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# QUEENSLAND INDUSTRY SUBMISSION

Finance and Administration Committee

## Industrial Relations Bill 2016

30 September 2016



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## Overview

1. The Chamber of Commerce and Industry Queensland (CCIQ), the Queensland Tourism Industry Council (QTIC), Clubs Queensland and MGA Independent Retailers collectively welcome the opportunity to provide feedback to the Finance and Administration Committee on the Industrial Relations Bill 2016.
2. The objectives of the Bill are to repeal and replace the current Industrial Relations Act 1999 to provide a framework for the conduct of industrial relations within the state's industrial relations jurisdiction, as well as use the Bill as a vehicle to introduce an additional public holiday for Easter Sunday 2017 onwards.
3. Queensland recently conducted its first comprehensive review of Queensland's industrial laws since 1998 through the appointment of the independent Industrial Relations Legislative Reform Reference Group. As a contributing member of the Reference Group, CCIQ provided formal commentary as part of the wide-ranging review of the Industrial Relations Act 1999 (Qld).
4. CCIQ is largely neutral to the substance of the Bill before the Committee, and refers the Committee to the Chamber's public submissions as part of consultations through the Reference Group for specific policy positions on matters contained within the Bill.<sup>1</sup> The Queensland business community is largely neutral to the Bill due to the State Government's referral of its powers to make laws with respect to industrial relations matters for private sector employees to the Fair Work Act 2009 (Cth) and framework.
5. The object of this submission is for our respective organisations to comment primarily on the proposal to amend the Holidays Act 1983 to provide that, from 2017, Easter Sunday be a public holiday.
6. Our organisations strongly urge the Committee to oppose the proposal to make Easter Sunday a public holiday due to the enormous pressure it will place on retail, hospitality, and accommodation small businesses across Queensland, particularly those operating in key tourism areas.
7. This submission will outline the economic and operational impacts that this proposal will have on small businesses in Queensland such as the hours' they offer their staff, the impact on opening and operating hours, and explore the broader consequences for Queensland's economy.
8. Additionally, our organisations express concern that the decision to declare Easter Sunday a public holiday was a last minute ministerial directive that occurred entirely outside the scope of the appointed Reference Group. CCIQ can confirm that no discussions were had on the proposal for an Easter Sunday public holiday as part of our participation in the Reference Group.
9. Our organisations also note the claims from the State Government that declaring Easter Sunday a public holiday will harmonise Queensland with the national framework. In fact, only New South Wales, Victoria and the Australian Capital Territory currently declare

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<sup>1</sup>CCIQ Submission - Industrial Relations Legislative Reform Reference Group Industrial Relations Act 1999 (Qld) 21 October 2015 found at <https://www.cciq.com.au/assets/Advocacy/Submissions/CCIQ-Submission-Industrial-Relations-Reform-Qld.pdf>

Easter Sunday a public holiday, thereby undermining the State Government's claim that this step is a move towards greater national consistency with respect to public holidays.

10. Further, the business community expresses deep frustration with the lack of formal consultation on this issue. Our organisations believe the State Government should have exercised best practice legislative development by drawing on the views of those most impacted by the decision.
11. This submission will flesh out the abovementioned points to argue against the declaration of 2017 Easter Sunday public holiday, and will provide substantive evidence to be closely considered by the Committee prior to making recommendations to the Queensland Legislative Assembly.
12. The evidence provided is drawn from an extensive survey of over 330 Queensland retail, hospitality, and accommodation businesses, conducted from 14 September 2016 through to 23 September 2016.

## **Key Findings**

### **Microeconomic Impacts**

- 27.6 per cent of all retail, hospitality, and accommodation businesses that opened on Easter Sunday 2016 will now close in 2017 with an average loss of gross revenue of \$10,739 (median \$4,750).
- A further 27.1 per cent of businesses that opt to remain open will reduce their opening hours on Easter Sunday 2017 by an average 4.4 hours (median 4.0 hours).
- For those businesses that are willing or forced to trade on Easter Sunday 2017 but are unable to reduce either opening hours or employment hours offered will have their wage costs increase on average by \$3,225 (median \$1,287).
- 61.8 per cent of businesses that will open on Easter Sunday 2017 will offer fewer hours of employment to their workforce.
- On average 7.2 (median 4.0) employees in each business will be offered on average 2.4 hours (median 2.8 hours) less hours of employment.
- Furthermore, of those businesses that opened on Easter Sunday 2016, 19.7 per cent now expect to also close on Good Friday 2017, 12.0 per cent on Easter Saturday 2017 and 13.0 per cent on Easter Monday 2017. These businesses would have otherwise opened on these days.

### **Macroeconomic Impacts**

- 4,998 retail, accommodation and hospitality businesses are now expecting to close their doors on Easter Sunday 2017.
- 3,537 retail, accommodation and hospitality business will open but will reduce their hours of opening.
- Collectively these businesses are estimated to lose \$32 million in gross revenue.
- Of all employees that worked on Easter Sunday 2016 40.7 per cent will receive either no or significantly less hours of employment. 24,939 employees will no longer receive work

on Easter Sunday 2017 and a further 32,285 employees will have reduced hours of work offered to them.

- Collectively \$12.2 million in earnings will be lost to these employees.
- Regardless of attempts to offset wage rises through reducing hours of opening or hours of employment offered, overall wages bill will rise by \$13.9 million.
- The total economic impact of the creation of an Easter Sunday Public holiday in 2017 is estimated to cost the retail, accommodation and hospitality sectors \$58.2 million.

13. The survey results reinforce the need for the State Government to reconsider its decision to create an additional public holiday for Easter Sunday. Overall, the sentiment amongst Queensland small businesses is clear; the impost of a public holiday that attracts additional penalty loadings makes it remarkably difficult for businesses to operate in a financially viable manner across the Easter period.

