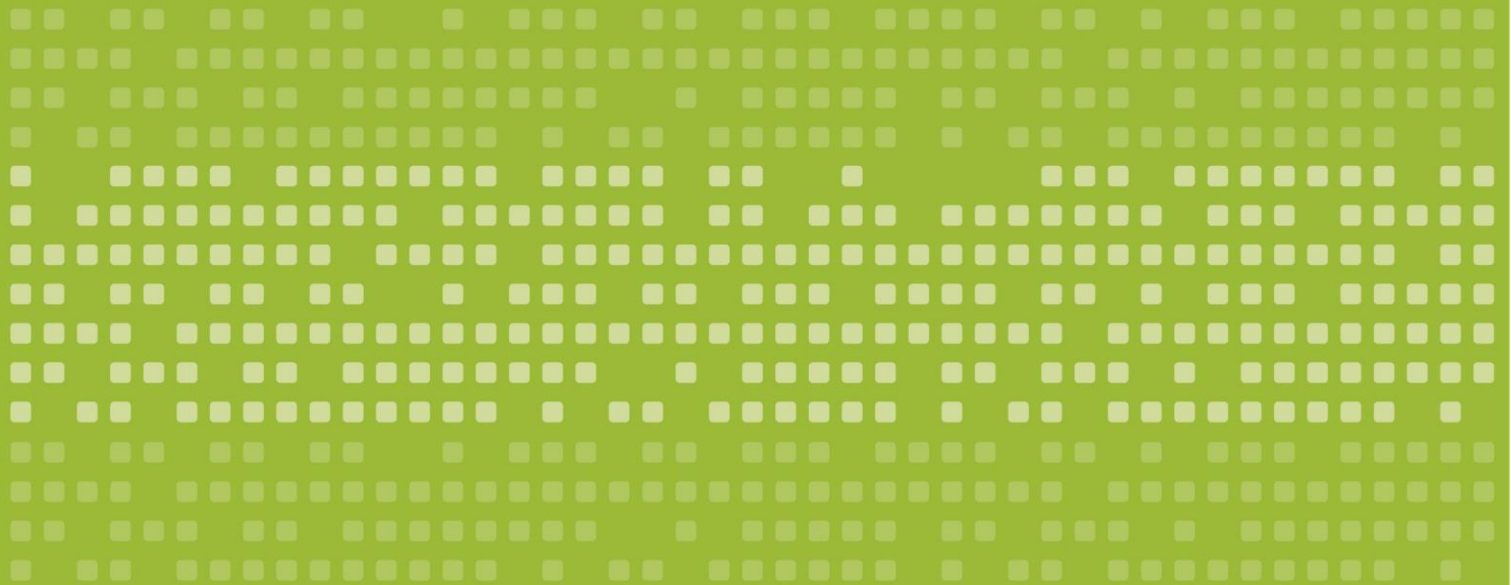


Queensland Trading Hours Review 2016

Issues Paper



Foreword

On 31 August 2016 the Palaszczuk Government established an independent review of Queensland's retail trading hours' arrangements. The review is in response to concerns by business and the community that Queensland's trading hours arrangements are difficult to navigate and may act as a disincentive to smaller business expansion, employment and growth.

The Terms of Reference for the Trading Hours Review are overleaf.

The Government has appointed a Trading Hours Review Reference Group, comprising of key business groups, the Queensland Tourism Industry Council and Unions to consider and report to the Government on Queensland's current trading hours' regulatory framework and to make recommendations that will improve trading hours regulation to promote employment and economic growth while continuing to balance the interests of consumers, workers and small and large businesses. The membership of the Reference Group is set out in the terms of reference.

This issues paper seeks business and community opinion on shop trading hours' regulation. While arguments for or against the regulation of trading hours are often seen as a battle between the interests of the big chain stores and the small independents, the concerns being raised by business owners and the wider community are broader and more complex.

These issues include whether current trading hours adequately reflect Queenslanders' shopping and leisure preferences and how does this balance with the needs of retail workers; has the current framework led to unintended consequences for employment and small business growth; and are trading hours' arrangements detracting from Queensland's appeal as a tourist destination.

In the chapters that follow, the issues paper canvasses known anomalies in the current trading hours' regime and provides prompting questions to assist with the discussion on the current arrangements and possible alternative models.

I encourage you to consider the information contained in this issues paper and to make a submission to the Trading Hours Review. Your submission is not limited to only those matters raised in the issues paper or the prompting questions. The Reference Group welcomes comments from people who want to share their experiences or view on any topic within the scope of the review.

All submissions will be published unless provided in confidence. Material provided in confidence should be clearly marked 'IN CONFIDENCE'. For submissions received from individuals, all personal details (for example, home and email address, signatures, phone, mobile and fax numbers) will be removed before it is published on the website for privacy reasons.

Submissions should be received as a Microsoft Word (.docx) files. PDF files are acceptable if produced from a Word document or similar text based software.

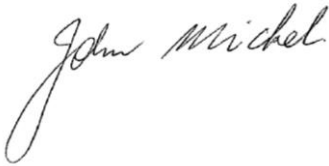
The Minister for Industrial Relations has asked the Reference Group to provide a report to Government in December 2016. To meet this timetable, the Reference Group is seeking written submissions by 14 November 2016.

Your submission can be emailed to tradinghoursreview@justice.qld.gov.au

or by mail to

The Chair
Queensland Trading Hours Review,
Office of Industrial Relations,
GPO Box 69
Brisbane QLD 4001.

Yours sincerely

A handwritten signature in cursive script that reads "John Mickel". The signature is written in dark ink and is positioned above the printed name and title.

John Mickel
Chair
Trading Hours Review Reference Group

Terms of Reference

The Government approved terms of reference for the review as follows:

The Reference Group is to examine and report on the current framework for the regulation of trading hours in Queensland and provide advice and recommendations on any alternative models that could be adopted, taking into account the following considerations:

- The impact of the current framework, and any alternative models, on employment and business growth in Queensland.
- The impact of the current framework, and any alternative models, on the Queensland economy overall or particular regions or sectors of the economy.
- The impact of the current framework, and any alternative models, on the market share of small and medium-sized businesses.
- The impact of the current framework and any alternative models, on workers and their families.
- The impact of the current framework, and any alternative models, in meeting the needs of the Queensland public and visitors to the state.
- The impact of the current framework, and any alternative models, in providing certainty and consistency in retail shop trading hours arrangements between and within regions of Queensland, including in relation to public holidays and trading hours on those public holidays.

Matters concerning the structure and level of penalty rates, or any consideration of reduction in the number of public holidays, are not within the scope of the review.

Membership for the Reference Group shall comprise of one representative nominated by each of the listed organisations:

- National Retail Association (NRA)
- Chamber of Commerce and Industry Queensland (CCIQ)
- Master Grocers Association (MGA)
- Queensland Tourism Industry Council (QTIC)
- Shop, Distributive and Allied Employees' Association (SDA)
- Australian Workers' Union (AWU)
- United Voice (UV)
- Queensland Council of Unions (QCU)

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Chapter 1: An overview of the regulation of trading hours in Queensland

Queensland's trading hours' regulation, in common with all other jurisdictions in Australia, has been subject to substantial change in recent decades. This change has resulted in the liberalisation of trading hours, in particular the extension of trading hours for large retailers operating supermarkets and department stores.

Large retailers operating supermarkets and department stores were generally limited to traditional 'business hours' Monday to Friday and Saturday mornings up until the 1980s throughout Australia, while very limited or no restrictions were placed on trading hours for shops identified in legislation as special or exempt shops, shops selling particular products, and also for those shops classed as "small shops".

However, now, in the totally deregulated states of New South Wales, Victoria and Tasmania, restrictions on trading for large retailers operating supermarkets and department stores only apply on certain public holidays (Christmas Day, Easter Friday and Anzac Day until 1.00pm). For those States (Queensland, South Australia and Western Australia) that maintain greater restrictions on these retailers, nonetheless there has been a substantial extension of trading hours, with the introduction of late night shopping, the extension of trading to Saturday afternoon and the introduction of Sunday trading in many parts of each of these States.

Appendix 1 to this paper provides more details of these changes.

The extension of trading hours for these types of retailers in Queensland has created complexity for both consumers and business and has led to calls to assess the appropriateness of the current trading hours' legislation. Other concerns have been raised in relation to the classification and trading hour's arrangements for independent retail shops and exempt shops.

1.1 Queensland's Trading Hours Laws

The trading hours of shops in Queensland are regulated by the *Trading (Allowable Hours) Act 1990* (the Trading Hours Act) and trading hours Orders made by the Queensland Industrial Relations Commission (QIRC). The primary function of the QIRC has been to make orders for the extension of trading hours for non-exempt shops. **Appendix 2** to this paper provides a list of the current trading hours' orders issued by the QIRC.

The Trading Hours Act regulates trading hours in three classes of shops (as defined):

- Exempt shops;
- Independent retail shops; and
- Non-exempt (large) shops.

These three classes of shops were established in the *Trading Hours Act 1987* following a government review. Queensland is the only jurisdiction in which trading hours for the non-exempt shops are decided by an independent tribunal, the QIRC. In all other jurisdictions, trading hours are decided by government in legislation. Although in Western Australia the *Retail Trading Hours Act 1987* (WA) allows local government authorities located outside Perth the opportunity to apply to the Minister for Commerce

to extend the trading hours for non-exempt shops (referred to as general retail shops under WA legislation).

Other features of the Trading Hours Act include:

- an objective of facilitating trading in tourist area. This objective has been used by large retailers to support their applications to the QIRC to extend trading hours;
- setting out the criteria to be used by the QIRC in deciding applications for extensions of trading hours. It includes the needs of local industry, the public interest, consumers' interest, and business interest (whether small, medium or large), the view of any local Government and other matters considered relevant by the QIRC;
- legislative limitations around trading on Anzac Day, i.e. real estate sales are prohibited and places of public amusement are closed to 1.30pm; and
- a requirement that permits must be sought for exhibitions and special displays.

1.2 Exempt Shops

In 1987 the current exempt shops category was established. Exempt shops have no restrictions upon when they can open or trade. Exempt shops also have no limitations on the number of staff they employ. This classification was introduced in the *Trading Hours Act 1987*. It replaced the former exempted shop category which provided that an exempted shop sold only those goods listed on a prescribed exempted goods list or shops could be declared exempted shops in limited circumstances

The exempt shops list is extensive, with the legislation having 37 types of shops listed. The full list of exempt shops is set out at **Appendix 3** of this paper.

Generally, it could be said that exempt shops are those shops which provide necessities or goods and services which should be accessible to the public at all times e.g. chemists, newsagents, bakeries, take-away food shops restaurants, fish shops, fruit and vegetable shops and service stations. But it also includes antique, arts and crafts, book, camping equipment, pet, marine, souvenir and sporting goods shops, as well as shops that sell motor vehicle spare parts or motorcycle spare parts. Many of these shops were listed as exempt in 1987 in recognition of the fact that they sold goods that people want to buy outside normal business hours, including on Sundays.

The exempt shop category in Queensland covers a plethora of retail businesses from small shops owned by a single operator through to multinational retail chains. This is a result in part of major changes in retailing. Many exempt shops, for example, bakeries and chemist shops, were once small individually owned stores but today can often be part of large state-wide or national retail chains. Petrol service stations are changing complexion and now selling more groceries and convenience items as part of their evolving business model. Similarly, prominent sporting, recreation and auto parts stores - Amart Sports, Avanti Fitness, BCF Boating Camping Fishing, Goldcross Cycles, Rays, Rebel, Supercheap Auto and Workout World - belong to the Super Retail Group, a large nationwide retail

organisation which has more than 600 stores with an annualised turnover in excess of \$2 billion.¹

The upshot is that the traditional notion that the exempt shops category is characterised by small business traders is no longer a suitable characterisation of all the retailers in this category.

1.3 Independent Retail Shops

Independent retail shops are generally seen as small, independent retail businesses such as 'independent grocery and food stores' and speciality stores such as clothing, footwear and kitchenware shops. These shops can trade without restriction except for Christmas Day, Good Friday and Anzac day up to 1.00pm, when they must remain closed. Independent retail shops that are predominantly food and/or grocery shops have no restrictions on their trading hours.

Independent retail shops are defined at section 6 of the Trading Hours Act (**see Appendix 4**). There are a number of criteria for a shop to be classified as an independent retail shop. The most commonly relied on criteria are that such shops are run by a single operator or a proprietary company and may engage no more than 20 persons in the shop at any one time or, where a number of shops are operated, no more than 60 persons at any one time throughout the State. The independent retail shop classification was introduced in 1987 in place of the existing small shop which sold prescribed goods with not more than two person engaged in the business with a limit of one employee, i.e., a small corner store.

