

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Trading (Allowable Hours) Act 1990

(TH/2014/ 23)

INDUSTRIAL REGISTRA
31 OCT 2014
QUEENSLAND

**APPLICATION TO AMEND THE TRADING HOURS ORDER – NON EXEMPT
SHOPS TRADING BY RETAIL - STATE**

*TO: The Industrial Registrar, Industrial Registry, Level 18, Central Plaza 2, 66 Eagle Street,
(Corner Creek and Elizabeth Streets), Brisbane 4000, GPO Box 373, Brisbane Q 4001.*

TAKE NOTICE that I, Trevor Evans, Chief Executive Officer of 6 Overend Street, East Brisbane, Queensland, 4169, being authorised to represent the National Retail Association Limited, Union of Employers, APPLY to the Commission for:

1. An amendment to the Trading Hours Order – Non Exempt Shops Trading by Retail – State pursuant to s21 of the Trading (Allowable Hours) Act 1990

2. The following decision:

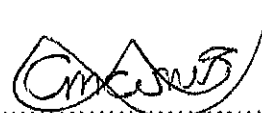
That Clause 3.2(2) of the Order be amended pursuant to the attached schedule.

3. Further I apply for directions as to the conduct of this application in relation to the following matters:-

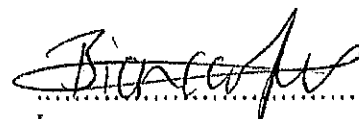
- (a) parties;
- (b) service of documents;
- (c) nature of hearing;
- (d) place and time of hearing;
- (e) such other matters as may be advised; and

Further, I make oath and swear that I am fully authorised in compliance with the Act and the Rules of Court to make this application and that all the facts and circumstances deposed to in this my affidavit are within my own knowledge and belief, except for the facts and circumstances deposed to from information only, and my means of knowledge and sources of information appear on the face of this my affidavit.

SWORN by the Deponent at Brisbane
On 30 October 2014


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TREVOR EVANS
Chief Executive Officer

Before me -


.....
Lawyer

The Schedule

1. To merge as many different zones as possible, within South East Queensland, into a single, harmonised area with one set of rules, with consistent allowable hours from Monday through to Saturday, by the deletion in Clause 3.2 (2) South East Queensland Area (excluding the Inner City of Brisbane and the Gold Coast and Sunshine Coast Areas) order and inserting the following in lieu thereof :

(2) South East Queensland Area

	Opening Time	Closing Time
Monday to Saturday	7.00 a.m.	9.00 p.m.
Sunday (excluding Easter Sunday)	9.00 a.m.	6.00 p.m.
Public Holidays (as defined)	9.00 a.m.	6.00 p.m.

(excluding Good Friday, 25 April, Labour Day, 25 December)

Notwithstanding the opening and closing times prescribed herein for public holidays, the opening and closing times for non-exempt shops on Easter Saturday shall be:

	Opening Time	Closing Time
Easter Saturday	8.00 a.m	6.00 p.m.

TO RESPONDENTS:

TAKE NOTICE that if you wish to oppose this application or to argue that any different decision should be made, you must attend before the Commission in person or, if appropriate, by your lawyer or agent at the time on the date and at the place fixed by the registrar and you will be heard. If you do not attend as required a decision may be given against you in terms of the decision sought and costs, where appropriate, without further reference to you.

Statement of Facts and Circumstances:

1. The application seeks to simplify and consolidate the current allowable hours for non-exempt shops in the South East Queensland area on weekdays and Saturdays. Currently, in most parts of South East Queensland, non-exempt shops are permitted to trade between the hours of 8am and 9pm on Monday to Friday and 8am to 5pm on Saturdays. Other areas within the South East Queensland area permit trade by non-exempt shops from 7am on various days or until 5:30pm or 6pm or 7pm or 9pm on various days. The application proposes that non-exempt shops be allowed to trade from 7am to 9pm on Monday to Saturday.
2. The current allowable hours on Saturday have remained unchanged for most parts of the South East Queensland area since 1994. The following table tracks the changes to allowable hours on Saturday since the making of the first trading hours order in 1965.

