

# Liquor and Other Legislation Amendment Bill 2017

## Explanatory Notes

**For amendments to be moved during consideration in detail by  
The Honourable Yvette D'Ath MP  
Attorney-General and Minister for Justice and  
Minister for Training and Skills**

### Short title

The short title of the Bill is the *Liquor and Other Legislation Amendment Bill 2017*.

### Policy objectives and the reasons for them

The amendments to the *Trading (Allowable Hours) Act 1990* to be moved during consideration in detail establish Easter Sunday as an open trading day for all non-exempt (large) shops in south-east Queensland. This will complement legislative amendments already passed as part of the *Industrial Relations Act 2016* which make Easter Sunday a public holiday from 2017. Easter Sunday falls on 16 April in 2017.

In 2016 the Government approved an independent review of Queensland's shop trading hours. The Review made 13 recommendations for trading hours' reforms including that the Government consider standardisation of those public holidays that are to be treated as closed days for all non-exempt shops across the State.

Under the current trading hours' arrangements, non-exempt shops in some parts of the State (i.e. south-east Queensland and areas without seven day trading) are required to be closed on five public holidays each year being Good Friday, Easter Sunday, ANZAC Day, Labour Day and Christmas Day; while in other parts of the State the restriction only applies to four public holidays - Good Friday, ANZAC Day, Labour Day and Christmas Day.

The recommendation that the public holidays on which non-exempt shops are to be closed should be the same throughout the state is a sensible one. Ensuring consistency in non-trading public holidays across Queensland will provide consumers, businesses and workers with greater certainty.

Should Easter Sunday be a closed trading day throughout the State, the additional non-trading public holiday would impose economic costs through lower consumer welfare, employment and retail sales. Given the Easter weekend is also a peak time for tourism and visitors to the State, the economic costs of Easter Sunday being a non-trading day are likely to be high. Making Easter Sunday a closed day is also likely to cause confusion and discontent considering many areas outside of south-east Queensland are able to open on Easter Sunday.

## **Achievement of policy objectives**

It is appropriate to establish the status of Easter Sunday as a trading day for non-exempt shops by a legislative amendment that is passed and takes effect before Easter Sunday 16 April 2017. This amendment will only apply to south-east Queensland. The day will remain a closed day in regional areas that have not been allowed to trade seven days a week.

## **Alternative ways of achieving policy objectives**

There are no alternative ways of achieving the policy objectives. The policy objectives can only be achieved by legislative amendment.

## **Estimated cost for government implementation**

There are no additional costs anticipated to be associated with the amendments to be moved during consideration in detail.

## **Consistency with fundamental legislative principles**

A fundamental legislative principle has been identified in relation to the amendment of section 31B(8) and the appropriateness of delegation of legislative power to the Queensland Industrial Relations Commission (QIRC) in relation to defining 'south-east Queensland area' by reference to the trading hours order 'as amended from time to time'. This means that if the QIRC amends the definition in the order, the effect of the provision of the Act will change. The delegation is considered justified as a necessary measure supporting current arrangements for non-exempt shop extended trading hours which are decided by the QIRC based on the class of shop or locality in which the shop is situated.

## **Consultation**

The National Retail Association opposed making Easter Sunday a closed trading day.

The Master Grocers Association, the Shop, Distributive and Allied Employees' Association, the Queensland Council of Unions, United Voice, Australian Workers' Union all supported Easter Sunday being a closed day throughout the State.

## **Consistency with legislation of other jurisdictions**

The Bill is specific to the State of Queensland, and is not required to be uniform with or complementary to legislation of the Commonwealth or another state.

In other jurisdictions Easter Sunday is a public holiday only in New South Wales (NSW), Victoria and the Australian Capital Territory but is mandated as a closed trading day only in NSW. It is also treated as a standard Sunday trading day in Tasmania and the Northern Territory (with no restrictions) and in South Australia and

Western Australia (where closures apply to some types of shop and in non-metropolitan areas because the day is a Sunday).

## Notes on provisions

*Amendment 1* inserts a new Part 5 into the *Liquor and Other Legislation Amendment Bill 2017*.

Section 29 provides that Part 5 of the Bill amends the *Trading (Allowable Hours) Act 1990*.

Section 30 amends section 31B(8) of the *Trading (Allowable Hours) Act 1990* to remove Easter Sunday from the list of closed days for south-east Queensland in the order entitled 'Trading Hours – Non-exempt Shops Trading by Retail – State' (the general trading hours order). The section also clarifies the definition of the south-east Queensland area by reference to that trading hours order.

Section 31 inserts a new section 31BA into the *Trading (Allowable Hours) Act 1990* to ensure that in south-east Queensland all classes of non-exempt shop not covered by the general trading hours order and which must currently close on Easter Sunday (e.g. shops selling motor vehicles or caravans), are now able to open on that day from 9am to 6pm.

Section 32 amends section 36A (as a consequence of the amendment of section 31B) to preserve the current meaning of 'south-east Qld area' for section 36A.

Section 33 inserts into Part 7 a new section 36AA which prescribes that it is an offence for an employer to require an employee to work in a non-exempt shop on Easter Sunday in south-east Queensland unless they have freely elected (i.e. agreed in writing) to work on that day. The maximum penalty for an offence is 16 penalty units for a first offence and 20 penalty units for a second or later offence. Section 181B of the *Penalties and Sentences Act 1992* provides that if a provision doesn't provide specifically for a fine for a body corporate, the maximum penalty for a body corporate is 5 times the penalty stated. From 1 July 2016 the value of a penalty unit is \$121.90

Section 34 amends the *Trading (Allowable Hours) Act 1990* by inserting a new Part 8, division 5, section 54 which includes a transitional provision that clarifies that trading hours orders are overridden by the trading arrangements introduced by this amendment.

*Amendment 2* provides for the title "*Trading (Allowable Hours) Act 1990*" to be inserted into the long title of the *Liquor and Other Legislation Amendment Bill 2017*.