



24 March 2016

Our Ref: A14062301

Enquiries: Patricia Blake, 6552 9260

The Hon Kate Doust MLC
Chair
Standing Committee on Uniform Legislation and Statutes Review
Parliament House
GPO Box A11
PERTH WA 6837

Dear Ms Doust

OBSELETE LEGISLATION REPEAL BILL

I refer to my attendance at the hearing of the Committee on 14 March 2016 regarding the above Bill and to the questions taken on notice during that hearing. Please find below the Department of Commerce – Consumer Protection Division's (Consumer Protection) responses to those questions.

Q1. In relation to section 5 under Part 2 of the Criminal Procedure Act 2004, which refers to the Sunday Entertainments Act 1979, why has that not also been amended to remove the reference?

Section 5 of the *Criminal Procedure Act 2004* allows for regulations made under a prescribed Act to prescribe an offence for which an infringement notice can be issued. This provision does not reference the *Sunday Entertainments Act 1979* (the SE Act), rather the SE Act is referenced in Schedule 1A of the *Criminal Procedure Regulations 2005*.

As was explained to the Committee at the hearing, amendments to various regulations are needed if the SE Act is repealed. It would not be appropriate for Consumer Protection to progress the amendments to subsidiary legislation in advance of Parliament dealing with the Obsolete Legislation Repeal Bill 2015.

Q2. Copies of submissions made on the issue of repealing the SE Act.

Copies of the submissions made by members of the public are attached. Please note that at the hearing it was indicated that perhaps six or seven submissions had been received. This is not correct. Consumer Protection sent a discussion paper to 15 stakeholders including the Chamber of Commerce and Industry WA, Unions WA, the major churches and entertainment operators. Three submissions were received.

Q3. What is the rationale for including the repeal of the SE Act in the Bill and how this addressed the principles outlined in the Premier's Circular 2010/01?

As the Committee noted at the hearing, Premier's Circular 2010/01 provides that a matter must not be included in an omnibus Bill if it affects an existing right, obligation of power or duty; or changes any provided for in legislation; or it implements a change in government policy; or is an issue that may be controversial or legally or otherwise contentious.

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Consumer Protection notes that the Committee has formed the preliminary view that the inclusion of the SE Act in the Bill offends all four of these principles.

Although the Bill was referred to the Committee in accordance with the Premier's Circular, Consumer Protection respectfully submits that the Bill is not an omnibus Bill in the sense contemplated by the Premier's Circular and therefore does not offend the principles as laid out in that document.

A "standard" omnibus Bill, as contemplated by the Premier's Circular, is used to both repeal various Acts and make minor or "housekeeping" amendments to various other written laws. The minor amendments are usually errors, changes in cross-references that have been missed, updates to names of boards and authorities, subtle changes to language use and so forth. The changes are taken by the Premier's Circular not to require clause by clause scrutiny by the Parliament, although Parliament remains entitled to do so if they so choose. The Bills are generally titled Statutes (Repeals and Minor Amendments) Bill to signal to Parliament that its contents are such as is contemplated by the Premier's Circular.

This repeal Bill differs from an omnibus Bill in key respects. The Bill was deliberately called Obsolete Legislation Repeal Bill 2015 by Parliamentary Counsel so as to signal its purpose. As noted at the hearing, the repeal Bill came about as a part of the Government's reinvigorating regulatory reform agenda. The Department of Finance was the lead instructor of the Bill rather than the Department of the Attorney General. The purpose of the Bill is not to make minor administrative amendments, but rather to repeal obsolete and spent legislation on the statute books. Whereas an omnibus Bill is not intended to require clause by clause scrutiny because it contains only minor and administrative amendments, this Bill is designed to allow for clause by clause debate if a member takes issue with the repeal of a certain Act. The SE Act has been included in this Bill rather than an omnibus Bill because it contains a moral dimension which must be considered by Parliament, namely whether to continue to seek to restrict paid entertainment on Sundays, Good Friday and Christmas Day.

Q4. List all primary and subsidiary legislation and any relevant local laws that will continue to regulate entertainment on Sundays

- *Racing and Wagering Western Australia Act 2003.*
- *Racing and Wagering Western Australia Regulations 2003.*
- *Racing Restriction Act 2003.*
- *Liquor Control Act 1988.*
- *Liquor Commission Rules 2007.*
- *Occupational Safety and Health Act 1984.*
- *Occupational Safety and Health Regulations 1996.*
- *Road Traffic Act 1974.*
- *Road Traffic (Events on Road) Regulations 1991.*

- The bylaws of each local government – event organisers will require council approval for size of event, location, date and time, as well as alcohol consumption. Local governments require event organisers to notify the police if alcohol is to be consumed at an event. Organisers are also liable under local government laws with regard to noise abatement, risk management and public liability.