14. To this end, our organisations urge the Committee to consider the results of our survey, listen to the business community, and note that the effect that an unnecessary additional public holiday for 2017 onwards purposefully undercuts the engine room of our economy.

**Recommendation: Our organisations urge the Committee to recommend the removal of Chapter 19 Amendment of Acts, Part 3 Amendment of Holidays Act 1983, Section 1108 Amendment of schedule (Public holidays).**

## Impact of Easter Sunday public holiday on Queensland Business

15. Our organisations are strongly opposed to the introduction of an additional public holiday in Queensland for Easter Sunday.
16. This decision is particularly damaging to small business, many of whom are already struggling in an overregulated and inflexible workplace relations environment that already includes significant weekend penalties for employees.
17. Principally, concerns regarding this Bill emanate from businesses that operate on Easter Sunday including the retail, tourism, accommodation, hospitality, and agricultural industries.
18. This Bill has one and only one practical impact and that is to substantially increase penalty rate loadings as evidenced by the following table:

<b>General Retail Award</b>					
Level 1 Part-time and Full-time	\$	% loading	Level 1 Casual	\$	% loading
Ordinary hours	\$19.44		Ordinary hours	\$24.30	
Sunday	\$38.88	200	Sunday	\$38.88	200
Public Holiday	\$48.60	250	Public Holiday	\$53.46	250
<b>Hospitality Industry (General)</b>					
Level 1 Part-time and Full-time	\$	% loading	Level 1 Casual	\$	% loading
Ordinary hours	\$17.70		Ordinary hours	\$22.13	
Sunday	\$30.98	175	Sunday	\$30.98	175
Public Holiday	\$44.25	250	Public Holiday	\$48.68	275
<b>Fast Food Industry Award</b>					
Level 1 Part-time and Full-time	\$	% loading	Level 1 Casual	\$	% loading
Ordinary hours	19.44		Ordinary hours	24.3	
Sunday	29.16	200	Sunday	34.02	200
Public Holiday	48.6	250	Public Holiday	53.46	275

Source: Chamber of Commerce and Industry Queensland, September 2016

19. The impact of increased penalty loadings on the financial viability of such businesses throughout the Easter period is significant. Businesses that operate seven days a week or outside the traditional concept of 'normal trading hours' are unnecessarily exposed to increased wage costs, resulting in businesses closing for longer periods or reducing staff numbers, having negative flow on effects for employers, communities, and the economy.
20. For those businesses in the service sector, closing over Easter is oftentimes not an option due to consumer expectations that such services be available over the Easter period.
21. The table above highlights the significant increase in penalty loadings for a public holiday as opposed to a regular Sunday wage rate. This exorbitant increase in wages costs due to

the sometimes 275% loading on a public holiday for awards makes it remarkably difficult for businesses to justify opening their doors.

22. To this end, as a result of the decision by the State Government, small businesses will be forced to either absorb the increase in costs to open on this day, reduce staff levels and/or working in their business themselves in order to minimise loss.

## Summary of Survey Findings

### Methodology

23. CCIQ, QTIC, MGA, and Clubs Queensland have collectively surveyed our members on the proposed Easter Sunday public holiday to collect information about the impact on small businesses from creating an additional public holiday on Easter Sunday.
24. The survey considered the additional costs that the creation of a public holiday would have on businesses, such as increased wage costs, as well as the potential impact on employees through reduced hours of paid employment.
25. The reference population consisted of retail, hospitality, and accommodation small businesses operating in Queensland, and were self-selected from the membership databases of CCIQ, QTIC, MGA Independent Retailers, and Clubs Queensland.
26. Data were collected between Wednesday, 14 September and Friday, 23 September using an electronic, self-completion survey that asked respondents numerous questions relating to trading on Easter Sunday.
27. A copy of the questionnaire is located in Appendix One (1). 64 businesses from other industry sectors were excluded as they did not trade on Easter Sunday, and do not trade on weekends.
28. The **final analytic sample comprises 266** small and medium sized businesses from across Queensland, with the largest proportion of respondents (33.8%) being from the retail sector.

Table 1. Analytic sample, by industry

<b>Industry</b>	<b>n</b>	<b>%</b>
Accommodation	46	17.3
Amusement & Other Recreation	13	4.9
Health & Fitness Operators	4	1.5
Hospitality	65	24.4
Other	38	14.3
Recreation, Arts & Cultural	10	3.8
Retail	90	33.8
Total	266	100.0

## Survey Findings

29. Survey findings are as follows:

a. **Does your business open on Easter Sunday?**

Yes - 74.8% (n = 199)

No - 25.2% (n = 67)

b. **If you do not open on Easter Sunday, is this because of Sunday penalty rates?**

Yes - 43.3% (n = 29)

No - 56.7% (n = 38)

Of those businesses surveyed, 2 in 5 businesses would open on Sunday if it wasn't for Sunday penalty rates, indicating that Sunday penalty loadings are already acting as a barrier for businesses opening their doors on Sunday. This demonstrates that the existing policy behind penalty rates represents a failure to recognise the requirements of businesses operating in the 24/7 economy, such as those in the services sector.

c. **How many employees worked in your business on Easter Sunday (2016)?**

Sum (n = 199) - 2,681

Average - 13.5

Median - 6.0

When respondents were asked how many employees worked in their business on Easter Sunday in 2016, the average number of employees was approximately 13.5, with a median of 6 staff.

d. **How many hours of employment did each employee receive (2016)?**

Average - 6.2

Median - 6.0

Of those businesses that opened on Easter Sunday in 2016, the average number of hours offered to staff on that day was 6.2 hours (median 6.0).

e. **Due to the creation of a public holiday on Easter Sunday, will your business now close?**

Yes - 27.6% (n = 55)

No - 72.4% (n = 144)

Employees impacted -	456
Hours (Avg.) -	7.2
Hours (Median) -	7.0
Hours (Sum) -	3,435

Of the businesses that opened on Easter Sunday in 2016, 27.6 per cent of businesses will now close as a result of the government's announcement. Of the 27.6 per cent of businesses that will no longer open due to public holiday penalty loadings, 456 or 17 per cent of employees will now lose payable employment on Easter Sunday.

