

Trading (Allowable Hours) and Other Legislation Amendment Bill 2022

Explanatory Notes

Short title

The short title of the Bill is the *Trading (Allowable Hours) and Other Legislation Amendment Bill 2022*.

Policy objectives and the reasons for them

Amendments to the Trading (Allowable Hours) Act 1990

The Bill's primary objective is to implement recommendations of the Queensland Parliamentary Education, Employment and Training Committee (Committee) following its recent *Inquiry into the Operation of the Trading (Allowable Hours) Act 1990* (Inquiry).

The Committee Inquiry reviewed the operation of the *Trading (Allowable Hours) Act 1990* (TAH Act), particularly the impact of a range of reforms introduced in 2017 to streamline and reduce the regulatory burden on industry stakeholders following an independent review of Queensland's trading hours arrangements in 2016.

Overall, the Committee found the TAH Act operates effectively to regulate trading hours arrangements and that the 2017 reforms have provided consistent and stable trading arrangements benefiting the retail sector as a whole, as well as small businesses, employees and consumers.

The Committee did not identify a need, or demand, for substantial deregulation of trading hours arrangements. However, the Committee recommended a range of amendments aimed at further reducing the regulatory burden and complexity for industry stakeholders, including:

- streamlining the categories of core trading hours for non-exempt shops by reducing the number of categories from five to four and re-categorising the Mossman and Port Douglas Tourist Area to support the local tourism industry;
- clarifying special event declarations made by the Queensland Industrial Relations Commission (QIRC) which exempt all shops in a stated area from trading hours restrictions, including to provide clear guidance on the matters the QIRC must have regard to;
- clarifying that the power of the QIRC to make orders for non-exempt shops is limited to determining the category of core trading hours that should apply to a particular location and to determining definitions and boundaries of such locations;
- ensuring consistent voluntary work protections for employees from working extended hours, including where extended hours arise due to an order or special declaration of the QIRC, unless the employee has freely elected to work extended hours;

- extending two existing moratoriums for a further 12 months until 31 August 2023 to ensure ongoing stability for the retail industry and community; and
- retaining previous reforms that have been found to be working effectively.

The Bill amends the TAH Act to implement each of the Committee's recommendations listed above.

Amendments to Education (Queensland College of Teachers) Act 2005 and Education (General Provisions) Act 2006

The Bill also amends the *Education (General Provisions) Act 2006* (EGPA) and *Education (Queensland College of Teachers) Act 2005* (QCT Act).

The policy objectives for amendments to the EGPA and QCT Act are to modernise particular provisions by clarifying that communication technology can be used to enable:

- attendance at meetings related to Queensland College of Teachers (QCT) investigations and production of items required at meetings to occur via post or online, rather than in person; and
- attendance at parents and citizens' (P&C) association meetings required under the EGPA.

The amendments make permanent the temporary arrangements that were put in place during the COVID-19 public health emergency.

The *COVID-19 Emergency Response Act 2020* (COVID Act) was passed in 2020 to protect the health, safety and welfare of persons affected by the COVID-19 health pandemic and facilitate continuation of public administration, judicial process and activities disrupted by the COVID-19 health pandemic. It enables extraordinary Regulations to modify an Act consistent with the purposes of the COVID Act.

The Department of Education (DoE) has had responsibility for the *Education Legislation (COVID-19 Emergency Response) Regulation 2020* (Education COVID Regulation), an extraordinary Regulation made under the COVID Act to ensure appropriate administration and regulation of the education sector during the pandemic. The Education COVID Regulation:

- enabled online attendance at meetings related to QCT investigations and allowed for production of items required at meetings to occur in another way that does not require physical attendance (for example, by post or online);
- enabled (P&C) association meetings to be conducted via communication technology; and
- modified the EGPA and *Education (Accreditation of Non-State Schools) Act 2017* (EANS Act) to allow the chief executive (for the EGPA) and Non-State Schools Accreditation Board (for the EANS Act) to extend statutory timeframes for a purpose linked to the pandemic.

