




Speech By
Hon. Grace Grace

MEMBER FOR MCCONNELL

Record of Proceedings, 25 May 2022

TRADING (ALLOWABLE HOURS) AND OTHER LEGISLATION AMENDMENT BILL

Introduction

 **Hon. G GRACE** (McConnel—ALP) (Minister for Education, Minister for Industrial Relations and Minister for Racing) (11.16 am): I present a bill for an act to amend the Education (General Provisions) Act 2006, the Education (Queensland College of Teachers) Act 2005 and the Trading (Allowable Hours) Act 1990 for particular purposes. I table the bill, the explanatory notes and a statement of compatibility with human rights. I nominate the Education, Employment and Training Committee to consider the bill.

Tabled paper: Trading (Allowable Hours) and Other Legislation Amendment Bill 2022 [707](#).

Tabled paper: Trading (Allowable Hours) and Other Legislation Amendment Bill 2022, explanatory notes [708](#).

Tabled paper: Trading (Allowable Hours) and Other Legislation Amendment Bill 2022, statement of compatibility with human rights [709](#).

I am pleased to introduce the Trading (Allowable Hours) and Other Legislation Amendment Bill 2022. The bill implements a recommendation of the recent inquiry by the Queensland parliamentary Education, Employment and Training Committee to fine-tune the operation of Queensland's current trading hours arrangements and provide ongoing confidence and certainty for our vital retail sector, businesses, workers and consumers alike.

The committee, expertly chaired by the member for Redlands—and I thank all committee members and the chair—was asked to conduct a five-yearly legislative review of the Trading (Allowable Hours) Act, particularly the impact of the trading hours reforms introduced by the Palaszczuk government back in 2017.

As the House would recall, the 2017 trading hours amendments were a landmark reform modernising the streamlining of Queensland's previously complex trading hour laws which had been acting as an often confusing handbrake on jobs and business expansion for far too long.

Successive governments had put trading hours in the too-hard basket for over 20 years, but the Palaszczuk government tackled the issue head on, working diligently with stakeholders and the crossbench at the time and passing amendments that reduced 99 different trading-hour zones across the state to just 12.

To provide a period of stability and end the merry-go-round of trading hours applications in the Queensland Industrial Relations Commission, the 2017 amendments also included a moratorium on changes to trading hours for a period of five years with a requirement for a review at the end of those five years, which leads us to the bill before us today. The committee found in its review that the current trading hours arrangements introduced in 2017 had operated effectively, providing consistency and stability which has benefited individual businesses, consumers and workers as well as the retail sector as a whole. The committee did not recommend any wholesale changes or significant deregulation of current trading hours. Instead, it recommended a range of amendments aimed at reducing the regulatory burden and fine-tuning current trading hours arrangements.

The committee made nine recommendations, all of which the government has accepted and the bill now gives effect to these recommendations. I thank the committee again for its work and the extensive process it undertook to hear the views of stakeholders and communities across the state. The committee's inquiry received 28 submissions across all relevant stakeholder groups including union and employer groups, small business representatives, tourism groups, industry and regional bodies, local councils and other interested parties.

The committee also facilitated four public briefing sessions and seven public hearings in both metropolitan and regional areas. I think that that was appropriate. It was really good to go out to these regional areas to conduct these public hearings and hear firsthand how the trading hours were operating. It was a big change to reduce 99 different trading-hour zones to 12. I think the committee did a good job in collecting the information for the recommendations it made regarding the bill. I now turn to the details of the bill.

At the centre of the bill are four new simplified and streamlined core trading-hour areas for larger non-exempt shops, largely modelled on existing trading hours. The new type 1 trading areas category has the most expansive trading hours: 6 am to 10 pm Monday to Friday, 7 am to 10 pm on Saturdays and 7 am to 9 pm on Sunday and public holidays except for closed days such as Christmas Day and Easter Friday. Type 1 covers non-exempt shops in locations which already enjoy those longer trading hours—these have been a part of decisions that have been handed down—such as the Cairns CBD, New Farm in Brisbane, the Gold Coast tourist area and the Pacific Fair shopping centre. The type 2 trading areas category continues the existing trading hours arrangements for the remainder of South-East Queensland, which are 7 am to 9 pm Monday to Saturday and 9 am to 6 pm on Sunday and public holidays.

