

EDUCATION, EMPLOYMENT AND TRAINING COMMITTEE
REPORT No. 15 ON THE
INQUIRY INTO THE OPERATION OF THE TRADING (ALLOWABLE HOURS)
ACT 1990
QUEENSLAND GOVERNMENT RESPONSE

INTRODUCTION

On 14 September 2021, a review of the *Trading (Allowable Hours) Act 1990* (the Act) was referred to the Queensland Parliamentary Education, Employment and Training Committee (the Committee) with a report back by 31 January 2022.

On 31 January 2022, the Committee tabled its report (No. 15) in relation to the Inquiry into the Act.

The Queensland Government response to the recommendations made by the Committee is provided below.

RESPONSE TO RECOMMENDATIONS

Recommendation 1

The Committee recommends the Act be amended to refine the process for consideration of ‘special event’ applications by the Queensland Industrial Relations Commission, to ensure the requirement under section 5(1)(c) of the Act that an event declared a ‘special event’ is, in fact, ‘a unique or infrequent event of local, State or national significance’. The list of considerations in section 5(3)(a) of the Act should be expanded to include the following additional considerations the Commission is required to examine when deciding whether to declare an event to be a ‘special event’:

- additional factors which indicate the significance of the event, such as attendance numbers, size of the event, media coverage, contribution to Queensland’s national and international reputation, and its unique or infrequent nature
- whether there is a necessity for non-exempt shops to trade as exempt shops during the period of the special event.

Government response

The Government accepts this recommendation.

Recommendation 2

The Committee recommends the categories for non-exempt shops core trading hours (which are defined by their location, under section 16D) be reduced to 4 categories:

- ‘South-east Queensland area’ (unchanged);
- ‘Tourist area’ (amended to include the Mossman and Port Douglas Tourist Area);
- ‘Regional area’ (renaming the category ‘Schedule 1AB areas’); and
- ‘Other area’ (combining ‘Seaside resorts’ as defined in the 2017 Trading Hours Order, and ‘Any other area’, with the core trading hours for this new category being as currently prescribed for ‘Seaside resorts’).

Government response

The Government accepts this recommendation.

Recommendation 3

The Committee recommends that the trading hours for the industry specific categories under section 16E – ‘Hardware shops’ and section 16EA – ‘Shops selling motor vehicles or caravans’ be retained in the Act without amendment.

Government response

The Government accepts this recommendation.

Recommendation 4

The Committee recommends that the definitional criteria for independent retail shop at section 6(1) of the Act be retained.

Government response

The Government accepts this recommendation.

Recommendation 5

The Committee recommends that the Act be amended to remove subsection 36B(2), so that section 36B applies as a condition of any extension of retail trading hours, irrespective of any workplace agreement or industrial award.

Government response

The Government accepts the Committee’s recommendation in-principle to allow discretion for the drafting of the amendments to ensure that the policy objective is achieved without creating any unintended consequences.

Recommendation 6

The Committee recommends that the Act be amended to clarify that:

- the Queensland Industrial Relations Commission (QIRC) has the power to make an order about voluntary work in accordance with section 36B of the Act; and
- a declaration of a ‘special event’ by the QIRC must include a condition about voluntary work which reflects that section 36B of the Act will apply to all employees of non-exempt shops covered by the declaration.

Government response

The Government accepts this recommendation.

Recommendation 7

The Committee recommends that section 21 (Orders concerning non-exempt shops) of the Act be amended to remove sections 21(3)(a) and 21(3)(c)(i) to prevent the situation where applications are made to the QIRC to make orders to vary core trading hours from the hours prescribed in the Act, once the moratorium has ended.

Government response

The Government accepts the Committee’s recommendation in-principle and recommends that the Act be amended to restrict the power of the QIRC to vary the core hours as prescribed at section 16D or extended hours at section 16G to making orders under section 21 for non-exempt shops to permit a particular area or locality to transfer from its existing category of permitted hours to another category of permitted hours as prescribed under section 16D and 16G provided that this does not result in a reduction of permitted hours for non-exempt shops in the particular locality.

Recommendation 8

The Committee recommends that the Act be amended to extend the section 59 moratorium for an additional 12 months to 31 August 2023.

Government response

The Government accepts this recommendation.

Recommendation 9

The Committee recommends that:

- the section 56 moratorium for the ‘Mossman and Port Douglas Tourist Area’ under the Act be extended to 31 August 2023; and
- section 16A of the Act be amended to add the ‘Mossman and Port Douglas Tourist Area’ to the section 16A definition of ‘Tourist area’ in (a) and to remove from the definition ‘(b) the town of Port Douglas’, and for these changes to be effective from 31 August 2023.

Government response

The Government accepts this recommendation.

The Government thanks the Committee for its consideration of the Act.