These results demonstrate the tangible loss in paid employment as a result of the declaration of an additional public holiday in Queensland. An Easter Sunday public holiday has significant consequences for employees of businesses who have made the decision to close their doors as a result of the unnecessary impost of a public holiday. In effect, staff will now lose the income they would've earned had this decision not been announced by the State Government.

**f. By closing, what is the estimated loss in gross revenue?**

Average -	\$10,739 (n = 55)
Median -	\$4,750 (n = 55)
Sum -	\$590,650 (n = 55)

When businesses were asked what impact closing on an Easter Sunday public holiday would have on their gross revenue, those businesses that opened in 2016 estimated an average loss of \$10,739 as a result of not opening on an Easter Sunday public holiday. The results demonstrate that an Easter Sunday public holiday has genuine implications for revenue lost where trade is substantial.

**g. Due to the creation of a public holiday on Easter Sunday, will your business now reduce its opening hours?**

Yes -	27.1% (n = 39)
No -	72.9% (n = 105)

Of those businesses surveyed, 27.1 per cent of businesses that choose to stay open on Sunday in 2017 will offset the increased impost of higher penalty rates by reducing operating hours on that day.

**h. How many fewer hours will your business operate on Easter Sunday?**

Average -	4.4hrs (n = 39)
Median -	4.0hrs (n = 39)

Of those businesses that choose to stay open, and will reduce their operating hours to manage the cost impost of higher penalty loadings, the average reduction in operating hours on Easter Sunday in 2017 is approximately 4.4 hours. The qualitative data suggests that a reduction in the hours of operation will impact on customer expectation that a business' services and goods be delivered consistently.

**i. What is the estimated additional wage cost for operating on Easter Sunday?**

Average -	\$3,225 (n = 48)
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Median -	\$1,287 (n = 48)
Sum -	\$154,780 (n = 48)

For those businesses that will remain open, but will not reduce their hours of operation and won't change their levels of employment, the average increase in wages as a result of the public holiday penalty loading in \$3,225 per business surveyed.

**j. Due to the creation of a public holiday on Easter Sunday, will your business now reduce staff levels on this day?**

Yes -	61.8% (n = 89)
No -	38.2% (n = 55)

Of those businesses surveyed, two thirds indicated that they will reduce their staff levels on Easter Sunday. Again, the quality of service a business is able to offer at any given time is largely determined by staffing levels. As a result of the decision by the State Government, businesses that remain open will be forced to compromise service standards.

This decision is disastrous on a broader scale as the growth of the services sector is underpinning Queensland's transition from the resource boom. Our organisations believe that such a decision by the State Government is hitting industries that Queensland is relying upon to steer growth into the future, which has acute consequences for the health of Queensland's economy, and highlights that the Government is out of touch with economic trends and business expectations in respect to this decision.

**k. How many employees will be offered fewer hours?**

Sum (n = 89) -	637
Average -	7.2
Median -	4.0

Of those 89 businesses that have said they will reduce staff levels as a result of an Easter Sunday public holiday in 2017, the decision will impact 637 staff, or 23.8 per cent of employees.

**l. How many fewer hours of employment will each employee be offered?**

Hours (Avg.) -	2.4hrs
Hours (Median) -	2.8hrs
Hours (Sum) -	1,947

On average each employee will have their hours of employment cut by 2.4 hours.

**m. As a result of Easter Sunday becoming a public holiday, will you now close on the following (n = 171)?**

Day	Yes	No	Total
Good Friday (n = 127)	19.7%	80.3%	100.0%
Easter Saturday (n = 167)	12.0%	88.0%	100.0%
Easter Monday (n = 161)	13.0%	87.0%	100.0%

NB. While the total number of observations for this survey question was 171, some businesses already close on this day, and as result, were excluded from analysis.

The decision to create an additional public holiday will not only impact on Easter Sunday but will have spill over to other days of Easter with many businesses taking the decision to close for the entirety of Easter.

a. **Workforce Impact**

$$\begin{aligned}
 \text{Employee Hours} &= e + l \\
 &= 3,435 + 1,947 \\
 &= 5,382
 \end{aligned}$$

\*This figure sums the number of paid employment hours lost to employees from businesses that will opt to close (35e) and those businesses that will reduce employment levels (35l).

$$\begin{aligned}
 \text{Employees} &= e + k \\
 &= 456 + 637 \\
 &= 1,093
 \end{aligned}$$

\*This figure sums the number of employees that will be impacted by businesses that will opt to close (35e) and those businesses that will reduce employment levels (35k).

$$\begin{aligned}
 \text{Proportion Impact} &= \text{Employees Impacted 2017} / \text{Total Employees 2016} \\
 &= (1,093 / 2,681) \times 100 \\
 &= 40.7\%
 \end{aligned}$$

\*This figure produces the total proportion of employees that will be impacted as a result of a new public holiday being created on Easter Sunday.

This is a key point that needs to be made; the State Government is seeking to better remunerate employees on Easter Sunday yet the practical reality is that more than 40 per cent of all employees who worked Easter Sunday in 2016 will lose all or significant hours of employment. The practical impact is that their take home pay packets at the of Easter week will now adversely be significantly less.