The type 3 trading areas category covers mainly the larger cities and centres in regional Queensland and continues their current trading-hour arrangements, including 8 am to 9 pm Monday to Friday, 8 am to 6 pm Saturday and Sunday, and public holiday trading from 9 am to 6 pm. An exception to this will be the Townsville tourist area, which will retain its own unique 7 am start from Monday to Friday. The type 4 trading areas category combines the former 'seaside resort' and 'any other area' categories into a single category, which I think was a really good recommendation. In doing so, the type 4 trading area adopts the more favourable permitted hours of the former seaside resort category. This will mean that 21 smaller regional towns will have public holiday trading for the first time but will obviously continue to have no Sunday trading. By making that small change, we have really assisted some of these regional towns. They will be able to open for public holidays for the first time, and I know the committee heard the submissions made about that in that area.

To provide continued stability, the four core trading-hour areas will remain fixed in the legislation. We want to make sure it is simple. People can go in and know their area and they will know when they are trading; it is fixed in the legislation. The committee found that the moratorium and reforms to restrict the QIRC's power to vary prescribed core trading hours have been effective in achieving stability and certainty for industry stakeholders. I do not know what feedback other members receive, but that is certainly the feedback we receive; it has provided stability in what have been unprecedented times and provided them the ability to grow their businesses in a stable environment without threats of constant changes to trading hours. I hear about that from these businesses all the time when I am out and about in Queensland and when I am liaising with stakeholders.

We will not be returning to the previous system pre-2017 where applications could be made to the Queensland Industrial Relations Commission to set new trading hours or vary the prescribed hours in the act. This created an unworkable hotchpotch of almost 100 trading-hour zones across the state spread over 40-plus pages of QIRC decisions. Imagine trying to find which category of trading hours someone fit into when they had to plough through 40 pages of decisions and nearly 100 trading-hour categories. I am pleased to say this bill cleans that all up, which we started to do in 2017.

Instead, the bill will provide a more limited and targeted role for the QIRC to make orders to move a location from one trading type to another. For example, if people are currently in type 3, they may want to move to type 1 or change the prescribed boundary of a particular locality, if needed, to deal flexibly with changing consumer, community or retail needs. If it grows and they want to change their boundaries, they can but the hours still remain in that type set under legislation, which of course will be reviewed in the future.

The bill makes clear that the QIRC can only make an order that increases the core trading hours of a location. It cannot make orders that move the location into a trading hours area that has shorter permitted trading hours. What we do not want to do is be detrimental in this. It can be moved to expand and grow, but obviously the reverse cannot be done. That could have a very detrimental impact on businesses, so applications like that would not be allowed under this provision. That protects those businesses that have bought in those areas. They know what their trading hours are. They have bought

as a long-term investment and would not wish to find that an application could possibly take them out of one zone and put them into another which would impact their business. I think that recommendation is very good one. We will do this. The bill confirms this.

The bill also clarifies the QIRC's powers and procedures for making a trading-hour order and ensures transparency and clarity about the criteria the QIRC will consider when making these orders. Some of the feedback has been that it is often difficult to ascertain exactly why certain decisions have been made, so we will make that a little bit clearer for businesses. The criteria the commission will consider include: the needs of industry in the area including the tourism industry, the likely impact of the order on employees and employment, the interests of consumers, and the view of the relevant local government if they are making the application or they seek to be heard. We think that local government has a pretty good understanding of their locations. They, too, can be heard in the QIRC.

Over time, as locations move into new trading hours zones as a result of QIRC trading hours orders, the Office of Industrial Relations will publish and maintain a consolidated reference of all trading hours arrangements. As a department we will consolidate any changes and make them easy to find and easy to read for all concerned.

Under the bill, the QIRC will retain its important function of making special event declarations, which exempt shops in a stated area from trading hours restrictions for a defined period of time. The bill will provide clear guidance about the factors that should be considered by the QIRC when declaring a special event. These factors reflect those recommended by the committee and include a new consideration for the QIRC to determine whether there is a need for extended trading hours during the event; the size of the event; whether it is held at multiple places; predicted attendance numbers; expected media coverage; and the event's contribution to Queensland's national or international reputation.

As a prime example of an event that might attract a special event declaration, the bill provides the example of the 2032 Olympic and Paralympic Games. At the time we brought in the new legislation, it was known as a 'Commonwealth Games special event'. The Commonwealth Games, the Olympic Games and the Paralympic Games are the kinds of events for which the commission can say, 'You can now trade. This is a significant national and international event. It is an event that is held over a number of areas. There is significant media interest.' Then we can have a special event declaration and free up the hours that shops can trade, which I think is a very good idea. The bill clarifies that the QIRC must consider the views of local government and industrial organisations in determining applications for special event declarations. That is largely under the criteria that I mentioned previously.