I trust the above information addresses the questions taken on notice.

Yours sincerely



David Hillyard
A/COMMISSIONER FOR CONSUMER PROTECTION

Atts.



The Most Reverend Roger Herft AM
Archbishop of Perth

Anglican
Church
Diocese of Perth



Ref: 2019-1014-H2-03

20 October 2014

Mr David Hillyard
Acting Commissioner for Consumer Protection
By email: consultations@commerce.wa.gov.au

Dear Acting Commissioner

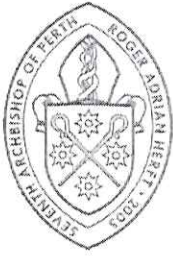
Proposed Repeal of the *Sunday Entertainments Act 1979*

I am in receipt of your letter of 10 October 2014 requesting feedback on the proposal to repeal the *Sunday Entertainments Act 1979*.

While the Anglican Church recognizes that Australia has changed considerably there are questions we have to ask:

- 1 Are we prepared to act in ways that negate the opportunities given for people to worship on Sundays, Good Friday and Easter?
- 2 Will the repealing of this Act give carte blanche to entertainers to be present in and around church buildings or in parks and facilities adjacent to church buildings that will seriously affect and hinder the rights of people to worship in designated church buildings?
- 3 How are the rights of those worshippers to be retained and does the repealing give proper recognition for Christians to be permitted to conduct acts of worship without being hampered?

It is interesting to note that in a pluralistic society which claims that we have respect and tolerance towards all faiths, that the faith that seems to receive the least attention is the Christian faith itself. Christians, by virtue of their inherent capacity to absorb hurt, respond by turning the other cheek and often suffer from an attitude of indifference and apathy extended to them by bureaucrats. Christians hope that this gesture of love towards those who seek to harm them is a radical engagement that witnesses to the community at large.



**The Most Reverend Roger Herft AM
Archbishop of Perth**

**Anglican
Church**
Diocese of Perth



It would be very interesting if bicycle races and other entertainment events stop people of other faiths from validly getting on with their religious observances, eg if on a Friday afternoon any form of entertainment was allowed for in close proximity to a mosque.

It seems a benign act to repeal legislation that was put in place to reflect the changing place of Christianity in society. It is a small distance from that benign act to disregard the inherent place of Christianity in the history of this nation. In some Western secular societies this has been extended to the banning of the cross as a symbol.

There are always unintended consequences. The legislators must ask who will be most affected by these unintended consequences.

It is right for the government at local, state and federal levels to be involved in protecting the rights of minorities.

I hope that the assumption that Christianity is now a minority faith, even though this is questionable given the last census, will allow it to have the same rights that are offered to minority groups in this country.

With blessings and prayers.

Yours sincerely

+ Roger Perth

**The Most Reverend Roger Herft AM
Archbishop**



3 November 2014

Sunday Entertainments Act Discussion Paper
Department of Commerce
(Consumer Protection Division)
Locked Bag 14
Closiers Square
PERTH WA 6850

Attention: Sarah Hazell

Dear David,

RE: PROPOSED REPEAL OF THE SUNDAY ENTERTAINMENTS ACT 1979

Thank you for the opportunity to provide feedback on the proposed repeal of the *Sunday Entertainments Act 1979*.

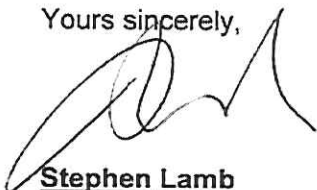
As a leading cinema exhibitor within Western Australia, we currently own and operate 2 major cinema complexes within the Perth metropolitan area, namely, Event Cinemas Innaloo (16 screens) and Greater Union Cinemas Morley (8 screens). Our Company has invested considerable capital in providing state of the art cinemas, including the latest digital projection and audio equipment, premium concepts such as Vmax auditoriums, offering wider and more luxurious seating, bigger screens and sound; Gold Class cinemas, offering intimate 30-seat auditoriums with reclining seats and a licensed bar and in-cinema service and a licensed foyer Cafe Bar for exclusive use by our cinema patrons.