## State Economic Impacts

30. Based on the survey data collected for the purpose of this study, a number of estimates have been calculated to derive a total impact on the Queensland economy from the creation of a new public holiday on the Easter Sunday. These figures are outlined as follows:

### 30.1 Business Closures & Opening Hours

It is estimated that of all small businesses operating within the retail, accommodation, and hospitality sectors on Easter Sunday 2016, 4,988 will close if a new public holiday is created on this day in 2017. This is a reduction of 27.6 per cent in the number of small service business that will operate on Easter Sunday if a new public holiday is introduced.

Further, an additional 3,537 businesses will reduce the number of hours that their business operates on this day.

### 30.2 Forgone Revenue

For those businesses that will now close on Easter Sunday 2017, it is estimated that the total loss in gross revenue will total \$23.7 million. In addition to this, it is also expected that a loss in revenue will also be experienced by those businesses that reduce hours of operation on this day. For this category of business, it is estimated that the loss in revenue will total \$8.4 million.

Combined, it is estimated that the total loss in gross revenue, for those businesses that close, or reduce hours of operation, if a public holiday is created on Easter Sunday will be approximately \$32.1 million.

### 30.3 Employee Impacts

Of those businesses that will close on Easter Sunday, due to the creation of an additional public holiday, a significant number of employees will be impacted by no longer being offered hours of employment. It is estimated that across small business operating within the service sector, approximately 24,939 employees will be impacted as a result of working for an employer that will no longer open on this day.

In addition, employees from businesses that remain open will also be impacted. Almost two thirds (61.8%) of businesses that remain open will offset the impact of public holiday penalty rates by reducing the number of hours made available to staff on Easter Sunday. It is estimated that within this category of employees, approximately 32,285 employees will be impacted by receiving fewer hours than they would otherwise receive.

Accordingly, 57,224 employees will be adversely impacted by reduced take home pay packets for the end of Easter week.

### **30.4 Hours of Employment**

Based on the number of employees that will be impacted if a new public holiday is created on Easter Sunday, the estimated number of lost paid employment hours will be as follows:

- Businesses (Closed) - 174,574
- Businesses (Reduce Hours) - 88,784
- Businesses (Total) - 263,358

This equates to each impacted employee receiving an average of 4.6hrs less than they would otherwise receive on Easter Sunday. As a result of not working these hours, it is estimated that the total loss in wages to these employees would be \$12.2 million.

### **30.5 Increased Wages Bill (Wage Transfer)**

Businesses that will continue operating on Easter Sunday will experience a significant increase in wage costs. It is anticipated that the increased wage costs for these businesses will be \$13.9 million.

### **30.6 Total Economic Impact**

Based on these calculations, the combined impact on the Queensland economy for the retail, hospitality, and accommodation sectors from forgone revenue, lost wages, and increased wages will be substantial. It is estimated that the total impact will be as follows:

$$\begin{aligned} \text{Total Economic Impact} &= \text{Forgone Revenue} + \text{Lost Wages} + \text{Wage Transfer} \\ &= \$32.1\text{m} + \$12.2\text{m} + \$13.9\text{m} \\ &= \$58.2 \text{ million} \end{aligned}$$

## **Harmonization Claims**

31. Our organisations support national consistency in regards to public holidays in order to ensure minimal disruption to Queensland businesses, particularly for those who operate across state and territory borders.
32. It is our view that that national consistency and an even spread of holidays across the year are the two outcomes that best grow the economy and create jobs.
33. To this end, our organisations' believe the State Government's claims of harmonization would hold more merit if the State Government hadn't, upon forming government,

actioned as part of its legislative agenda to move Labour Day to May and the Queen's Birthday to October.

34. This move satisfied vested interests at the time, but had the consequence of placing Queensland out of step with other comparable jurisdictions for the Labor Day holiday in May and the Queen's Birthday no longer being in June.
35. With respect to the proposed Easter Sunday public holiday, we note that the State Government has attempted to justify the introduction of a public holiday on the basis that it will bring Queensland in line with other states and territories.
36. With reference to the below table, we urge the Committee to note that only New South Wales (NSW), Victoria and the Australian Capital Territory (ACT) currently declare Easter Sunday a public holiday, leaving the majority of state and territories across Australia without a public holiday for Easter Sunday.
37. To this end, it is clear that the State Government is not in a position to make the argument for national consistency where in fact the majority of states and territories do not have Easter Sunday a declared public holiday across Australia.
38. The Federation must be considered beyond simply the states of New South Wales and Victoria.
39. The claims that this move will harmonise Queensland with other jurisdictions is simply false, and adds to the government's lack of legitimacy on this matter.

#### **Australian States and Territories – Easter Period Public Holidays**

	<b>Good Friday</b>	<b>Easter Saturday</b>	<b>Easter Sunday</b>	<b>Easter Monday</b>
<b>NT</b>	x	x		x
<b>WA</b>	x			x
<b>SA</b>	x	x		x
<b>TAS<sup>^</sup></b>	x			x
<b>QLD</b>	x	x		x
<b>NSW</b>	x	x	x	x
<b>VIC</b>	x	x	x	x
<b>ACT</b>	x	x	x	x

<sup>^</sup> *Restricted public holiday for Easter Tuesday in Tasmania*

*\*Orange – 3 of 8 states and territories have a public holiday on all four days*

