

Office of the Queensland Small Business Commissioner
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Our ref: QSBC-3234

15 October 2021

Committee Secretary
Education, Employment and Training Committee
Parliament House
BRISBANE QLD 4000
(via email to [REDACTED])

Re: Inquiry into the operation of the *Trading (Allowable Hours) Act 1990* (the Act)

Introduction

1. As the Queensland Small Business Commissioner (QSBC), I welcome the opportunity to provide a submission to the Education, Employment and Training Committee on the operation of the *Trading (Allowable Hours) Act 1990* (the Inquiry).
2. The QSBC was temporarily established on 28 May 2020 under the COVID-19 Emergency Response Act 2020, and on 12 October 2021 the Minister for Employment and Small Business introduced a bill to parliament to permanently establish the office of the small business commissioner. A main function of this office is to advocate on behalf of small businesses.

The effects of trading hours regulation on the Queensland economy and on regional Queensland (3)

3. There are more than 452,000 small businesses in Queensland – representing over 97% of all businesses. Small Businesses contribute around \$120 billion to the Queensland economy, and employ more than 914,000 people, which is around 42% of the private sector workforce¹.
4. While the QSBC acknowledges that major retailers may draw foot traffic to shopping precincts, the ability to trade for extended hours as an ‘exempt shop’ under the Act provides a potential competitive advantage for small and independent retailers.
5. More than 60% of the commercial leasing disputes lodged with the QSBC have been made by businesses that are ‘exempt shops’ under the Act² – suggesting that small and independent retailers have been heavily impacted by the COVID-19 emergency, resulting in sharp declines in turnover and reduced profitability.
6. Any change to trading hours regulation should give consideration to how it may affect the competitive advantage of small and independent businesses, help small businesses recover from the impacts of the COVID-19 pandemic, and whether it will enhance the overall operating conditions for small businesses in Queensland.

Examining the impact of the moratorium on trading hours orders and restriction on making applications (section 59 of the Act) and recommendations following its expiry (1.a); and

The role of the Queensland Industrial relations Commissioner in setting permitted hours outside the prescribed hours (1.f)

7. The Queensland Industrial Relations Commission's (QIRC) Background Information paper states that: *Prior to the 2017 amendments, 99 trading hours provisions were contained in 40 pages of QIRC orders. Much of the complexity and confusion surrounding Queensland's permitted trading hours have been attributed to these orders. The decision to replace orders with legislated permitted hours was made to simplify arrangements for all parties, to reduce regulatory red tape and to create greater efficiencies for businesses.*
8. If the moratorium is lifted and the QIRC's power to make trading hours orders reinstated; the regulatory streamlining achieved under the 2017 Act amendment may be undone. The QSBC is concerned this could result in a more complex trading hours landscape with numerous trading hour arrangements in place.
9. The QSBC suggests that broader regulatory reform should consider how trading hours influence the overall operating environment for small business.

Examination of applications made, and consequences, for relation of provisions under section 5 of the Act and recommendations for improvement (1.c)

10. For the QIRC to declare an event to be a 'special event', and therefore grant extended trading hours to major retailers, the QIRC must currently consider: the cultural, religious or sporting significant of the event; and the significance of the event to the economy and tourism industry.
11. The QSBC proposes that the 'special event' assessment criteria be reviewed and amended to more holistically assess whether a special event's economic benefits will flow throughout the local business community, not just to major retailers.
12. The review should also identify common types of 'special event' applications received by the QIRC to date, and consider a streamlined approval process for reoccurring events to reduce administrative burden. Decisions regarding applications for 'special events' should also be made and communicated in a timely manner, to ensure that small and independent retailers have sufficient time in advance to plan and take advantage of the potential economic benefits.

Conclusion

13. The QSBC broadly supports the streamlining and simplification of trading hours to make it easier for small businesses and consumers to navigate.
14. Any questions regarding the QSBC's submission to this Inquiry can be directed by email to [REDACTED]

Sincerely,



Maree Adshead
Queensland Small Business Commissioner
Office of the Queensland Small Business Commissioner

References

¹ [Big Plans for Small Business Strategy 2021-2023](#) - Department of Employment, Small Business and Training (Page 3)

² QSBC Dispute notices lodged with ANZSIC classification 'Retail Trade', 'Food Services', 'Other Services' (28 May 2020–13 October 2021)