

Queensland



**TRADING (ALLOWABLE
HOURS) AMENDMENT
ACT 2002**

Act No. 3 of 2002

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**TRADING (ALLOWABLE HOURS)
AMENDMENT ACT 2002**

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**Trading (Allowable Hours) Amendment
Act 2002**

Act No. 3 of 2002

*An Act to amend the *Trading (Allowable Hours) Act 1990**

[Assented to 11 March 2002]

The Parliament of Queensland enacts—**1 Short title**

This Act may be cited as the *Trading (Allowable Hours) Amendment Act 2002*.

2 Commencement

(1) Section 7 commences on assent.

(2) Section 9 commences on a day to be fixed by proclamation.

(3) The remaining provisions commence on 1 August 2002.

3 Act amended

This Act amends the *Trading (Allowable Hours) Act 1990*.

4 Amendment of title

Title, ‘regulate’—

omit, insert—

‘decide’.

5 Amendment of s 3 (Objects of Act)

Section 3(a) and (b), ‘regulate’—

omit, insert—

‘decide’.

6 Amendment of s 26 (Matters relevant to s 21 order)

(1) Section 26(g)—

renumber as section 26(i).

(2) Section 26—

insert—

- ‘(g) the likely impact of the order on employment;
- (h) the view of any local government in whose area the order is likely to have an impact;’.

7 Insertion of new pt 5A

After section 31—

insert—

‘PART 5A—TRADING HOURS FOR SOUTH-EAST QUEENSLAND AREA

‘31A Industrial commission decision of no effect

‘(1) This section applies to the decision of the full bench of the industrial commission made on 21 December 2001 in the matter of *Retailers’ Association of Queensland Limited, Union of Employers and Queensland Retail Traders and Shopkeepers Association (Industrial Organisation of Employers) and Others* (No. B810 of 2001) 169 QGIG 48.

‘(2) Any order about trading hours arising from the decision has no effect.’.

8 Insertion of new s 31B

Part 5A—

insert—

‘31B Industrial commission order amended

‘(1) This section applies to the trading hours order, other than schedule 4.

‘(2) For the south-east Queensland area, the order is taken to prescribe that the permissible trading hours on a Sunday or public holiday, other than a closed day, are—

- (a) opening time—9 a.m.; and
- (b) closing time—6 p.m.

‘(3) Subsection (2) applies despite any other provision of the order in force immediately before the commencement of this section.

‘(4) As soon as practical after this section commences, the industrial registrar must amend the order to agree with subsection (2).

‘(5) Despite subsection (2), the order as affected by subsection (2) and amended by the industrial registrar is taken to be an order of the industrial commission for the purposes of the future application of section 21.

‘(6) However, the industrial commission must not make an order prescribing for the south-east Queensland area an opening time later than 9 a.m., or a closing time earlier than 6 p.m., on a Sunday or public holiday.

‘(7) For the south-east Queensland area, the permissible trading hours on a Sunday or public holiday are not allowable trading hours for the definition “**core trading hours**” in the *Retail Shop Leases Act 1994*, section 51.¹

‘(8) In this section—

“**Brisbane statistical division**” means the Brisbane statistical division defined in the 2001 edition of the Australian Standard Geographical Classification (Cat. No. 1216.0) published by the Australian Bureau of Statistics.

“**closed day**” means—

- (a) Good Friday; or
- (b) Easter Sunday; or
- (c) 25 April (Anzac Day); or
- (d) the Labour Day public holiday; or
- (e) 25 December (Christmas Day).

“**existing Sunshine Coast area**” means the Sunshine Coast Area defined in the order.

“**permissible trading hours**” means the permissible trading hours mentioned in the order.

“**south-east Queensland area**” means—

- (a) the existing Sunshine Coast area; and

1 Section 51 (Definitions)

- (b) the area east of the Bruce Highway between the existing Sunshine Coast area and the Brisbane statistical division; and
- (c) the area occupied by non-exempt shops fronting onto the western side of the Bruce Highway between the existing Sunshine Coast area and the Brisbane statistical division; and
- (d) the Brisbane statistical division; and
- (e) the local government area for the Gold Coast City Council that is not included in the Brisbane statistical division; and
- (f) the islands in the coastal waters of the State east of the areas mentioned in paragraphs (a) to (e) that are not included in the Brisbane statistical division.

“trading hours order” means the order titled ‘Trading Hours—Non-exempt Shops Trading by Retail—State’ made by the industrial commission on 27 November 1992, as amended from time to time.’.

9 Insertion of new s 36A

Part 7, before section 37—

insert—

‘36A Protection for current employees

‘(1) An employer must not require a current employee to work during extended hours unless the employee agrees, in writing, to work during extended hours.

Maximum penalty—

- (a) for a first offence—16 penalty units; or
- (b) for a second or subsequent offence—20 penalty units.

‘(2) However, subsection (1) does not apply in relation to a current employee if—

- (a) an industrial instrument provides arrangements under which the employee may refuse or agree to work during extended hours; and
- (b) a regulation prescribes the industrial instrument as an approved industrial instrument for this subsection.

‘(3) In this section—

“agree” means agree for a stated period or for an indefinite period.

“closed day” see section 31B(8).

“current employee” means an employee who is employed in a non-exempt shop immediately before 1 August 2002, other than in a non-exempt shop for which the permissible trading hours immediately before 1 August 2002 include trading hours on a Sunday or public holiday, other than a closed day.

“employer” means an employer of an employee employed in a non-exempt shop.

“extended hours” means the permissible trading hours on a Sunday or public holiday, other than a closed day.

“industrial instrument” means an award or certified agreement within the meaning of the *Industrial Relations Act 1999*.

“non-exempt shop” means a non-exempt shop in the south-east Queensland area.

“permissible trading hours” see section 31B(8).

“south-east Queensland area” see section 31B(8).’.