

Queensland



# TRADING (ALLOWABLE HOURS) ACT 1990

**Reprinted as in force on 26 April 2002  
(includes amendments up to Act No. 9 of 2002)**

**Reprint No. 5C**

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# Information about this reprint

This Act is reprinted as at 26 April 2002. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **provisions that have not commenced and are not incorporated in the reprint**
- **editorial changes made in earlier reprints.**

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1990**

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# TRADING (ALLOWABLE HOURS) ACT 1990

[as amended by all amendments that commenced on or before 26 April 2002]

## An Act to regulate the trading hours of shops and for related purposes

### PART 1—PRELIMINARY

#### 1 Short title

This Act may be cited as the *Trading (Allowable Hours) Act 1990*.

#### 2 Commencement

(1) Section 1 and this section commence on the day this Act is assented to for and on behalf of Her Majesty.

(2) Except as provided by subsection (1), the provisions of this Act, commence on a day appointed by proclamation.

#### 3 Objects of Act

The objects of this Act include—

- (a) to regulate the allowable trading hours of shops, other than exempt shops, throughout Queensland;
- (b) to require employees be given a holiday for, and to regulate when certain places must close on, Anzac Day;
- (c) to provide for closure of banks and insurance companies on bank holidays;
- (d) to prohibit soliciting in any publication for business to be transacted outside allowable trading hours at any factory or shop;
- (e) to facilitate trading in tourist areas.

## PART 2—INTERPRETATION

### 4 Meaning of terms

In this Act—

**“chief industrial inspector”** means the chief inspector under the *Industrial Relations Act 1999*.

**“closed”** means locked, or otherwise secured, to the complete exclusion of the public.

**“closing time”** means, in relation to a shop, the time at which the shop is required, by an Industrial Commission order relating to trading hours or by part 4, to be closed for business on any day.

**“commissioner”** means an industrial commissioner.

**“employee”** means a person employed in any calling, whether on wages or piecework rates, or as a member of a buttygang, and includes—

- (a) a person whose usual occupation is that of an employee in a calling;
- (b) a person employed in any calling notwithstanding that—
  - (i) the person is working under a contract for labour only, or substantially for labour only;
  - (ii) the person is lessee of any tools or other implements of production, or of any vehicle used in delivery of goods;
  - (iii) the person is the owner, wholly or partially, of any vehicle used in transport of goods or passengers;

if such factor is the only reason against holding the person to be an employee;

- (c) each person, being 1 of 4 or more persons who are, or claim to be, partners working in association in any calling or industry.

**“exempt shop”** means a shop prescribed by section 5 to be an exempt shop.

**“factory”** means—

- (a) a place in which—
  - (i) 2 or more persons (whether the occupier or not) are engaged in a manufacturing process; or



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- (ii) steam, water, mechanical or other power is used in, or in aid of, a manufacturing process, or in packing goods for transport; or
- (iii) electricity is generated or transformed for the supply of heat, light or power;
- (b) any bakehouse, cafe or other place whatsoever in which food or drink for human consumption is prepared or manufactured for sale, trade or gain;
- (c) a laundry in which 2 or more persons (whether the occupier or not) are engaged, or in which mechanical power is used, and in which laundry work is performed for hire or reward or other gain, or which is carried on as ancillary to another business;
- (d) any boatbuilding yard, shipbuilding yard, dock, dockyard, ship-repairing yard or other place in which a boat or ship is constructed, reconstructed, repaired, fitted, refitted, finished or broken up;
- (e) a shearing shed, woolscour or boiling-down works;

and includes—

- (f) any place of a description referred to in paragraphs (a) to (e), although it is—
  - (i) in the open air; or
  - (ii) in a building only partly constructed or under construction;
- (g) where the operations of a factory are carried on in 2 or more places that are adjacent, all of those places notwithstanding that any of those places are separated by any place or places not forming part of the factory in question;

but does not include any—

- (h) corrective services facility, reformatory or reformatory farm; or
- (i) industrial school.

**“independent retail shop”** means a shop prescribed by section 6 to be an independent retail shop.

**“Industrial Commission order”** means an order made by the Industrial Commission under part 5, and includes an order made under the *Industrial Conciliation and Arbitration Act 1961* that continues to have effect for the purposes of this Act.

**“industrial inspector”** or **“inspector”** means an inspector under the *Industrial Relations Act 1999*.

**“industrial organisation”** means a body registered as an industrial organisation, or a body whose registration was continued or preserved, under the *Industrial Relations Act 1999*.

**“industrial registrar”** means the person who is, for the time being, the industrial registrar within the meaning of the *Industrial Relations Act 1999*.

**“manufacturing process”** means any handicraft or process in or incidental to making, assembling, altering, repairing, renovating, preparing, ornamenting, finishing, cleaning, washing or adapting goods or any part thereof, for sale, trade or gain, or as ancillary to any business.

**“market”** means any place where persons occupy or have the use of stalls at which goods are sold, by retail.

**“non-exempt shop”** means a shop other than—

- (a) an exempt shop; or
- (b) an independent retail shop; or
- (c) an office; or
- (d) a stall.

**“occupier”** means, in relation to a factory, shop or other place—

- (a) a person in actual occupation of the factory, shop or place;
- (b) a person who employs another person in, or in connection with, the business conducted in the factory, shop or place;
- (c) a principal, agent, manager, supervisor or other person acting, or apparently acting, in the general management or control of the business conducted in the factory, shop or place.

**“office”** means a place where any person is employed, directly or indirectly—

- (a) to perform work of a clerical nature; or
- (b) to perform, or to assist in the performance of, work of a professional nature.

**“open”**, for a shop, means the shop is not closed.

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**“opening time”** means, in relation to a shop, the time at which the shop may, as permitted by an Industrial Commission order relating to trading hours or by part 4, be lawfully opened to the public for business on any day.

**“place”** means any land, water, building, structure, vehicle, vessel, pontoon, carriage or aircraft, and includes any part thereof.

**“place of public amusement”** means a place, or part of a place, used or intended to be used—

- (a) as a cinema, theatre, dance hall or music hall; or
- (b) for a circus; or
- (c) for sporting entertainment; or
- (d) for any other public amusement or entertainment;

whether or not a charge is, or is to be, made for admission.

**“records”** means any collection of data in whatever form it is held, including on film, disc, tape, perforated roll or other device in which visual representations or sounds are embodied so as to be capable of reproduction therefrom, with or without the aid of another process or instrument.

**“sell”** includes—

- (a) offer or attempt to sell; or
- (b) supply or receive for sale; or
- (c) have in possession for sale; or
- (d) exhibit or expose for sale; or
- (e) send, forward or deliver for or on sale; or
- (f) cause or permit to be sold, offered for sale, exhibited or exposed for sale or sent, forwarded or delivered for or on sale; or
- (g) have in possession, exhibit or expose for any purpose of advertisement, trade or gain.