Well known examples of the independent retail shop include the independent grocery supermarkets such as IGA and Foodworks. While these stores identify as community centric businesses playing a vital role in ensuring the vibrancy of the retail sector, it is also recognised that these stores are significant business operations both in their size and turnover. Similar to the structural changes observed in the operations of many of the exempt shops, it is no longer universally appropriate to characterise independent retail shops as only small businesses.

The limits placed on these shops around the number of employees that they can employ (in an individual shop and in more than one shop across the state) and on trading on certain public holidays are often raised as matters of concern.

1.4 Non-Exempt Shops

Large retailers operating supermarkets and department stores fall within the category of non-exempt shop. Other retailers that fall under this category include, for example, hardware stores, builders materials supply hardware stores and butcher shops. **Appendix 5** of this paper provides a full description of non-exempt shop categories.

Since 1964 the QIRC has been empowered to establish orders for the trading hours of non-exempt shops. The QIRC is able to make orders by reference to

- opening and closing times;

¹ Super Retail Group, *Super Retail Group is one of Australasia's Top 10 retailers and is listed in the Australian Stock Exchange*, Super Retail Group Limited, < <http://www.superretailgroup.com.au/>>.

- selling by wholesale or retail;
- classes/types of non-exempt shops; or
- localities or parts of localities where non-exempt shops are located.

The fact that the QIRC can make orders by reference to these factors has resulted in a plethora of orders. Trading hours' orders have been made in response to applications for:

- particular precincts (New Farm, Hamilton);
- regional town or city (Mackay, Townsville, Toowoomba, etc.);
- major metropolitan centre (Brisbane, Gold Coast);
- type of large retailer (i.e. hardware stores, butchers, caravan saleyards); and
- time of year, i.e. lead up to Christmas.

Further, for each of these orders of the QIRC can establish specific closing and opening times which can differ between precincts, towns, regions and types of retailer.

The first significant extension of trading hours was granted by the QIRC in 1978 for late night trading on one night of the week in the whole of the eastern portion of the State as well as in Mount Isa and Roma. Applications to extend trading hours on Sundays and public holidays began in the late 1980s and were followed by applications to extend trading on Saturdays and in the lead up to Christmas for specific localities. A significant application for extended hours through the week and on Saturdays for South East Queensland is currently being considered. **Appendix 6** to this paper provides a history of these orders.

While generally leaving the extension of trading hours for non-exempt shops to the QIRC, the Queensland Government has acted twice to extend trading hours by legislation. In 1994 legislation extended trading hours for non-exempt (large retailers) throughout the state (the new hours were 8am to 9.00am Monday to Friday and 8.00am to 5.00pm Saturday) and in 2002 introduced uniform trading in the South-East Queensland area (north to Noosa, south to Coolangatta and west to Amberley) for large retailers from 9 am to 6 pm on Sundays and most public holidays. The legislation repealed a QIRC decision of 21 December 2001 to introduce Sunday trading to the Brisbane City Council area only.

The 1994 amendments were introduced following a review carried out in 1993 in accord with the Government's commitment to the systematic review of legislation and regulations affecting business. The Minister at the time, the Honourable Matt Foley, noted in his second reading speech that:

"From an analysis of the submissions received in the review and from a consumer's point of view, an extension of weekday hours with uniformity across the State is seen as necessary. At present, Queensland's trading hours are a hotchpotch of different rules. In respect of general retail shops, 13 different areas throughout the State operate under different trading hours. To achieve a more simple system, the most appropriate course of action is to provide for liberalisation in the legislation".²

² Queensland, *Parliamentary Debates*, Legislative Assembly, 14 April 1994 (Matt Foley).

The Minister went on to say that “while the Government is proposing this amendment, it still respects the impartiality of the Industrial Commission in determining applications for extensions of allowable trading hours”.

Similarly, the 2002 amendments which introduced uniform trading in the South-East Queensland area for large retailers from 9 am to 6 pm on Sundays and most public holidays were aimed at part in addressing the complexity associated with a number of trading hour’s zones. The Government Minister at the time stated in his second reading speech that, in consultations with various industrial parties, they had raised:

“the current unsatisfactory situation whereby numerous trading hours zones exist between the existing Sunshine Coast area and Gold Coast area, resulting in both industry and consumer confusion. Separate trading hour zones that fall within this area include the Sunshine Coast area, Near North Coast Area, Inner City of Brisbane Area, Area of the City Heart, Area of New Farm of Inner City of Brisbane and the Gold Coast area. These areas all have individual trading hours, with different trading applying for the areas in between”.³

The extension of trading hours for non-exempt shops has occurred through both orders of the QIRC and through legislative amendment. The result is that approximately 90 per cent of Queenslanders now live in areas with easy access to seven day trading by large retail stores, compared to 13.5 per cent prior to the introduction of Sunday and extended public holiday trading in 2002 for South East Queensland.

The further extension of trading hours by Orders of the QIRC, i.e., over and above the legislative uniformity measures of 1994 and 2002, has meant that there now exists a new measure of complexity that has created confusion around trading hours for non-exempt stores. This complexity is reflected in the fact that:

- QIRC orders provide for extended Sunday and public holiday trading (usually 9:00am to 6:00pm or 8:30am-5:30pm) in more than 30 defined areas across Queensland covering most of the major population and tourist areas (e.g. Cairns, Townsville, Toowoomba, Mackay, Rockhampton, etc.);
- QIRC orders provide for extended trading hours in small defined areas of South East Queensland and regional tourist areas which allow for earlier trading on week days from 7:00am, later trading on Saturday to 7:00pm, 9:00pm or 10:00pm and/or later trading on Sunday to 8:00pm or 9:00pm (Inner City of Brisbane, New Farm, Hamilton North Shore, Gold Coast supermarkets, etc.). The October 2016 decision of the QIRC (refer page 11) will increase uniformity in some of those areas ; and
- Extended Christmas trading hours (e.g. Westfield Chermside).

There are a small number of areas where applications for Sunday trading have not been successful (e.g. Mt Isa, Warwick, Kingaroy, Ingham, Ayr,) and additionally some areas with a population in excess of 3,500 where Sunday trading is not available including Bowen, Charters Towers, Roma, Goondiwindi, Blackwater, Stanthorpe and Longreach.

³ Queensland, *Parliamentary Debates*, Legislative Assembly, 19 February 2002, 46 (Gordon Nuttall).

Woolworths told the Productivity Commission that it is prevented from trading on Sundays in 20 regional towns. In addition to those towns listed above these include Chinchilla, Pittsworth, Childers, Proserpine, Mission Beach, Weipa and Cloncurry.

In October 2016, the QIRC has granted the following applications for extended trading:

- allowing non-exempt (large) shops in South East Queensland from 1 December 2016 to trade between the hours of 7:00am and 9:00pm, Monday to Saturday resulting in the deletion of a number of trading hours zones and increasing uniformity of trading hours in the area;
- allowing non-exempt shops in parts of South East Queensland to remain open until midnight on 19, 20, 21, and 22 of December 2016. The applications apply to non-exempt shops located within: the City Heart of Inner City of Brisbane; the Westfield Carindale Shopping Centre; the Westfield North Lakes Shopping Centre; the Westfield Garden City Shopping Centre; the Westfield Chermside Shopping Centre; the Indooroopilly Shopping Centre; the Kmart Oxenford Centre; the Pacific Fair Shopping Centre; the Robina Town Centre Shopping Centre; and the Sunshine Plaza Maroochydore Shopping Centre, and
- allowing non-exempt shops in regional areas of Queensland without 7 day trading to open on the 27 December 2016 public holiday preventing a closure of shops on three consecutive public holidays (i.e. 25 December 2016, 26 December 2016 and 27 December 2016).

The piecemeal approach to extending trading hours based on applications to the QIRC has created a lack of uniformity and uncertainty of trading hours between different areas and in the types of non-exempt shop that may open on Sundays and public holidays. This is confusing to business operators and consumers alike. Questions for submissions are set out at chapter 3 of this issues paper.

Chapter 2: Consideration of the impacts of trading hours' regulation

The Queensland Trading Hours Review terms of reference asks the Reference Group to take into account a number of considerations when it examines and reports on the current framework for the regulation of trading hours in Queensland and when making recommendations on any alternative models that could be adopted.

These considerations include the impacts of the current framework and any alternative models:

- in meeting the needs of the Queensland public;
- on workers and their families;
- on employment and business growth;
- on the Queensland economy overall or particular regions or sectors of the economy;
- on the market share of small and medium-sized businesses;
- in meeting the needs of visitors to the State; and
- in providing certainty and consistency in retail shop trading arrangements between and within regions of Queensland, including in relation to public holidays and trading hours on those public holidays.

This chapter of the Issues Paper provides information relating to the factors mentioned above, including references to various reviews and reports on the implications of trading hours' regulation in Queensland and Australia. Your submissions on any or all of these matters are sought to inform the Committee's report and any recommendations it may make to the Government to improve trading hours regulation in Queensland.

2.1 Impact on the needs of the Queensland public

The impact of trading hours' regulation on the needs of the Queensland public is a significant and recurring area of community debate. Shaping this debate are the substantial socio-economic, demographic and lifestyle expectation changes that have occurred over the past 30 years.

Major socio-economic and demographic changes include

- population growth and movement, including an aging population;
- increased participation of women in the workforce;
- growth in dual income and single parent households; and
- growth in service industry employment, non-traditional working hours and flexible working hours' arrangements and shift work.

There has been a large increase in part-time work with the proportion of workers employed part time doubling from 15 per cent in 1978-79 to 30.4 per cent in 2015-16. Young workers (15-24) have the largest increase in part-time workers (as a proportion) with 12.1 per cent of young workers part-time in 1978-79 increasing to 50.0 per cent in 2015-16. While mid aged part-time workers (25-44) increased in proportion from 16.3 per cent to 24.1 per cent and aged part-time workers (45-64) 14.3 per cent to 27.0 per cent. The average number of hours worked by full time workers in Queensland has decreased from 41.6 hours in 1991-92 to 40.1 hours in 2015-16

These changes have all contributed to a rise in time-poor households and individuals seeking better work-family-life balance and therefore expect greater access to flexibility in shopping hours. In response there have been major shifts in the structure of retail marketplaces and nature of the shopping experience. In short, consumers are seeking greater flexibility in retail trading hours in order to purchase the goods and services they require when they require them.

As noted in chapter one of this paper, there has been an ongoing movement towards the relaxation of traditional trading hours' regulation and the extension of opening hours across all Australian jurisdictions.

Sunday trading has been extended to most of Queensland and Australia in recent decades and the evidence indicates that it has been found to quickly become one of the most important trading days.⁴ In 1992, 31 per cent of Sydney shoppers did most of their shopping on Thursday but in 1993 that figure dropped to 22 per cent, coinciding with the introduction of Sunday trading. Research undertaken in 2003 indicates that Sunday became the second most important trading day after Saturday for most general merchandise and non-food specialty retailers in those States where it had been introduced.⁵

Another significant change with the extension of trading hours has been consumers forgoing the traditional once a week shop to use late trading hours to easily grab 'top ups' through the week.⁶ This is becoming particularly evident in the move towards 'fresh' rather than frozen or prepacked foodstuffs. Research from AusVeg's Project Harvest confirmed that in the mid-2000s the weekly grocery shop was a thing of the past, with the average Australian going to the supermarket almost three times a week or approximately 135 times a year.⁷ The trend of forgoing a big shop for multiple small visits has continued with a 2015 report showing that Australian families visit the shops every 4.5 days.⁸ A report by Nielsen Global on global e-commerce and new retail (The Nielsen Global Report) also identified that the ability to open later in the evening is of more importance to grocery shoppers and supermarkets than personal needs shoppers and general merchandise and non-food specialty retailers, where weekend shopping time is considered more important.

In the last few years, the evolution of shopping patterns as 'mission driven' has seen consumers substituting online retailing for traditional retailing where shopping hours are restricted.⁹ Both internationally, and within Australia, the growth of e-commerce is rapidly increasing with substantial impacts on all sectors of traditional shop-front retail businesses. Trading hours' restrictions on bricks and mortar retailers may encourage

⁴ Productivity Commission, 'Economic Structure and Performance of the Australian Retail Industry' (Report No 56, 4 November 2011).

⁵ Retail Traders' Association of Western Australia, Submission to Western Australia's Review of Retail Trading Hours, *Public Consultation Paper*, April 2003.

⁶ Ibid.

⁷ AusVeg, 'Vegetable consumer and market report, (Report, AusVeg Project Harvest), August 2004.

⁸ Nielsen Global, 'Nielsen Global E-Commerce and the New Retail Report', (Report, Nielsen Global) April 2015.