The Education COVID Regulation expired on 30 April 2022. DoE consulted with relevant stakeholders about implications of provisions in the Education COVID Regulation expiring and potential for them to be made permanent.

The QCT advised that the ability to conduct meetings as part of investigations via communication technology has enabled efficient and effective investigations and would have continued value given general changes in use of communication technology, Queensland's dispersed geography and the various reasons that may otherwise prevent someone from attending a meeting. The QCT has an important role in ensuring the integrity of the teaching profession in Queensland, and being able to conduct meetings as part of an investigation is essential. The ability to use communication technology to facilitate such meetings will support the QCT in its integrity role.

P&Cs Qld has advised that a continued ability to conduct meetings via communication technology would be helpful given physical attendance can be hampered by distance, on-farm commitments, poor roads and natural disasters. P&C associations provide a valuable support network to schools across the State. They are required to hold meetings annually under the legislation. The increased flexibility these provisions would provide will reduce the burden for P&C associations, particularly those in remote areas.

Achievement of policy objectives

Amendments to the Trading (Allowable Hours) Act 1990

The Bill achieves its policy objectives by amending the TAH Act to respond to the Committee's recommendations to streamline and clarify existing trading hours arrangements in Queensland as outlined below.

Streamlining and simplifying trading hours for non-exempt shops

The Bill makes a number of amendments to adopt the Committee's recommendations to streamline and simplify the core trading hours arrangements of non-exempt shops in Part 4, Division 2 of the TAH Act by:

- renaming the categories (e.g. Type 1 trading area) to reflect these categories can represent trading areas which share common characteristics, such as consumer demographics but not necessarily geographical proximity, and to allow for flexibility in shifting locations into a trading area with more favourable permitted trading hours if a need is identified by the QIRC;
- reducing the number of trading areas in section 16D from five to four by combining the former 'seaside resort' and 'any other area' categories into the new Type 4 trading area, which adopts the more favourable permitted trading hours of the former 'seaside resort' category; and
- including the 'Mossman and Port Douglas Tourist Area' in the Type 1 trading area, with similar tourist areas, to benefit from the longer core trading hours of this trading area in response to consumer demand and to support the local tourism industry.

Special event declarations

Special event declarations made by the QIRC exempt all shops in the stated area, such as larger supermarkets, from trading hours restrictions for the declared period.

The Bill provides clear guidance about the considerations for the QIRC when deciding whether to declare a special event. These considerations align with former section 5 of the TAH Act,

but also include a new consideration for the QIRC to determine whether there is a need for a non-exempt shop, or class of non-exempt shops, to trade for extended hours during the event.

The Bill also clarifies a range of factors relevant to the QIRC's considerations of whether to declare a special event. The factors include: the size of the place the event is held; whether the event will be held at multiple places; predicted attendance numbers; expected media coverage; and the event's contribution to Queensland's national or international reputation.

The Bill also confirms that voluntary work protections apply for employees if the QIRC makes a special event declaration, to ensure impacted employees freely elect to work extended hours.

The Bill also includes transitional arrangements to provide clarity about applications for special event declarations made before commencement of the new provisions. If a special event has been declared prior to commencement, but the event has not yet started, the declaration will be deemed a special event declaration under the new provisions. If the event has started, but not ended, the former provisions apply. If an application has been made for a special event declaration but not yet heard by the QIRC prior to commencement, the Bill confirms that the new provisions apply to the application. If the QIRC has already heard the matter, the former provisions for deciding the special event declaration will apply.

Trading area orders

The Bill clarifies the current powers of the QIRC to make orders varying trading hours arrangements set out in sections 16D-16E of the TAH Act.

The QIRC can make an order to shift a location from one trading area type to another, as well as to change the external boundaries of an existing area and include a new area which has not yet been identified as part of a trading area. The Bill confirms that the QIRC may not make an order reducing the core trading hours of a non-exempt shop.