**“shop”** means—

- (a) any place, pack or storage in or from which goods are sold, by retail or wholesale;
- (b) any place, pack or storage in or from which goods ordinarily sold in shops are delivered or disposed of, or any document or thing

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evidencing title to such goods is delivered in accordance with any agreement, arrangement, condition, scheme, device or contrivance whereby property in such goods passes from any person to another;

- (c) any place occupied or used by a hairdresser, beautician or barber;
- (d) any office;
- (e) any place used for a purpose declared by regulation for the purposes of this definition;

but does not include the sample room of a commercial traveller.

**“stall”** means—

- (a) any barrow, stand, table, platform or other structure at a market;  
or
  - (b) any vehicle, vessel, pontoon, carriage or aircraft at a market; or
  - (c) any space at a market;
- on or in which are goods for selling at the market.

## **5 Exempt shops**

(1) An exempt shop is a shop of a description of shop specified in this section used predominantly for selling goods, by retail, or for supplying services, that a reasonable person would expect to be sold or supplied in that shop.

(2) The specified descriptions of shops are—

- (a) antique shop; or
- (b) art gallery; or
- (c) aquarium and aquarium accessories shop; or
- (d) arts and crafts shop; or
- (e) bait and tackle shop; or
- (f) bookseller’s shop, newsagent’s shop, railway bookstall; or
- (g) bread shop, cake shop, pastry shop; or
- (h) camping equipment shop; or
- (i) chemist shop; or
- (j) confectionary shop; or

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- (k) cooked provisions shop where the provisions are cooked or heated on the premises immediately before sale; or
- (l) delicatessen; or
- (m) fish shop; or
- (n) flower shop; or
- (o) fruit shop, vegetable shop, fruit and vegetable shop; or
- (p) funeral director's premises; or
- (q) hairdresser's, beautician's or barber shop; or
- (r) ice-cream parlour; or
- (s) licensed premises under the *Liquor Act 1992* or the *Wine Industry Act 1994*; or
- (t) marine shop; or
- (u) milk bar; or
- (v) nursery (plant) shop for selling garden plants and shrubs, seeds, garden and landscaping supplies or equipment and associated products; or
- (w) pet shop; or
- (x) photographic shop; or
- (y) premises in relation to which a pawnbrokers licence under the *Pawnbrokers Act 1984* is in force; or
- (z) restaurant, cafe, refreshment shop; or
- (za) service station; or
- (zb) shop of a class declared by regulation to be a class of exempt shop; or
- (zc) shop for selling motor vehicle spare parts or motorcycle spare parts or both; or
- (zd) soap shop; or
- (ze) souvenir shop; or
- (zf) sporting goods shop; or
- (zg) temperance beverages shop; or
- (zh) tobacconist's shop; or

- (zi) toy shop; or
- (zj) veterinary supplies shop; or
- (zk) video cassette shop (blank or prerecorded).

(3) A class of shop may be declared for the purposes of subsection (2) by reference to—

- (a) the business conducted in shops of the class; or
- (b) the location of shops within any area or areas of the State defined in the relevant regulation; or
- (c) such other criteria as the Governor in Council thinks fit.

(4) In respect of the sale of goods wholesale in an exempt shop the provisions of this Act apply to the shop and a reference in this Act to an exempt shop does not include the shop.

## **6 Independent retail shops**

(1) Subject to subsections (2) and (3), an independent retail shop is a shop where—

- (a) the business for which the shop is maintained is wholly owned by a person, or by persons in partnership, or by a proprietary company within the meaning of the Corporations Act, section 9,<sup>1</sup> that is not a related body corporate under the Corporations Act, section 50;<sup>2</sup> and
- (b) the number of persons engaged at any one time in the shop (including an owner of the business) does not exceed 20; and
- (c) the number of persons at any one time engaged by the owner of the business (including an owner of the business) in that and any other shop or shops (exempt or non-exempt) in the State does not exceed 60; and
- (d) the business for which the shop is maintained is not conducted in a shop, or part thereof, used for the conduct of business of a non-exempt shop at a time when the non-exempt shop is required by or under this Act to be closed.

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1 Corporations Act, section 9 (Dictionary)

2 Corporations Act, section 50 (Related bodies corporate)

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**(2)** A shop is not an independent retail shop if—

- (a) it is an exempt shop;
- (b) it is an office;
- (c) the business of the shop is, wholly or partly—
  - (i) the selling of goods wholesale;
  - (ii) the selling of motor vehicles or caravans;
- (d) it is a stall in a market.

**(3)** If business is conducted in 2 or more areas within a building in such circumstances that it would be reasonable to believe that the business in each such area is part of 1 business conducted by any 1 person, or persons in partnership, none of such areas is an independent retail shop unless all areas together would constitute an independent retail shop as defined by subsection (1) if such belief were correct.

**(4)** Each of the following circumstances is evidence of the reasonableness of a belief such as is referred to in subsection (3)—

- (a) the absence of walls, or fixed partitions, from floor to ceiling, defining the limits of one area used for trade in relation to another area used for trade;
- (b) the availability of access from one area used for trade to another area used for trade, without the need to pass through common area;
- (c) the availability of access from one area used for trade to another area used for trade through common area, without the need to pass through a structurally defined exit or entrance;
- (d) the making of financial arrangements in relation to trade in any area at a location used for making such arrangements in relation to—
  - (i) trade in that area; and
  - (ii) trade in any other area;
- (e) the use of a common accounting system in respect of 2 or more areas;
- (f) the use of any advertising device, or means of advertising, that does not indicate that business conducted in each of 2 or more areas is conducted by a different proprietor.

- (5) For the purpose of applying subsection (3) in a particular case—
- (a) it is not necessary that any person has formed a belief, such as is referred to in that subsection;
  - (b) subsection (4) is not to be construed as exhaustive of circumstances evidencing reasonableness of a belief, such as is referred to in subsection (3), which could be formed.

## **PART 3—ADMINISTRATION**

### **7 Confidentiality**

An industrial inspector or officer appointed for the purposes of this Act is not to disclose to any person information that the inspector or officer has acquired in exercise of powers or performance of duties under this Act or by virtue of holding any appointment unless—

- (a) the disclosure is for the purposes of this Act and in the proper performance of the duties of office; or
- (b) the disclosure is made with the Minister's permission first obtained; or
- (c) the disclosure is in accordance with an order of a court for the purposes of proceedings before that or another court or before a tribunal constituted according to law.