⁹ Productivity Commission, 'Economic Structure and Performance of the Australian Retail Industry' (Report No 56, 4 November 2011).

consumers to make purchases online, outside of trading hours, rather than locally, during trading hours.

Changing technology and the pervading nature of the internet has seen a shift in consumer purchasing practices and preferences. Consumers are seeking greater diversity in how and when they shop. According to research by Macquarie Bank, the online retailing is being driven primarily by (a) price; (b) convenience of the shopping experience; and (c) the range of products available online.¹⁰

In 2012-13 around 76 per cent of all Australian internet users used the internet to purchase or order goods or services. During 2015 in an 'average four week period', over 7.6 million Australians aged 14 and over (almost 40 per cent of the population) bought one or more products on line. This is a sizeable increase from 2011 when 5.7 million people made online purchases over a similar period.¹¹

The share of total online spending is dominated by homewares and appliances, groceries and fashion, with media contributing the most in the past year. Takeaway food continues to have the fastest annual online sales growth, growing 56 per cent in the past year. The rapid uptake of ordering takeaway foods and home delivered products and services online is indicative of the rapidly changing behaviours of consumers.

Analysis provided by Westfield has revealed that 48 per cent of transactions made online are made outside of standard shopping centre hours which they have reported as reflecting the needs of consumers need to engage in retail outside of normal shopping and working hours.¹²

The Nielsen Global Report suggests that the growth of online retailing reflects that consumers are increasingly attracted to ease and convenience when it comes to the retail sector.¹³ Further, the Nielsen Global Report indicates that these digital shopping trends coincide with the changing shopping habits among Australians, who in 2015, recorded the lowest consumer confidence levels since the GFC.¹⁴ Consumers are more cost conscious and more empowered in their purchase decision making than ever before.

The 2011 Productivity Commission Report into the Economic Structure and Performance of the Australian Retail Industry (the 2011 Productivity Commission Report), the 2014 Productivity Commission into the Costs of Doing Business: Retail Trade Industry (the 2014 Productivity Commission Report), the 2015 Competition Policy Review Final Report (the Harper Review) and the 2013 Office of Best Practice Regulation report into Measuring and Reducing the Burden of Regulation (the OBPR Report) all made comparisons between bricks and mortar retailers and online retailers.¹⁵ A common

¹⁰ Macquarie Equities Research, Listed Property Sector, 'Lifting the Barbell' (Report, Macquarie Equities Research), July 2012.

¹¹ Australian Bureau of Statistics, *Household Use of Information Technology, Australia 2012-13*, 25 February 2014 <<http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/8146.0Chapter32012-13>>.

¹² Westfield, Submission to Productivity Commission, *Economic Structure and Performance of the Australian Retail Industry Public Inquiry*, June 2011, 34.

¹³ Nielsen Global, 'Nielsen Global E-Commerce and the New Retail Report', April 2015.

¹⁴ Nielsen Global, 'Nielsen Global E-Commerce and the New Retail Report', April 2015.

¹⁵ Productivity Commission, 'Economic Structure and Performance of the Australian Retail Industry' (Report No 56, 4 November 2011); Productivity Commission, 'Costs of Doing Business: Retail Trade

observation made in all these reports is that trading hours' regulation handicaps physical retailers when competing with online retailing, which can be conducted at any time of the day or night. The reports recommend that deregulated retail trading hours would enable businesses to compete on a more level playing field.

Restrictions on retail trading hours may limit the choice and convenience available to customers. Given other constraints placed on an individual consumer's time it is reasonable that a high value is placed on the ability to choose when and where one can shop.

By restricting consumer choice, regulated trading hours can prevent customers from purchasing the goods that they demand and increase search costs because customers spend more time looking for the goods they require, be it driving further to access a shop that is open, searching multiple shops for the goods required, or spending longer in shops that are open because the shops are congested.

Opponents of extended trading hours have suggested that extended trading hours are having an adverse impact upon family and social activities such as sport, church, charity work, and other social events. Extended retail trading hours may result in consumers spending more time and money shopping and less time and money on other events and recreational activities. In 2009-2010 in a trading hours application for the Mt Isa region, concerns were raised that local sporting events, community events and family life could suffer with the introduction of seven day trade in Mt Isa. At the time, many community events were held in Mt Isa on a Sunday. Consideration of this issue, and several others raised, the application for seven day trading in Mt Isa was refused.

In contrast, supporters of extended trading hours have considered that the presence of restricted trading hours means that for time poor individuals, grocery shopping can be prioritised over family and other preferred social activities because it must be undertaken with some regularity (particularly for perishable products). With the changing structure of Australian households consequent to the increase of women in the workforce, the growth of both dual-income households and single parent families, the growth of service-based industries, and working students, extended retail trading hours may offer individuals more flexibility to structure their activities around their family and social activities.

2.2 Impact on workers and their families

While consumers may seek the convenience of extended trading hours, distinct and separate concerns arise for retail workers and their families from extending trading hours.

While the issue of penalty rates for employees working unsociable hours are not within the scope of the review it is noted that workers should be adequately recompensed for working unsociable hours. Protection against working unreasonable hours is afforded to these employees through current legislation, awards and agreements. For employees in

Industry' (Research Report, November 2014); Ian Harper, Peter Anderson, Su McCluskey, Michael O'Bryan, 'Competition Policy Review: Final Report' (Report, March 2015); Office of Best Practice Regulation, 'Measuring and Reducing the Burden of Regulation', (Report, Queensland Competition Authority, 2013).

the both the federal and state industrial relations system awards, enterprise agreements and other registered agreements provide entitlements for working public holidays including extra pay, an extra day off or extra annual leave, minimum shift lengths on public holidays, and agreeing to substitute a public holiday for another day. Similarly, most awards, enterprise agreements and other registered agreements provide employees with over time and weekend penalty rates.

Despite compensation being available to workers through adequate penalty and overtime rates, retail workers and their Unions express concern about the dis-amenity for workers and their families where workers are required to perform additional or unsociable hours as a consequence of the extension of retail trading hours. For example, working later into the night or starting early, working on Sundays and/or public holidays is of particular concern for vulnerable employees who may not be in a position to resist unwelcome pressure thereby losing family time, and rest and recreation time that would otherwise be afforded on public holidays and other days of religious or cultural significance. Central to these concerns is how to protect the integrity of a voluntary system whereby a worker can determine whether to work extended, additional or unsociable hours without fear of reprisal.

In a 2008 publication the Institute of Public Affairs considered that a growing and increasingly diversified population creates demand for greater variety, whether this is in retail, restaurants, entertainment or work. It follows that the vacancies that arise during extended trading hours will tend to be filled by those who most prefer to work these hours.¹⁶

Other work related concerns raised include security for staff working late nights where a 'skeleton' staff roster is more likely, and safe passage for staff travelling to and from their home or to public transport (if available).

There is evidence that the additional hours being done on weekends and late nights as a consequence of the extension of trading hours in recent decades has, to a significant extent, been taken up by part time workers. There has been a more significant shift towards part time work in the retail industry in Queensland over the past thirty years when compared with other industries. The prevalence of part time work in the retail industry increased from 33.6 per cent to 49.5 per cent over the 30 year period from 1986 to 2016 compared to an increase from 20.0 per cent to 30.9 per cent in the broader Queensland workforce. Further, part time employees in the retail industry are significantly over represented in the 15-19 and 20-24 year age groups. In the 15-19 year old employee group 86 per cent were part time and 55 per cent of 20-24 year old employees were part time. According to the 2011 census data 51 per cent of all part time retail industry employees in Queensland were aged between 15 and 24. This relatively high proportion of part time workers is maintained from a pool of high school and university students wanting to supplement their incomes. However, there is substantial literature suggesting that workers are wanting more flexible working arrangements, including working from home, as well as better work-life balance. This is more prevalent with younger workers who stay at their parents' home longer and have fewer ties to

¹⁶ Staley; L 'Case is overwhelming to extend shop hours', *The West Australian*, 3 October 2008 <<http://www.ipa.org.au/news/1691/case-is-overwhelming-to-extend-trading-hours>>.

mortgage and debt in general, which allows them to change jobs more regularly with less financial risk. Full time workers outnumber part time workers for all other age groups until the over 60 age groups.

Although it is reasonable to assume that extending trading hours may disadvantage some employees that are compelled to work during extended trading hours, the 2011 Productivity Commission Report found a potential benefit of removing trading hours' restrictions could provide employment opportunities for people who prefer to work outside regulated trading hours. Some economic studies have also highlighted the negative consequences for workers in employment where trading hours are restricted. As the productivity of capital is lessened and, therefore, reduces the return on that capital to the business owner, it can have a detrimental impact on the overall demand for labour and depress wages. Additionally, regulations restricting trading hours impose costs on those employees in the retail industry who either prefer to work outside of the regulated trading hours or are indifferent to working outside of these times.

2.3 Impact on the economy, employment and business growth

The Queensland Government has indicated that sensible economic reform to improve the regulation of retail trading hours in Queensland has the potential to deliver benefit to the community, while delivering for workers and business.¹⁷ The Honourable Curtis Pitt, Treasurer, Minister for Aboriginal and Torres Strait Islander Partnerships and Minister for Sport, has described what the reform of trading hours' regulation can deliver:

“For business operators it could mean greater flexibility in meeting consumer demands and the opportunity for increased sales with a potential flow-on to more jobs. We want to ensure our retail sector can secure more scale and economic benefits which also means new jobs in the sector”.¹⁸

The retail industry is a significant contributor to the Queensland economy. Australian Bureau of Statistics data indicate that in 2015-16 the retail industry employed 10.8 per cent of the Queensland workforce. Small businesses (i.e. employing less than 20 employees) make up 36 per cent of Australia's retail industry employment in 2014-15. Data is not separately available for Queensland.

Recent productivity and competition reviews on the impact of trading hours' regulation in the retail sector have concluded that reducing trading hours restrictions can benefit the economy, business and employment. The types of benefits identified by reviews undertaken by state and national productivity and competition bodies, including 2011 Productivity Commission Report, the 2014 Productivity Commission Report, the Harper Review, and the OBPR Report include:

- better utilisation of business capital (plant, equipment and premises) as a result of increasing or maximising economies of scale;
- increased employment opportunities;

¹⁷ Queensland Treasury, 'Time to revisit Qld's complex, confusing and costly retail trading hour' (Media Release, 31 August 2016).

¹⁸ Queensland, *Parliamentary Debates*, Legislative Assembly, 31 August 2016, 8 (Curtis Pitt, Treasurer).

- improved ability to compete with online retailers;
- better management of customer traffic and demand;
- reduced business compliance costs, including administrative costs, associated with responding to and complying with trading hours regulations; and
- evidence that retail turnover increases following relaxation of trading hour's restrictions as consumers redirect spending to retail due to enhanced convenience and opportunity.

In Victoria in the decade following the deregulation of trading hours in the mid-1990s there was a 30 per cent growth in small retailer business numbers, while in Western Australia, where trading hours remained more restricted, growth in the small business sector was 2 per cent over the same period.¹⁹

In 2014 the Productivity Commission reported that extended trading hours can lead to economic gains through an increased demand for labour. Expanded trading hours enable retailers to increase their workforce.²⁰

The OBPR Report estimated the potential for significant net benefits from the reform of trading hours in Queensland of approximately \$200 million per year. Also, the 2011 Productivity Commission Report, the 2014 Productivity Commission Report, and the Harper Review, and both recommended the review of, or deregulation of, retail trading hours in jurisdictions which still have regulated trading hours. The Harper Review stated that deregulating trading hours should be a priority for those states where the tightest restrictions on retail trading hours apply, because those jurisdictions are likely to derive the greatest potential gain. Importantly, these reviews revealed Queensland has relatively restrictive trading hours regulation compared with other States and similar economies around the world.

2.4 Impact on the market share of small and medium-sized businesses

There has been much debate about the impact of extending trading hours for larger retailers on the market share of medium and small retailers. The existing independent retail shop classification in Queensland is aimed at providing some protection to those small and medium sized retail businesses i.e. retailers employing less than 20 at any one time.²¹

Arguments for and against the relaxation of trading hours regulations are often seen as a battle between big and small business. A survey conducted by the Chamber of Commerce and Industry Queensland (CCIQ) in 2014 found that the market dominance of the major retailers is a key concern amongst those businesses opposed to deregulation of shop trading hours. Concern is often expressed that lifting the trading hours protections enjoyed by independent retailers will lead to those retailers losing their place in the market and result in even greater domination of the grocery sector by the major grocery

¹⁹ Staley; L 'Case is overwhelming to extend shop hours', *The West Australian*, 3 October 2008 <<http://www.ipa.org.au/news/1691/case-is-overwhelming-to-extend-trading-hours>>.