The Bill also includes new section 22 setting out the criteria that the QIRC must consider when making a trading area order. These considerations reflect former section 26 of the TAH Act. The considerations have been updated to ensure clarity and transparency for stakeholders in how the QIRC will make trading area orders but there is no intended policy change in how these considerations should be applied by the QIRC.

The Bill also amends the current provisions setting out its powers and procedures during the process of making an order to provide greater clarity and to modernise the provisions in line with contemporary electronic notification practices.

Consistent voluntary work protections for employees from working extended hours

The Bill strengthens existing voluntary work protections for employees in sections 36A, 36AA and 36B of the TAH Act by removing exemptions that applied if an employee is subject to an industrial instrument. As most retail employees are covered by an industrial instrument, such as the General Retail Industry Award 2010, the Bill implements the Committee's recommendation to ensure these offences consistently apply irrespective of any industrial instrument.

The Bill also prescribes a new offence in section 36BA to ensure employers cannot coerce, harass, threaten or intimidate employees to work extended hours, consistent with existing offence provisions in sections 36A, 36AA and 36B of the TAH Act. This new offence ensures employees can freely elect to work extended hours, as evidenced by providing written consent to the employer if an amendment to the Act commences or if the QIRC makes an order or declares a special event.

Extending moratoriums to ensure ongoing stability for the retail industry and community

The 2017 reforms included two transitional arrangements for five-year moratoriums (both expiring on 31 August 2022) to:

- exempt all shops in the Mossman and Port Douglas Tourist Area from trading hours restrictions (section 56 of the TAH Act); and
- restrict making applications for, and the QIRC's powers to make, trading hours orders under section 21 of the TAH Act (section 59 of the TAH Act).

The Committee recommended extending both moratoriums for a further 12 months to ensure ongoing stability and certainty for the retail sector and community. To achieve this objective, the Bill includes two transitional arrangements to extend both moratorium periods for a further 12-months until 31 August 2023.

Amendments to Education (Queensland College of Teachers) Act 2005 and Education (General Provisions) Act 2006

The Bill amends the QCT Act and EGPA to give permanent effect to the provisions from the Education COVID Regulation that allow attendance for particular meetings in relation to QCT investigations and meetings of P&C associations to be conducted via communication technology, rather than in person. It also allows for a person that is required to produce a thing as part of a QCT investigation to be able to provide it through a means other than by physical attendance.

The amendments ensure the legislation has an appropriate level of flexibility in the conduct of meetings and allow for advances in technology. The amendments ensure the integrity of QCT investigations and meetings conducted by P&C associations will not be impacted.

The power to amend statutory timeframes under the EGPA and EANS Act, which was also provided for in the Education COVID Regulation, was used sparingly in 2020, and has not been used since. The Bill therefore does not make these provisions permanent.

Alternative ways of achieving policy objectives

Amendments to the Trading (Allowable Hours) Act 1990

The Bill implements recommendations of the Committee to streamline and clarify the operation of the TAH Act, all of which require legislative amendment. There are no alternative means of achieving the policy objectives and to implement the Committee's recommendations other than by legislative amendment.

Amendments to Education (Queensland College of Teachers) Act 2005 and Education (General Provisions) Act 2006

The policy objectives in relation to the conduct of meetings and production of things under the EGPA and QCT Act can only be achieved via amendment to the legislation. While it is expected that meetings will often continue to be attended in person, the flexibility to utilise communication technology, particularly when there are natural disasters, health issues, or significant distance to travel, will ensure that these entities can comply with their regulatory obligations in an efficient, effective manner.

Estimated cost for government implementation

Amendments to the Trading (Allowable Hours) Act 1990

There will be no appreciable cost to government for these amendments, and all costs will be met from existing resources.

Amendments to Education (Queensland College of Teachers) Act 2005 and Education (General Provisions) Act 2006

There are no costs of implementation in relation to amendments to the EGPA and QCT Act.

Consistency with fundamental legislative principles

Amendments to the Trading (Allowable Hours) Act 1990

Section 4(2)(a) and (3) of the *Legislative Standards Act 1992* (LSA) provides that legislation is to have sufficient regard to the **rights and liberties of individuals**.

