




Speech By
Hon. Grace Grace

MEMBER FOR MCCONNEL

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**TRADING (ALLOWABLE HOURS) AND OTHER LEGISLATION AMENDMENT
BILL**

Second Reading

 **Hon. G GRACE** (McConnel—ALP) (Minister for Education, Minister for Industrial Relations and Minister for Racing) (4.02 pm): I move—

That the bill be now read a second time.

It is with great pleasure that I rise to speak on the resumption of the debate on the Trading (Allowable Hours) and Other Legislation Amendment Bill 2022. The bill before the House today amends the Trading (Allowable Hours) Act 1990 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. In doing so, the bill implements the recommendations of the report handed down in January this year by the Education, Employment and Training Committee.

The committee was asked to conduct the legislated five-year review of trading hours reforms that the Palaszczuk government introduced back in 2017. The committee found in its review that the current trading hours arrangements introduced in 2017 have operated effectively, providing consistency and stability which has benefitted individual businesses, consumers, workers and the retail sector as a whole over the past five years, particularly through the COVID-19 pandemic.

The committee did not recommend any wholesale changes or significant deregulation of current trading hours and instead recommended a range of amendments aimed at further streamlining and simplifying current trading hours arrangements. In total, the committee made nine recommendations, all of which the government accepted, and this bill introduced in May gives effect to these recommendations.

The same committee was expertly chaired again by the member for Redlands for this bill. I thank the member for the way in which this inquiry was held. There were two ways we could have done this. We could have gone with an independent inquiry by a nominated person, like we did last time, or we could have used the parliamentary committee, and I am glad we went with the committee because they did an excellent job. I thank the member for Redlands and all of the committee members. They have since conducted the inquiry into the bill itself and their report, which was tabled on 22 July, made one single recommendation—that the bill be passed.

I would like to thank the chair and all members of the committee from all sides. They did an excellent job, and I can see the member for Southern Downs, who is the deputy chair. I thank them for their report into the bill and also for their work on the five-year review. It was conducted comprehensively. Everyone was given an opportunity to have their say. It was really good to see how effective this bill has been over the last five years. It has stood through the very difficult time of COVID-19 since 2020. It was actually remarkable at the time. When we put in the moratorium back then, we had no idea we were going to be facing a world health pandemic. How apt it was that we had

these safeguards in place during that worldwide pandemic, and we are not out of the woods yet. I thank all of the stakeholders who made submissions to the committee about the bill and those who appeared as witnesses before the committee. Again, as we did in 2017, I believe we have got the balance right and the committee did great work in coming to that right balance.

It is worth recalling again where we were before our 2017 reforms. We had a trading hours regime with an array of complexities and anomalies that were confusing for businesses and consumers alike. For example, we had a hotchpotch of almost 100 different trading hours orders across the state. For Sundays and public holidays alone there were 30 different trading zones across Queensland. Easter Sunday was closed for trading in South-East Queensland but open for trading in major regional centres. Shops closed at 5 pm on Saturday but 6 pm on Sunday. In South-East Queensland, most major hardware shops could not open until 9 am on a Sunday—the day that most people want to go early to get their goods from a hardware shop.

Successive Queensland governments failed to act and tackle these issues. By contrast, the Palaszczuk Labor government grasped the nettle, modernising and streamlining Queensland's previously complex trading hours laws which had been acting as a handbrake on jobs and business expansion for too long. The 99 different trading hours orders across the state were reduced down 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 included a moratorium on changes to trading hours for a period of five years with a review at the end of those five years, which leads us to the bill today.

At the centre of this bill are four new simplified and streamlined core trading hours 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 Sundays 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 such as the Cairns CBD, New Farm in Brisbane, the Gold Coast tourist area and the Pacific Fair Shopping Centre.

The type 2 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, 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 hours arrangements including: 8 am to 9 pm, Monday to Friday; 8 am to 6 pm, Saturday; and Sunday and public holidays 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, Monday to Friday.

The type 4 trading areas category combines the former seaside resort and any other area categories into a single category. In doing so, the type 4 trading area adopts the more favourable permitted hours of the former seaside resort category, which will mean that 21 smaller regional towns will have public holiday trading for the first time, but will continue to have no Sunday trading where they currently do not trade on a Sunday.

Importantly, these trading hours I have just outlined do not fundamentally alter trading hour arrangements in any part of Queensland. The categories of exempt shops and independent retail shops are not changing. No small business owner or manager will find themselves suddenly struggling in a different trading hours environment. That is a great outcome. Everything largely remains the same. What the bill does is provide stability and confidence by continuing in a trading hours framework that has worked for retailers, employees and customers over the last five years, and particularly through, as I mentioned before, the COVID-19 pandemic. Key to providing this continued stability is that the four core trading hours areas will remain fixed in the legislation.