### **8 Industrial inspector's powers of investigation and enforcement**

(1) An industrial inspector is authorised—

- (a) subject to section 9, to enter, inspect and examine at any time any place—
  - (i) used or intended to be used, or which the inspector reasonably suspects to be used or intended to be used, as a shop; or
  - (ii) in which, or in respect of which, the inspector reasonably suspects that a person is contravening or failing to comply with any provision of this Act or of an Industrial Commission order;



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and therein to carry out such investigation as the inspector considers necessary for the purposes of this Act;

- (c) to question with respect to matters relevant to this Act any person found in any place entered, or any person whom the inspector reasonably believes to be an occupier of such place, or to be or to have been an employee of such an occupier and to require such person to answer truthfully the questions put and to sign a declaration of the truth of the answers given;
- (d) to make such investigations, inquiries and examinations as the inspector considers to be necessary to ascertain whether the provisions of this Act, or of an Industrial Commission order, are being complied with;
- (e) at any time during the hours when business is, or may be, conducted in any place subject to an Industrial Commission order to require an occupier of the place to produce for the inspector's examination all or any time sheets, pay sheets or other records relating to persons employed by the occupier, and to examine and to make copies of or extracts from time sheets, pay sheets or other records;
- (f) to require a person whom the inspector reasonably suspects to have possession or control of records relating to—
  - (i) conferral of entitlements to occupy, or to conduct business in, any areas within a building;
  - (ii) the identity of the proprietors of businesses conducted in any areas within a building;
  - (iii) financial arrangements suspected to exist between proprietors of businesses conducted in any areas within a building, or between such proprietors and—
    - (A) the owner of the building;
    - (B) the occupier of the whole building;
    - (C) the person by whom such entitlements were conferred;to produce for the inspector's examination such records, which the inspector is authorised to examine and make copies or extracts thereof as the inspector thinks fit;
- (g) to require a person whom the inspector finds committing, or whom the inspector reasonably suspects to have committed, an offence against this Act, or whom the inspector is authorised to

question, or whose name and address is, in the inspector's opinion, reasonably required for the purposes of this Act, to state the person's name and address and, if the inspector reasonably suspects the name or address stated to be false, to require evidence of the correctness thereof;

- (h) to institute and conduct proceedings in the Industrial Court, Industrial Commission or an Industrial Magistrates Court for the purposes of this Act.

(2) The authority conferred on an industrial inspector to question an employee of any person includes authority to question the employee out of the presence and hearing of the employer or of any supervisor, deputy, manager or superior officer, or any other employee with respect to any matter.

## **9 Limitation on authority to enter**

(1) The authority conferred by section 8 on an industrial inspector to enter a place does not include authority to enter premises used as a private dwelling house unless—

- (a) the person apparently in charge of the premises consents to the inspector's entry; or
- (b) the inspector has the prescribed warrant to enter the premises, which is in force, and, if requested to do so, produces the warrant for examination by the person apparently in charge of the premises.

(2) Any justice who is satisfied on the complaint in writing of an industrial inspector that the inspector reasonably believes premises to be such that, but for the absence of a warrant to enter, an industrial inspector is authorised by this Act to enter therein may issue a warrant directed to the inspector to enter the premises for the purpose of exercising authority conferred on an industrial inspector by this Act.

(3) A warrant issued under subsection (2) remains in force for a period of 1 month following the date of its issue, and is lawful authority—

- (a) to the inspector to whom it is directed and anyone helping the inspector to enter the premises specified in the warrant; and
- (b) to the inspector to whom it is directed to exercise in respect of the premises specified in the warrant the authorities conferred on an industrial inspector by this Act.

(4) In this section—

“private dwelling house” does not include—

- (a) any part of premises that is not used exclusively for the purpose of private residence; or
- (b) the curtilage of any premises.

## **10 Duty of industrial inspector**

(1) It is the duty of every industrial inspector to secure compliance with the provisions of this Act or of any Industrial Commission order.

(2) An industrial inspector, other than the chief industrial inspector, is to report to the chief industrial inspector any breach of a provision of this Act or of an Industrial Commission order that comes to the inspector’s knowledge.

## **11 Duty of occupier etc. to assist industrial inspector**

A person who is an occupier of a factory, shop or place of public amusement, or is entitled to immediate possession thereof, and an agent or employee of any such person, is to furnish to an industrial inspector—

- (a) such reasonable assistance;
- (b) such information that is within the person’s, agent’s or employee’s capacity to furnish;

as the inspector lawfully requires to assist the inspector in the exercise of the powers of an industrial inspector or the performance of the duties of an industrial inspector under this Act.

## **12 Protection from self-incrimination**

Notwithstanding any other provision of this Act, a person is not required to answer a question put by an industrial inspector, or other person, for the purposes of this Act, if the answer would incriminate the person to whom the question is put in any offence.

### **13 Protection from liability**

(1) In this section—

“**official**” means—

- (a) the Minister; or
- (b) an industrial inspector.

(2) An official is not civilly liable for an act or omission done honestly and without negligence under this Act.

(3) If subsection (2) prevents civil liability attaching to an official, the liability attaches to the State instead.

## **PART 4—TRADING HOURS IN SHOPS**

### **16 Cases where this part not applicable**

(1) The provisions of this part do not apply in respect of a place that is a shop only because it is an office and a reference in this part to employment in or in connection with the business of a shop does not include reference to employment in an office although the office premises may be part of the shop premises.

(2) The provisions of this part do not apply so as to prohibit or restrict the selling by auction in a shop on a day, other than a Sunday or public holiday, at any time after closing time on that day fixed by or under this Act in relation to a shop of the description of that shop, of wool or tobacco leaf by reference to catalogues after inspection of the wool or tobacco leaf.

### **17 Closure of independent retail shops**

(1) There is no prescribed opening time or prescribed closing time in relation to an independent retail shop except as prescribed by subsection (2).

(2) The occupier of an independent retail shop, other than one used predominantly for the sale of food or groceries or both, is to cause the shop to be closed—

- (a) throughout the whole of 25 December in each year (Christmas Day) and Good Friday;
- (c) on 25 April in each year (Anzac Day) until 1 p.m.

(3) If, under the *Holidays Act 1983*, a day is to be observed as a public holiday in substitution for a day mentioned in subsection (2), the substitution of the day as a public holiday does not apply for the purposes of this section.

## **19 Closure of non-exempt shops not to confer advantage**

(1) A person must not—

- (a) hawk goods; or
- (b) exhibit or expose samples for the sale of goods by retail, take an order for the sale of goods by retail, or sell goods by retail; or
- (c) sell goods by auction;

at a locality on a day or during hours when a non-exempt shop in which the goods are sold at the locality would be required under this Act to be closed.

(2) This section does not apply to—

- (a) the conduct of a bazaar or fair, or the sale of work, for a religious, charitable, educational or other purpose from which no private profit is to be derived; or
- (b) the normal conduct of business of an exempt shop or independent retail shop.

## **20 Closure on bank holidays**

(1) The occupier of a banking or insurance office must close the office on the bank holidays prescribed under the *Holidays Act 1983*.<sup>3</sup>

(2) If any banking office or insurance office is not closed on a bank holiday prescribed by the *Holidays Act 1983*, any person who authorised, directed or, except as an employee required by the person's employer to do so, otherwise aided the failure to close is taken to have committed an offence against this Act and is liable to the prescribed penalty.

(3) Subsections (1) and (2) do not apply to—

(a) a bank in relation to a Saturday unless the Saturday—

(i) is a public holiday; or

(ii) falls on 1 January, 26 January, 25 December or 26 December, regardless of whether another day has been substituted as a public holiday for the public holiday that ordinarily falls on the particular day; or

(b) a bank operating at an annual agricultural, horticultural or industrial show if a bank holiday occurs during the show.