The TAH Act includes protections for employees from working extended hours unless they have freely elected to do so (see sections 36A, 36AA and 36B of the TAH Act). Employers who contravene these protections may commit an offence. New section 36BA in the Bill introduces a new **offence and penalty provision** to ensure these same protections apply to employees if the QIRC makes a trading area order or makes a declaration for a special event, which will impact on the rights and liberties of individuals who contravene them.

The offence and penalty provision in new section 36BA is considered justified as it will meet the policy objectives of the Bill to implement the Committee's recommendation and to ensure consistent protections for employees from being coerced to work extended trading hours. The proposed offence and the prescribed maximum penalty are consistent with similar, existing offences in sections 36A, 36AA and 36B of the TAH Act.

Section (4)(4)(a) of the LSA allows for the **delegation of legislative power** only in appropriate cases and to appropriate persons. The Bill amends section 21 to clarify the power of the QIRC to make trading area orders. A QIRC trading area order made under section 21 may change the description of a type of trading area set out in section 16D, and consequentially section 16E, of the TAH Act which may constitute the delegation of legislative power.

The QIRC has had power to make trading hours orders since 1964, and this power has continued since the introduction of current TAH Act in 1990. The QIRC must exercise this power having regard to a specific set of criteria and the processes and procedures set out in the primary legislation (for example, see new section 22 of the TAH Act). The QIRC's power to make orders has been integral for ensuring Queensland's retail sector modernised over recent decades (e.g. introduction of Sunday trading) but it also led to complexities and a lack of uniformity due to the range of orders made over time. This issue was partially addressed in the 2017 reforms, which introduced core permitted hours based on location categories, as well as placing a five-year moratorium on the QIRC exercising its power under section 21 of the TAH Act.

The QIRC's power to make orders, both of its own motion or on a relevant application, remains important to proactively address the changing needs of the community and retail sector with a more flexible mechanism than legislative amendment. For example, the QIRC may appropriately exercise its power where the population and demographics of a small town change over time to become a regional hub or tourist area. The Committee also recognised the importance of the QIRC continuing its role as the independent arbiter of considering changes to trading areas, particularly due to divergent stakeholder views and the impact such changes may have on regional communities.

However, the Bill acknowledges the need to limit the delegation of legislative power by restricting the QIRC's powers to including a new location, or shifting an existing location from one trading area type to another, and a requirement this power be exercised having regard to the considerations in new section 22 of the TAH Act. The Bill limits the QIRC's former ability to make more generalised 'trading hours orders' and, consistent with the Committee's recommendations, the QIRC will no longer be able to make orders which vary the core trading hours of the trading areas set out in the primary legislation. The Bill also ensures that if the 2017 trading hours order is inconsistent with the trading area order, the trading area order prevails and any reference to the area must be interpreted consistently with the trading area order.

To limit previous complexities for stakeholders when reconciling prescribed trading hours arrangements with QIRC orders, the Office of Industrial Relations will publish and maintain guidance material, such as a consolidated reference for trading hours arrangements, on a government website.

Amendments to Education (Queensland College of Teachers) Act 2005 and Education (General Provisions) Act 2006

The amendments to the EGPA and QCT Act are consistent with fundamental legislative principles as they have sufficient regard to the rights and liberties of individuals and the institution of Parliament. The amendments ensure that authority for the QCT to require attendance or production of things under section 181 through means other than personal attendance is provided for in primary legislation. The amendments also ensure there is appropriate authority in primary legislation for P&Cs to conduct meetings via communication technology.

Consultation

Amendments to the Trading (Allowable Hours) Act 1990

The Bill implements recommendations arising from the Committee's Inquiry, which included extensive public consultation throughout Queensland.

The Committee's Inquiry received 28 submissions across all relevant stakeholder groups, including employer and employee representatives; 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 metropolitan and regional areas in Queensland.

The views expressed by stakeholders throughout the Committee Inquiry have been considered in preparation of the Bill.

