



EDUCATION, EMPLOYMENT AND TRAINING COMMITTEE

Members present:

Ms KE Richards MP—Chair
Mr MA Boothman MP
Mr N Dametto MP
Mr JP Lister MP
Mr BL O'Rourke MP
Mr JA Sullivan MP

Staff present:

Mr R Hansen—Committee Secretary
Ms R Duncan—Assistant Committee Secretary

PUBLIC BRIEFING—INQUIRY INTO THE TRADING (ALLOWABLE HOURS) AND OTHER LEGISLATION AMENDMENT BILL 2022

TRANSCRIPT OF PROCEEDINGS

MONDAY, 20 JUNE 2022

Brisbane

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The committee met at 11.52 am.

NICOLSON, Mr Stephen, Principal Adviser, Legislative Services Unit, Department of Education

SHOSTAKOWSKI, Mr Tony, Acting Executive Director—Industrial Relations, Office of Industrial Relations, Department of Education

CHAIR: I now welcome officers from the Department of Education. Before I turn to questions from the committee, would you like to respond to any of the points made in our hearing today from witnesses?

Mr : I thank the committee for this further opportunity to assist with your inquiry into the Trading (Allowable Hours) and Other Legislation Amendment Bill. Before I begin I would like to acknowledge the traditional owners of the land on which we meet. I also pay my respects to elders past, present and emerging. I will provide a brief opening statement to address the Office of Industrial Relations' response to the public submissions received by the committee. Mr Stephen Nicolson from the Department of Education is also joining us this morning. He will be able to assist the committee if you have any further questions about the education portfolio amendments in the bill.

Chair, as you know, public submissions on the bill recently closed and the committee received 14 submissions. The Office of Industrial Relations has provided a response addressing the major points raised by each stakeholder. We trust that this response has been of assistance to the committee. The Office of Industrial Relations notes that many the submissions raise issues that have already been considered by the committee during its previous inquiry into the operation of Queensland's trading hours framework. The Office of Industrial Relations notes that this inquiry is not about revisiting the previous inquiry but, rather, the provisions of the bill. It is our view that the committee has made its recommendations after considering all issues and the Queensland government has accepted all the committee's recommendations. In this respect we confirm that the bill does not deviate from the committee's recommendations or the government's response.

With respect to other issues raised by stakeholders, we note that there were some common themes across the submissions. A number of stakeholders noted issues about the categories assigned to specific locations within each of the new trading area types. This included suggested changes to areas such as Mount Isa, the Douglas shire and locations across South-East Queensland. The bill only makes changes to trading hours which were recommended by the committee, such as reducing the number of categories and shifting the Mossman and Port Douglas Tourist Area to a type 1 trading area. I would like to reiterate for stakeholders that they will be able to make an application to the Queensland Industrial Relations Commission for full consideration about whether particular locations should be shifted from one trading area type to another. An application can be made to the QIRC once the moratorium on trading hours orders ends on 31 August 2023, if the bill is passed. As there is a mechanism for the QIRC to review trading areas in the bill, we consider this meets the National Retail Association's request for the ability to review each of the trading areas without the need to return to parliament.

Another consistent issue raised by stakeholders was about the moratoriums for, firstly, exempting shops from trading hours restrictions in the Mossman and Port Douglas Tourist Area and, secondly, the QIRC making trading area orders. Stakeholders are mixed on their support for either no moratoriums or that the moratoriums should be for a longer period such as five years. The bill adopts the 12-month moratoriums recommended by the committee. In accordance with the government's response, the Office of Industrial Relations reiterates that we consider a 12-month period remains an appropriate balance between these divergent stakeholder views. We also consider that the QIRC should be afforded sufficient time to prepare for the new trading area orders. During this 12-month period the Office of Industrial Relations will ensure guidance materials are prepared for our website and will also further investigate whether we can adopt a map system for checking trading areas, as previously suggested by the committee in our initial briefing.

We note Master Grocers Australia and the IGA have both put forward submissions regarding the definitional criteria of independent retail shops. The bill makes no amendments to these provisions which is consistent with the committee's recommendation. We confirm to the committee that these criteria were last amended and increased in 2017 based on the independent review in 2016. Finally, we note that the bill's voluntary work protections are also widely supported by stakeholders. We thank the committee for the opportunity to respond to the public submissions and are happy to provide further clarification.

CHAIR: Yes, thank you very much. We had very good submitters and witnesses. Deputy Chair, would you like the first question?

Mr LISTER: Good morning. Thank you for coming in today. I have a question for you which I will not be upset if you cannot answer, but I am reaching out to somebody who I think would know about these things. Is it the practice of the Industrial Relations Commission when making a judgement or a decision to consider in its deliberations, for instance, our committee report or the minister's second reading speech in parliament when it interprets the act?

Mr Schostakowski: That is a good question. The commission—and it is commissioners, obviously—when they receive applications for amendments or trading hours orders, special events orders, usually, from my experience, look to the act, the specific wording of the act and the legislation, and will apply that to the situation, to the application that they have. From my own experience, I think there are occasions where they may also refer to explanatory notes for a wider explanation of the particular provision. In particular, when there is new legislation or amendments to legislation that may be the case, but generally my answer would be that they look specifically at the legislation as it stands.