In its five-year review 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, particularly our small business retail sector. We will not be returning to the previous system pre 2017 where applications could be made to the QIRC to set new trading hours or vary the prescribed hours in the Act.

As I mentioned before, this created the unworkable muddle of almost 100 trading hours orders across the state spread over 40-plus pages of QIRC orders. Instead, the bill will provide a more limited and targeted role for the QIRC to make orders to move a location from one trading area type to another—for example, from type 3 to type 1—or to change the prescribed boundary of a particular locality if needed to deal flexibly with changing consumer, community and retail needs.

The bill makes clear that the QIRC can only make an order that increases the core trading hours of a location. It cannot make an order that moves a location into a trading hours area that has shorter permitted trading hours. It is a no-disadvantage provision.

I make clear again that, under the bill, the QIRC will no longer be able to make orders that change the core permitted trading hours for a trading area category. To ensure transparency and clarity, the bill clearly sets out the factors the QIRC must consider when making trading area orders. These factors include the needs of industry in the area, including the tourism industry, the likely impact on employees and employment, the interests of business and consumers, and the views of the relevant local government if they are making the application or seek to be heard.

Over time, as locations move into new trading hours areas, as a result of QIRC trading area orders, the Office of Industrial Relations will publish and maintain a consolidated reference of all trading hour arrangements.

I note that the committee made a number of useful suggestions in their report for actions the department could take to assist the retail sector better understand trading hours arrangements—for example, publishing a map showing the boundaries of trading areas and the trading hours of each area—and the department is giving careful consideration to all of those suggestions. I will be urging them to produce this on a website where it can be easily available.

Under the bill, the QIRC will also continue its important function of making special event declarations which exempt shops in a stated area from trading hours restrictions for a specified period. The bill will provide clear guidelines about the factors that the QIRC must consider when declaring a special event which will assist stakeholders who might be affected and provide greater transparency in decision-making. These factors reflect those recommended by the committee and include a new consideration for the QIRC to determine whether there is in fact a need for a non-exempt shop, or class of non-exempt shops, to trade for extended hours during the event, the size of the event, whether it is held at multiple places, predicted attendance numbers, any 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, just as there was a special event declared during the 2018 Commonwealth Games on the Gold Coast. They were the kind of events that these exemptions looked at. Unfortunately, they have been whittled away and we are just trying to go back to the original intent. Local governments and industrial organisations will also be able to make submissions to the QIRC about potential impacts on the local economy and employment if a special event declaration is made.

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 that workers are not disadvantaged and can freely elect whether or not to work extended trading hours. I am, therefore, glad to inform the House that the bill will strengthen existing voluntary work protections for employees by closing a loophole that exempted employees covered by an industrial instrument from the voluntary work protections in the act.

Currently under the act an employer cannot coerce, threaten, intimidate or harass employees to work extended hours beyond the shop's core trading hours, and it is an offence to do so; however, an exemption applies if an industrial instrument provides arrangements for working extended hours. This exemption has allowed unscrupulous employers to coerce, harass, threaten or intimidate employees, many of them part-time casual female workers, in an attempt to force them to work extended hours.

In their evidence to the committee, the SDA referred to the many complaints they have received from their members over the past two years where they were threatened with being rostered to work less in future if they did not elect to work during the period of extended trading hours. This is exactly the type of actions we were trying to avoid in the bill.

The SDA explained that for workers who are very vulnerable the flow-on effect is that if you are offered extended hours during extended trading later on down the track you take them because you saw what happened to the person last week who did not where they are not getting shifts. Unfortunately, in a very casualised industry where you are employed on an as-and-when-required basis you are a casual and you are given shifts according to the needs. If you say you cannot work certain hours, particularly female workers, for whatever reason—family responsibility, having to pick up a child from school, whatever the circumstances are—then the next time a very clear message is sent where, instead of your usual three shifts, you may only get half or one. That is the manner in which this is often used. The SDA had many examples of where that has actually occurred.

It is vital that we support our retail workers and working families and we strengthen protections so these types of things do not occur. When someone has a genuine reason why they cannot work there is nothing worse than seeing retaliation or someone making an example of them to others because they fear saying no to any extended offers. The bill, therefore, removes the exemption, ensuring these voluntary work protections apply consistently across the entire retail sector and that employers must obtain an employee's written consent to work extended hours regardless of any industrial instrument. Most of the time these are worked out. Employers work with their workers. There is no doubt that this does happen; however, there are times when these kinds of situations occur. We have seen many examples of that occurring, so we are going to make it pretty clear in the act that it applies.