Amendments to Education (Queensland College of Teachers) Act 2005 and Education (General Provisions) Act 2006

Consultation has been undertaken with stakeholders including the QCT, P&Cs Qld, Isolated Children's Parents Association, and Principal Associations (including: Queensland Association of Outdoor & Environmental Education Centre Leaders; Queensland Association of Special Education Leaders; Queensland Association of State School Principals; Queensland Secondary Principals Association; and Queensland Association of Combined Sector Leaders). There is overall support for the amendments to the EGPA and QCT Act.

Consistency with legislation of other jurisdictions

Amendments to the Trading (Allowable Hours) Act 1990

The Bill is specific to State of Queensland.

Queensland is one of three states, along with South Australia and Western Australia, where non-exempt shop trading hours are still subject to restrictions based on geographical location and/or types of goods sold. However, Queensland is the only jurisdiction where trading hours are decided by a combination of a regulatory framework and decisions of the QIRC. In other jurisdictions, trading hours are regulated (South Australia and Western Australia), substantially deregulated (New South Wales, Victoria and Tasmania) or fully deregulated with the exception of some public holidays (Australian Capital Territory and the Northern Territory).

Amendments to Education (Queensland College of Teachers) Act 2005 and Education (General Provisions) Act 2006

As these amendments are highly specific and relate to clarifying how particular meetings and production of things required by Queensland legislation can be conducted, there are no corresponding provisions in other jurisdictions' legislation which directly compare. However, there are examples of clarifying provisions that ensure particular meetings are able to be

conducted via communication technology in the *Victorian Education and Training Reform Act 2006* (s2.6.66(4) and 2.6A.8(6)).

Notes on provisions

Part 1 Preliminary

Clause 1 states that, when enacted, the Bill be cited as the *Trading (Allowable Hours) and Other Legislation Amendment Act 2022*.

Part 2 Amendment of *Education (General Provisions) Act 2006*

Clause 2 provides that this part amends the *Education (General Provisions) Act 2006* (EGPA).

Clause 3 inserts a new section 129A in the EGPA to provide that a person who is required or permitted to attend a P&C association meeting by a provision of the EGPA, including a Regulation made under it, may attend, and is considered present, by using any technology allowing reasonably contemporaneous and continuous communication between persons taking part in the meeting (for example, online videoconferencing or teleconferencing applications).

Part 3 Amendment of *Education (Queensland College of Teachers) Act 2005*

Clause 4 provides that this part amends the *Education (Queensland College of Teachers) Act 2005*.

Clause 5 amends section 181 of the QCT Act to provide that if a person is required to attend a meeting to answer questions by an investigator under the QCT Act, they may attend by using an audio link or audio-visual link (for example, online videoconferencing or teleconferencing applications) rather than in person. It also provides that if a person is required to produce something to the investigator, they can do so in a way that does not require them to physically meet with the investigator (such as using email or the post).

Part 4 Amendment of *Trading (Allowable Hours) Act 1990*

Clause 6 provides that this part amends the *Trading (Allowable Hours) Act 1990*.

Clause 7 amends section 5(1)(c) to provide that exempt shops include a shop operating in an area to which a special event declaration applies. Consequential amendments are made to section 5(2) to (5) to reflect the requirements for making an application for a special event declaration, and the QIRC's powers to decide to declare a special event, are provided for in new part 5, division 3.

Clause 8 makes a consequential amendment to section 16A to omit the definitions for *south-east Queensland area* and *tourist area*.

Clause 9 inserts new section 16AA to consolidate references to areas referenced in the 2017 trading hours order which are relevant to the operation of Part 4. This section confirms that a reference to one of the listed areas in subsections (1)(a)-(h) and an area in schedule 1AB is a reference to that area within the meaning of the 2017 trading hours order, as published on the QIRC's website. However, subsection (4) clarifies that if the 2017 trading hours order is

inconsistent with an order made under section 21, it is the order made under section 21 that prevails to the extent of the inconsistency and the reference to the area must be interpreted consistently with the trading area order.