Year	Saturday Hours	Area
1965	8.35am to 11.30am	Local Authority Areas of Brisbane and Ipswich
1968	8.15am to 11.30am	Local Authority Areas of Brisbane and Ipswich
1979	8.15am to 12noon	Local Authority Areas of Brisbane and Ipswich
1987	8.15am to 4.00pm	Brisbane and Near Metropolitan Area
1992	8.15am to 4.00pm	Brisbane and Near Metropolitan Area plus Albert Shire Council area
1994	8.00am to 5.00pm	All of State (ex. for some tourist areas where closing time was 5.30pm)

3. A more flexible set of hours which simplifies and consolidates the rules for weekdays and Saturdays in South East Queensland is warranted to allow non-exempt retailers to better service their markets, to respond to changing consumer preferences, to reduce red tape and compliance costs for retail businesses, to create a significant number of new retail jobs, to enhance consumer choice and reduce consumer travel and transaction costs, to better service the needs of an expanding tourist industry and to boost state trade.
4. There has been record levels of population growth since 1994 when the current allowable hours for Saturday trading in South East Queensland area were set. According to the two most recent Australian Census, population growth has averaged 106,400 extra people each year from 2006 to 2010. The Queensland Government Statistician's medium series projection for population growth to 2056 indicates the state's population will continue to

grow with similar increases each year, of approximately 100,000 new residents. When high growth assumptions are applied the projected population increases by an extra 170,000 people per annum through to 2056. Up to 2031, 754,000 additional dwellings will be required to cater for population growth in South East Queensland and provide housing choices for a more diverse population.

5. According to Tourism Queensland more than 18.2 million domestic and international visitors have toured Queensland in the 11 years from December 2000 to December 2010. In this time, visitors to Queensland spent \$14.5 billion and in 2010 directly accounted for around 15,000 jobs. Tourers, defined by Tourism Queensland as those on trips with 3 or more overnight stops, 4 or more nights and driving to at least one destination in Queensland for leisure, popularly stop in Brisbane, the Gold Coast and the Sunshine Coast. In the period from December 2000 to December 2010 there were:
 - An average of 16.6 million domestic visitors to Queensland each year who accounted for an average annual spending of \$11.1 billion. Each year domestic tourers spend around \$1.2 billion in the State.
 - An average of 2 million international visitors to Queensland per year who accounted for an average annual spending of \$3.4 billion. The international touring market spent an average of \$737 million in Queensland each year.
6. The Queensland Plan, recently created by Queenslanders for Queensland, and the result of the largest community engagement activity of its kind ever undertaken in the state, envisages that *"In 30 years Queensland will be home to vibrant and prosperous communities. Our state will be well planned with the right infrastructure in the right places to support a population that has grown across every region."* The State Government's vision for South East Queensland is a region of interconnected communities. At its heart is Brisbane, state capital and subtropical world city. Surrounding the capital are several large urban areas separated by open space, and many small- to medium-sized towns and villages, each with its own character and identity. It is a region characterised by choice and diversity, with mountain ranges and hinterlands, Moreton Bay and islands, extensive beaches, wetlands, parks, bush and farmlands supporting a rich biodiversity.
7. The application seeks to merge as many different zones as possible, within South East Queensland, into a single, harmonised area with one set of rules, with consistent allowable hours from Monday through to Saturday.

8. This application does not propose any changes to the existing definition of the South East Queensland area, as currently set out in the Trading Hours Order by the Queensland Industrial Relations Commission. It is noted that the existing definition of South East Queensland covers an area that is different to the boundaries of all the Local Government Authorities (LGAs) that would broadly be considered to be situated within the South East Queensland region. The existing definition more closely follows the (smaller) urban footprint located within South East Queensland LGAs.
9. An analysis of the Trading Hours Order, together with the Act and the Regulations, show that there are currently more than 50 separate zones around Queensland which specify different allowable trading hours for certain types of businesses on different days, with over 20 of those zones applying in South East Queensland.

Zone	Description of the zone	Applies to
1	All of State of Queensland – for all stores on list of ‘exempt shops’	All exempt shops
2	All of State of Queensland – for all ‘independent’ shops	All independents
3	Remainder of State of Queensland – for all ‘non-exempt stores’ (excluding all specific areas below)	All-non-exempt
4	South East Queensland Area (including Beaudesert, Nambour, Beerwah, Fernvale, Plainland, Gatton and Woodford but excluding specific areas below)	All-non-exempt
5	Brisbane & Near Metropolitan Area (excluding specific areas below)	All-non-exempt
6	Inner City of Brisbane (excluding Brisbane City Heart below)	All-non-exempt
7	Brisbane City Heart	All-non-exempt
8	Brisbane City Heart (supermarkets only)	Supermarkets only
9	New Farm Area	All-non-exempt
10	Sunshine Coast Area (including Maleny but excluding specific areas below)	All-non-exempt
11	Gold Coast Area (separate to Gold Coast Tourist area below)	All-non-exempt
12	Gold Coast Tourist Area (supermarkets only)	Supermarkets only
13	Cairns Tourist Area (including Mt Sheridan, Edmonton, Northern Beach and Suburbs but separate to Cairns CBD area below)	All-non-exempt
14	Cairns CBD Area	Supermarkets only
15	Port Douglas Tourist Area & Mossman (separate to Port Douglas area below)	All-non-exempt
16	Port Douglas Area (supermarkets only)	Supermarkets only
17	Whitsunday Shire Tourist Area (includes Cannonvale)	All-non-exempt
18	Hervey Bay Area (separate to Fraser Coast area below)	All-non-exempt
19	Tourist / and Seaside Resort Area	All-non-exempt
20	Yeppoon Tourist Area	All-non-exempt
21	Townsville CBD (includes North Ward but excludes Townsville area below)	All-non-exempt
22	Townsville (excluding CBD and North Ward)	All-non-exempt