We recognise that changes to trading hours can have impacts on retail workers and their families. That is why voluntary work protections are an essential component of the existing trading hours framework in Queensland, ensuring workers are not disadvantaged and can freely elect whether or not to work extended trading hours. We know that this can have significant implications for families. We want to ensure those voluntary arrangements are protected. I am therefore glad to inform the House that the bill will strengthen existing voluntary work protections for employees.

Currently under the act, an employer cannot coerce, threaten, intimidate or harass employees to work extended hours beyond the shop's core trading hours. It is an offence to do so. However, an exemption applies if an industrial instrument provides arrangements for working extended hours. The bill removes this exemption and ensures these offences apply irrespective of any industrial instrument. There were cases of part-time workers who had to pick up children or care for family who could not do so when work was sprung upon them. The industrial instrument provided that they could, so there was a grey area. We are going to make that exemption clear.

We know that most employers and workers are flexible and work these matters out on the ground, but when it comes to the pinch and you simply cannot do it for whatever reason—and they are good reasons—then there should be protections. You should not be made to do something that you are not able to do.

The bill provides that voluntary work protections and related offence provisions apply to future scenarios where extended working hours could be required, such as extended hours that might result from amendments to the act, or if the QIRC makes a trading area order or a special event declaration. For example, if there is a special event declaration that extends trading hours and you are unable to work the extended hours that the facility or business is able to operate, these protections will apply. Often it is great for the business and for those events, but we want to ensure protections for working parents and carers and those who have specific health needs that allow them to work only certain hours in a day.

To allow sufficient time for the changes to be bedded down and to allow industry and the QIRC to adapt, the bill extends the existing moratorium on the making of trading hours orders for a further 12 months, until 31 August 2023. The moratorium has been highly successful in terms of business

making plans. They knew that a review of the moratorium would occur after five years, and the committee has expertly conducted that review. To automatically now make changes, without some sort of transitional arrangements, I think would be unfair. The committee has, I think rightly, recommended that we extend that moratorium for another 12 months, to the end of August 2023. It was due to expire at the end of August 2022. The additional 12 months will give businesses the ability to transition to an environment in which they know that changes could happen. The QIRC could be asked to make determinations on, for example, Sunday trading in areas that currently do not have it or on extending an area from one type to another type. It gives people the ability to analyse what that may mean for their business and protects them for a further 12 months. The industry is very grateful for that provision. They were supportive of the five-year moratorium, which will continue for another 12 months. There were submissions to the committee—the chair is nodding—and that recommendation has been picked up. To clarify, no applications can be made to the QIRC in the meantime.

The bill also extends a moratorium which currently exempts all shops in the Mossman and Port Douglas tourist area from trading hours restrictions for a further 12 months, until 31 August 2023. This will ensure continued and vital support for tourism in this region, particularly following the impact of the COVID-19 health pandemic. Once the extended moratorium ends, the Mossman and Port Douglas tourist area will continue to benefit from the favourable tourist area trading hours of the type 1 trading area.

The bill makes some minor amendments to the Education (Queensland College of Teachers) Act 2005 and the Education (General Provisions) Act 2006 to make permanent arrangements that were temporarily in place during the COVID-19 health pandemic that have proved to work well. The COVID-19 Emergency Response Act 2020 was passed in 2020 to protect the health, safety and welfare of persons affected by the COVID-19 health pandemic and to facilitate the continuation of public administration, judicial process and activities disrupted by the COVID-19 health pandemic. To achieve these purposes, the act allowed extraordinary regulations to temporarily modify primary legislation. As an example, the Education Legislation (COVID-19 Emergency Response) Regulation 2020 was an extraordinary regulation which modified education legislation to ensure appropriate administration and regulation of the education sector during the pandemic.

Prior to its expiry on 30 April 2022, the Department of Education consulted with relevant stakeholders about the implications of provisions in the Education Legislation (COVID-19 Emergency Response) Regulation expiring and the potential for them to be made permanent. I thank those stakeholders who were consulted and who provided their views. As a consequence of this consultation, two elements of the extraordinary regulation were identified as having value on a more permanent basis. I am sure that every member of this House will support them.

The first of these elements is a modification to the Education (Queensland College of Teachers) Act to enable online attendance at meetings related to Queensland College of Teachers investigations and allow for production of items required at meetings to occur via post or online in addition to being in person. Previously the regulations did not allow online hearings or submissions to be made. Clearly in COVID-19 times this was often difficult. The regulations allowed it to happen. It has worked extremely well. We are now making that permanent.