Clause 10 amends section 16B to clarify that a non-exempt shop must be closed for the day other than during the shop's core trading hours under subdivision 2 or, if applicable, the extended trading hours under subdivision 3.

Clause 11 amends section 16D to insert a new table of core trading hours for shops (other than hardware shops or shops selling motor vehicles and caravans). The new table designates four types of trading areas and the core trading hours in each:

- type 1 (formerly 'tourist areas')
- type 2 (formerly 'south-east Queensland')
- type 3 (areas specified in schedule 1AB); and
- type 4 (any area not designated as type 1, type 2 or type 3 and formerly the 'seaside resort' and 'any other area' categories).

The core trading hours are altered only in type 4 trading areas, where trading on public holidays (other than closed days) is permitted between 9:00 am and 6:00 pm.

Clause 12 amends section 16E to insert a new table of core trading hours for hardware shops. The new table uses the four types of areas described in section 16D and the trading hours of each. The core trading hours have not been altered.

Clause 13 makes a consequential amendment to section 20A to reflect that the south-east Queensland area refers to the meaning given in former section 16A immediately before the commencement.

Clause 14 makes a consequential amendment to amend the heading for part 5 (Orders and declarations by commission).

Clause 15 inserts a new part 5, subdivision 1 heading (Making trading area orders).

Clause 16 replaces the current section 21. The new section 21 provides that the QIRC may make orders designating an area as a type 1, type 2 or type 3 area (including designating an area listed in section 16AA as a type 1 or type 2 area, or changing such an area's boundaries) for the purposes of section 16D. The QIRC may also alter the boundaries of an area in schedule 1AB for the purposes of section 16D.

This power is limited in that the QIRC may not make an order that has the effect of reducing the core trading hours for a non-exempt shop in the relevant area.

If an area becomes the subject of an order under this section and was not previously described in the 2017 trading hours order or schedule 1AB, the QIRC must identify the external boundaries of the area.

The Bill also confirms that a trading area order has effect for the purpose of section 16D and, to the context permits, section 16E.

Clause 17 inserts new section 22 to set out the criteria the QIRC must consider before making a trading area order. These criteria are modelled from, and are largely consistent with, former

section 26. New section 22 requires the QIRC consider the views of a local government if the local government is either an applicant for the order or has been granted leave to appear under section 23(5).

Clause 18 inserts a new part 5, division 2 heading (Powers and procedures for trading area orders).

Clause 19 amends section 23 to clarify the heading of the section relates to the powers and procedures of the QIRC for making an order under section 21. Subsection (2), which currently permits the QIRC to delegate the making of certain administrative arrangements to the chief inspector, is omitted. Consequential amendments are made to subsections (3)-(5) to clarify the language and notice requirements for the QIRC in accordance with contemporary standards and to renumber subsections.

Clause 20 omits section 26 as the matters relevant for the QIRC's consideration of trading area orders are provided in new section 22.

Clause 21 inserts new part 5, division 3 (Special event declarations).

New section 31A provides power for the QIRC to declare an event a special event on application by a chief executive, local government, organisation or any other person. Subsection (2) sets out requirements that the special declaration must state the details of the event, the period and the area for which the declaration applies and that the offence in section 36BA applies to protect employees of particular shops in the stated area to freely elect to work extended hours, if so declared. Subsection (3) provides that special event declarations must be published on the QIRC website.

New section 31B sets out the considerations of the QIRC in deciding whether to declare an event a special event. Subsection (1) specifies the four major considerations and subsection (2) confirms the matters the QIRC must have regard to when determining if the four major considerations apply. These considerations include submissions of a local government of an area likely to be impacted and industrial organisations in relation to the likely impact on employees.

Clause 22 amends section 36A by omitting subsection (2). By removing this subsection, the protection applies by requiring an employee's written consent to work extended hours irrespective of any applicable industrial instrument. Consequential amendments are also made to subsection (3) to omit the definition of 'industrial instrument' and renumber subsections.