²⁰ Productivity Commission, 'Costs of Doing Business: Retail Trade Industry' (Research Report, November 2014).

²¹ A full definition of independent retail shop is at chapter 1.3.

chains. Under this concern, the outcome of small business closures is increased market dominance by the chain retailers and less choice for consumers in the longer term. The 2011 Productivity Commission Report also found that, despite the overwhelming evidence on the aggregate economic benefits from the deregulation of trading hours, there can be adverse impacts for some individual retailers as a consequence of deregulation. These businesses tend to be those competing directly with those larger businesses subject to trading hour restrictions.

Another concern for small and medium businesses is that where they are operating in a shopping centre, they may be required to open for the extended shopping hours decided by the owners of the shopping centre. Following the 1993 review of trading hours in Queensland the Retail Shop Leases was amended in 1994 to protect small retailers in shopping centres from being forced to open longer hours as a result of extended trading. However, the negative impacts on small business may be overstated. Whilst the 2014 CCIQ survey raised concerns from businesses about the impact of retail trading hour deregulation, it showed little direct link between the deregulation of shop trading hours and business performance. Roughly two-thirds of businesses indicated no impact on sales, profitability, employment and investment if trading hours were to be deregulated.²² The Productivity Commission also found that consistently high small business participation rates of around 90 per cent in both regulated and deregulated states and territories, suggesting that trading hours have little influence over the level of market participation by small retail businesses.²³ Additionally, the Harper Review highlighted that the independent businesses are able to differentiate their offerings to fulfil consumer demands and compete in the face of deregulated trading hours.²⁴

Between December 2007 to December 2015 Woolworths' share of the Australian grocery market has decreased from 40.9 per cent to 37.3 per cent, while Cole's share has decreased from 33.7 per cent to 32.5 per cent. However Aldi share increased from 5.5 per cent to 12.1 per cent and IGA share increased from 8.7 per cent to 9.7 per cent. Overall smaller grocery stores share has decreased from 11.3 per cent to 8.4 per cent. The growth in Aldi as the dominant force in Australian grocery market over the last 10 years, has been at the expense of nearly all other retailers.²⁵

2.5 Impact on particular regions or sectors of the economy

Queensland has developed geographically-distinct trading hours' areas. For example some areas of the State can trade on Sundays, or have a particular spread of hours between Monday and Saturday, while others cannot. The impact of the current patchwork of trading hours' arrangements between regions, and the differences in the treatment for trading hours' restrictions across different retail sectors (large, independent, exempt, hardware etc.) is central to the considerations of the Review.

²² Chamber of Commerce and Industry Queensland, 'Queensland Shop Trading Hours' (Survey, Chamber of Commerce and Industry Queensland, September 2014) 3.

²³ Productivity Commission, 'Economic Structure and Performance of the Australian Retail Industry' (Report No 56, 4 November 2011).

²⁴ Ian Harper, Peter Anderson, Sue McCluskey, Michael O'Bryan, 'Competition Policy Review: Final Report' (Report, March 2015).

²⁵ Roy Morgan Single Source (Australia), January 2007–December 2015, average 12-month sample = 14,793.

The 2014 Productivity Commission Report found that jurisdictions' piecemeal approach to deregulation has increased the variability of location-specific arrangements around the country and sharpened the comparative disadvantage of those retailers and consumers outside the areas where trading hours have been extended.

The Queensland Government decision to improve on the QIRC decision in 2002 to only extend Sunday trading to the Brisbane City Council area, and replace it with legislative amendments which provided for Sunday trading across the whole of South East Queensland, was done primarily in response to the concerns of retailers, particularly in the larger shopping centres, which would have otherwise fallen just outside the Brisbane City Council boundaries.

The Government noted at the time when introducing the amendments that:

“The Commission did not see the Brisbane and near metropolitan area as having the necessary degree of commonality...There has been a strong reaction against the Commission's decision by industrial parties who consider that it is inappropriate and discriminatory in respect of the areas in close proximity to Brisbane. It is generally held that the decision disadvantages traders, shopping centres and consumers in these areas by disallowing access to Sunday trading and, as such, is not in the public interest”.²⁶

In the matter of the 2010 City of Toowoomba Area trading hours' case there were a number of submissions opposed the extension of Sunday trading hours in Toowoomba. Submissions were made that the extension of trading hours was not in the public interest for the region as it would have a 'massive' impact upon most small towns as those residents would be drawn to Toowoomba to purchase their requirements on the weekend. Whilst the potential impact upon small regional areas due to extended trading hours was considered by the QIRC, the application was ultimately granted.

2.6 Impact on visitors to the state

The tourism industry is a key feature of Queensland's economy and the State's future economic performance. The impacts of trading hours' regulation on this industry are a significant consideration for the Review.

Research conducted by Tourism Research Australia shows that in the last year international visitors to Australia spent a record \$36.6 billion in the year ending December 2015 – 8 per cent or \$5.5 billion more than the previous year.²⁷ Of the \$36.6 billion, \$14.6 billion was spent by Australian visitors in Queensland.²⁸ From the \$36.6 billion, \$2.6 billion was spent in the retail and food service industry, a growth of 33 per cent from the previous year.

²⁶ Queensland, *Parliamentary Debates*, Legislative Assembly, 19 February 2002, 46 (Gordon Nuttall).

²⁷ Austrade, *International Visitors in Australia – Year ending in December 2015*, Tourism Research Australia <<https://www.tra.gov.au/research/latest-ivs-report.html>>.

²⁸ Department of Premier and Cabinet, 'Queensland domestic tourism expenditure gets boost worth almost \$1 billion' (Media Release, 14 September 2016).

The continued growth of the tourism industry in Queensland has impacted shopping patterns and consumer expectations. The increase in tourism spending on pleasure activities, which includes shopping, have also contributed to the demand for extended trading hours, including on public holidays, where international tourists may not recognise local or national cultural norms.

Retail trade and cafes, restaurants and takeaway food services are the two most prevalent industries in the tourism industry. This trend is current across all states and territories in Australia. . In a 2012 survey conducted by Tourism and Events Queensland the top activity with domestic tourists in Queensland were:

- eating out at restaurants - 57 per cent participation;
- visiting friends or relatives - 47 per cent participation; and
- shopping for pleasure - 31 per cent participation.²⁹

By comparison, Victorian international visitors had a 33 per cent higher participation rate in eating out at restaurants and a 48 per cent higher participation rate in shopping for pleasure than international visitors in Queensland.

According to the Australian Cruise Association Economic Impact Assessment of the Cruise Industry in Australia in 2015-2016 a record 329 cruise ships visited Queensland. More cruise ships docked in Queensland than in any other state.³⁰ Contributions to the Queensland economy from cruises has been steadily increasing. Cruise ship contributions to the Queensland economy increased by 60 per cent between 2010/11 and 2015/16. This dramatic increase in contribution coincided with the extension of trading hours in 2015 in the Hamilton Northshore area, where cruise ships dock in Brisbane. Passenger expenditure at this port overlapped with extended trading hours.³¹

2.7 Impact in providing certainty and consistency in retail shop trading arrangements between and within regions of Queensland, including in relation to public holidays and trading hours on those public holidays

As indicated in chapter 1, Queensland's model for the regulation of trading hours has produced a variety of different trading hours' arrangements for non-exempt shops across the State.

As mentioned in previously in this chapter, there are a number of considerations on the issues of consistency, both within and across the State, across Australia, and in the treatment of various 'classes' of businesses.

Further, the classification of shops as exempt, independent and non-exempt place compliance and search costs on both consumers and businesses. Reports and views on

²⁹ Tourism and Events Queensland, *Brisbane Tourism Profile – Average annual data from year ending December 2009 – December 2012* (March 2013)

<<http://teq.queensland.com/~media/85268C60B26041348E3EBF04CD072D5D.ashx?la=en>>.

³⁰ Department of Premier and Cabinet, 'Queensland domestic tourism expenditure gets boost worth almost \$1 billion' (Media Release, 14 September 2016).

³¹ Australian Cruise Association, 'Economic Impact Assessment of the Cruise Shipping Industry in Australia, 2014-15' (Report, September 2015).

the prevalence of these costs have been mentioned in the preceding chapters on business, worker and consumer interests.

Chapter 3: Current model and alternative models for regulating non-exempt shops (large retailers)

Shop trading hours' legislation in all Australian jurisdictions traditionally had as its focus the restriction of opening hours by non-exempt shops (i.e. large retailers). Chapter 1 of this discussion paper documented the process of change to trading hours' legislation governing the opening hours of larger retailers in Australia from the 1980s to the present day.

The discussion highlighted the substantial change that has occurred in all jurisdictions. It also noted that despite this major process of deregulation significant differences exist between States.

Queensland is one of three states, along with South Australia and Western Australia, where non-exempt shop trading hours are still subject to a number of restrictions based on geographical location and/or types of goods sold in the shop.

Non-exempt shopping hours are substantially deregulated in New South Wales, Victoria and Tasmania where restrictions on trading apply only on certain public holidays (i.e. Christmas Day, Good Friday and morning of ANZAC Day with additional closed days in New South Wales on Easter Sunday and Boxing Day). Shop trading hours are totally deregulated in the Australian Capital Territory and the Northern Territory.

Queensland is the only jurisdiction where trading hours are decided by a combination of regulations set out in the Trading Hours Act) and decisions of the QIRC. In all other jurisdictions, trading hours are decided by government in legislation.

However, as set out in chapter one, the Queensland government has legislated for changes to trading hours in non-exempt shops twice over the past 20 years.

The terms of reference for the current review ask that submissions consider the current model and alternative models for regulating trading hours. Chapter two provided background on the areas for the consideration of the Review.

The discussion in this chapter focuses on possible models for regulating the hours of non-exempt shops (large retailers) and the regulation of independent retail stores and exempt shops and other identified anomalies. The matters and promoting questions raised in this chapter should not be considered as exhaustive. The Committee encourages submissions on other matters considered to be relevant to the Review's terms of reference.

The basic models that can be considered for regulating trading hours for large non-exempt shops include:

- adoption of a deregulated model as exists in New South Wales, Victoria and Tasmania;
- adopt a model where trading hours are decided in legislation by Government;
- retain the existing model but make changes in legislation to the minimum hours for trading throughout the state or in defined regions, as occurred in 1994 and 2002;

- limiting the order making power of the QIRC;
- change the criteria for deciding application for extended trading; and
- make no changes to the current arrangements relating to trading hours for large retailers.

3.1 A deregulated model

One significant consequence of the way in which Queensland regulates trading hours is the complexity of shopping hours' arrangements. Across Queensland there are more than 30 defined seven day trading hours' areas for large retail stores (i.e. non-exempt shops). This complexity has arisen from a process whereby changes to trading hours for large retailers are made on application to the QIRC.

Applications made by large retailers for extensions of trading hours have included:

- particular precincts (e.g. New Farm, Hamilton);
- regional town or city (e.g. Mackay, Townsville, Toowoomba, etc);
- region (e.g. South East Queensland);
- type of large retailer (e.g. hardware stores); and
- time of year (e.g. lead up to Christmas).

The deregulation of hours along the lines found in New South Wales, Victoria and Tasmania would immediately remove the complexity and red tape associated with over 30 defined seven day trading hours' orders along with other orders for classes of shops (e.g. large hardware retailers, car yards, caravan yards) and for shopping in the lead up to Christmas. The removal of these orders would lead to reduced confusion for business operators and consumers alike.

The likely response of consumers and tourists have been canvassed in chapter two along with concerns for small to medium sized businesses and retail workers and their families as well as any identified impacts.

One issue of concern with the total deregulation of hours is the argument that it would create extremes in trading hours (for example, 24 hour trading). However, the 2014 Productivity Commission Report highlighted that deregulation had not led to 24 hour a day, seven days a week trading by all large retailers in jurisdictions with unrestricted trading hours.³² Instead, brick and mortar retailers are able to open when they consider it is in their commercial interests to do so and opening hours reflect consumers' shopping patterns.

Question for submissions:

Should there be substantial deregulation of shop trading hours in Queensland by adopting the approach found in a number of other States (e.g. New South Wales, Victoria and Tasmania) where there is minimal regulation of shopping hours other than restricted trading days on certain public holidays?

³² Productivity Commission, 'Costs of Doing Business: Retail Trade Industry' (Research Report, November 2014).

3.2 A model where trading hours are decided in legislation by Government

In 1964 an amendment to Queensland's Industrial Conciliation and Arbitration Act established the QIRC as the Trading Hours Tribunal having the power to fix by Order the trading hours of non-exempt (large) shops and small shops. The reasons behind the amendment were that the Government believed trading hours should be determined by an independent tribunal.