(4) If a bank holiday is declared for a particular district, subsection (1) only applies to a banking or insurance office in the district on the bank holiday.

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### 3 Note—

1. Section 98 of the *Bills of Exchange Act 1909* (Cwlth) regulates the times within which certain dealings with a bill of exchange, cheque or promissory note may be conducted (e.g. payment and presentment).

2. Under section 98, if a dealing mentioned in the section falls due on Christmas Day, Good Friday, a Sunday, or a day prescribed by either Commonwealth or State legislation to be a bank holiday, the dealing may be conducted on the next business day.

3. Section 5 of the *Holidays Act 1983* declares every Saturday a bank holiday in Queensland.

4. The effect of section 20 of this Act is to allow a bank to open for business on most Saturdays but, because Saturday remains a bank holiday, a bank is able to choose whether or not it will conduct the dealings mentioned in section 98 of the *Bills of Exchange Act 1909* (Cwlth) on a Saturday.

## **PART 5—ORDERS CONCERNING NON-EXEMPT SHOPS, EXHIBITIONS AND SPECIAL DISPLAYS**

### **21 Trading hours orders on non-exempt shops**

(1) A full bench of the industrial commission may decide trading hours for non-exempt shops.

(1A) However, the full bench is not to decide trading hours that are less than the following hours on a stated day, other than a public holiday—

- (a) 8 a.m. and 9 p.m. for Monday to Friday;
- (b) 8 a.m. and 5 p.m. for Saturday.

(2) The Full Bench may make any order it considers necessary or convenient to give effect to a decision made under subsection (1), including, for example, an order specifying—

- (a) the earliest time when non-exempt shops may open on any day and the latest time when non-exempt shops must close on any day; or
- (b) hours for trading wholesale different from the hours fixed for trading retail; or
- (c) different trading hours by reference to—
  - (i) classes of non-exempt shops; or
  - (ii) localities, or parts of localities, where non-exempt shops are situated.

(3) In subsection (1A)—

**“public holiday”** means—

- (a) a public holiday under the *Holidays Act 1983*; or
- (b) a day that would have been a public holiday had there not been a substitution under the *Holidays Act 1983*, section 2(2) or (3) or 3.<sup>4</sup>

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<sup>4</sup> *Holidays Act 1983*, section 2 (Public holidays) or 3 (Minister may change public holidays)

**22 Orders on exhibitions etc.**

(1) A Full Bench of the Industrial Commission may, by its order—

- (a) declare a statement of policy relating to the conditions to be observed, generally or in a particular case, in holding special exhibitions or special displays, whether permanent or temporary, of goods, other than goods that a reasonable person would expect to be sold in an exempt shop, whether the exhibition or display is held in a shop or elsewhere; or
- (b) declare the conditions to be observed in holding such exhibitions or displays.

(2) The jurisdiction conferred by subsection (1) includes jurisdiction—

- (a) to fix the earliest time at which a special exhibition or special display may open on any day and the latest time at which a special exhibition or special display must close on any day;
- (b) to permit, prohibit, or fix conditions pertaining to, the selling and the taking of orders for sale of goods exhibited or displayed or of goods of a description of those exhibited or displayed;
- (c) to fix different hours and different conditions by reference to—
  - (i) classes of special exhibitions or special displays;
  - (ii) localities, or part thereof, in which special exhibitions or special displays are held;
- (d) where an order provides for the holding of a special exhibition or a special display subject to a grant of a permit, to delegate to the chief industrial inspector (who is thereby authorised accordingly) authority to grant, refuse and cancel a permit for the purpose.

(3) The Industrial Commission constituted by a single commissioner may, by its order, approve a special exhibition or special display in accordance with the policy declared under subsection (1) by a Full Bench of the Industrial Commission.

**23 Powers and procedures relevant to proceedings under ss 21 and 22**

(1) The Industrial Commission—



- (a) may make an order under section 21 of its own motion or upon application made by or on behalf of any industrial organisation, or other organisation;
- (b) may make an order under section 22(1) upon application made by or on behalf of any industrial organisation, other person, or other organisation.

(2) The Industrial Commission may, by its order made under section 21 or 22(1), delegate to the chief industrial inspector authority necessary to the working out of that, or any other, order of the Industrial Commission made under the relevant section, including issuing requisitions, giving directions and preparing rosters and schedules.

(3) The Industrial Commission is to fix a date, time and place at which it will proceed with a view to making an order under section 21 or 22(1) and, if so required by the Commission, notification thereof—

- (a) is to be published in the Queensland Government Industrial Gazette;
- (b) is to be served on such industrial organisations, other persons, and other organisations as the Industrial Commission directs;
- (c) is to be advertised in such newspapers and periodicals as the Industrial Commission directs to ensure that all industrial organisations, other persons, and other organisations that are, or are likely to be, concerned in the making of the order are notified of the proceedings and of the time and place thereof.

(4) Every such notification must specify a time before which any industrial organisation, other person, or other organisation that claims to be concerned in the making of the order may apply to the industrial registrar for leave to appear and be heard on the matter.

(5) If, upon application made to the industrial registrar before the time specified for the purpose in such notification, the industrial registrar is satisfied that the applicant is, or is likely to be, concerned in the making of the order, the registrar is to grant the leave applied for, but otherwise the registrar is to refuse the leave.

## **24 Industrial Commission hearings**

When dealing with an application under section 21 or 22, the Industrial Commission must act as quickly, and with as little formality and technicality, as is consistent with a fair and proper hearing of the issues.

**25 Leave may be granted by Full Bench**

(1) Where the industrial registrar refuses an application for leave under section 23 the applicant may, within 7 days after being notified by the registrar of the refusal, require the registrar to refer the matter of the application to a Full Bench of the Industrial Commission and the registrar is to make the reference.

(2) Upon such a reference the Industrial Commission may grant or refuse the application.

(3) A Full Bench of the Industrial Commission may at any time grant to any industrial organisation, other person, or other organisation leave to appear and be heard on the matter of the making of an order under section 21 or 22(1), if it is satisfied that there is good reason for granting the leave, notwithstanding that an application for such leave has not been duly made under section 23 to the industrial registrar.

**26 Matters relevant to s 21 order**

In relation to making an order under section 21 the Industrial Commission must have regard to—

- (a) the locality, or part thereof, in which the non-exempt shop or class of non-exempt shop is situated;
- (b) the needs of the tourist industry or other industry in such locality or part;
- (c) the needs of an expanding tourist industry;
- (d) the needs of an expanding population;
- (e) the public interest, consumers' interest, and business interest (whether small, medium or large);
- (f) the alleviation of traffic congestion;
- (g) such other matters as the Industrial Commission considers relevant.

**27 Summary dismissal of application**

If a Full Bench of the Industrial Commission is of opinion that—

- (a) a decision has previously been made upon an application similar to that before it, and there is insufficient reason to warrant reconsideration of the matter; and
- (b) having regard to the interests of the industrial organisations, other persons, or other organisations immediately concerned, and of the community as a whole, further proceedings are not necessary or desirable;

the Industrial Commission may dismiss, or refrain from further hearing or determining, an application made for an order under section 21 or 22(1).