The bill also 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 special event declaration. Honourable members can imagine if a special event declaration is made, such as for the Olympic Games, those retailers will be trading 24/7. There are not too many workers who can work those extended trading hours and not have significant impacts on their family or personal responsibilities.

To allow a reasonable time for industry and the QIRC to adapt to these changes, the bill extends the existing moratorium on applying for or making trading hours orders for a further 12 months, until 31 August 2023. I want to see the department put in place the new trading areas and take up the recommendations of the committee. I want to have the QIRC well equipped; applications are coming. We are still not out of the pandemic phase. There are still challenges in terms of workforce issues. Implementing this straightaway could have significant ramifications, so we are going to extend the moratorium by 12 months. That will protect those small businesses, get them ready for what is coming, get the QIRC ready and get the department ready. Hopefully next year towards the end of August we will be in a position to go back to the normal requirements of the act. Applications to the QIRC for a trading area order cannot be made until that time.

The bill also extends the 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. I think that is a very sensible move and recommendation by the committee. We 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 in the type 1 trading area under the bill.

The bill also makes some minor amendments to the Education (Queensland College of Teachers) Act 2005—the QCT act—and the Education (General Provisions) Act 2006—the EGP Act—to make permanent arrangements that were temporarily in place during the COVID-19 health pandemic that have proved to have worked very well. The amendments allow meetings conducted as part of investigations by the Queensland College of Teachers under the QCT act and the Parents and Citizens' Association meetings required under the Education (General Provisions) Regulation 2017 to be conducted through communication technology in addition to being held in person. We had to make special arrangements for them to conduct their meetings online and I think they have proved to be very successful. Busy parents are now dialling in virtually into meetings. I have been to P&Cs where there has been a hybrid model where some people have been in person and others have been online. The technology in the schools enables them to have a very constructive meeting. We are now allowing that in the act to be a permanent method of holding their meetings. Then if issues arise again and they need to go back to being fully virtual, they can do that and still be in line with the act requirements.

The amendments also allow for the production of documents as part of a QCT investigation to be provided electronically or by post in addition to providing these through in-person attendance. It is allowing modern-day technology to be used in the various areas. The act probably did not consider that at the time. We made those temporary arrangements and we are now making them permanent. The arrangements are being made permanent after consultation with stakeholders including the Queensland College of Teachers and P&Cs Queensland, and they are very happy with the amendments that are being put in place.

The consultation identified that the sensible temporary changes would have value if permanently put in place due to Queensland's geographic dispersion and the various reasons that may otherwise prevent someone from attending the meeting in person. I have been to those hybrid meetings and they have worked extremely well. With the technological advances and changes in society due in part to the pandemic, people are increasingly using communication platforms for meetings. I must admit I find them a bit frustrating to use all the time. These amendments ensure the legislation reflects contemporary practice. The integrity of QCT investigations and meetings conducted by P&Cs will not be impacted by these sensible changes.

The bill before the House today builds on the reforms the Palaszczuk government introduced in 2017. I must admit, it is hard to believe it has already been five years since those reforms which aimed to modernise our trading hours framework in Queensland. Time does go quickly. Just as we did in 2017, we have worked with stakeholders across the retail sector—large retailers, small and medium businesses and unions—through a transparent and consultative process to strike the right balance in this important area. Our retail businesses and their staff have worked tirelessly through the challenges of the COVID pandemic, and we want to provide an environment that allows them to continue to flourish into the future and gives a little bit more time for the transition to the new legislation. Confidence and certainty are critical for the retail sector, and that is what this bill delivers. Every time I meet with the Queensland retailers association, with smaller supermarkets and with other retailers, it is the certainty and the confidence that are critical for them being able to plan for the future. I thank the committee for engaging with them throughout the process.

The committee's inquiry has confirmed that the current trading hours framework has worked effectively over the past five years, subject to the sensible recommendations for finetuning and further simplification that are reflected in this bill, it will continue to serve Queensland well. As I said to the House when this bill was introduced, it is another demonstration of how the Palaszczuk government delivers lasting, practical reforms for the benefit of all Queenslanders by working with stakeholders, consulting widely and genuinely balancing the needs of workers, businesses, consumers and the general public, ensuring appropriate protections are in place for workers and their families and providing certainty and stability for business. That is the Labor way. We work in a very collaborative way. Once again I thank the committee for the work they did as well as the chair and the deputy chair. They did an excellent job. Thank you for the one recommendation that the bill be passed. I commend the bill to the House.