

Submission

Industrial Relations (Fair Work Act Harmonisation No. 2) and Other Legislation Amendment Bill 2013

**Queensland Parliament Legal Affairs & Community Safety
Committee**



**National Retail
Association**

Prepared by the National Retail Association

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Overview

The National Retail Association (NRA) wishes to make a submission to the Queensland Parliament Legal Affairs & Community Safety Committee, in response to the *Industrial Relations (Fair Work Act Harmonisation No. 2) and Other Legislation Amendment Bill 2013*.

The NRA only wishes to make comments in relation to the proposed amendments to allow applications for trading hours' orders to be heard by a single commissioner.

The NRA supports this proposed amendment, following its recent experiences of trading hours applications taking longer and longer to be heard and decided. NRA considers that this proposed amendment offers a sensible and workable solution to overcoming many of the causes of the delays now being experienced in the hearing of trading hours applications.

About the National Retail Association

The National Retail Association (NRA) is Australia's largest and most representative retail industry association, and has been representing the interests of the retail, fast food and broader services sector for almost 100 years.

The NRA delivers critical information and advice to the 19,000 retail stores and outlets amongst its membership.

The NRA's membership comprises both large and small retailers, from the smallest of corner stores to the majority of Australia's major retail chains, department stores and franchising groups. It also comprises members from all sub-categories of retail including fashion, groceries, department stores, home wares, hardware, fast food, cafes and personal services like hairdressing and beauty.

The NRA's aim is help business grow.

The NRA is an industrial organisation registered in Queensland and therefore able to bring applications regarding allowable trading hours before the Queensland Industrial Relations Commission. It has made applications over many years to amend trading hours restrictions in Queensland in various localities for specific reasons.

The majority of NRA's applications have sought to allow Sunday trading in localities or to extend the allowable trading hours in locations that are generally either CBDs or tourism zones for the benefit of commuters and/or tourists. Examples of previous applications include allowing customers the opportunity to shop for one full night prior to Christmas at the Chermside Shopping Centre, and allowing many of trade fairs and expos on Queensland's calendar of events to take place on weekends. The NRA has not advocated for full deregulation or for 24/7 shopping in Queensland.

The NRA supports the continued operation of the Queensland Industrial Relations Commission as the independent arbiter of trading hours matters in Queensland.

Recent timeframes for the hearing and deciding of trading hours applications

The table below illustrates the date of filing for the applications filed in 2012 and the allocated hearing dates:

<u>Matter</u>	<u>Date Filed in QIRC</u>	<u>Hearing Date/s</u>	<u>Status</u>
TH/2012/1 - Woodford	4 April 2012	24 August 2012	Heard
TH/2012/2 - Inner City of Brisbane	5 April 2012	15 November 2013	Not heard, listed
TH/2012/3 - SEQ Saturdays	5 April 2012	24-26, 28 September 2012	Partially heard, withdrawn
TH/2012/4 - Biloela	4 May 2012	13 September 2012	Heard
TH/2012/6 - Ipswich CBD	25 June 2012	17 & 18 October 2013	Heard
TH/2012/7 - Toowong	25 June 2012	28 & 29 November 2013	Not heard, listed
TH/2012/8 - Townsville Tourist Area	25 June 2012	21 & 22 November 2013	Not heard, listed
TH/2012/13 - Newstead	3 December 2012	9 December 2013	Not heard, listed
TH/2012/14 - Hamilton Northshore	3 December 2012	10 December 2013	Not heard, listed

Of the nine applications filed by the NRA in 2012, three were heard within 5 months, which was roughly in line with the experience in previous years.

However, in 2013 so far only one of the outstanding matters has been heard by the Commission, with the hearing occurring earlier this month. Of the remaining five applications, three were listed this month for hearing in November 2013. The remaining two were already listed for hearing in December 2013.

In 2013, therefore, the average period of time between filing an application and the hearing dates has blown out to around twelve to eighteen months.