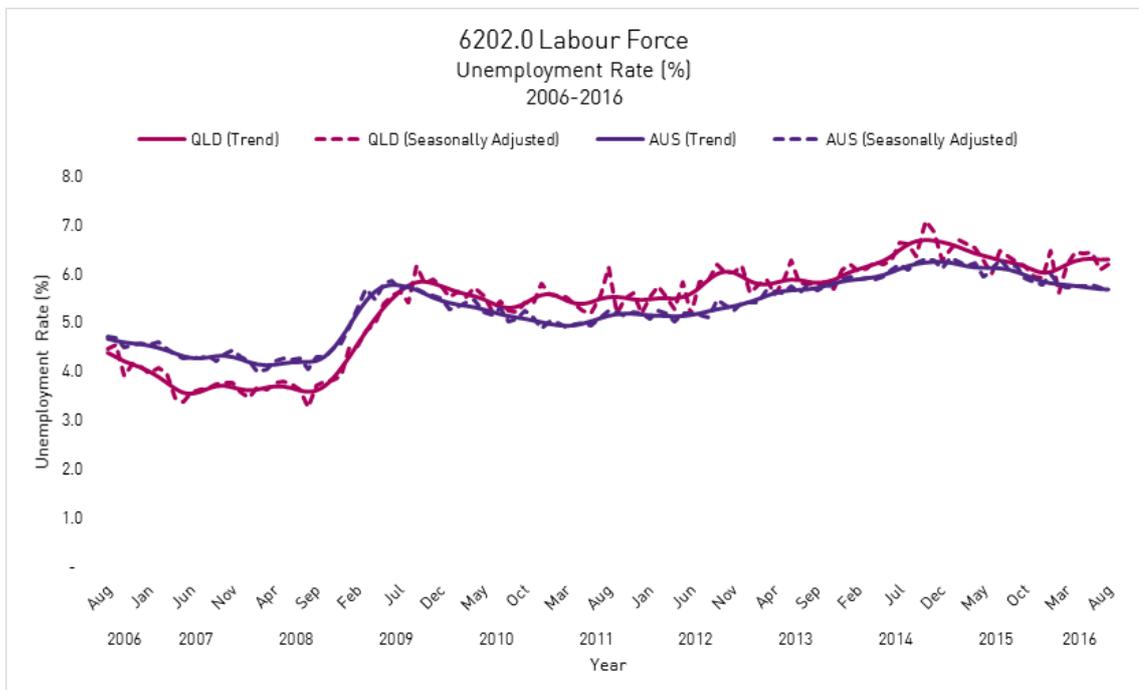
*\*Yellow – Public holidays for other 5 states and territories*

### **Lack of Consultation and Policy Ambiguity**

40. Our organisations were frustrated to learn of the last minute announcement of an Easter Sunday public holiday was, in no small part, due to pressure applied by the SDA on the State Government.

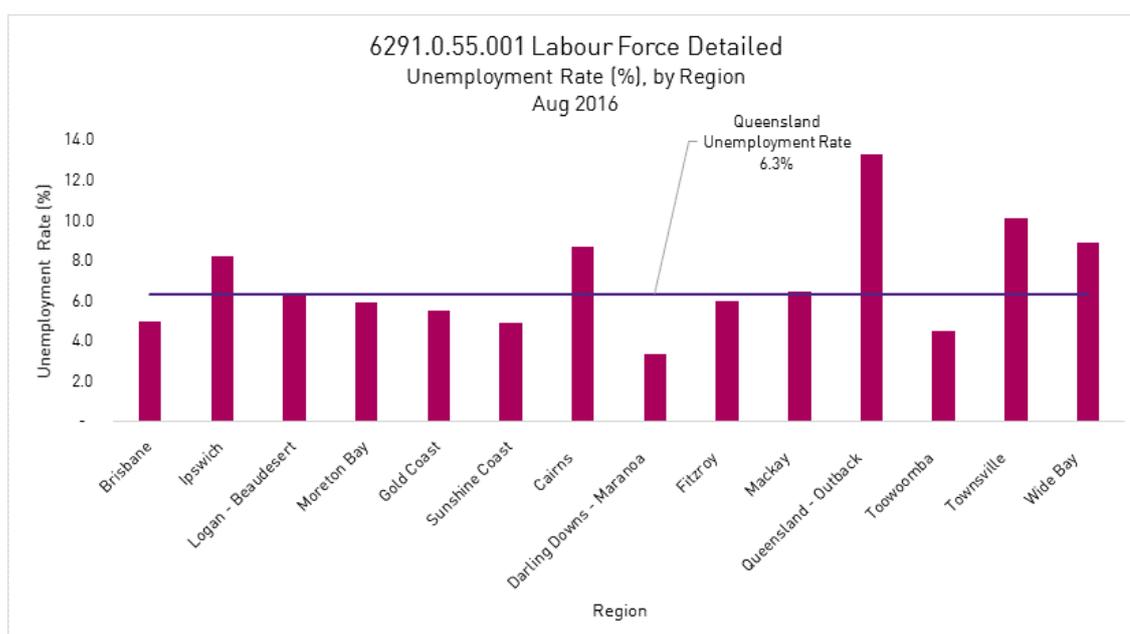
41. CCIQ was pleased to represent small business views on the Reference Group that examined the Industrial Relations Bill 2016 and did so in good faith, however this proposal was not canvassed whatsoever in this forum.
42. In other words, all formal consultation processes with respect to this Bill had been exhausted prior to the small business community learning of an Easter Sunday public holiday.
43. Our organisations' believe that the last minute ministerial directive demonstrates that this government is beholden to union interests to the detriment of the health of the Queensland economy by shunning small businesses that employ.
44. By appeasing the unions on this matter, the State Government is compromising its commitment to jobs growth in Queensland. As evidence in the labour market figures below, Queensland's trend unemployment rate is 6.3 per cent, compared to the national trend of 5.7 per cent.

### Unemployment rate QLD v AUS; Aug 2006–16



Source: ABS catalogue 6202.0 Labour Force

## Unemployment by Region; Aug 2016



Source: ABS catalogue 6291.0.55.001 Labour Force Detailed

## Religious Significance of Easter Sunday

45. Furthermore, we note claims by the Minister responsible that the declaration of a public holiday on Easter Sunday is a symbolic acknowledgement of the religious significance of Easter Sunday in the Christian traditions' calendar.
46. Our organisations contend that the community already regards Easter Sunday as a day of religious significance, so there is no practical need to declare it a public holiday for this purpose.
47. Our organisations counter this argument by questioning why Saturday is also a public holiday when Good Friday and Easter Sunday are indeed the important religious events of the Easter period.
48. Our organisations respectfully object to the arguments put forward by the Minister on this issue as it lacks consistency and clarity.