Queensland governments of all political persuasions have continued to believe that this is the most appropriate method for setting trading hours. A review of trading hours in 1993 confirmed that while trading hours for large retailers should be extended on weekdays and Saturday afternoons to 8am to 9pm Monday to Friday and 8am to 5pm Saturday, the QIRC should retain the power to determine non-exempt shop trading hours in excess of the hours prescribed in the legislation. These recommendations were given effect in legislative amendments introduced in 1994.

In 1996 an independent Inquiry was commissioned to determine the effects of the 1994 legislative changes. After consultation and examination of the recommendations in the report of the Inquiry, the Government made amendments to the Trading Hours Act. One of the principal recommendations adopted in the legislation centred on the QIRC being the appropriate body to determine trading hours by Order outside the core hours determined in the 1994 legislation. In short, endorsing the retention of the QIRC as an independent arbiter of trading hours' applications for large retailers is considered an article of faith.

Some concerns have been expressed at the length of time taken by the QIRC to make decisions on trading hours' applications and the cost associated with such applications. The Government made changes to the legislation in 2013 which allows a single commissioner to hear most applications expediting the hearing of some matters. However, it is unlikely that handing this decision making power to Government would necessarily result in quicker decisions. The Western Australian Government introduced legislation to extend trading hours in 2015 but the Bill is still in the Parliament's Upper House and is unlikely to be passed before the 2017 election. South Australia undertook a legislative review in 2007 which concluded that the current shopping hours were essentially adequate.

An advantage of changes being made to trading hours by government enacted legislation is that it may lead to a reduction in the level of variation in trading hours across the State. For instance, legislative action taken in 1994 and 2002 by Government to extend trading hours set clear minimums within which trading by non-exempt shops was allowed Monday to Saturday throughout the whole of the State and for South East Queensland on Sundays and most public holidays. Whereas the setting of trading hours by the QIRC, as already noted, has created more than 30 defined seven day trading hours' areas for non-exempt shops.

The complexity associated with the QIRC setting hours is in part a result of its being given the power to make orders for non-exempt shops by reference to:

- opening and closing times;
- selling by wholesale or retail;

- classes/types of non-exempt shops, or
- localities or parts of localities where non-exempt shops are located.

Question for submissions:

Should government determine the trading hours through legislation alone, or should the determination of trading hours remain with the QIRC?

3.3 Retention of the existing model with changes in legislation to the basic allowable hours for trading throughout the State or in defined regions

This chapter has already highlighted the fact that on two occasions in the past 20 years the Queensland Government has taken legislative action to establish new basic allowable trading hours. It is open to the Government to consider taking such action again while leaving any further extensions beyond legislated basic hours to the QIRC.

As noted in chapter one, it is estimated that approximately 90 per cent of Queenslanders now live in areas with easy access to seven day trading by large retail stores, compared to 13.5 per cent prior to the introduction of Sunday and extended public holiday trading in 2002 for South East Queensland.

Given the number of successful applications that have occurred for extended trading on Sundays and most public holidays outside the South East Queensland zone since 2002 and the access to seven day trading achieved for the majority of the population, it could be argued that it is time to extend Sunday and public holiday trading to all of Queensland. The counter argument is that in a number of cases applications to extend trading on Sundays have been unsuccessful, (e.g. Mt Isa, Warwick, Kingaroy, Ingham, Ayr) and on that basis any extensions should be left to the QIRC to determine.

The other advantage of government taking the opportunity to extend the basic allowable trading hours would again be that it reduces the complexity associated with the more than 30 defined seven day trading hours' areas for large retail stores (i.e. non-exempt shops) and the oft raised concern that differences between trading hours in those areas (e.g. closing times on Saturday 5.00pm and Sunday 6.00pm) create business and consumer confusion.

The fact that certain classes of non-exempt shops have their own trading hours' orders further adds to the complexity associated with trading hours. Legislative action to set uniform basic allowable hours for all types of non-exempt shop would reduce the confusion.

Industry stakeholders have pointed out a number of anomalies where certain classes of shops are not allowed to trade on Sundays when there is an expectation from consumers that those shops should be open.

For example, sales of caravans and motor vehicles are governed by specific QIRC trading hours' orders which do not permit shops selling those goods to open on Sundays and most public holidays in any area of the State. This results in an inconsistency where general non-exempt shops have long since been allowed to trade on Sundays and most public

holidays by the QIRC while non-exempt shops selling motor vehicles and caravans in the same area are not allowed to trade on those days. It should be noted that these restrictions on motor vehicle and caravan sales were applied for and have consistently thereafter been supported by the relevant industry associations.

Question for submissions:

The Trading Hours Act sets out the basic allowable trading hours for non-exempt shops throughout the State (8am to 9pm Monday to Friday, 8am to 5pm Saturday and closed Sundays and public holidays plus 9am to 6pm Sunday and most public holidays in South East Queensland,) and gives jurisdiction to the QIRC to decide extended allowable trading hours. Under those arrangements QIRC Orders already permit trading on Sundays and most public holidays for the majority of the State.

Should the basic hours in the Trading Hours Act be amended to permit trading throughout the whole State for uniform basic allowable hours reflecting Orders already made by the QIRC and community and business expectations? What should those hours be? Should such hours be the same for all types of non-exempt shops?

3.4 Limiting the order making power of the QIRC

The Trading Hours Act allows the QIRC to set a diversity of orders. It is able to set orders relating to opening and closing times, classes/types of non-exempt shops and localities or parts of localities where non-exempt shops are located.

The trading hours orders for large retailers generally set standards hours for trading on Sundays of 9am to 6pm. However, there are a number of exceptions in localities providing for longer hours. For example, New Farm in inner city Brisbane and Hamilton - 7am to 9pm, supermarkets in the Gold Coast Coastal Tourist Area - 8am to 8pm, Townsville and Thuringowa - 11am to 6pm, Port Douglas - 7am to 6pm, Yeppoon tourist area - 10.30am to 5.30pm, Cairns CBD area - 9am to 9pm, Emu Park Tourist area - 10.30am to 5.30pm and Dalby - 10.30am to 5pm.

The QIRC then sets different trading hours orders for non-exempt butcher shops which have an opening time of 6.30am including on Sundays and those public holidays on which trade can occur, while non-exempt hardware stores in South East Queensland are governed by the legislative basic allowable hours for Sunday trading of 9am to 6pm while outside South East Queensland trading hours for non-exempt hardware stores are 8.30am to 4pm.

The QIRC also deals with applications for extended trading in the lead up to Christmas each year. These applications are dealt with on the same basis as any other application for extended trading in a particular area involving the mounting of a full case with all the expense and time entailed in such an application. There are a number of these arrangements in trading hours orders that are generally for the purpose of allowing Sunday trade in areas without access to it already or to extend trading on a Saturday or a Sunday by one or two hours. Other arrangements allow for trading till midnight on 23 December or in the days immediately before. The best known of these arrangements allow for Westfield Shopping Centres at Chermside and Garden City to trade non-stop

from 8am 23 December to 9pm 24 December. Like other trading hours order arrangements these pre-Christmas arrangements are patchy in the areas that they apply to leading to inconsistencies and confusion for traders and the public alike and ultimately achieve extended trading for a limited number of hours.

For example, the QIRC has recently granted applications to allow non-exempt shops in parts of South East Queensland to remain open until midnight on 19, 20, 21, and 22 of December 2016. The applications apply to non-exempt shops located within: the City Heart of Inner City of Brisbane; the Westfield Carindale Shopping Centre; the Westfield North Lakes Shopping Centre; the Westfield Garden City Shopping Centre; the Westfield Chermside Shopping Centre; the Indooroopilly Shopping Centre; the Kmart Oxenford Centre; the Pacific Fair Shopping Centre; the Robina Town Centre Shopping Centre; and the Sunshine Plaza Maroochydore Shopping Centre.

The following QIRC orders are also applicable to other specified types of non-exempt shops:

- *Trading Hours - Non-Exempt Shops Selling Motor Vehicles – State;*
- *Trading Hours - Special Displays of New Season Model Motor Vehicles;*
- *Trading Hours - Non-Exempt Shops Selling Caravans – State;*
- *Trading Hours - Agricultural Produce, Fruit and Grain Stores;*
- *Brisbane Market ;and*
- *Trading Hours Order - Machinery Warehouses, Wholesale Warehouses and Food and Drug Stores.*

Other orders may also be made by the QIRC permitting special displays or exhibitions (e.g. industrial shows, trade fairs, business expos, motor shows, boat shows and caravan and camping shows) to be conducted outside the hours that shops selling those goods would normally be permitted to trade (e.g. on a Sunday, public holiday or late night). By definition these permits are non-permanent being for a particular occasion or of limited duration each year. Criticism has been made of these requirements which involve the mounting of a full scale application to the QIRC which is costly and time consuming. It has been questioned whether such a process adds real value for trading of such limited duration and in many cases for only a small number of additional trading hours.

A table of the current trading hours' orders made by the QIRC is at **Appendix 2**. A list of orders granted by QIRC from 1988-2015 is at **Appendix 7**.

Question for submissions:

If the QIRC is to be retained as the arbiter of trading hours' arrangements, should the Trading Hours Act limit the QIRC's order making powers to permitting extended hours for:

- *a particular region defined in legislation, rather than localities or parts of localities;*
- *all non-exempt shops rather than classes/types of non-exempt shops; and*
- *an area or period, but not to determine the hours (i.e. extended hours to be uniform in a similar manner to the basic hours in the Trading Hours Act).*

Should the Trading Hours Act set some basic allowable extended trading hours for the Christmas trading period for non-exempt shops?

3.5 Changes to the criteria for deciding applications for extended trading

The QIRC must have regard to the following issues, prescribed by section 26 of the Trading Hours Act, in deciding trading hours for non-exempt shops:

- the locality, or part thereof, in which the shop or class of shop is situated;
- the needs of the tourist industry or other industry in such locality or part;
- the needs of an expanding tourist industry;
- the needs of an expanding population;
- the public interest, consumers' interest, and business interest (whether small, medium or large);
- the alleviation of traffic congestion;
- the likely impact of the order on employment;
- the view of any local Government in whose area the order is likely to have an impact; and
- such other matters as the QIRC considers relevant.

Therefore, allowable trading hours for non-exempt shops beyond the minimum specified in the Trading Hours Act are decided by the QIRC based on the merit of applications made by interested organisations (e.g. industrial organisations and other organisations representing small, medium or large employers; unions representing employees; other community organisations and local governments). To be successful those submissions must deal with the criteria specified in the Trading Hours Act.

Advocates for extended trading by non-exempt shops contend that the criteria used by the QIRC in deciding trading hours should be amended, in particular in relation to:

- providing that the needs of the tourist industry, other industries and the population at large, both in the present and in the future are considered (as opposed to the current focus on the expanding tourist industry and expanding populations);
- providing greater clarity as to the "public interest" (which should specifically include the value of lost trade to the local economy as well as the provision of appropriate levels of consumer choice);

- requiring a consideration of community standards and norms in comparable locations elsewhere in Australia (which would also provide for greater consistency in decision making by the QIRC); and
- requiring that the views of local government, while very important, are focussed and relevant to the other criteria.

The essential advocated change is to make the criteria clearer and more focussed on measurable components of the “public interest” such as value of lost trade to the local economy. These changes are perceived as ensuring that the QIRC determines applications in an efficient and consistent way and would provide parties with a clearer understanding of the evidence required to support or oppose applications.

On the other hand, advocates for independent retail shops see themselves as constantly under threat from larger supermarkets that want to trade on Sundays, public holidays and during other times when independents can trade because they are small. They have proposed that the criteria should be amended in order to make success in seven day trading applications more difficult to obtain. For example, they propose that the net benefit of the restriction on the competition be fully assessed in any application to extend trading hours and that a substantial lodgement fee be applied to each application.

Question for submissions:

The Trading Hours Act currently sets out the criteria to be used by the QIRC in deciding applications for extensions of trading hours. It includes the needs of local industry, the public interest, consumers’ interest, and business interest (whether small, medium or large), the view of any local Government and other matters considered relevant by the QIRC. Should the criteria used by the QIRC in deciding applications for extensions of trading hours for non-exempt shops be varied?

3.6 No change to the current arrangements relating to trading hours for non-exempt shops

The discussion has already highlighted the considerable changes to trading hours for non-exempt shops that have been introduced in Queensland over the past three decades. Shoppers now have access to extended trading Monday to Saturday and an estimated 90 per cent of Queenslanders can access non-exempt shops on Sundays. However it is noted that several centres across Queensland do not currently have Sunday trading, including centres with populations above 3,500 citizens.