Mr LISTER: There are some cases where the commissioners want to avail themselves of the thinking behind the legislation and therefore may consider things such as the speeches and the committee report and so forth?

Mr Schostakowski: Yes.

Mr BOOTHMAN: My question relates to the education side of it, that is, teleconferencing and videoconferencing. Is any specific software required, or is it the case that schools and P&Cs can potentially use their own software if they deem it appropriate? Is there some standard the department would look at?

CHAIR: Do you mean mandating whether it is Teams or—

Mr BOOTHMAN: Yes, if it is Teams or Skype.

Mr Nicolson: We have discussed this within the department. Basically, there is not a mandate and there will not be a mandate. Schools will obviously have systems they prefer. People will be more comfortable with particular systems. I think some regional schools may have only a small community so some may suit them better than others. The Department of Education will provide guidance on what might be the best option, but we will not be mandating to schools what they should be using.

Mr BOOTHMAN: Some of the software you obviously have to pay for the use of. Would the department give additional funds to help those schools out, or is it the case that the school will have to cover those costs internally?

Mr Nicolson: I cannot comment on that at the moment. If you wish to get more information on that, I can get it for you from the operational area.

CHAIR: You are going to take that on notice?

Mr SULLIVAN: On that point, Chair, wouldn't it be a cost to the P&C that they cover themselves? P&Cs have rolling funds and fundraising and so on—levies in some circumstances.

Mr Nicolson: Generally, that would be my understanding. I just cannot confirm whether the department will provide any funding support. I would imagine policies will change over time. Normally the P&Cs would understandably fund it themselves, but I can get clarity from the state schools area as to what they intend to do.

CHAIR: Given that most P&Cs have had the experience over the past two years of using those platforms, I think you will find that they are already using them at no cost. As I understand it, you need to have a fair number of the membership jumping in online to exceed the free levels of those platforms. If you want to provide us with more information, that would be terrific.

Mr DAMETTO: After the 12-month moratorium is up, is there an expectation we may see a flood of applications?

Mr Schostakowski: The commission's powers after the 12 months are fairly prescriptive in the act. They are only allowing for movement from one particular area to another, so really starting from one point and moving to a wider point in trading hours. There may be instances, and over the course of the review and inquiry—for instance, Mount Isa and those type of areas—there maybe is an argument they want to put forward. I would expect to see those types of places and the associations make applications. It is a bit of an unknown. We have a 12-month period where things will obviously stabilise, but I think mainly from the areas that currently do not have Sunday trading that is obviously an issue.

Mr DAMETTO: Do you anticipate there being lobbying from some of those large retailers to put pressure on those associations to make those applications?

Mr Schostakowski: I think generally that would happen. The National Retail Association has a long history and has been the main applicant for trading hours permits, so I think that sort of association would be more likely to be in the box seat to progress any applications.

Mr SULLIVAN: Thank you for your very detailed and comprehensive response.

CHAIR: Mr Schostakowski, in relation to the submission made by the Small Business Commissioner with regard to streamlining applications for recurring special events, I note the response from the department. Practically, we should always look to see how we can streamline red-tape processes. Where they have approved a special event in 2019, because it fits all of those criteria in 2020 are there practical ways the department could consider how they look at it when it comes back to make it a more efficient process so people are not bogged down in red tape?

Mr Schostakowski: That is a good question. The commission obviously looks at individual applications. You are asking more about whether that can be streamlined if there was a previously successful application.

CHAIR: If it is a precedent that the major event has been classed as significant. The response here says that, while it is acknowledged that some special events are recurring, it is important to ensure the QIRC properly considers the significance of each event on its merits and if each event, being that specific event, is to recur again. I guess I am just asking for consideration of the—

Mr Schostakowski: I would probably make two points. We have seen through the pandemic that circumstances change through periods of time, so maybe there is an argument for the commission to really look at each case depending on the period of time, what is happening and the circumstances around that time. The other point I would make is that the commission would also look at previously successful applications as part of the process of approving a new one.

CHAIR: In their submission today Mount Isa asked whether it would be possible to move between type 2 and type 3 for certain periods of the year. Has there been any thought around the ability for a region to move between types?

Mr Schostakowski: Yes, I think that would form part of an application to the commission. I do not think there is a mechanism in there for a partial period of time. The mechanism is for a permanent shift from one to another. I think that is the committee's recommendation we have implemented. I would say there is probably room in an application to raise that issue for the commission's consideration.

CHAIR: There being no further questions, I thank you very much for your time today. That concludes today's session. Thank you to the officers for the information you have provided today. Thank you to our Hansard reporters, our secretariat staff and the parliamentary broadcast staff for their assistance. A transcript of these proceedings will be available in due course. I note there has been one question taken on notice in relation to funding software platforms for P&Cs. If we could get that response by close of business on Wednesday, 29 June 2022, that would be terrific. I now declare this briefing closed.

The committee adjourned at 12.07 pm.