### **28 Occupier to comply with order relating to premises**

If there is in force in relation to any premises, or class of premises, an order made under section 21, the occupier of those premises, or of premises of that class, is to cause the premises to be closed so as to comply in all respects with the terms of the order.

### **29 Compliance with conditions for exhibitions etc.**

If there is in force an Industrial Commission order that declares conditions applicable to any special exhibition or special display, the occupier of each exhibit or display in such special exhibition or special display is to cause the exhibit or display to be conducted so as to comply in all respects with the terms of the order.

### **30 Injunction to enforce observance of trading hours**

(1) Upon application made to it—

- (a) by an industrial inspector; or
- (b) by or on behalf of any industrial organisation, other person, or other organisation, aggrieved;

the Industrial Commission may make such orders in the nature of mandatory or restrictive injunctions, or otherwise, as it thinks fit—

- (c) to enforce compliance with an order of a kind referred to in section 21; or
- (d) to restrain a breach or the continuance of a breach of an order of a kind referred to in section 21.

(2) The form of notice to a person in relation to an application for an order under subsection (1), and the mode of service of such notice, is in the discretion of the Industrial Commission, which may order substituted service, by advertisement or otherwise, as it thinks fit.

### **31 Cancellation of obsolete orders**

(1) If after such inquiry as the industrial registrar considers sufficient the registrar is of opinion that an Industrial Commission order is obsolete the registrar may publish in the Queensland Government Industrial Gazette notification of an intention to declare the order identified in the notification to be obsolete.

(2) Any industrial organisation, other person, or other organisation may, within the time, and in the manner prescribed, lodge with the industrial registrar notice of objection to the proposed declaration.

(3) The industrial registrar is to refer each such objection to the Industrial Commission, which is to hear and determine the question at issue.

(4) If no objection to a proposed declaration is duly lodged as prescribed, or all objections so lodged are dismissed, the industrial registrar, by notification published in the Queensland Government Industrial Gazette, may declare the order identified in the notification of intention referred to in subsection (1) to be obsolete, whereupon the order is no longer of any force or effect.

## **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.

## PART 6—ANZAC DAY PROVISIONS

### 32 Meaning of “Anzac Day”

In this part—

“Anzac Day” means 25 April in each year, which day is required by the *Anzac Day Act 1995* to be observed throughout Queensland as a holiday.

### 33 Anzac day a holiday for all employees

(1) An employee in a factory or shop must be given a holiday for the whole of Anzac Day.

(2) However, subsection (1) does not apply to employment—

- (a) in a factory or shop of a person employed solely in guarding the factory or shop; or
- (b) at a racing venue where a meeting is held under the *Racing and Betting Act 1980*; or
- (c) at an office or agency of a holder of a race wagering licence under the *Wagering Act 1998*; or
- (d) on licensed premises under the *Liquor Act 1992* or the *Wine Industry Act 1994*; or
- (e) in or on a place of public amusement, that is lawfully used for public amusement or entertainment, of a person employed solely for the purpose of the use; or
- (f) in an independent retail shop; or
- (g) in an exempt shop; or
- (h) in an office where—
  - (i) the usual activities conducted include renting or leasing accommodation; and
  - (ii) the only activities being conducted are renting or leasing accommodation and related activities; or
- (i) in a factory or shop in employment solely for 1 or more of the following activities—
  - (i) printing, publishing or distributing newspapers;

- (ii) manufacturing, distributing or supplying electricity, gas or water;
- (iii) a necessarily continuous process of manufacturing or mining;
- (iv) essential services;
- (v) milk supply;
- (vi) bread manufacturing;
- (vii) preparing food in restaurants, cafes, pastry-cook and hot takeaway food kitchens;
- (viii) an activity prescribed by regulation.

### **34 Real estate sales prohibited**

A person must not conduct the business of selling real estate on Anzac Day.

Maximum penalty—40 penalty units.

### **35 Closure of places of public amusement**

(1) The occupier of a place of public amusement is to cause the place to be closed on Anzac Day until 1.30 p.m., except if the Minister has given permission in writing to the occupier to keep the place open on that day before that time.

(2) It is an implied condition of a licence granted by a local government in relation to a place of public amusement that the holder of the licence must not contravene the provisions of subsection (1).

(3) A breach of such implied condition is a matter to be taken into account in the exercise of an authority under law to cancel or suspend the licence for a breach of a condition thereof.

### **36 Closure of other places**

(1) Factories and shops must be closed for the whole of Anzac Day.

(2) Subsection (1) does not apply to a place mentioned in section 33(2)(b) to (i).

## **PART 7—OFFENCES AND PROCEEDINGS**

### **37 Soliciting business to be transacted outside trading hours**

(1) If there is published a statement that is calculated, or apparently calculated, to promote business conducted in a factory or shop, which statement states, suggests or implies that, at a time when the factory or shop is required by a provision of this Act or by an Industrial Commission order to be closed—

- (a) the factory or shop will be open to the public for any purpose of trade or inspection of goods; or
- (b) goods will be sold, or offered or exposed for sale, in the factory or shop; or
- (c) a person will be in attendance at the factory or shop, or at any other place, for receipt of—
  - (i) orders for goods;
  - (ii) requests for demonstration of goods, or delivery of goods on approval;

the following persons thereby commit an offence against this Act—

- (d) a person who publishes the statement, or causes or permits the statement to be published;
- (e) the occupier of the factory or shop, the business of which is calculated, or apparently calculated, to be promoted by publication of the statement.

(2) The occupier of a factory is not to be taken to have committed an offence defined in subsection (1) only because goods manufactured wholly or partially at the factory are mentioned by a trade or other name in the statement.

(3) A statement is taken to have been published if it is communicated to any person by action, or by way of the spoken or written word, or by way of pictorial or other visual representation.

(4) A person is not to be prosecuted for publishing, or causing to be published, a statement referred to in subsection (1) unless—

- (a) the person had been warned by an industrial inspector that publication of the statement, or of one substantially similar, is, or would be, an offence against this Act; and

- (b) the person published, or caused or permitted to be published, the statement after receipt of the warning; and
- (c) the Minister's consent to the prosecution is first obtained.

(5) Subsection (4) does not apply where the person to be prosecuted is the occupier of the factory or shop, the business of which is calculated, or apparently calculated, to be promoted by publication of the statement in question.

### **38 Certain persons not to be employed as watchpersons**

A person who is an occupier of a shop is not to employ, as a watchperson therein, a person who is also employed as a salesperson or clerk in, or in connection with—

- (a) the business of that shop; or
- (b) the business of any other shop of which the firstmentioned person is also an occupier.