Clause 23 amends section 36AA by omitting subsection (2). By removing this subsection, the protection applies by requiring an employee's written consent to work extended hours irrespective of any applicable industrial instrument. Consequential amendments are made to subsection (3) and (4) to insert a definition of 'south-east Queensland area', omit the definition of 'industrial instrument' and to renumber subsections.

Clause 24 amends section 36B by omitting subsection (2). By removing this subsection, the protection applies by requiring an employee's written consent to work extended hours irrespective of any applicable industrial instrument. Consequential amendments are made to subsection (4) to omit the definition of 'industrial instrument' and to renumber subsections.

Clause 25 inserts new section 36BA to prescribe that it is an offence for an employer to require an employee to work during extended hours unless the employee has freely elected to work those hours. The offence applies to core trading hours increased by an amendment of the TAH Act commencing or if a trading area order or special event declaration of the QIRC take effect. Subsection (2) confirms the maximum penalties for a first, second or later offence as 16 penalty units or 20 penalty units respectively. Subsection (3) clarifies when an employee has not freely elected to work, including that the employee is not taken to have given their consent only because they are rostered on or required to work due to their industrial instrument. Subsection (4) provides the definitions applicable to the section, including ‘allowable trading hours’, ‘elect’ and ‘extended hours’.

Clause 26 inserts a new part 8, division 7 (Transitional provisions for Trading (Allowable Hours) and Other Legislation Amendment Act 2022).

New section 64 includes the definitions for new part 8, division 7.

New section 65 applies to shops in the Mossman and Port Douglas Tourist Area. Subsection (2) provides that for a period on commencement and ending on 31 August 2023, a non-exempt shop is taken to be an exempt shop or, if an independent retail shop, section 17 does not apply. For this section, the Mossman and Port Douglas Tourist Area has the meaning given by the 2017 trading hours order.

New section 66 provides a moratorium period on trading area orders and restrictions on making applications. For the period on commencement and ending 31 August 2023, subsection (1) provides that the QIRC must not make an order, and applications cannot be made for an order, under section 21. If an application for an order is made, or purportedly made, during the moratorium period, subsection (2) confirms the application is of no effect.

New subdivision 3 relates to declaration of events.

New section 67 confirms that a declaration for an event made before commencement that has not started but not yet ended is deemed to be a special event declaration under the amended Act. If the event has started, but not ended, former section 5 applies. New section 68 confirms that an application made before commencement under former section 5 which has not yet been heard by the QIRC will be subject to new part 5, division 3. New section 69 confirms that if an application made prior to commencement has been heard, but not yet decided by the QIRC, former section 5 applies for the purpose of hearing and deciding the application. Subsection (3) confirms that the declaration is taken to be a special event declaration under the amended Act.

Clause 27 makes a consequential amendment to rename schedule 1AB ‘Type 3 trading areas’ and to omit item 4 (Mossman and Port Douglas Tourist Area) as this area has been re-categorised as a Type 1 trading area.

Clause 28 amends the dictionary in schedule 1 to omit the definitions of ‘south-east Queensland area’ and ‘tourist area’ and insert definitions for ‘industrial instrument’, ‘special event declaration’, ‘trading area’ and ‘trading area order’.

Part 5 Minor and consequential amendments

Clause 29 notes that schedule 1 amends the legislation it mentions.

Schedule 1

Clause 1 updates the heading to ‘Definitions’.

Clauses 2 to 5 make consequential amendments to sections 23A(1), 24, 25(3) and 27 to replace references to an order under section 21 with ‘a trading area order’ to ensure consistency throughout the TAH Act.

Clause 6 omits sections 36C(1)(c) and (d) as the QIRC is no longer able to make an order which varies the core trading hours of a non-exempt shop under part 4, division 2 of the TAH Act.

Clause 7 omits section 46B.

Clause 8 makes a consequential amendment to Schedule 1AA to reflect the updated numbering for section 5.

Clause 9 inserts a note in Schedule 1AB to see also section 16AA in relation to the meaning of references to particular areas in the schedule.