By way of example, the table below outlines the timeline and history of one of the impacted applications, namely the application filed by the NRA relating to the Ipswich CBD (TH/2012/6):

<u>Date</u>	<u>Action – TH/2012/6</u>
25 June 2012	Application filed in QIRC.
3 September 2012	Directions Order issued.
5 September 2012	As per Directions Order, service completed and advertisements appear in the Courier-Mail and Ipswich Advertiser.
12 September 2012	First mention for matter. No date set for hearing.
14 December 2012	Further mention for matter. No date set for hearing.
15 March 2013	Further mention for matter. Hearing dates of 27 and 28 August 2013 set.
28 June 2013	NRA writes to QIRC with proposed timetable for exchange of evidentiary material agreed by parties.
19 July 2013	Directions Order for exchange of evidentiary material issued in accordance with agreed timetable.
30 July 2013	NRA material filed.
13 August 2013	Respondent's material filed.
19 August 2013	Email notification from QIRC regarding cancellation of hearing on 27 and 28 August 2013.
20 August 2013	NRA writes to QIRC requesting that matter be heard on dates set aside for Toowong matter (TH/2012/7) on 30 September and 1 October 2013.
23 September 2013	Matter listed for mention. Hearing dates of 17 & 18 October allocated.
17 & 18 October 2013, 22 October 2013	Matter heard.

Proposal for applications to be determined by a single commissioner

The NRA supports the proposed amendment for trading hours applications to be heard and determined by a single commissioner of the Queensland Industrial Relations Commission, following the recent experiences of trading hours applications taking longer and longer to be heard and decided.

NRA considers that the proposed amendments offer a sensible and workable solution to overcoming many of the causes of the delays now being experienced in the hearing of trading hours applications.

An amendment allowing applications to be heard by a single commissioner will avoid the delays associated with coordinating the availability of three members of the Commission, which we understand from our discussions and correspondence with the Commission, has been a major cause of recent delays. The solution would also assist in instances where commissioners retired or fell ill, hearing schedules change for other reasons, or cases need to be transferred between commissioners at late notice.

There are also likely to be benefits in the form of faster turnaround times in the issuing of decisions following hearings, where it is only a single commissioner who is deciding the matter as opposed to three commissioners having to coordinate their determinations.

The proposed amendments are also consistent with certain stated aims within the current legislation. Section 24 of the *Trading (Allowable Hours) Act 1990* provides that:

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.

The NRA is of the view that it is in accordance with section 24 of the *Trading (Allowable Hours) Act 1990* for these matters to be heard expeditiously. Due to the lengthy delays between filing applications and hearing dates, and hearing dates being cancelled, this has not been the experience recently.

Reduction of red tape and regulation

The NRA supports initiatives by governments to reduce red tape and to reduce the compliance burden for business. In particular, the NRA supports the Queensland Government's stated initiatives to identify red tape and reduce the regulatory costs associated with doing business in Queensland.

The NRA notes the findings of the Queensland Government's independent agency, the Queensland Competition Authority's Office of Best Practice Regulation, in its March 2013 Final Report, identifying priority areas for the reduction of red tape in Queensland. That report also looks at possible methods for measuring the regulatory burden, which could be through counting legislative pages, counting statutory obligations, or considering other factors such as the costs of compliance or the delays associated with compliance.

The NRA considers that this proposal to allow trading hours applications to be heard and determined by a single commissioner of the Queensland Industrial Relations Commission is one that is consistent with the Queensland Government's objectives to reduce the impacts of red tape and regulation.

While the proposed amendments do not lead to any notable reduction in the obligations or legislative page count, they are likely to lead to a measurable reduction in the average time taken to hear and determine applications in the Commission. The speed and efficiency of government decision-making is clearly a factor that should be considered when weighing up the benefits of reform, in terms of red tape and the regulatory burden.

Conclusion

The NRA supports the proposed amendments for trading hours applications to be heard and determined by a single commissioner, following its recent experiences of trading hours applications taking longer and longer to be heard and decided, in light of the aim in section 24 of the Act to deal with applications as quickly as possible, and consistent with the Queensland Government's stated objectives to reduce red tape and the regulatory burden associated with doing business in Queensland.

Contact information

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