## Penalty rates and public holidays

49. Our organisations also call for a greater streamlining of employer obligations on declared public holidays in Queensland to reduce unnecessary exposure to penalty rates. To achieve this outcome, our organisations urge the Committee to consider recommending a number of amendments to the Holidays Act 1983 and the Trading (Allowable Hours) Act 1990 that govern business trading hours on public holidays in Queensland. At present, there is an unnecessarily complicated interplay between state

legislation and national employment standards that impose additional cost and administrative burdens on Queensland business.

50. In 2011, the Holidays and Other Legislation Amendment Act of that year, provided for an amendment to the Holidays Act 1983 to include – “an additional public holiday in the following week when Christmas Day, Boxing Day, or New Year’s Day public holidays fall on a weekend (commencing from Christmas 2011/New Year 2012)”.
51. The Minister introducing the Bill at the time, The Honorable, Cameron Dick MP, in the explanatory notes advised that: “For Queensland, substitute public holidays have already been gazetted for Christmas Day on Monday 26 December 2011 and for New Year’s Day on Monday 2 January 2012”.
52. Previous to the amendment in 2011 if Christmas Day, Boxing Day or New Year’s Day fell on a weekend a substitute weekday public holiday was declared on which public holiday penalties of 250% applied and the actual Christmas Day, Boxing Day or New Year’s Day were paid at ordinary rates applicable to that day.
53. As a result, the amending Act had no practical effect in relation to Christmas 2011 and New Year 2012.
54. The 2015 Christmas period saw Boxing Day falling on a Saturday and in accordance with the amendments to the Holidays Act in 2011, an additional public holiday was declared in the following week. The gazetted public holidays for Boxing Day were Saturday 26 December 2015 and Monday 28 December 2015. Public holiday penalties applied on each of these days.
55. In 2016/17 the situation is worse in that with Christmas Day and New Year’s Day falling on Sundays, there will be two additional holidays as a result of the 2011 amendment of the Holidays Act which will be 27 December 2016 and Monday 2 January 2017. Again public holiday penalties will apply on those days in addition to also applying on 25 December 2016 (Christmas Day) and 1 January 2017 (New Year’s Day).
56. The problems with multiple instruments governing public holiday arrangements in Queensland are two-fold. Firstly, the laws are duplicative, inconsistent, and thus transfer an unnecessary burden on business. Secondly, the consequences of duplicative legislation in this instance results in small businesses having to pay penalty rates more often than they would otherwise be required if the legislation were streamlined.

## **Referral Powers and Workplace Bullying**

*This section does not reflect the views of QTIC, MGA, or Clubs Queensland and is solely in the context of CCIQ.*

57. As part of the independent review of Queensland’s industrial laws, the Reference Group produced a report entitled ‘A review of the industrial relations framework in Queensland.’ The Report contained a number of recommendations that have consequences for referral powers to the Commonwealth, particularly with respect to workplace bullying matters.

58. Specifically, the Report recommended that the private unincorporated sector be given access to workplace anti-bullying protections through federal jurisdiction.
59. Specifically, Recommendation 33 states that “the Minister negotiate with the Federal Minister for a further referral which would enable employees in unincorporated bodies, and other entities which are not constitutional corporations to be covered by the anti-bullying jurisdiction of the Fair Work Commission. In the event that is not possible or inappropriate, the Queensland anti-bullying jurisdiction coverage should include this group of employees.”
60. As part of the review of Queensland’s industrial laws, CCIQ consistently stated its strong opposition to any additional anti-bullying jurisdiction being established through the Queensland Industrial Relations Commission (“QIRC”).
61. CCIQ recommended that rather than having two sets of competing arrangements, means should be found within the current system to deal effectively with matters as they arise.
62. Please refer to Appendices for a copy of correspondence forwarded to Senator the Honourable Michaela Cash, Minister for Employment with respect to such matters.
63. To this end, CCIQ does not support any provisions contained within the Bill that would refer employees of unincorporated bodies to the QIRC for workplace bullying claims.

**Recommendation: CCIQ urges the Committee to recommend the removal of Section 273 of the Industrial Relations Bill 2016, which deals with applications for QIRC orders to stop bullying and ensure that employees of unincorporated businesses refer to the Fair Work framework for workplace bullying matters.**

## Conclusion

64. The move to declare Easter Sunday a public holiday is unacceptable to the small business community and is entirely at odds with the State Government’s emphasis on job creation as Queensland’s key priority.
65. The Committee will be best placed to recognise the negative impact this decision will have on Queensland retail, hospitality, and accommodation businesses, taking into account the evidence-based arguments contained herein.
66. The decision comes with zero consultation with the business community nor a Regulatory Impact Statement.
67. This proposition reinforces the perception that the government, either deliberately or inadvertently, is making it difficult to do business in Queensland. We believe the State Government should make it easier to provide a job and not the reverse.
68. Our survey demonstrates that thousands of small businesses will foot the bill for this extra public holiday.
69. The significant costs highlight the consequences of making populist decisions at the expense of good public policy.

70. Further, the State Government's claims to national harmonisation do not stand up to scrutiny when analysing public holiday distribution in other states and territories throughout Australia.
71. In addition, the government failed to consult small businesses in key sectors impacted by this proposal, and neglected to foreshadow their policy position in formal consultations processes with respect to the Industrial Relations Bill 2016.
72. With consideration to the abovementioned arguments, our organisations strongly urge the Finance and Administration Committee to make recommendations to remove an Easter Sunday public holiday from the Bill.
73. We welcome the opportunity to appear before the Committee in order to better present the evidence contained herein, and make the case for the significant impact this decision will have on Queensland small retail, hospitality, and accommodation businesses.