The other modification is to the Education (General Provisions) Act and the Education (General Provisions) Regulation to allow P&C meetings required by the legislation to also be conducted via communications technology. Previously all P&C meetings had to be held face to face. During COVID times it was allowable to do that via Zoom or other online mechanisms and that has worked extremely well. My understanding is that they are getting great attendance online. They are making great decisions. They all submitted they would like to see that continue. We are going to make that permanent as well.

The Queensland College of Teachers advise that the ability to use communications technology to conduct meetings would have continued value given general changes in the use of communications technology. With Queensland's dispersed geography often it is hard for these people to attend face-to-face meetings and various reasons may otherwise prevent someone from attending a meeting. P&Cs Queensland have advised that a continued ability to conduct meetings via communications technology would be helpful given physical attendance can be hampered by distance, on-farm commitments, poor roads and natural disasters.

As we know, the P&Cs must continue on with their meetings. They do a fantastic job. Last week it was great to join the member for Moggill at Kenmore State High School to celebrate P&C Day. The students, teachers and the school community, including the principal, did an excellent job in the celebrations of P&C Day at Kenmore State High School and I thank them. We have listened to this feedback and consequently amendments in this bill will make permanent these sensible, temporary modifications.

The trading hours reforms the Palaszczuk government introduced in 2017 modernised our trading hours framework in Queensland. We worked with stakeholders across the retail sector—large retailers, small and medium operators, unions, as well as the crossbench—to deliver reforms that simplified and streamlined arrangements, cut red tape and removed anomalies. We also have made it simpler and easier for businesses to get the information they require on how to run their businesses. The LNP at the time dealt themselves out of the debate, refusing to have any sensible discussion about reforming trading hours in Queensland.

The committee's inquiry confirmed that this trading hours framework has worked effectively over the past five years and, subject to some sensible recommendations for the fine-tuning and further simplification that is reflected in this bill, continues to serve Queensland well. When I was minister and saw the 40 pages of QIRC decisions and sifted through submissions of an inquiry we had, we thought something needed to be done. It was the Palaszczuk Labor government that had the foresight to tackle this issue and do something about it. We were the ones working with industry when the five-year moratorium came in. It was a great example of working with small and medium businesses to protect their interests, and did it not serve industry well? We did not know back then that we would be hit with a pandemic and its implications. Even during the pandemic we were still able to help. Business were able to open earlier so senior members of our communities could go in to shop alone. They were accommodated under this act.

The committee has done a great job in making sure that these benefits are extended across Queensland. I thank them for their input and their sensible, balanced approach. The 12-month extension of the moratorium gives businesses time to adjust. Good Labor governments listen to businesses and communities and provide for them. The committee's inquiry has confirmed that this trading hours framework has worked very effectively. We are fine-tuning the framework for the benefit of all businesses right throughout Queensland. This is another demonstration of how the Palaszczuk government delivers lasting, practical reforms for the benefit of all Queenslanders, working with stakeholders—and I thank them once again—consulting widely and genuinely.

I thank the committee for the work that they did in consulting and the sensible recommendations that came forward, balancing the needs of workers, businesses, consumers and the general public. These are not easy things to balance. Often workers have very different interests to employers, but we have been able to work through that. The committee did it. We did it when these trading hours laws were introduced in 2017 and we continue to do it. It is not easy, but we have been able to bring about that balanced, sensible approach. We are ensuring that appropriate protections are in place for workers and providing certainty and, more importantly, stability for businesses right around Queensland no matter where they are. I am pleased to say that is the Labor way. We work with stakeholders to find the right path to go down, where everybody feels that they have been listened to and that we are providing a balanced and stable environment for all concerned in a very important part of our economy, the retail sector. The electorate of McConnel has some of the best retailers in Queensland.

Honourable members interjected.

Ms GRACE: I know that not all members of parliament will agree with that statement. I am hearing from other members how great the retailers in their areas are. We are all proud of the businesses in our areas and the work that they do. We want to make sure that when we legislate trading hours, it is a framework that supports them and provides a stable environment. This bill does that. I commend the bill to the House.

First Reading

Hon. G GRACE (McConnel—ALP) (Minister for Education, Minister for Industrial Relations and Minister for Racing) (11.47 am): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

Referral to Education, Employment and Training Committee

Mr DEPUTY SPEAKER (Mr Lister): In accordance with standing order 131, the bill is now referred to the Education, Employment and Training Committee.