1. Our business trades 7 days per week, 365 days of the year, including public holidays. As we operate within the leisure industry, our business peaks when normal businesses in the 9-5, Monday to Friday environment shut down. In the past 7 years (2007 – 14), our Innaloo and Morley cinema complexes have attracted a combined total of 55,287 Good Friday admissions (based on no sessions before 12pm), at an average of 7,898 admissions per year, clearly making this one of our key trading days of the year. This level of admissions signifies to us that there is a genuine demand within the community for cinemas to screen on Good Friday. We have also had increased demand from consumers to trade on Christmas Day and as highlighted in your summary of the future of the Sunday Entertainments Act the religious profile in our population has changed considerably with WA and the ACT leading the country with respect to the population selecting a 'no religion' preference. Whilst I am not privy to our various competitors' admissions, I have no doubt that they would be achieving similar admission results across their respective cinema locations on both Good Friday & Christmas Day.

2. The cinema industry competes with various other forms of entertainment, including live entertainment venues such as concerts, video stores, home entertainment such as Pay TV, restaurants and various retail outlets. It is our submission that our industry should be able to compete unhindered by the need to have to apply for and rely on a favourable response from the Minister for an exemption to operate on Good Friday or Christmas Day.
3. The ability to operate on Good Friday and Christmas Day without having to rely on the provision of an exemption from the Minister would give us greater certainty to plan ahead for film programming, including the lodging of our advertising of our film session times at a time of the year when advertising deadlines are reduced, due to public holiday shut downs.
4. The opportunity to screen on Good Friday and Christmas Day without having to rely on an exemption from the Minister would reduce the current uncertainty amongst our employees as it is more difficult to plan our rosters ahead of time until we receive advice from the Minister that an exemption has been granted.
5. It is our view that the Sunday Entertainments Act 1979 has become irrelevant as it no longer reflects the changing attitudes of the community. Whilst it may have served a purpose in days gone by, the past 35 years since this Act was introduced has seen a major change in the religious affiliation of the population, with a high percentage of immigration coming from non-Christian backgrounds; the deregulation of retail trading hours; the change in peoples working hours away from Monday to Friday and the proliferation of restaurants, bars and live concert venues that directly compete with the cinema industry. It is our view that the repeal of this Act will remove unnecessary government red tape on our industry, as well as reflecting the changing current community views towards entertainment being readily available on Sundays, Good Friday and also Christmas Day.
6. A repeal of this Act would bring Western Australia in to line with other major States such as NSW and Victoria, where corresponding legislation has already been repealed (including Victoria in 1993, some 21 years ago).

Based on the above feedback, I am confident that I speak on behalf of the entire cinema industry in WA in supporting any move to repeal the *Sunday Entertainments Act 1979* and look forward to a positive outcome to this submission.

Yours sincerely,



Stephen Lamb
Area Manager WA / SA / NT



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W www.liveperformance.com.au
ABN 43 095 907 857

Sunday Entertainments Act Discussion Paper
Department of Commerce (Consumer Protection Division)
Att: Sarah Hazel
Locked Bag 14
Cloisters Square
Perth WA 6850

By email: consultations@commerce.wa.gov.au

Proposed repeal of the *Sunday Entertainments Act 1979*

Dear Mr Hillyard,

Thank you for your invitation to provide feedback on the proposed repeal of the *Sunday Entertainments Act 1979* ("Act").

Live Performance Australia ("LPA") is the peak body for Australia's live performance industry. Established in 1917 and registered as an employers' organisation under the *Fair Work Act 2009*, LPA has over 390 Members nationally. We represent producers, music promoters, venues, performing arts companies, festivals, independent cinemas and industry suppliers such as ticketing companies and technical suppliers.

LPA strongly supports the repeal of the Act. Changes to Australia's religious profile coupled with the regulatory burden that the Act places on the entertainment industry mean that the Act is no longer necessary.

LPA applies each year for an exemption to the Act for the showing of motion pictures on Good Friday and Christmas Day on behalf of our independent cinema members. The exemption has consistently been granted by successive Ministers. We therefore believe that the Act places an unnecessary burden on the Industry to have to continually request exemptions when they are routinely granted. The nature of the cinema and live performance industry is that Sundays and Public Holidays are important peak times and repealing the Act would be a positive step towards supporting the industry in Western Australia. We note that Victoria and New South

Wales repealed their corresponding legislation in 1993 and 1983 respectively. Therefore, the repeal would bring Western Australia into line with other Australian States.

Thank you again for giving us the opportunity to engage in the review process.

Should you have any questions about this submission, please contact Charlotte St Clair Wilson, Workplace Relations Advisor at cwilson@liveperformance.com.au or on (03) 9614 1111.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'E. Richardson', with a long horizontal flourish extending to the right.

Evelyn Richardson

Chief Executive
Live Performance Australia