## Appendix A: Survey Questions

1. Which industry sector is your business primarily involved?
2. What is the postcode of your business?
3. Does your business open on Easter Sunday?
4. If you do not open on Easter Sunday, is this because of Sunday penalty rates?
5. What is the reason for closing on Easter Sunday?
6. In 2016, please estimate the number of employees that worked in your business on Easter Sunday?
7. On average, how many hours of employment did each employee receive?
8. Due to the creation of a public holiday on Easter Sunday, will your business now close?
9. Due to the creation of a public holiday on Easter Sunday, will your business now reduce its opening hours?
10. How many fewer hours do you estimate your business will operate on Easter Sunday?
11. Due to the creation of a public holiday on Easter Sunday, will your business now reduce staff levels on this day?
12. How many employees do you estimate will be offered fewer hours of employment?
13. On average, how many fewer hours of employment will each employee be offered?
14. As a result of Easter Sunday becoming a public holiday, what will be the estimated total increase in wage costs\* for your business? \*total additional wage cost for all employees
15. By not opening your business, as a result of Easter Sunday being made a public holiday, what will be your estimated loss in gross revenue?
16. Will you now close, reduce hours of opening or reduce hours of employment offered on
  - a. Good Friday?
  - b. Easter Saturday?
  - c. Easter Monday?
17. Do you have any further comments on this issue?

## Appendix B: Qualitative Responses

*Retail trade in our locality has been struggling under the burden of lower public spending, as well as high rents, rates and public holiday rates. Public holidays are some of our busiest trading days where ideally we need to put on extra staff not reduce staff. With these levels of public holiday rates, we would at best break even, and it would make more financial sense to close. However, if all businesses on a tourist street closed on a day when people are free to visit we would very soon get negative public press which could affect us detrimentally through the rest of the year.*

Retail – Mount Tamborine

*Based on 2016 calculations, adding Easter Sunday as a new public holiday would cost our business an additional \$7,502 for the one day. As a tour operator, our pricing schedules are determined eighteen months to two years in advance, therefore we cannot charge any extra to our guests in 2017 and 2018. This is a direct cost that the business will have to absorb.*

Tour Operator - Cairns

*We will adjust our staff hours to counter this impost. The increase in wage costs will have an enormous effect on our productivity and profitability as a company, and it is sad that small business once again is being targeted when the owners take all the risk and have very little say in penalty rates when operating a 365-day tourism based business*

Tour Operator - Whitsundays

*It is line ball already as to whether we open over Easter and we are in a tourist destination. I only open now because overall we can just cover staff costs and make a small profit. We currently do not open on Christmas day for the same reason. If this goes through we will have to reassess whether it is financially viable.*

Hospitality - Dalby

*If these kind of business damaging penalty rates continue small business will become less and less able to compete in their markets. Staff will get less hours or lose their jobs. Tourists and guests will get less service and less diversity. Small businesses are closing left right and centre, and those who manage to hang in wonder if it's worth it in the long run! I understand that penalty rates are supposed to look after the employee, but having to pay ridiculous amounts on prime trading days when we should be serving the tourists having holidays from their jobs, we are unable to afford staff. Staff get less hours and tourists find small businesses closed or not coping on their holiday days.*

Amusement and Other Recreation - Nambour

*The whole concept of weekends and penalty rates should be abolished as it is no longer relevant in our 24/7 on demand society. Everyone should have 2 days off a week, but it should not matter which days. This would enable small businesses to operate much more fairly and successfully.*

Retail - Dalby

*Public holiday rates don't just affect individual businesses and their employees. They affect tourist towns because some shops and cafes decide not to open on public holidays because the high pay rates mean they can't make any profit. But they're the days that visitors come to these towns, only to find some shops and cafes closed.*

Accommodation - Nambour

*We will reduce the range of experiences offered, thereby reducing the number of employees required to service the high end experiences and reducing the range of activities available for our guests. This diminishes the quality of our attraction. We share the benefits of higher rates of pay for public holidays amongst our staff; they already have the benefit of three public holidays over Easter.*

Tourist attraction - Shoalwater

*In most retail businesses penalty rates are a thing of the past. There is now an expectation that all businesses will be open 7 days, equally there is an expectation that prices for goods on the traditional "weekend" will not be different from prices during the week. The maths in that situation do not add up. There will not be one dollar of extra trade done because Easter Sunday is a public holiday, however there will be a huge additional cost on business owners. I would consider this move if one of the other public holidays or holiday leave loading were removed.*

Retail - Dalby

*The risk of having so many public holidays in a row is that you cannot afford NOT to open for so long. We may just have to suffer the cost of being open, or pass the cost on to the customer. Either, it is not an ideal situation for a small business owner.*

Hospitality - Charleville

*The impact of 3 public holidays in a 4-day period was always hard to justify financially, however four days in a row makes it completely nonviable.*

Hospitality - Maroochydore

*Fair wages are important to our business, but to offer fair wages we have to be able to remain in a position to employ staff to cover the demand of the business, however the increase of business on Public Holidays does not cover the increase in wages to be paid out. As wages are already one of the most significant costs/expenses of a business such as ours it erodes the profit margin of these days that are required to enable us to keep staff employed on quiet days.*

Tourist Attraction - Maleny

*Our business simply closes during public holidays as the wage cost is not worth opening.*

Hospitality - Toowoomba

*Customers expect you to be open but complain about unfair surcharges our increased rates.*