### **39 Obstruction of industrial inspector**

A person is not—

- (a) to assault, resist, impede, delay or otherwise obstruct or attempt to obstruct an inspector in exercise of powers or performance of duties under this Act;
- (b) to fail to answer any question put to the person by an inspector for the purposes of this Act, or give a false or misleading answer to any such question;
- (c) to fail to sign a declaration that the person is required by or under this Act, or by an inspector for the purposes of this Act, to sign;
- (d) to fail to comply in all respects with a lawful request, requisition or direction of an inspector;
- (e) when required by or under this Act to furnish—
  - (i) assistance to an inspector; or
  - (ii) information to an inspector—
    - (A) to fail to furnish the assistance or information; or



- (B) to furnish information that the person knows to be false or misleading, or does not believe to be true;
- (f) to fail—
- (i) to produce to an inspector any permit, certificate or authority had, or claimed to be had, by the person under or for the purposes of this Act, when required by the inspector to produce the same;
  - (ii) to produce to an inspector any time sheet, pay sheet or other records required by law to be kept or had by the person, when required by the inspector to produce the same;
  - (iii) to produce to an inspector records referred to in section 8(1)(f) in the possession or control of the person, when required by the inspector to produce the same;
  - (iv) to allow an inspector to whom anything has been produced to examine the thing and to make copies of, or take extracts from the thing, any part thereof or any entries therein;
- (g) to prevent, or attempt to prevent, directly or indirectly, any person from appearing before, or being questioned by, an inspector;
- (h) to use threatening, abusive or insulting language to an inspector, or to any employee, in respect of any inspection, examination or questioning;
- (i) to impersonate an inspector.

#### **40 Forgery etc.**

A person is not—

- (a) to counterfeit, forge or fraudulently alter any permit, notice or other document that the Minister or chief industrial inspector is authorised to grant or issue under this Act;
- (b) to use, or attempt to use, any such permit, notice or other document knowing it to be counterfeit, forged or fraudulently altered;
- (c) to grant, issue, use or attempt to use any such permit, notice or other document knowing it to be false in a material particular;

- (d) to make an entry in any time sheet or pay sheet or in other records, knowing the entry to be false.

#### **41 General offence**

A person who contravenes or fails to comply with—

- (a) a provision of this Act;
- (b) a term of an Industrial Commission order, including an order by way of injunction;
- (c) a term of a permit issued under this Act;

commits an offence against this Act.

#### **42 Quantum of pecuniary penalty**

A person guilty of an offence against this Act is liable—

- (a) if the person is a body corporate—to a penalty of 200 penalty units;
- (b) if the person is an individual—to a penalty of 40 penalty units.

#### **43 Manner of proceedings under Act**

(1) A prosecution in respect of an offence against this Act that consists in a contravention or failure to comply with a term of an Industrial Commission order by way of injunction is to be taken in the Industrial Court.

(2) A person aggrieved by a decision of the Industrial Court upon such a prosecution may appeal against the decision to the Court of Appeal.

(3) Except as prescribed by subsection (1), a prosecution in respect of an offence against this Act is to be taken in a summary way in a court constituted by an Industrial Magistrate.

(4) The provisions of the *Industrial Relations Act 1999*, and of the rules of court having force and effect under that Act, that govern—

- (a) proceedings in the Industrial Court, the Industrial Commission or an Industrial Magistrates Court;
- (b) representation of parties in such proceedings;

- (c) the powers of the Industrial Court, Industrial Commission or an Industrial Magistrates Court in relation to such proceedings;
- (d) appeals from decisions of the Industrial Commission or an Industrial Magistrates Court;
- (e) entitlement of the Crown and the Minister to intervene in proceedings before the Industrial Court, the Industrial Commission, an Industrial Magistrates Court or the industrial registrar;

apply, as far as may be (with any necessary adaptations), and subject to the provisions of this Act, in relation to the exercise of jurisdiction under this Act, and proceedings taken for that purpose, and decisions made therein.

(5) Jurisdiction is conferred on the Industrial Court, the Industrial Commission, and every Industrial Magistrate to hear and determine all proceedings duly brought before the court, commission or magistrate under this Act.

#### **44 Parties to offences**

(1) This section applies and is to be given effect—

- (a) without prejudice to the application of the Criminal Code, section 7;<sup>5</sup> and
- (b) notwithstanding the provisions of the Criminal Code, section 23.<sup>6</sup>

(2) Where an offence against this Act is committed in relation to a factory or shop or place of public amusement, of which there is more than 1 occupier (as defined by this Act), each such occupier is liable to be punished for the offence.

(3) If an occupier that commits an offence against this Act is a body corporate, each of the following persons is deemed to be criminally responsible for the contravention or failure to comply in question, to have committed the offence, may be charged with the offence, in addition to the body corporate, and is liable to the prescribed penalty—

- (a) the members of the governing body of the body corporate, by whatever name called;

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5 Criminal Code, section 7 (Principal offenders)

6 Criminal Code, section 23 (Intention—motive)

- (b) persons who manage or participate in the management or control of the body corporate's business in the State.

(4) Notwithstanding the provisions of subsection (2), a person is not liable to be punished for an offence for which the person would otherwise be liable to be punished if it is shown that the person committed the contravention or failure to comply as an employee acting under the express direction of the person's employer.

(5) Notwithstanding the provisions of subsection (3), a person therein referred to is not liable to be punished for an offence for which the person would otherwise be liable to be punished if it is shown that the contravention or failure to comply occurred without the person's consent or connivance and that the person exercised reasonable diligence to prevent the commission of the offence.

#### **45 Liability for offence committed by employee**

(1) This section applies and is to be given effect, notwithstanding the Criminal Code, section 23.<sup>7</sup>

(2) Where an offence against this Act is committed by a person acting therein as an agent or employee of another, the principal or employer of that person is taken to have committed the offence and may be charged with the offence, in addition to the person who actually committed the offence.

(3) It is immaterial that the offence was committed without the authority of, or contrary to the instructions of, the principal or employer.

(4) It is a defence to a charge of an offence made pursuant to subsection (2) that the defendant had no knowledge of the commission of the offence and could not, by the exercise of reasonable diligence, have prevented commission of the offence by the defendant's agent or employee.

#### **46 Evidentiary provisions**

In proceedings under or for the purposes of this Act (whether for an offence or not)—

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<sup>7</sup> Criminal Code, section 23 (Intention—motive)

*Trading (Allowable Hours) Act 1990*

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- (a) the allegation or averment in a complaint that the defendant therein was, at the time of commission of an offence, occupier of the factory or shop or place of public amusement in question is sufficient proof of the matter alleged or averred until the contrary is proved;
- (b) the due appointment as industrial inspector of any person claiming to be, or stated to be, an industrial inspector is to be presumed in the absence of evidence to the contrary;
- (c) the authority of an industrial inspector to take a proceeding, or do any action, is to be presumed in the absence of evidence to the contrary;
- (d) a signature purporting to be that of the Minister or an industrial inspector is to be taken as the signature of that person in the absence of evidence to the contrary;
- (e) a document purporting to be a duplicate or copy of a notice or permit given or issued under this Act, upon its production in the proceedings, is admissible therein as evidence and, in the absence of evidence to the contrary, conclusive evidence of the original thereof;
- (f) the limits of any district or part of the State, or of any road or other place, and the situation of premises in or outside a particular district or part of the State are, or is, to be presumed in the absence of evidence to the contrary;
- (g) a copy of, or a document purporting to be an extract from the Queensland Government Industrial Gazette purporting to contain notification of a decision or order of the Industrial Court or Industrial Commission is admissible as evidence of the lawful making of the decision or order, and as conclusive evidence of the matters contained in the notification;
- (h) a certificate purporting to be that of the chief industrial inspector that an article or class of article specified therein is such that a reasonable person would expect the article, or an article of that class, to be sold in a shop of a description specified therein is evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained therein.