Zone	Description of the zone	Applies to
23	Great Barrier Reef Wonderland Tourist Complex	All-non-exempt
24	Toowoomba City	All-non-exempt
25	Mackay Region	All-non-exempt
26	Innisfail Area	All-non-exempt
27	Tablelands Area (including Atherton and Mareeba)	All-non-exempt
28	Gladstone	All-non-exempt
29	Rockhampton City	All-non-exempt
30	Emerald	All-non-exempt
31	Moranbah	All-non-exempt
32	Cooloola Cove	All-non-exempt
33	Bundaberg (includes Bargara and Elliot Heads)	All-non-exempt
34	Fraser Coast (includes Maryborough, Hervey Bay and Tiaro)	All-non-exempt
35	Gympie Region	All-non-exempt
36	Biloela Area	All-non-exempt
37	Ipswich CBD	All-non-exempt
38	Marian	All-non-exempt
39	Toowong Area	All-non-exempt
40	Remainder of State of Queensland – 23 December (pre-Christmas period only)	Pre-Christmas only
41	Remainder of State of Queensland – Thursday prior to Christmas if 23 December falls on weekend (pre-Christmas period only)	Pre-Christmas only
42	Inner City of Brisbane, Area of City Heart, Woolloongabba CBD, Rockhampton CBD and Townsville CBD – Thursday prior to Christmas if 23 December falls on weekend (pre-Christmas period only)	Pre-Christmas only
43	Chermside Shopping Centre 23 December (pre-Christmas period only)	Pre-Christmas only
44	Chermside Shopping Centre 24 December (pre-Christmas period only)	Pre-Christmas only
45	Cairns Tourist Area, Townsville CBD, Mossman and Port Douglas Tourist Area, Whitsundays Shire Tourist Area – first of four Sundays prior to Christmas Day (pre-Christmas period only)	Pre-Christmas only
46	Cairns Tourist Area, Townsville CBD, Mossman and Port Douglas Tourist Area, Whitsundays Shire Tourist Area – second of four Sundays prior to Christmas Day (pre-Christmas period only)	Pre-Christmas only
47	Cairns Tourist Area, Townsville CBD, Mossman and Port Douglas Tourist Area, Whitsundays Shire Tourist Area and remainder of the State of Queensland excluding South East Queensland – third of four Sundays prior to Christmas Day (pre-Christmas period only)	Pre-Christmas only
48	All of the State of Queensland – fourth of four Sundays prior to Christmas Day (pre-Christmas period only)	Pre-Christmas only
49	26 x individual orders supporting different shows and events on the Queensland calendar in South East Queensland, including the Ekka	Individual calendar events and shows
50	8 x individual orders supporting different shows and events on the Queensland calendar outside of South East Queensland	Individual calendar events and shows
Total	48 zones defined by store type, days and geographic boundaries, plus 34 additional rules for specific events on the Queensland calendar. <i>* Excluded from this analysis are the separate arrangements for motor traders, real estate agents, butchers, hardwares and building material supply stores.</i>	

10. Having around 50 distinct trading hours zones around Queensland, with different rules applying for each, causes complexity and confusion for both consumers and businesses. There are business costs associated with compliance with these rules and indirect costs incurred by consumers arising from confusion and mistakenly travelling to shops that are shut at different times.
11. Existing businesses which are affected by the trading hours rules, or those that are unsure, as well as new businesses entering the Queensland market, all must employ resources and time to analyse the rules and determine how their store(s) may or may not be operated. Generally this analysis must be performed at least once annually, since the rules for public holidays will fall on different days of the week each year, and because changes are sometimes made to the rules through the course of each year and businesses must regularly re-assess their compliance.
12. Businesses operating multiple stores, such as chains and franchise groups, must communicate different rules for different stores to their customer base as well as to their operational staff. Store managers for impacted businesses will not be able to make operational decisions around opening hours for purely commercial reasons, and may not be able to rely on centrally-developed business policies to operate their stores lawfully. Processes and systems developed by businesses operating multiple stores may need to be abandoned or adapted to fit the different circumstances of each store.
13. The following table contains a summary of the zones within South East Queensland that would essentially be collapsed or merged back into a consistent South East Queensland set of rules:

Zone	Description of the zone	Applies to
1	South East Queensland Area (including Beaudesert, Nambour, Beerwah, Fernvale, Plainland, Gatton and Woodford)	All-non-exempt
2	Brisbane & Near Metropolitan Area	All-non-exempt
3	Inner City of Brisbane	All-non-exempt
4	Brisbane City Heart	All-non-exempt
5	Brisbane City Heart (supermarkets only)	Supermarkets only
6	New Farm Area – <i>consistency would be achieved on weekdays and Saturdays but not on Sundays</i>	All-non-exempt
7	Sunshine Coast Area (including Maleny)	All-non-exempt
8	Gold Coast Area (separate to Gold Coast Tourist area below)	All-non-exempt
9	Gold Coast Tourist Area (supermarkets only) – <i>consistency would be achieved for opening times on weekdays and Saturdays, but not on Sundays or for the 10pm closing time specified on other days of the week</i>	Supermarkets only
10	Ipswich CBD Granted- effective 13 October 2014	All-non-exempt
11	Hamilton Harbour Area (decision pending)	All-non-exempt
12	Toowong Area Granted- effective 3 November 2014	All-non-exempt
13	All of the State of Queensland – weekdays in the week prior to Christmas Day, the Saturday prior to 25 December and other days (pre-Christmas period only) – <i>although this zone would have to be retained to preserve its existing application outside of South East Queensland</i>	Pre-Christmas only
14	10 out of the 26 individual orders supporting different shows and events on the Queensland calendar in South East Queensland	Individual calendar events and shows

14. The following zones within South East Queensland would not be capable of being merged under the solution proposed in this application:

Zone	Description of the zone	Applies to
1	New Farm Area – <i>would not be merged insofar it dictates unique arrangements for Sundays</i>	All-non-exempt
2	Gold Coast Tourist Area (supermarkets only) – <i>would not be merged insofar as it dictates unique arrangements for Sundays and for other closing times</i>	Supermarkets only
3	Inner City of Brisbane, Area of City Heart, Woolloongabba CBD, Rockhampton CBD and Townsville CBD – Thursday prior to Christmas if 23 December falls on weekend – <i>dictates wider hours in the pre-Christmas period only</i>	Pre-Christmas only
4	Chermside Shopping Centre 23 December – <i>dictates wider hours in the pre-Christmas period only</i>	Pre-Christmas only
5	Chermside Shopping Centre 24 December – <i>dictates wider hours in the pre-Christmas period only</i>	Pre-Christmas only
6	16 out of the 26 individual orders supporting different shows and events on the Queensland calendar in South East Queensland – <i>the 16 remaining orders are for events that have arrangements dictating unique allowable hours on Sundays or outside of 7am to 9pm on weekdays or Saturdays</i>	Individual calendar events and shows

15. The suggested 7am to 9pm Monday to Saturday allowable trading hours for South East Queensland would merge around 10 zones into 1, achieve some better consistency in a further 3 zones, and would make redundant around 10 of the 26 individual orders that currently exist to support different shows, expos and events on the Queensland calendar.
16. The compliance costs for Queensland businesses could be greatly reduced by simplifying the trading hours rules, in particular by reducing the complexity caused by such a large number of zones with different rules. Additionally, to the extent that simplified rules or a merger of the different trading hours zones in South East Queensland makes some additional trading hours available to non-exempt stores, this would unlock economic benefits for the State from additional trade and from convenience benefits and savings for consumers.
17. It is submitted that this application, if approved, will:
 - increase Queensland's economy by an estimated \$111m per year;
 - help the Government achieve its commendable commitments to cut red tape for businesses; and
 - create over 1,000 new, full-time equivalent jobs.
18. Regarding the impacts of this application on other parts of the Trading Hours Order, it is noted that Section 31 of the Act authorises the industrial registrar to find that orders in the Trading Hours Order are 'obsolete'. On this basis, it is submitted that this application, if approved, will reduce the number of provisions and pages of the Trading Hours -Non Exempt Shops Order as evidenced by the deleted sections of the marked copy of the order marked "A".
19. For such other reasons as the Commission may deem appropriate.

PARTICULARS OF THE APPLICANT

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Position or title: Chief Executive Officer
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