government responded by closing non-exempt stores in the South East Queensland area on Easter Sunday only, failing to redress the anomalous additional trading hours on Sundays and public holidays.

The NRA have continued to lodge applications for extension to Sunday trade outside of the South East Queensland Area since this time without excluding Easter Sunday in that process. The affect of these applications result in regional cities and towns where Sunday trade has been granted west of Gatton and north of Noosa being permitted to trade on Easter Sunday whereas the South East Queensland area is closed.

This anomaly creates a substantive necessity for legislation to rectify it and reduce further confusion and complexity in the retail industry in Queensland. It is all the more important to declare Easter Sunday a public holiday and make it a closed day throughout the remainder of the State to resolve the anomaly. The importance of this issue will continue to grow as the necessity for employees to engage in Sunday work grows.

Whilst the National Employment Standards pursuant to the Fair Work Act and General Retail Industry Award (GRIA) allow employees the right to be absent from work on a recognised public holiday these standards do not apply to Easter Sunday being an ordinary working day.

The effect of having an ordinary day within the block of public holidays over the Easter period reduces the continuity of the holiday period to two consecutive days on Friday and Saturday and another isolated day on Monday. The obvious effect thereby denies workers the possible opportunity of utilising this period either for a religious celebration or spending time with families or friends.

The extended limited trading period of Easter is of particular significance to SDA Members and retail staff in general. As there is limited trade this naturally allows retail employees a rare opportunity to take time out and have break one that almost all other Australians take for granted. We submit that retail workers deserve to have a work life balance and be able to spend time with loved ones on significant days of the year.

Whilst the SDA acknowledges the importance to the retail industry of large non-exempt retailers, contrary to what they would have us believe, non-exempt stores are not essential services that must be open for customers over the Easter period. Independent and Exempt stores can and do open for trade in this period to service consumers. In particular in the South East Queensland Area many smaller retailers and family run businesses rely on these days to supplement income from the competition posed by non-exempt retailers in other times of the year.

The SDA is aware that not all retail establishments wish to trade on Easter Sunday. By legislating for Easter Sunday to be a public holiday this would allow the removal of uncertainty in retail stores (both large and small) that feel they are obligated to trade but don't want to trade being able not to.

Currently the SDA submits that there is a level of confusion in the minds of many employers and employees and where workers are coerced into changing rosters in order to accommodate their contracted hours over the remainder of the working week where Easter Sunday falls.

The SDA submits that for consistency and fairness for all employees across Queensland that the government needs to declare Easter Sunday a public holiday and to make it a closed trading day across the State, not just South East Queensland.



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Christmas and New Years Eves'

Whilst there is no area of anomaly pertaining to Christmas Eve and New Years Eve the necessity of retail workers to have a work life balance is extremely important to the SDA and to its members. The retail period on which these days occur is extremely busy and stressful. Whilst the general population is enjoying preparations for and actually spending quality time with family and friends just prior to an important holiday season, retail workers are expected to work extended busy hours and have limits placed on quality time away from work. The establishment of part public holidays on these days will allow retail workers the opportunity to have a choice to work and to be paid appropriately if choosing to do so.

In conclusion:

The SDA submits:

- That most Queenslanders accept that Easter Sunday is a day of significance and should be a public holiday.
- That workers as stakeholders, including SDA members, have the right to have their interests taken into account.
- That many countries overseas have made Easter Sunday a public holiday as well as the two largest States of Australia. NSW – has made Easter Sunday a public holiday and Victoria has committed to doing so.
- That it is important for employees working during the significant and stressful trading periods of Christmas Eve and New Years Eve to be able to spend some valuable time with their families and friends at this important time of the year.
- That there are substantive reasons for Easter Sunday, Christmas Eve and New Years Eve to be legislated as public holidays or part days in Queensland.

We reiterate that the Government is commended for the proposed Bill to return Labour Day to its rightful place, however, the SDA urges the Government to amend the Public Holidays Act 1983 and to legislate to make Easter Sunday a public holiday, Christmas Eve and New Years Eve part day public holidays from 6pm until Midnight and fix these issues on a permanent basis.

Yours Faithfully

A black rectangular box redacting the signature of Mr Chris Gazenbeek.

Mr Chris Gazenbeek
State Secretary
SDA (Qld Branch)