

# INQUIRY INTO THE OPERATION OF THE *TRADING (ALLOWABLE HOURS) ACT 1990*

*Submission to the Education, Employment  
and Training Committee*

October 2021

## Introduction

The Chamber of Commerce and Industry Queensland (‘CCIQ’) welcomes the opportunity to make a submission to the Education, Employment and Training Committee’s inquiry into the operation of the *Trading (Allowable Hours) Act 1990* (‘the Act’). CCIQ acknowledges the importance of this piece of legislation and how changes to this piece of legislation will affect businesses throughout Queensland.

CCIQ is Queensland’s peak industry representative organisation for small and medium-sized enterprises (‘SME’). We represent over 448,000 Queensland SMEs who employ over 66% of Queenslanders working in the private sector. CCIQ works with a regional chamber network across Queensland to develop and advocate for policies that are in the best interest of Queensland businesses, the Queensland economy, and the Queensland community.

Over the years, CCIQ has made several submissions on the topic of Queensland retail trading hours, including a joint submission with the Market Growers Association in response to the 2016 Queensland Trading Hours Review and a Blueprint on Queensland Shop Trading Hours developed in 2014. CCIQ are advocates of reform in this area to cut red tape, reduce complexity and improve the operating environment for all Queensland businesses to do business.

## Previous Submission on Queensland Trading Hours

CCIQ’s submission to the 2016 Queensland Trading Hours Review examined previous issues regarding the duopoly in Queensland, the constant push by non-exempt stores to receive extended hours despite this not necessarily equating to the benefits promised, namely increased employment and economic growth. CCIQ previously advocated for the five-year moratorium on the extension of non-exempt store trading hours, re-defining independent retail shops and exempt shops so that they reflect those mum and dad businesses and that changing trading hours should be decided by government.

Many years have passed since the review in 2016, and with this the economic, market and operating conditions which businesses operate in have also undergone considerable change. CCIQ’s position on the issue of retail trading hours has consequently changed, in line with our member’s sentiment on this issue.

## Current context

With respect to the current inquiry, it is important to consider how operating conditions have changed. Restrictions attributed to the COVID-19 pandemic have created many difficulties for Queensland small businesses. Enforced lockdowns and covid restrictions, no international tourism and an increase in the use of eCommerce has greatly impacted our economy and communities.

Lockdowns and ongoing health restrictions have increased the use of eCommerce by shoppers across Australia. In Australia Post’s *eCommerce Industry Report (2021)* 82% of all households during 2020 were recorded to have shopped online, with 1.36 million households having made an online purchase for the first time during that year. Consumers now expect their online shopping frequency to remain 28%

higher than before the pandemic.<sup>1</sup> Due to convenience, consumers are choosing to adopt online shopping as a more frequent practice and will likely continue shopping online into the future.

In the year ending June 2020, Queensland received more than 22 million domestic and international overnight visitors. Tourism and the broader visitor economy contribute \$28 billion to the state's economy, with visitors spending \$54.2 million per day in the year ending 2020. The tourism industry directly and indirectly employs 234,000 Queenslanders,<sup>2</sup> and is a key industry for a significant number of Queensland regions including Port Douglas, Mossman, Cairns, Townsville, Gold Coast and the Sunshine Coast.

Regional economies need more opportunities under the current conditions to gain further economic benefits by meeting consumer expectations. The last thing we should be doing is creating disincentives for businesses to establish themselves and thrive in regional communities.

We need to acknowledge that the conversion of many to online shopping and the lack of tourists is not something that is not going to change for a considerable amount of time. Consumer preferences for both e-commerce and bricks-and-mortar purchasing modes both need to be included in the deliberations around regulating retail trading hours.

## **The impact of amendments made by the Trading (Allowable Hours) Amendment Act 2017**

### **a. s59 Moratorium during COVID on applications made by non-exempt shops**

After the 2016 review, a five-year moratorium was placed on accepting applications to extend the trading hours of non-exempt stores. Core trading hours were extended depending on the area the shop operated in. The moratorium was well received initially, as a means to allow for a benchmark which could measure the impacts and benefits of the already extended hours for non-exempt stores.