The QIRC application process has successfully allowed applicants to tailor their extended hours’ applications to areas of identified need, whether they be particular tourism hot spots such as Port Douglas or Hamilton in Brisbane, or to busy retail periods such as the pre-Christmas shopping period. On that basis the setting of trading hours for non-exempt shops in Queensland by the QIRC is meeting its purpose.

Further, while complaints about the confusion associated with the more than 30 trading hour’s orders for seven trading areas are exaggerated, most businesses and consumers are used to the trading hours that apply in their locality.

Question for submissions:

Should the current arrangements for setting extended trading hours for non-exempt shops be maintained with no changes because they are achieving their purpose under the Trading Hours Act?

The following three sections consider possible models for regulating those shops which fall in the independent retail and exempt shop categories.

3.7 Amalgamation of Independent Retail Shop and Exempt Shop Categories

The trading hours' arrangements for a particular shop in Queensland depend upon how that shop is classified. As has been described in earlier Chapters of this paper, Queensland's legislative framework establishes three categories of shops to determine the trading hours' restrictions that will apply. These categories are:

- Exempt shops
- Independent retail shops; and
- Non-exempt shops.

Exempt shops have no restrictions upon when they can open or trade. Generally, a shop's status as an exempt shop is based upon it being a shop that supplies goods or services that should be accessible to the public at all times e.g. a newsagent, a take-away food outlet, restaurant or café, a bakery, or a bait and tackle shop. All states with trading hours' regulation make provision for an 'exempt shop' category in some form. The Queensland legislation has a list of 37 'specified descriptions' of these shops. See chapter one for a discussion of the category of exempt shop.

Independent retail shops are generally seen as a small, independent, retail businesses such as the 'independent grocery and food stores' and specialty shops such as clothing, footwear and kitchenware shops. These shops can trade without restriction except for Good Friday, Christmas Day and up to 1pm on ANZAC Day, when they must remain closed. Independent retail shops that are predominantly food and/or grocery shops can trade without restriction on every day of the year. At law, to be an independent retail shop the business cannot engage more than 20 persons in the shop at any one time. If the shop owner has other shops, the total number of persons in all the shops at any one time cannot exceed 60 across the state. Additionally the business must be wholly owned by a person, by a partnership or by a proprietary company that is not a related body corporate.

Although there is a major difference in the method by which exempt shops and independent retail shops are defined and categorised, the difference in the trading hours that each is allowed to trade is comparatively minor. Effectively this difference is a requirement that some independent retail shops must close on two and a-half public holidays while all exempt shops and independent retail shops selling food and/or groceries have totally unrestricted hours. It may be questioned what is achieved by such a minor difference in regulation between these two categories of shop.

Common arrangements for exempt and independent retail shops are already a feature of trading hour's regulations in a number of other jurisdictions.

In both Victoria and South Australia, the group of shops encompassed by Queensland's exempt and independent retail categories form a single category of exempt shop. The exempt shop category in those states includes both shops defined by their size – either through number of employees or by floor area of the shop – as well as a list of shops specified in legislation which by the nature of their business are also deemed to be exempt shops. All shops in the exempt category are permitted to trade without restriction of hours on every day of the year including all public holidays.

In New South Wales separate categories for exempt shops (based on the type of businesses listed in legislation) and small shops (equivalent to independent retail shops being based on number of employees and corporate structure) are maintained although the difference is mainly technical as both categories are permitted to trade without restriction of hours on every day of the year including all public holidays.

Question for submissions:

Should the categories of independent retail and exempt shops be amalgamated into a single category of exempt shop having no restrictions on trading hours on any day of the year?

3.8 Defining Independent Retail Shops

Owners of independent retail shops report that the current regulatory arrangements are a disincentive for small business expansion. Because the description of 'independent retail shop' is dependent upon not breaching the maximum number of employees allowed in the shop, business owners submit that this is a barrier to hiring more staff regardless of whether in-store demand warrants it. Setting a ceiling in the number of employees for a shop to be within the less restricted trading hours category is that it discourages successful small businesses from expanding and employing more staff, as they will then become non-exempt shops and have limitations imposed on their hours of business. Furthermore, the legislation discourages investment to expand operations by limiting capital to only single operators, partnerships or proprietary companies that are not related bodies corporate. There is evidence of some operators contriving and restructuring their corporate arrangements at considerable cost solely to satisfy the criteria of the legislation.

As discussed in chapter one the small shop category in most states has been defined on the number of people employed in the store along with the type of ownership, i.e. single operator or a proprietary company. It is noted that South Australia uses an alternative criteria of floor area occupied by the shop.

Even in those States where the definition of small shop is based on numbers of employees there is some variation.

In Victoria exempted shops include shops that employ 20 or fewer persons in the shop at any time or the number is no more than 100. These shops can open whenever they wish throughout the year.

The NSW definition of a small shop provides that the number of people employed does not exceed 2, or one corporation, and the owner or owners of the shop take the profits

from the business or the total number of employees engaged by a small shop does not exceed a total of 4 regular employees. However the deregulation of trading hours in NSW in the 2000s has resulted in the distinction between small and large shops becoming largely irrelevant, since all shops are now able to trade 24 hours per day, 7 days per week with the only restriction on large retailers being limited to a specific public holidays.

In Western Australia the small retail shop definition is for a shop owned by up to six people who operate no more than four retail shops, in which up to 25 people work at any one time.

Question for submission:

Is the number of employees engaged at an independent retail store or stores at any one time an appropriate criteria for determining that businesses access to more liberalised trading hours?

If so, should the current limits be increased? If not an appropriate criteria, what do you consider to be appropriate, for example floor space (as in South Australia) or retail turnover, or public –v- private ownership?

3.9 Defining Exempt Shops

Business owners must spend time and effort to clarify their regulatory requirements or risk breaching their obligations and exposing themselves to penalties. This is particularly so for those in the exempt shop category, where the prescriptive list of 'specified descriptions' has resulted in a range of idiosyncratic outcomes. Examples of anomalies include where a tourist souvenir shop may also sell clothing and footwear, thereby possibly falling across the exempt and independent shop categories. This 'blurring of the categories' introduces discretionary and arbitrary decisions about the classification of businesses. This undermines the overall legitimacy of the legislation and can result in perverse outcomes.

The current definition of exempt shop has been the subject of some criticism.

The classification of exempt shop has formed part of trading hours' legislation since its introduction in 1964. Prior to November 1987, exempt shops were allowed to sell only goods on an 'exempt goods list'. The current definition in force since 1987 classifies exempt shops by the description of the shop, not strictly or solely by the goods sold.

There have been few changes to the list of exempt shops since 1994 so that it contains a number of outdated references. Removal of a type of shop from the list may result in any shops in that category becoming subject to trading hours restrictions. Equally, adding classes of shops to that list may open that class of shop to unrestricted hours, and this also may bring unintended consequences to that class of retailer.

All States include a list of shops in their legislation that are deemed to be exempt from any trading hours restrictions. There is a considerable variance in the number of categories listed as exempt in each State. New South Wales lists 18 categories. South Australia lists 24 categories. On the other hand Victoria, Tasmania and Western Australia each list a mere handful.

Question for submissions:

Should any additions or deletions be made to the list of exempt shops?

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Appendix 1: Summary of major changes to trading hours in Australia

Queensland

In 1964 an amendment to the Industrial Conciliation and Arbitration Act 1961 established the Industrial Commission as the Trading Hours Tribunal having the power to fix by Order the trading hours of non-exempt (large) shops and small shops. The remaining classification of shop, known as an exempted shop, did not have any trading hours' restrictions.

The reasons behind the amendment were –

1. the Government believed trading hours should be determined by an independent tribunal;
2. to avoid confusion should parties subject to a State Award (which up to then determined trading hours) move to a Federal Award which may make the trading hours inoperative where conflict existed regarding the working hours.

Orders were made by the Commission setting hours for various classes of non-exempt shops. Definitions of the 3 classifications of shops were prescribed in the Factories and Shops Act –

1. an exempted shop sold only those goods listed on a prescribed exempted goods list or shops could be declared exempted shops in limited circumstances;
2. a small shop selling prescribed goods with not more than two persons engaged in the business with a limit of one employee e.g. very small business ventures such as corner stores “Mum and Dad” shops;
3. a non-exempt (large) shop was the remaining classification of shop.

Government allowed a trial of deregulated trading hours between 15 December 1986 and 11 January 1987. During that period all retail shops in Queensland were permitted to open for as many hours as they wished and on as many days of the week as they wished. The trial was viewed by the Trading Hours Investigation Committee set up immediately after the trial as providing no firm indications on extended trading.

On 12 January 1987 the Government established a four member to examine trading hours. The Trading Hours Act 1987 proclaimed on 1 November 1987 amended the Factories and Shops Act, the Industrial Conciliation and Arbitration Act and the Anzac Day Act. These amendments were necessary to give effect to those recommendations of the Trading Hours Investigation Committee adopted by the then Government.

Those recommendations adopted by the Government included –

1. deletion of the exempted goods list provided in the Factories and Shops Act;
2. a new classification of shop to be established in place of the existing small shop (this shop to be called an independent retail shop);
3. three classifications of shops to be provided namely an exempt shop, an independent retail shop and a non-exempt shop.

The basic aim of the new legislation was to assist small business.

Prior to 1990, trading hours legislative prescriptions were provided under a number of different Acts which created confusion as to interpretations etc. Consequently a single piece of legislation was enacted in the *Trading Hours Act 1990* as from 23 June 1990.

On 3 April 1993, a review of the Trading Hours Act 1990 commenced to accord with the Systematic Review of Government Legislation. Based on the submissions to the 1993 review, the Government amended the trading hours legislation by way of the *Trading (Allowable Hours) Amendment Act 1994* as from 16 May 1994.

Major amendments were –

1. non-exempt shop trading hours were prescribed in the renamed *Trading (Allowable Hours) Act 1990* and extended on weekdays and Saturday afternoons to 8am to 9pm Monday to Friday and 8am to 5pm Saturday;
2. the Commission retained power to determine non-exempt shop trading hours in excess of the hours prescribed in the legislation; and
3. an amendment was made to the Retail Shops Leases Act to protect small retailers in shopping centres from being forced to open longer hours as a result of the extended trading hours.

In 1996 an independent Inquiry was commissioned to determine the effects of the 1994 legislative changes. After consultation and examination of the recommendations in the report of the Inquiry, the Government made amendments to the Trading Hours Act. The principal recommendations adopted in the legislation centered on –

1. there being no reduction in core trading hours that existed in the legislation at that time;
2. the QIRC being the appropriate body to determine trading hours by Order outside those core hours;
3. the definition of an independent retail shop being amended so as to allow more retail businesses to fall with the category; and
4. the QIRC being required to consider the impact on small business prior to decisions on extended trading hours.

During the years 1988 to 2002 the QIRC determined a number of applications for extension of trading hours for non-exempt shops to allow Sunday trading in specific areas. Some of the more important cases included Brisbane City Heart 1989, Gold Coast 1992, Sunshine Coast 1994, Townsville CBD 1995, Cairns Tourist Area 1995, Douglas Shire Tourist Area 1999, Whitsunday Shire Tourist Area 1999 and the New Farm Area 2000.

The Trading Hours Act was amended from 1 August 2002 to introduce uniform trading in the South-East Queensland area (north to Noosa, south to Coolangatta and west to Amberley) for non-exempt shops from 9 am to 6 pm on Sundays and most public holidays. The legislation repealed and improved a QIRC decision of 21 December 2001 to introduce Sunday trading to the Brisbane City Council area only.

Other States and Territories

As stated above, Queensland is the only jurisdiction in which trading hours for large shops are decided by an independent tribunal. In all other jurisdictions, trading hours are decided by government in legislation.

Shop trading hours are totally deregulated in the Australian Capital Territory and the Northern Territory.

In general it could be said that shop trading hours in New South Wales (*Retail Trading Act 2008*), Victoria (*Shop Trading Reform Act 1996*) and Tasmania (*Shop Trading Hours Act 1984*) are substantially de-regulated with only some restrictions on trading on certain public holidays.

Shop trading hours in Queensland, South Australia (*Shop Trading Hours Act 1977*) and Western Australia (*Retail Trading Hours Act 1987*) are subject to a number of restrictions based on the locality, size and type of shop.

New South Wales

Shop trading hours in New South Wales have been gradually deregulated.

Prior to 2008 shop trading hours in New South Wales were regulated by the *Shops and Industries Act 1962* (NSW). Under this Act, late night trading by general shops (non-exempt shops) was restricted until the early 1970's when trading until 9.00pm was permitted on one night of the week. By 1984 General Shops were allowed to trade until 9.00pm on two nights of the week and on Saturday afternoons. In 1988 Monday to Saturday trading hours were deregulated and all shops were able to trade unrestricted on these days.