Accommodation - Yeppon

*The amount of public holidays for small business is overwhelming. It makes the decision on whether to offer part time or casual work difficult - you want to reward workers, but at the same time, come public holiday time I cannot afford to pay the rates. I understand why so many businesses close, politicians not operate in the 'real' world.*

Retail – Palm Beach

*Extra holidays and penalty rates are killing business. That productivity is never recovered, it just makes business less profitable overall.*

Retail – Brookfield

*Any increase in wages costs also increases our Payroll Tax obligation, Superannuation, Workcover costs. We have to open these days due to contractual obligations, but at best we break even due to the increased costs as outlined above. The biggest losers are our staff, as we replace 3 of them with business owners, and everyone else gets vastly reduced hours. We also run the risk of negatively impacting our customers' overall experience, resulting in less than positive "word of mouth" promotion, on which we rely heavily.*

Tourist attraction with accommodation and food service - Normanton

*We will need to add a surcharge to prices otherwise it will not be financially viable to be open, which in turn causes loss of income for casual staff if we are closed. We currently stay open on public holidays, at reduced trading times, more as a community service than anything else as the cost of wages completely erodes any profit margin for the day.*

Hospitality - Marburg

*My retail shop is in a Tourist area; it is hard enough paying the penalty rates for the holidays we already have. Times have changed, we don't live in a 9 to 5, Monday to Friday world anymore. Life and business is 24/7. All days should be paid the same, Monday to Sunday in the tourism Industry.*

Retail – North Stradbroke Island

*We have already reduced our trading hours on Sunday because of the penalty rates and considered closing on Sundays in general. Whenever we speak with small business owners they say the same. Most can't operate on Sunday at all because of the ridiculously high penalty rates.*

Retail - Buderim

*I won't be able to reduce employment levels, of hours of operation because the service is still expected on these days by my customers. I will have to run tours at a financial loss as profitability will be unreachable due to wage costs.*

Tour Operator - Winton

*Forcing food and wine outlets to close or reduce hours will threaten the viability of the Granite Belt as a tourism destination during the Easter period. If none are opened this year then the tourists will not return next year.*

Hospitality - Glenlyon

*This additional cost will force us to restructure how we deliver a reduced service to our guests.*

Accommodation - Woree

*Hospitality and such industries already have to consider penalty rates as a part of their normal business operations. Adding an extra day of penalty rates ensures that more business will close their doors in what is one of the busiest periods for all businesses located in tourism areas.*

Recreation, Arts and Cultural

Main Beach - Gold Coast

*This will have a major impact on our business but more importantly on visitors to our region as we will not operate a full range of our day tours. We will close off all full day tours to Cape Tribulation and to the Daintree. This will have a big impact on the small mum and dad operators who provide the river cruises, lunches rainforest walks etc.*

Transport/Hospitality - Cairns

*The world is a changing place, weekends are no more, as a result of these ridiculous changes we will operate business ourselves or may in future close. The tourist expects 7 days a week and if an area is to survive, it needs to be affordable for business owners to employ staff otherwise we will close and there will be no attractions and no employment.*

Tourism Winery – Silkwood East

*Unable to close due to the fact that it is one of the busiest weekend of the year for boat charters just another example why Australia will never be able to be competitive.*

Accommodation - Whitsundays

## Appendix C: Correspondence to Minister Cash



8 September 2016

Senator the Honourable Michaelia Cash  
Minister for Employment, Minister for Women and  
Minister Assisting the Prime Minister for the Public Service  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

Dear Senator,

I write to you in relation to Queensland Minister for Employment and Industrial Relations the Hon. Grace Grace MP's recent correspondence to you dated 30 August 2016.

As you are aware, Queensland recently conducted its first comprehensive review of Queensland's industrial laws since 1998 through the appointment of the independent Industrial Relations Legislative Reform Reference Group. As a contributing member of the Reference Group, the Chamber of Commerce and Industry Queensland ("CCIQ") provided formal commentary as part of the wide-ranging review of the *Industrial Relations Act 1999* (Qld).

The Chamber's vision is to see a balanced national framework that better meets the needs of contemporary workplaces, fosters greater flexibility, and improves productivity and competitiveness.

As part of the independent review, the Reference Group produced a report entitled '*A review of the industrial relations framework in Queensland*'. The Report contained a number of recommendations that have consequences for referral powers to the Commonwealth, particularly with respect to workplace bullying matters. Specifically, the Report recommended (Recommendation 33) that the private unincorporated sector be given access to workplace anti-bullying protections through federal jurisdiction.

As part of the review of Queensland's industrial laws, CCIQ consistently stated its strong opposition to any additional anti-bullying jurisdiction being established through the Queensland Industrial Relations Commission ("QIRC"). CCIQ recommended that rather than having two sets of competing arrangements, means should be found within the current system to deal effectively with matters as they arise. To this end, CCIQ supports the Queensland State Government's recommendations for access to be granted through the Fair Work system.

Chamber of Commerce & Industry Queensland  
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Overall, CCIQ favours a preventative approach to workplace bullying that is centred in the workplace health and safety context. However, CCIQ is of the view that two sets of competing arrangements for non-incorporated private sector employees would undermine a best practice approach to achieving healthy and safe workplaces.

Accordingly, CCIQ writes to you as Minister for Employment to provide its support for the Queensland State Government's recommendation to create an avenue for privately unincorporated business employees to access workplace anti-bullying protections through federal jurisdiction.

If you have any questions pertaining to this correspondence, Nick Behrens, CCIQ's Director - Advocacy and Workplace Relations (Mobile: 0420 961 171) is available to discuss any matters contained herein.

CCIQ looks forward to working with you and your office in the near future.

Yours sincerely

A handwritten signature in black ink, appearing to be 'S. Tait', with a horizontal line extending to the right from the end of the signature.

Stephen Tait  
Chief Executive Officer  
**Chamber of Commerce and Industry Queensland**