**47 Regulations**

The Governor in Council may make regulations under this Act, including regulations imposing fees.

**PART 8—TRANSITIONAL PROVISIONS****48 Extension of trading hours does not affect pay rates**

The extension of the trading hours of a non-exempt shop because of—

- (a) the enactment of the *Trading (Allowable Hours) Amendment Act 1994*; or
- (b) an Industrial Commission order;

is not intended to imply that the extended hours are to be the hours for which ordinary rates of pay are to be paid under an award.

**ENDNOTES****1 Index to endnotes**

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**2 Date to which amendments incorporated**

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 26 April 2002. Future amendments of the Trading (Allowable Hours) Act 1990 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	prev	= previous
amd	= amended	(prev)	= previously
amdt	= amendment	proc	= proclamation
ch	= chapter	prov	= provision
def	= definition	pt	= part
div	= division	pubd	= published
exp	= expires/expired	R[X]	= Reprint No.[X]
gaz	= gazette	RA	= Reprints Act 1992
hdg	= heading	reloc	= relocated
ins	= inserted	renum	= renumbered
lap	= lapsed	rep	= repealed
notfd	= notified	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 1992
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered

### 4 Table of earlier reprints

#### TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	none	21 February 1994
2	to Act No. 23 of 1994	10 June 1994
3	to Act No. 4 of 1995	3 April 1995
3A	to Act No. 57 of 1995	9 July 1996
3B	to Act No. 1 of 1997	11 April 1997
4	to Act No. 45 of 1998	1 December 1998
4A	to Act No. 33 of 1999	3 September 1999
4B	to Act No. 83 of 1999	4 January 2000
5	to Act No. 5 of 2000	7 April 2000
5A	to Act No. 45 of 2001	25 January 2002
5B	to Act No. 3 of 2002	22 March 2002



## 5 Tables in earlier reprints

### TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed citations and remade laws	2, 3
Changed names and titles	2
Changed titles	1
Obsolete and redundant provisions	2
Renumbered provisions	1, 2

## 6 List of legislation

### **Trading (Allowable Hours) Act 1990 No. 34 (prev Trading Hours Act 1990)**

date of assent 15 June 1990

ss 1–2 commenced on date of assent

remaining provisions commenced 23 June 1990 (proc pubd ind gaz 23 June 1990  
p 324)

amending legislation—

### **Trading (Allowable Hours) Amendment Act 1994 No. 23 pts 1–2, s 3 sch**

date of assent 10 May 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 16 May 1994 (1994 SL No. 149)

### **Wine Industry Act 1994 No. 80 ss 1–2, 67 sch 1**

date of assent 1 December 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 31 March 1995 (1995 SL No. 70)

### **Anzac Day Act 1995 No. 4 s 33 sch**

date of assent 3 March 1995

commenced on date of assent

### **Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1**

date of assent 28 November 1995

commenced on date of assent

### **Workplace Relations Act 1997 No. 1 ss 1–2, 495 sch 4**

date of assent 14 February 1997

commenced on date of assent (see s 2(2))

### **Trading (Allowable Hours) Amendment Act 1998 No. 45**

date of assent 27 November 1998

commenced on date of assent

### **Industrial Relations Act 1999 No. 33 ss 1, 2(2), 747 sch 3**

date of assent 18 June 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1999 (1999 SL No. 159)

**Trading (Allowable Hours) Amendment Act 1999 No. 83**

date of assent 14 December 1999  
 commenced on date of assent

**Police Powers and Responsibilities Act 2000 No. 5 ss 1–2(1)–(2), 373 sch 2**

date of assent 23 March 2000  
 commenced on date of assent (see s 2(1)–(2))

**Corrective Services Act 2000 No. 63 ss 1, 2(2), 276 sch 2**

date of assent 24 November 2000  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 1 July 2001 (2001 SL No. 88) (remaining provisions were to commence 2 April 2001 but the commencing proclamation (2000 SL No. 335) was repealed (2001 SL No. 23))

**Corporations (Ancillary Provisions) Act 2001 No. 45 ss 1–2, 29 sch 3**

date of assent 28 June 2001  
 ss 1–2 commenced on date of assent  
 sch 3 commenced 15 July 2001 (see s 2(2) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)  
 remaining provision commenced immediately before 15 July 2001 (see s 2(1) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

**Trading (Allowable Hours) Amendment Act 2002 No. 3**

date of assent 11 March 2002  
 ss 1–2, 7 commenced on date of assent (see s 2(1))  
 s 9 not yet proclaimed into force (see s 2(2))  
 remaining provisions commence 1 August 2002 (see s 2(3))

**Private Employment Agencies and Other Acts Amendment Act 2002 No. 9 ss 1–2(1), pt 4**

date of assent 19 April 2002  
 commenced on date of assent

**7 List of annotations**

**Title** amd R1 (see RA s 39); 2002 No. 3 s 4

**Short title**

**s 1** amd 1994 No. 23 s 4

**Commencement**

**s 2** amd 1994 No. 24 s 3 sch

**Objects of Act**

**s 3** amd 1994 No. 23 s 5; 1995 No. 4 s 33 sch; 2002 No. 3 s 5

**Numbering and renumbering of Act**

- s 1.4** prev s 1.4 om R1 (see RA s 40)  
new s 1.4 ins 1994 No. 23 s 3 sch  
om R2 (see RA s 39)

**Repeal of Industrial Commission orders**

- s 1.5** prev s 1.5 om R1 (see RA s 40)  
new s 1.5 ins 1994 No. 23 s 3 sch  
exp 16 May 1994 (see s 1.5(2))