Sunday trading in New South Wales remained restricted until the early 1990's. At this time exemptions to trade unrestricted on Sunday began to be granted. Exemptions to trade unrestricted on Sunday were widely granted and by 2007, the majority of General Shops in New South Wales (including the large retailers) had been granted exemptions.

In 2007 a review of shop trading hours in New South Wales was undertaken recommending a range of changes which resulted in the introduction of the *Shops Trading Act 2008* (NSW). The *Shops Trading Act 2008* (NSW) further deregulated shop trading hours in New South Wales by providing for unrestricted Sunday trading and reducing public holiday restrictions. The *Retail Trading Act 2008* commenced operation on 29 November 2010, amending and re-naming the Shops Trading Act 2008 (NSW).³³

Victoria

The *Shop Trading Act 1987* (Vic) permitted unrestricted trading by non-exempt shops from Monday to Friday. In metropolitan areas Saturday trading was permitted until 5.00pm and Sunday trading was prohibited (except for ten Sunday trading days which applied state-wide). In non-metropolitan areas weekend trading was more restrictive, Saturday trading was permitted until 1.00pm and Sunday trading was prohibited. In addition, shop trading in both metropolitan and non-metropolitan areas was also regulated by exemptions and special orders.

Public holiday trading was largely prohibited (except by exempt shops). Shops located in tourist precincts were permitted to trade on public holidays except Good Friday and ANZAC Day.

³³ Tracy Atkins, 'Shop Trading Hours in Western Australia: A Research Report - A legal, social and economic analysis of the regulation of shop trading hours in Western Australia', (Research Report, The University of Western Australia 1 November 2011) 62.

In 1992 the *Capital City (Shop Trading) Act 1992* (Vic) was enacted to deregulate shop trading hours in the Melbourne Central Business District and Southbank. Shops in these locations were permitted to trade unrestricted with the exception of Good Friday, Christmas Day and prior to 1.00pm on ANZAC Day.

Following a government review, shop trading hours in Victoria were largely deregulated in 1996 allowing unrestricted shop trading seven days a week and minimal prohibitions on public holiday trading (Christmas Day, Good Friday and prior to 1.00pm on ANZAC Day).

The Shop Trading Reform Act 1996 (Vic) included a provision enabling local councils to re-regulate shop trading hours on Sunday where supported by the majority of electors at a formal poll. In 1998 a non-compulsory referendum was held in the regional city of Greater Bendigo regarding Sunday shop trading with 77 per cent of electors voting to retain Sunday shop trading.³⁴

Tasmania

Shop trading regulation in Tasmania began with the *Shops Act 1925* (Tas) followed by the *Factories, Shops and Offices Act 1965* (Tas) which restricted opening hours of all shops to 6.00am to 6.00pm Monday to Thursday, 6.00am to 9.00pm Friday and Saturday morning (in some areas) and prohibited trading on Christmas Day, Good Friday and ANZAC Day.

Following the expiry of a sunset clause in the *Factories, Shops and Offices Act 1965* (Tas), shop trading hours were unregulated from 1968 to 1981. Regulation of shop trading hours occurred again after this time culminating in the introduction of the *Shop Trading Hours Act 1984* (Tas) which placed restrictions on major retailers (those with 100 or more employees). The *Shop Trading Hours Act 1984* (Tas) allowed major retailers to open Monday to Wednesday between 8.00am and 6.00pm, Thursday and Friday between 8.00am and 9.00pm and Saturday between 8.00am and 12 noon (trading until 6.00pm was permitted on the two Saturdays prior to Christmas). Sunday trading by major retailers was prohibited, as was public holiday trading on Christmas Day, Boxing Day and New Year's Day as well as public Holidays defined by the *Bank Holidays Act 1919* (Tas) (except Easter Tuesday and Easter Saturday).

In 1992 extended trading hours were declared for a number of different events, including the Launceston Festival and the arrival of a cruise ship with the capacity to carry more than 500 passengers (provided that ship visits Tasmania less than ten times per year) and the arrival of a warship with more than 500 personnel on board.

In 1994 the *Shop Trading Hours Act 1984* (Tas) was amended to apply to major retailers with 250 or more employees as the "government believed that the current law was too restrictive and stifled development". Saturday afternoon trading until 6.00pm was permitted in 1995.

In 1999 a legislative review of the *Shop Trading Hours Act 1984* (Tas) was undertaken. The review recommended the removal of the majority of retail trading hour's restrictions

³⁴ Tracy Atkins, 'Shop Trading Hours in Western Australia: A Research Report - A legal, social and economic analysis of the regulation of shop trading hours in Western Australia', (Research Report, The University of Western Australia 1 November 2011) 78.

in Tasmania. The changes recommended by the review were enacted in 2002, removing shop trading restrictions on Monday to Saturday trading, Sunday trading and substantially reducing trading restrictions on public holidays.³⁵

South Australia

The *Early Closing Act 1900* (SA) required shops in the metropolitan area to close as follows: Monday, Tuesday and Thursday at 6.00pm, Wednesday 1.00pm or 6.00pm (at the discretion of the shopkeeper), at variable times on Friday and Saturday (depending on the time closed on Wednesday) and Sunday trading was prohibited.

In 1911 closing hours were varied to Monday to Thursday 6.00pm, Friday 9.00pm and Saturday 1.00pm. A referendum held in 1970 rejected the extension of trading hours in the metropolitan area to 9.00pm on Friday.

In 1977 the *Shop Trading Hours Act 1977* (SA) was enacted establishing the structure of regulation which remains largely in place to this day. Throughout the late 1980's and early 1990's Ministerial exemptions from Sunday trading hours restrictions in the Central Shopping District were widely granted. This practice ceased in 1995 when the High Court held in *Shop Distributive and Allied Employees Association v Minister for Industrial Affairs* that certificates of exemption granted "for the purpose of establishing general Sunday trading in the Central Shopping District" were invalid.

In 1990 shop trading hours were expanded to allow Saturday afternoon trading in all shopping districts, and in 1995 Sunday trading for non-exempt stores in the Central Shopping District was introduced. Further minor changes were made following a review of the Act in 1998 to allow weeknight trading until 9.00pm in the Central Shopping District and extend weeknight trading in the suburbs to 7.00pm (and 9.00pm on Thursday).

In 2000 the Glenelg Tourist Precinct was created with trading restrictions being the same as those for the Central Shopping District. Following a legislative review in 2003, shop trading hours in the Metropolitan Shopping District were extended to allow weeknight trading until 9.00pm and Sunday trading between 11.00am and 5.00pm.

A further legislative review of the *Shop Trading Hours Act 1977* (SA) was undertaken in 2007. The report recommended only minor changes to the Act, and concluded that the current shop trading regulations in South Australia were essentially adequate.³⁶

Western Australia

Shop trading hours in Western Australia are currently regulated by the *Retail Trading Hours Act 1987*(WA). In 1990, shortly after the Act was introduced, a range of amendments were enacted to remedy perceived deficiencies including:

³⁵ Tracy Atkins, 'Shop Trading Hours in Western Australia: A Research Report - A legal, social and economic analysis of the regulation of shop trading hours in Western Australia', (Research Report, The University of Western Australia 1 November 2011) 76 – 77.

³⁶ Tracy Atkins, 'Shop Trading Hours in Western Australia: A Research Report - A legal, social and economic analysis of the regulation of shop trading hours in Western Australia', (Research Report, The University of Western Australia 1 November 2011) 72-74.

- Expanding trading opportunities for small business;
- Bringing service station hours into line with retail activity;
- Providing more flexible trading hours (but not extended trading hours);
- Enhancing retailer protection during tenancy negotiations; and
- Expanding community representation on the advisory committee constituted under the Act.

The Act established the current shop trading regime in Western Australia. It established four categories of shops to be regulated:

- Small Retail Shops;
- Special Retail Shops;
- General Retail Shops ; and
- Filling Stations.

Since the introduction of the Act in 1987, there has been a gradual relaxation of the restrictions on shop trading hours in Western Australia, particularly since late 2010.

As enacted, the 1987 Act provided that a Small Retail Shop could be owned by no more than two people and have not more than four people on the shop floor at one time. Opening hours for Small Retail Shops were from 6.00am to 11.30pm. These restrictions have been gradually relaxed since the first amendments to the Act in 1991. In 1991 the number of people permitted on the shop floor at one time was increased to five. In 1994, the number of people permitted on the shop floor at one time was further increased to ten by Ministerial Order. Amendments to the Act in 2006 confirmed existing arrangements for Small Retail Shops provided for by Ministerial Order and increased the number of people permitted on the shop floor at one time to thirteen. Amendments to the Act in October 2011 increased the number of people permitted on the shop floor at one time to eighteen.

The regulation of Special Retail Shops, including the opening hours, remains unchanged since the Act was introduced in 1987.

The 1987 Act allowed Filling Stations to trade from Monday to Friday 7.00am to 6.00pm, Saturday 7.00am to 1.00pm. Filling Stations were required to be closed on Sunday and ANZAC Day, Good Friday and Christmas Day. Restrictions on the opening hours of Filling Stations were lifted in the early 1990's by Ministerial Orders and these arrangements were confirmed by the 2006 amendments to the Act. Filling Stations may now trade 24 hours a day, seven days a week.

When the Act was introduced in 1987 General Retail Shops were permitted to trade between:

- 8.00am – 6.00pm, Monday, Tuesday, Wednesday and Friday
- 8.00am – 9.00pm Thursday
- 8.00am -- 5.00pm Saturday.

In 2005, Western Australia conducted a referendum on extending trading hours—58 per cent of voters supported the 'no' case for extended weeknight trading and 61 per cent supported the 'no' case for Sunday trading.

The *Retail Trading Hours Amendment Act 2010* (WA) came into effect on 1 November 2010. This Act allowed General Retail Shops in the metropolitan area to trade from 8.00am to 9.00pm each weeknight.

From 26 August 2012 all general retail shops in the Perth metropolitan area, including major supermarkets and department stores, were permitted to trade on Sunday and most public holidays (with the exception of Good Friday, Christmas Day and ANZAC Day).³⁷

In 2015, the WA Government introduced legislation seeking to extend general retail trading hours by one hour on weekdays and two hours on Saturdays. The proposal would have allowed shops to trade from 7:00am Monday to Saturday, one hour earlier than they can currently open, and continue trading until 6:00pm on Saturday evenings.

The Bill is still in Parliament's Upper House and is highly unlikely to be passed before the 2017 election.

The WA Government has also pledged if re-elected to allow shops to trade from 9:00am on Sundays, two hours earlier than existing laws allow them to.

³⁷ Tracy Atkins, 'Shop Trading Hours in Western Australia: A Research Report - A legal, social and economic analysis of the regulation of shop trading hours in Western Australia', (Research Report, The University of Western Australia 1 November 2011) 35-46.

