

# **TRADING (ALLOWABLE HOURS) AMENDMENT BILL 2002**

## **EXPLANATORY NOTES**

### **Objectives of the Legislation**

The objective of this Amendment Bill is to implement the Government's position in addressing the detrimental impact on retail traders and consumers in the areas near to Brisbane following a recent decision of the Queensland Industrial Relations Commission to introduce Sunday trading in the City of Brisbane area only.

Additionally, the Bill will provide for a single trading hours zone, including uniform Sunday trading and public holiday trading, in the south-east coastal area of Queensland.

### **Reasons for the Legislation**

On 8 May 2001, the Retailers' Association of Queensland Limited filed an application with the Queensland Industrial Relations Commission to introduce Sunday trading for non-exempt shops, from 10 a.m. to 5 p.m., in the "Brisbane and Near Metropolitan Area". This area extended north to Caboolture, west to Ipswich and south to Beenleigh. The Commission handed down its decision on Friday 21 December 2001. The application was granted in part only to the local government area of the City of Brisbane to operate from 1 July 2002.

The decision was widely criticised on the basis that it disadvantaged traders, shopping centres and consumers in areas adjacent to Brisbane by disallowing access to Sunday trading and, as such, was not in the public interest. Areas excluded from the decision included Ipswich, Redbank, Strathpine, Pine Rivers, Arana Hills, Caboolture, Redcliffe, Capalaba, Browns Plains, Springwood, Redlands and Logan.

A further issue raised was the current unsatisfactory situation whereby numerous trading hours zones exist between the Sunshine Coast Area and Gold Coast Area resulting in inconsistencies and both industry and consumer confusion.

The Government is committed to addressing these concerns by way of improving the Commission's decision in the interests of both the retail industry and consumers.

### **Cost for Government Implementation**

Implementation of the proposed amendments will not result in any additional costs for government.

### **Fundamental Legislative Principles**

The Bill does not infringe fundamental legislative principles.

### **Consultation**

Consultation on the Bill has been undertaken with the following key industry stakeholders:

- Retailers' Association of Queensland (RAQ);
- Property Council of Australia (PCA)—incorporating the Shopping Centre Council of Australia;
- Shop, Distributive and Allied Employees Association (Queensland Branch) (SDA);
- Queensland Retail Traders and Shopkeepers Association (QRTSA); and
- National Meat Association of Australia (Queensland Division) (NMAA).

## **NOTES ON CLAUSES**

### **Short title**

*Clause 1* sets out the short title of the Bill.

**Commencement**

*Clause 2* provides for the commencement of section 7 of the Bill on assent. This section provides that any order arising from the decision of the Queensland Industrial Relations Commission made on 21 December 2001, introducing Sunday trading in the City of Brisbane from 1 July 2002, will have no effect.

The remaining amendments and trading hours arrangements introduced by the Bill will commence on 1 August 2002.

**Act amended**

*Clause 3* provides that the Bill amends the *Trading (Allowable Hours) Act 1990*.

**Amendment of title**

*Clause 4* replaces the word “regulate” with the word “decide” in the long title of the Act. This amendment is made for purposes of clarity and is consistent with changes made by the Bill to the objects of the Act.

**Amendment of s 3 (Objects of Act)**

*Clause 5* replaces the word “regulate” with the word “decide” where it appears in the objects of the Act. This clarifies that an object of the Act is to decide allowable trading hours of shops as opposed to the regulation of hours, which has in the past been interpreted as promoting a restriction of hours.

These changes are consistent with section 21(1) of the Act, which provides that a Full Bench of the Queensland Industrial Relations Commission may decide trading hours for non-exempt shops.

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

*Clause 6* includes additional matters that the Queensland Industrial Relations Commission must have regard to when deciding trading hours namely, the likely impact on employment and the view of any local government whose area is likely to be affected.

**Insertion of new pt 5A**

*Clause 7* inserts a new Part 5A into the Act to provide special allowable trading hours arrangements for the south-east Queensland area.

New section 31A (Industrial commission decision of no effect) establishes that any order arising from the decision of the Queensland Industrial Relations Commission made on 21 December 2001, which granted Sunday trading in the City of Brisbane from 1 July 2002, will have no effect.

**Insertion of new s 31B**

*Clause 8* inserts new section 31B (Industrial commission order amended) into Part 5A.

Section 31B (1) clarifies that the provisions of the section apply in respect of the trading hours order titled “Trading Hours—Non-exempt Shops Trading by Retail—State” made by the Queensland Industrial Relations Commission on 27 November 1992. This does not include schedule 4 of the order, which prescribes trading hours for various special exhibitions or special displays of goods.

Section 31B (2) provides for a new trading hours area known as the “south-east Queensland area” with uniform trading for all non-exempt shops throughout the area from 9 a.m. to 6 p.m. on Sundays and public holidays. Shops will be required to close on Good Friday, Easter Sunday, 25 April (Anzac Day), Labour Day and 25 December (Christmas Day).

Section 31B (3) states that the new trading arrangements outlined in section 31B (2) will apply regardless of any existing provision in the trading hours order.

Section 31B (4) requires that the trading hours order is to be amended by the Industrial Registrar to reflect the new trading arrangements outlined in section 31B (2).

Section 31B (5) and (6) confirm that the Queensland Industrial Relations Commission will continue to decide trading hours for non-exempt shops by way of the trading hours order however, the Commission must not reduce the hours of 9 a.m. to 6 p.m. on Sundays and public holidays in the south-east Queensland area.

Section 31B (7) ensures that retail tenants in shopping centres in the south-east Queensland area cannot be forced to trade on Sundays and public holidays in terms of their retail shop leases.

Section 31B (8) provides the meaning of various terms for purposes of the new trading hours arrangements introduced in the Bill. Included is a description of the new area known as the “south-east Queensland area”.