Under the current pressures largely prompted by the impacts of the COVID-19 pandemic, many regions consulted on this issue have stated that the moratorium has at times been a barrier. Not having the flexibility to change the hours of stores was stifling to the livability of communities and has been seen to exacerbate difficulties with job creation and economic prosperity.

### **b. s56 Mossman and Port Douglas**

The Port Douglas and Mossman areas, under s56 of the Act, had all retail stores in the tourist area treated as being in the exempt (unrestricted trading) category for the past five years. Port Douglas and Mossman's economy has been primarily driven by tourism due to its proximity to the Wet Tropics World Heritage Area, National Park, and the Great Barrier Reef World Heritage Area.<sup>3</sup> The industry supporting the greatest employment in the region in 2019/20 was accommodation and food services.<sup>4</sup>

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<sup>1</sup> Australia Post, eCommerce Industry Report 2021, <https://auspost.com.au/business/marketing-and-communications/access-data-and-insights/ecommerce-trends>, p16.

<sup>2</sup> Business Queensland, 2020, Tourism Market Profile, <https://www.business.qld.gov.au/industries/invest/tourism-investment/market-profile>.

<sup>3</sup> Douglas Shire, 2020, 'Economy and Industry', <https://douglas.qld.gov.au/about-the-shire/economy-industry/>.

<sup>4</sup> <https://economy.id.com.au/douglas/employment-by-industry>.

The deregulation of trading hours in Mossman and Port Douglas has been noted by the local chamber of commerce as being crucial to businesses' survival and they have advised they will be seeking a further expansion for surrounding areas that are not currently included.

**c. S5 applications made for relaxations (special events)**

Allowing for applications to be made during special events was very important for businesses in the area. By allowing greater flexibility to trade during events, businesses were able to open their doors when they chose and take advantage of the best times economically.

**d. Effectiveness of prescribing permitted hours**

Evidence collected in consultations undertaken so far has strongly indicated that trading hour restrictions limit the attractiveness of the regions to tourists and community accessibility. The view is that businesses should be able to decide to open so long as employees are freely willing to work, which is a view that is supported by CCIQ.

**f. Role of QIRC in setting permitted hours**

The exemption processes require significant time and money to present a case before the QIRC. This makes it difficult to access for smaller establishments. For now, this process is sufficient however, in the future it would be beneficial if this process was simplified and streamlined for better business accessibility.

## **The operation and performance of the provisions of the Act; how, in practice, different provisions are contributing to the objects of the Act; and considerations for the impact of the existing framework for the regulation of trading hours in Queensland**

Queensland retail shop trading hours are extremely complex and require considerable time for businesses to comply with them. There are three defined categories of retail shops, exempt, independent retailers and non-exempt.

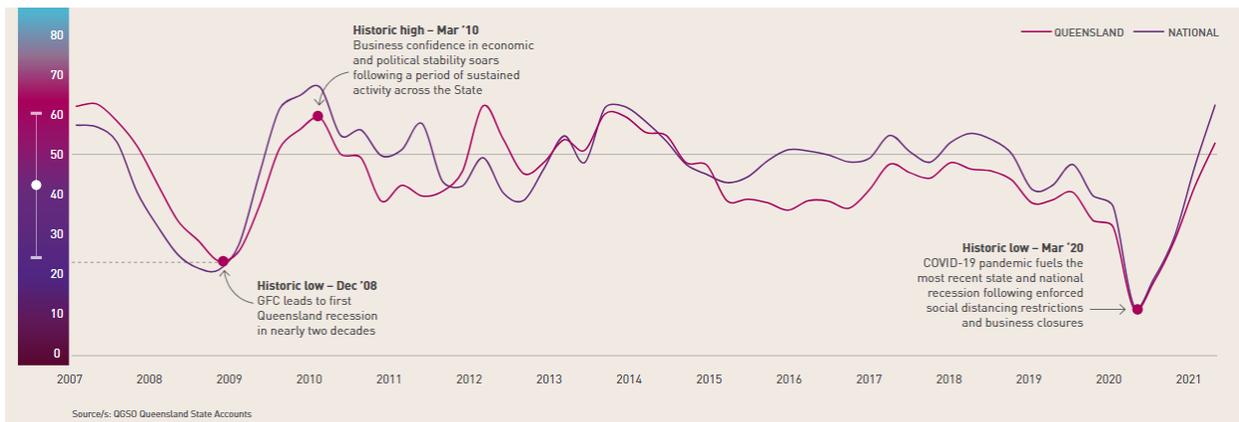
Non-exempt shops are the most heavily regulated with complex legislation dictating opening and closing hours depending on the area and type of good being sold for opening hours during weekdays, Saturday, Sunday, and Public Holidays. At times, these hours will differ by only a few hours (area-to-area) and may also stop non-exempt businesses from opening on Sundays.

