

RETAIL TRADING HOURS — TENANCY AGREEMENTS REGULATION

1046. Hon MATT BENSON-LIDHOLM to the Minister for Commerce:

In the wake of the government's 2011 amendments to the Retail Trading Hours Act and the Commercial Tenancy (Retail Shops) Agreements Act —

- (1) What specific regulatory measures does the government intend putting in place to protect the economic viability of small businesses operating in large anchor tenancy complexes?

Several members interjected.

The PRESIDENT: Order! There are a couple of parrots that I can hear in the chamber.

Hon Ljiljanna Ravlich: Not me!

The PRESIDENT: I think Hon Ljiljanna Ravlich might have been part of the equation.

Hon MATT BENSON-LIDHOLM: To continue —

- (2) Why has the Department of Commerce not provided the small business community with regulations supporting changes contained in the commercial tenancies act, particularly given that the department advised the real estate sector that the new laws would come into effect in mid-2012?
- (3) Can the minister advise the house as to the number of complaints made since January 2011 to the Western Australian Commissioner for Consumer Protection by small local retailers under the new Australian Consumer Law Act?

Hon SIMON O'BRIEN replied:

I thank the honourable member for some notice of this question.

- (1) The Commercial Tenancy (Retail Shops) Agreements Act 1985 currently contains a number of protections for tenants in relation to extended trading hours. Under the commercial tenancies act, a provision in a retail shop lease that requires a tenant to open during specified hours or times—for example, Sundays—is void. In addition, only tenants who open on Sundays can be required to pay operating expenses for trading on that day. The amendments included in the Commercial Tenancy (Retail Shops) Agreements Amendment Act 2011 will also strengthen the rights of small retail tenants and will commence on 1 January 2013. Under the reforms, tenants will be able to make more informed leasing decisions through improved information disclosure requirements; security of tenure will be enhanced, with the introduction of new option renewal notice requirements; market rent reviews will be more accurate and transparent as a result of new provisions requiring landlords to provide relevant leasing information to valuers; and costs for tenants will be reduced, with the introduction of new provisions prohibiting landlords from passing on certain legal fees to tenants. In addition, the Small Business Commissioner was established earlier this year to provide advisory and mediation services to retail tenants. It should also be noted that the popularity of Sunday trading has exceeded expectations, with many shops now reporting that Sunday is their busiest day.
- (2) Subsequent to the passage of the Commercial Tenancy (Retail Shops) Agreements Amendment Act 2011, the government engaged in consultation with relevant stakeholders, including a six-week consultation on draft regulations. The regulations have required resolution of complex issues in consultation with industry. The amendment regulations are a significant part of the regulatory regime and are over 70 pages in length. Industry has been kept informed throughout the drafting process, and the department has commenced an education campaign to provide advice to both landlords and tenants about the impact of the changes. During consultation, industry requested a month lead-in to implementation to ensure business readiness. The Commercial Tenancy (Retail Shops) Agreements Amendment Regulations (No. 2) 2012 were published in the *Government Gazette* today and will come into effect on 1 January 2013.
- (3) The department's record-keeping processes do not enable the generation of specific statistics on "small local retailers" and the department therefore is unable to provide the level of information required due to the varying structures under which a business can be registered and locations in which they might be based.