**Savings**

- s 1.6** om 1994 No. 23 s 3 sch

**Meaning of terms**

- s 4** def “**chief industrial inspector**” sub 1999 No. 33 s 747 sch 3  
def “**closing time**” amd 1994 No. 23 s 3 sch  
def “**commissioner**” sub 1999 No. 33 s 747 sch 3  
def “**factory**” amd 2000 No. 63 s 276 sch 2  
def “**Industrial Commission**” om 1994 No. 23 s 6(1)  
def “**Industrial Commission order**” ins 1994 No. 23 s 6(2)  
amd 1999 No. 33 s 747 sch 3  
def “**Industrial Court**” om 1994 No. 23 s 6(1)  
def “**industrial inspector**” or “**inspector**” sub 1994 No. 23 s 6(1)–(2); 1999  
No. 33 s 747 sch 3  
def “**Industrial Magistrate**” om 1994 No. 23 s 6(1)  
def “**industrial organisation**” sub 1999 No. 33 s 747 sch 3  
def “**industrial registrar**” amd 1999 No. 33 s 747 sch 3  
def “**local authority**” om 1994 No. 23 s 6(1)  
def “**Minister**” om 1994 No. 23 s 6(1)  
def “**open**” ins 1994 No. 23 s 6(2)  
def “**opening time**” amd 1994 No. 23 s 3 sch  
def “**order**” om 1994 No. 23 s 6(1)  
def “**Part**” om 1994 No. 23 s 6(1)  
def “**place of public amusement**” sub 1994 No. 23 s 6(1)–(2)  
def “**shop**” amd 1994 No. 23 s 6(3)

**Exempt shops**

- s 5** amd 1994 No. 23 s 7; 1994 No. 80 s 67 sch 1

**Independent retail shops**

- s 6** amd 1997 No. 1 s 495 sch 4; 2001 No. 45 s 29 sch 3

**Appointment of officers**

- s 3.1** om 1994 No. 23 s 3 sch

**Industrial inspector’s powers of investigation and enforcement**

- s 8** amd 1994 No. 23 s 3 sch; 2000 No. 5 s 373 sch 2

**Limitation on authority to enter**

- s 9** amd 2000 No. 5 s 373 sch 2

**Duty of industrial inspector**

- s 10** amd 1994 No. 23 s 3 sch

**Protection from liability**

s 13 sub 1994 No. 23 s 3 sch

**Annual Report**

s 14 om 1995 No. 57 s 4 sch 1

**Tabling of orders in council**

s 3.10 om 1994 No. 23 s 3 sch

**Regulations**

s 3.11 om 1994 No. 23 s 3 sch

**Section 18 subject to Industrial Commission orders**

s 15 sub 1994 No. 23 s 8  
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**Cases where this part not applicable**

s 16 amd 1994 No. 23 s 3 sch; 1997 No. 1 s 495 sch 4

**Closure of independent retail shops**

s 17 amd 1994 No. 23 s 9; 1997 No. 1 s 495 sch 4

**Allowable opening hours of non-exempt shops**

s 18 sub 1994 No. 23 s 10  
om 1997 No. 1 s 495 sch 4

**Closure of non-exempt shops not to confer advantage**

s 19 sub 1994 No. 23 s 11

**Closure on bank holidays**

s 20 amd 1995 No. 4 s 33 sch

**PART 5—ORDERS CONCERNING NON-EXEMPT SHOPS, EXHIBITIONS AND SPECIAL DISPLAYS**

pt hdg amd 1994 No. 23 s 3 sch

**Trading hours orders on non-exempt shops**

s 21 sub 1994 No. 23 s 12  
amd 1997 No. 1 s 495 sch 4; 1999 No. 83 s 3

**Orders on exhibitions etc.**

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**Powers and procedures relevant to proceedings under ss 21 and 22**

s 23 amd 1994 No. 23 s 3 sch

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s 26 amd 1994 No. 23 s 14; 1997 No. 1 s 495 sch 4; 2002 No. 3 s 6

**Compliance with conditions for exhibitions etc.**

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**Cancellation of obsolete orders**

s 31 amd 1994 No. 23 s 3 sch

**PART 5A—TRADING HOURS FOR SOUTH-EAST QUEENSLAND AREA****pt hdg** ins 2002 No. 3 s 7**Industrial commission decision of no effect****s 31A** ins 2002 No. 3 s 7**Industrial commission order amended****s 31B** ins 2002 No. 3 s 8**Permit for non-private profit purposes****s 5.11** om 1994 No. 23 s 14**Compliance with permit****s 5.12** om 1994 No. 23 s 14**Production of permit****s 5.13** om 1994 No. 24 s 15**Anzac day a holiday for all employees****s 33** sub 1995 No. 4 s 33 sch

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exp 31 December 1998 (see s 53)  
pres pt hdg ins 1999 No. 83 s 4  
exp 2 January 2000 (see s 54)

**Definition for pt 9**

- s 49** orig s 49 ins 1994 No. 23 s 17  
 exp 16 August 1994 (see s 49(4))  
 prev s 49 ins 1998 No. 45 s 3  
 exp 31 December 1998 (see s 53)  
 pres s 49 ins 1999 No. 83 s 4  
 exp 2 January 2000 (see s 54)

**Displacement of trading hours order**

- s 50** prev s 50 ins 1998 No. 45 s 3  
 exp 31 December 1998 (see s 53)  
 pres s 50 ins 1999 No. 83 s 4  
 exp 2 January 2000 (see s 54)

**Allowable hours on Tue 28/12/99**

- s 51** prev s 51 ins 1998 No. 45 s 3  
 exp 31 December 1998 (see s 53)  
 pres s 51 ins 1999 No. 83 s 4  
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**Retail shop lease core trading hours unaffected by s 51**

- s 52** prev s 52 ins 1998 No. 45 s 3  
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 pres s 52 ins 1999 No. 83 s 4  
 exp 2 January 2000 (see s 54)

**Allowable hours on Sat 1/1/00**

- s 53** prev s 53 ins 1998 No. 45 s 3  
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 pres s 53 ins 1999 No. 83 s 4  
 exp 2 January 2000 (see s 54)

**Expiry of part**

- s 54** ins 1999 No. 83 s 4  
 exp 2 January 2000 (see s 54)

**8 Table of renumbered provisions**

## TABLE OF RENUMBERED PROVISIONS [Reprint No. 2]

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*Trading (Allowable Hours) Act 1990*

Previous	Renumbered as
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2.2(2)(u) . . . . .	5(2)(v)
2.2(2)(v) . . . . .	5(2)(w)
2.2(2)(w) . . . . .	5(2)(x)
2.2(2)(x) . . . . .	5(2)(y)
2.2(2)(y) . . . . .	5(2)(z)
2.2(2)(z) . . . . .	5(2)(za)
2.2(2)(za) . . . . .	5(2)(zb)
2.2(2)(zb) . . . . .	5(2)(zc)
2.2(2)(zc) . . . . .	5(2)(zd)
2.2(2)(zd) . . . . .	5(2)(ze)
2.2(2)(ze) . . . . .	5(2)(zf)
2.2(2)(zf) . . . . .	5(2)(zg)
2.2(2)(zg) . . . . .	5(2)(zh)
2.2(2)(zh) . . . . .	5(2)(zi)
2.2(2)(zi) . . . . .	5(2)(zj)
2.2(2)(zj) . . . . .	5(2)(zk)
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## **9 Provisions that have not commenced and are not incorporated into reprint**

The following provisions are not incorporated in this reprint because they had not commenced before the reprint date (see Reprints Act 1992, s 5(c)).

**Trading (Allowable Hours) Amendment Act 2002 No. 3 ss 4–6, 8 and 9 read as follows—**

### **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;’.

**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.<sup>8</sup>

‘(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
- (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).’.