Several chambers consulted discussed irritation in trading hour discrepancies along boundaries of differing areas. This has improved a great deal as the number of areas has shrunk significantly since 2016 however, businesses are still experiencing difficulties. For example, shops on the side of a road may be considered a 'tourist area' and able to trade on a Sunday, whilst a shop on the other side may be categorised as 'all other areas' and not be able to open. This results in all foot traffic being diverted to areas that can open and creates market opportunities for shops nearby to trade.

## The effects of trading hours regulation on the QLD economy and on regional Queensland

Prior to COVID-19, Queensland’s business sentiment was already sitting below satisfactory (with a Pulse Business Index trending below 50), only recovering recently in 2021 (see figure 1). Indicators informing the Pulse Business Index historic trend has shown that inefficiencies and onerous regulatory burdens are often the culprit of stifled business conditions, constraining business sentiment and impacting businesses’ forward outlook.

Figure 1: Pulse Business Index 2007 - 2021



Source: CCIQ Pulse Survey, March 2021

Queensland has very complex regulations around retail shop trading hours. Often the argument put forward is one of small business versus large business, whereas CCIQ advocates that **the focus should be on the overall compliance burden of the regulation on the economy and business.**

Consultation with business stakeholders across Queensland has validated that:

1. **Trading hour restrictions limit the attractiveness of the regions to tourists**
2. **Large retailers opening attracts customer foot traffic**
3. **Large businesses contribute greatly to employment opportunities**
4. **All businesses should be able to decide when and for how long they wish to open so long as employees are freely willing to work**
5. **The legislation in its current form is far too complex and is not competitive**

Frustrations surrounding retail trading hours in Queensland is common during the Christmas and New Year period. It is necessary that non-exempt stores are able to trade freely to leverage periods of peak economic demand as they see fit. This is also relevant to supporting the economy recovery of business in the present COVID-19 climate where many retailers are facing ongoing disruptions and trading turbulence as a result of forced closures, the end of stimulus support, and ongoing public health restrictions.

While full deregulation remains a contentious issue for businesses across Queensland, CCIQ believes that taking the opportunity to improve the current regulation is the most beneficial course of action.

**There is strong support from business to improve regulation as it stands to achieve greater simplicity and consistency.** This supports efficiency, productivity and will improve the competitiveness of our state's business community.

**This could be achieved by:**

- **Ensuring the objectives of the legislation are current and reflect the need to support small business competitiveness**
- **Simplifying retail trading regulation areas and consolidating to a single set of trading hours across weekdays, Saturday, Sunday, and public holidays**
- **Having two discrete categories of shops, exempt and non-exempt**
- **Simplifying and streamlining the exemption process to improve participation**

These reforms will help deliver benefits by simplifying the administrative burden for the government and reducing compliance costs for the business community.

## **Conclusion**

CCIQ would like to thank the Education, Employment and Training Committee for the opportunity to make a submission on the inquiry into the operation of the *Trading (Allowable Hours) Act 1990*.

We look forward to presenting at the hearing and are working to compile further evidence and feedback from our members to table at the hearing. If there are any questions in relation to the submission, please contact Luisa Baucia (Policy Advisor) at [lbaucia@cciq.com.au](mailto:lbaucia@cciq.com.au).