Appendix 2: Current trading hour's orders decided by the QIRC

TRADING HOURS - NON-EXEMPT SHOPS TRADING BY RETAIL – STATE (as at 30/9/2016)

<i>Area/Class of Shop</i>	<i>Mon to Fri</i>	<i>Saturday</i>	<i>Sunday</i>	<i>Public Holidays</i>
All areas of Queensland, other than areas listed below	8am – 9pm	8am – 5pm (including Easter Saturday)	Closed	Closed
South East Queensland Area**** (excl. the Areas of the Inner City of Brisbane, the Gold Coast and Sunshine Coast) (includes Nambour, Beerwah, Beaudesert, Fernvale, Plainland, Gatton, Woodford)	8am – 9pm	8am – 5pm	9am – 6pm**	9am – 6pm*
Inner City of Brisbane (excl. the Areas of the City Heart and New Farm)	7am – 9pm	7am – 7pm	9am – 6pm**	9am – 6pm*
Area of City Heart of Inner City of Brisbane	7am – 9pm	8am – 5.30pm	9am – 6pm**	9am – 6pm*
Area of City Heart of Inner City of Brisbane (Supermarkets only)	7am – 9pm	8am – 7pm	9am – 6pm**	9am – 6pm*
Area of New Farm of Inner City of Brisbane(including Newstead)	7am – 9pm	7am – 9pm	7am – 9pm**	7am – 9pm*
Tourist and/or Seaside Resorts (as defined)	8am – 9pm	8am – 5.30pm	Closed	8.30am – 5.30pm*
Gold Coast and Sunshine Coast Areas	8am – 9pm	8am – 5.30pm	9am – 6pm**	9am – 6pm*
Gold Coast Coastal Tourist Area (Supermarkets only)) & Australia Fair Shopping Centre	7am – 10pm	7am – 10pm	8am – 8pm**	8am – 8pm*
Ipswich Central Business District	7am – 9pm	7am – 7pm	9am – 6pm**	9am – 6pm*
Toowong Retail Precinct	8am – 9pm	8am – 7pm	9am – 6pm**	9am – 6pm*
Hamilton Northshore Area	6am – 10pm	7am – 10pm	7am – 9pm	7am – 9pm*
Cairns Tourist Area	8am – 9pm	8am – 5.30pm	9am – 6pm	8.30am – 5.30pm*
Cairns CBD Area (Supermarkets)	8am – 9pm	8am – 9pm	9am – 9pm	8.30am – 5.30pm*
Townsville Tourist Area	7am – 9pm	7am – 9pm	9am – 6pm	8.30am – 5.30pm*
Townsville and Thuringowa Area (excl. Townsville Tourist Area)	8am – 9pm	8am – 5.30pm	11am – 6pm	8.30am – 5.30pm*

Area/Class of Shop	Mon to Fri	Saturday	Sunday	Public Holidays
Mossman and Port Douglas Tourist Area	8am – 9pm	8am – 5.30pm	9am – 6pm	8.30am – 5.30pm*
Port Douglas (Supermarkets only)	7am – 9pm	7am – 5.30pm	7am – 6pm	7am – 6pm*
Whitsunday Shire Tourist Area	8am – 9pm	8am – 5.30pm	9am – 6pm	8.30am – 5.30pm*
Great Barrier Reef Wonderland Tourist Complex	8am – 9pm	8am – 6pm	8.30am – 6pm	8.30am – 6pm*
Hervey Bay Area	8am – 9pm	8am – 5.30pm	9am – 6pm	8.30am – 5.30pm*
Yeppoon Tourist Area	8am – 9pm	8am – 5.30pm	10.30am – 5.30pm	8.30am – 5.30pm*
Moranbah Area	8am – 9pm	8am – 5pm	9am – 6pm	8.30am – 5.30pm*
Cooloola Cove Area	8am – 9pm	8am – 5pm	9am – 6pm	8.30am – 5.30pm*
City of Rockhampton	8am – 9pm	8am – 5pm	9am – 6pm	8.30am – 5.30pm*
City of Toowoomba	8am – 9pm	8am – 5pm	9am – 6pm	8.30am – 5.30pm*
Mackay Area	8am – 9pm	8am – 5.30pm	9am – 6pm	8.30am – 5.30pm*
Innisfail Area	8am – 9pm	8am – 5pm	9am – 6pm	8.30am – 5.30pm*
Emerald Area	8am – 9pm	8am – 5pm	9am – 6pm	8.30am – 5.30pm*
Tablelands Area (Mareeba and Atherton)	8am – 9pm	8am – 5pm	9am – 6pm	8.30am – 5.30pm*
Gladstone Area	8am – 9pm	8am – 5pm	9am – 6pm	8.30am – 5.30pm*
Bundaberg Area	8am – 9pm	8am – 5pm	9am – 6pm	8.30am – 5.30pm*
Fraser Coast Area	8am – 9pm	8am – 5.30pm	9am – 6pm	8.30am – 5.30pm*
Gympie Area	8am – 9pm	8am – 5pm	9am – 6pm	8.30am – 5.30pm*
Biloela Area	8am – 9pm	8am – 5pm	9am – 6pm	8.30am – 5.30pm*
Marian Area	8am – 9pm	8am – 5pm	9am – 6pm	8.30am – 5.30pm*
Cairns CBD Area	8am – 9pm	8am – 9pm	9am – 9pm	8.30am – 5.30pm*
Emu Park Tourist Area	8am – 9pm	8am – 5.30pm	10.30am – 5.30pm	8.30am – 5.30pm*
Dalby	8am – 9pm	8am – 5pm	10.30am – 5pm	8.30am – 5.30pm

<i>Area/Class of Shop</i>	<i>Mon to Fri</i>	<i>Saturday</i>	<i>Sunday</i>	<i>Public Holidays</i>
Non-exempt Butcher Shops*** (whole of Queensland)	6.30am opening	6.30am opening	6.30am opening	6.30am opening*
Builder Materials Supply Hardware Stores (South East Queensland Area)	6am – 9pm	6am – closing time for relevant area	9am – 6pm**	9am – 6pm*
Builder Materials Supply Hardware Stores (Other than South East Queensland Area)	6am – 9pm	6am – closing time for relevant area	8.30 am – 4pm	8.30am – 5.30pm (other than Anzac Day, Good Friday and Christmas Day)
Non-exempt Hardware Stores (South East Queensland Area)	Hours for relevant area	Hours for relevant area	9am – 6pm**	9am – 6pm*
Non-exempt Hardware Stores (Other than South East Queensland Area)	Hours for relevant area	Hours for relevant area	8.30am – 4pm	8.30am – 5.30pm (other than Anzac Day, Good Friday and Christmas Day)
<p>For non-exempt shops in the areas and classifications outlined above -</p> <p>* Good Friday, 25 April, Labour Day and 25 December are closed days.</p> <p>** Excluding Easter Sunday which is a closed day.</p> <p>*** Non-exempt Butcher shops must close at the same time as that applicable to all other non-exempt shops in their area.</p> <p>**** At the time of printing of this paper the QIRC has released a decision extending hours in the South East Queensland Area to become effective from 1 December 2016. No official amendment to the Order has been published so those hours are not included in this table. See page 11 of the body of this paper for more details</p>				

Permanent Christmas Trading Hours (blank cells retain normal trading hours for area or class of shop)				
<i>Area/Class of Shop</i>	<i>Mon to Fri</i>	<i>Saturday</i>	<i>Sunday</i>	<i>Public Holidays</i>
All areas – 18-24 December (Except where the Order already provides for a wider spread of allowable trading hours)	8am – 9pm	8am – 6pm Or 7am – 6pm (When 24 December is a Saturday)		
First Sunday of the 4 Sundays prior to Christmas Day (25 December) - Cairns Tourist Area, Townsville Central Business District, Mossman and Port Douglas Tourist Area, Whitsunday Shire Tourist Area			8am – 6pm	
Second Sunday of the 4 Sundays prior to Christmas Day (25 December) - Cairns Tourist Area, Townsville Central Business District, Mossman and Port Douglas Tourist Area, Whitsunday Shire Tourist Area			8am – 6pm	
Third Sunday of the 4 Sundays prior to Christmas Day (25 December) - (i) Cairns Tourist Area, Townsville Central Business District, Mossman and Port Douglas Tourist Area, Whitsunday Shire Tourist Area. (ii) Remainder of the State (excluding the South-East Queensland Area)			8am – 6pm 10.30am – 4pm	
Fourth Sunday of the 4 Sundays prior to Christmas Day (25 December) - All of the State (excluding the South-East Queensland Area)			8am - 6pm	
23 December – All areas	8am – 12midnight			
If 23 December is a Saturday or Sunday, then (i) Thursday prior to Christmas Day All of the State (except the Inner City of Brisbane [including	8am – 12midnight			

Permanent Christmas Trading Hours (blank cells retain normal trading hours for area or class of shop)				
Area/Class of Shop	Mon to Fri	Saturday	Sunday	Public Holidays
the City Heart of Inner City of Brisbane], Woolloongabba Central Business District, Rockhampton Central Business District and Townsville Central Business District) (ii) Friday prior to Christmas Day The Inner City of Brisbane (including the City Heart of Inner City of Brisbane), Woolloongabba Central Business District, Rockhampton Central Business District and Townsville Central Business District	(Thursday) 8am – 12midnight (Friday)			
Westfield Chermside Shopping Complex and Westfield Garden City Shopping Complex on 23 December and 24 December of each year: (i) 23 December 24 December (ii) When 23 December falls on a Friday (iii) When 23 December falls on a Saturday or a Sunday a) Thursday prior to Christmas Day b) Friday prior to Christmas Day	8am - 12 midnight 12am - 9pm 8am - 12 midnight (Fri 23 Dec.) 8am - 12 midnight (Thursday) 12am – 9pm (Friday)	12am - 6pm (Sat. 24 Dec.)		

Permanent Orders for Special Exhibitions and Special Displays							
<i>Special Exhibition or Display Order</i>	<i>Monday</i>	<i>Tuesday</i>	<i>Wednesday</i>	<i>Thursday</i>	<i>Friday</i>	<i>Saturday</i>	<i>Sunday</i>
Agricultural, Horticultural and/or Industrial Shows	8am-11pm	8am-11pm	8am-11pm	8am-11pm	8am-11pm	8am-11pm	
Royal National Show	8am-11pm	8am-11pm	8am-11pm	8am-11pm	8am-11pm	8am-11pm	9am-9.30pm
Certain Annual Agricultural, Horticultural and/or Industrial Shows	8am-11pm	8am-11pm	8am-11pm	8am-11pm	8am-11pm	8am-11pm	
Pine Rivers Show	8am-11pm	8am-11pm	8am-11pm	8am-11pm	8am-11pm	8am-11pm	10am-6pm
Urangan Trade Fair (last Sunday in August)							9am-5pm
Queensland Furniture Trade Fair	9am-10pm	9am-10pm	2pm-10pm	2pm-10pm	2pm-10pm	10am-10pm	10am-6pm
Apex Homemakers Fair (Labour Day long weekend)	9am-6pm					9am-8pm	9am-8pm
Office Equipment and Business Expo (April)			10am-7pm	10am-7pm	10am-7pm		
Spring Parade (October)				9am-10pm	9am-10pm	9am-10pm	
Queensland Computer Expo (November)			10am-8pm	10am-8pm	10am-9pm	10am-6pm	
Queensland Hot Rod and Custom Car State Title Show (November)	10am-10pm	10am-10pm	10am-10pm	10am-10pm	10am-10pm	10am-10pm	10am-10pm
Telegraph Home Exhibition and Telegraph Home and Outdoor Summer Show	10am-10pm	10am-10pm	10am-10pm	10am-10pm	10am-10pm	10am-10pm	10am-6pm
Brisbane Off Road 4 Wheel Drive Recreation Show (October)				5pm-10pm	12noon-10pm	10am-10pm	10am-6pm

<i>Special Exhibition or Display Order</i>	<i>Monday</i>	<i>Tuesday</i>	<i>Wednesday</i>	<i>Thursday</i>	<i>Friday</i>	<i>Saturday</i>	<i>Sunday</i>
Brisbane International Motor Show (February)	10am-10pm	10am-10pm	10am-10pm	10am-10pm	10am-10pm	10am-10pm	1 st Sunday 10am-10pm 2 nd Sunday 10am-6pm
Gold Coast Motor Show (July)						5.30pm - 10pm	9.30am-5pm
Brisbane Boat Show (September)	10am-10pm	10am-10pm	10am-10pm	10am-10pm	10am-10pm	10am-10pm	10am-6pm
Queensland Nursery Industry Association Garden Expo (March, April or May)	10am-10pm	10am-10pm	10am-10pm	10am-10pm	10am-10pm	10am-10pm	10am-6pm
Queensland Caravan, Camping Show and Touring Holiday Show (June)	9.30am-6pm	9.30am-6pm	9.30am-6pm	9.30am-6pm	9.30am-6pm	9.30am-6pm	9.30am-6pm
Bundaberg Home Show (August, September or October)				10am-9pm	10am-9pm	10am-5pm	
Caravan And Camping Sale (last weekend in October)				9.30am-6pm	9.30am-6pm	9.30am-6pm	9.30am-6pm
MTAQ Rockhampton Motor Expo (October)						10am-5.30pm	10am-4.30pm
Brisbane Truck Show (May)				10am-8pm	10am-8pm	10am-8pm	10am-6pm
Apex Home and Leisure Show (October)						9am-5pm	9am-4pm
Jeep Show and Shine (4th Sunday in July)							8.30am-4pm

<i>Special Exhibition or Display Order</i>	<i>Monday</i>	<i>Tuesday</i>	<i>Wednesday</i>	<i>Thursday</i>	<i>Friday</i>	<i>Saturday</i>	<i>Sunday</i>
Cairns Home Show and Caravan, Camping and Boating Expo (May or June)					9am-5pm	9am-5pm	9am-4pm
Gold Coast Midyear Caravan, Camping and Boating Expo (July or August)					9am-5pm	9am-5pm	9am-4pm
Gold Coast Home Show and Lifestyle Expo (July or August)						9am-5pm	9am-4pm
Queensland Outdoor Adventure and Motoring Expo (July or August)					9am-5pm	9am-5pm	9am-4pm
Toowoomba Spring Home Show and Camping and Leisure Expo (October or November)					9am-5pm	9am-5pm	9am-4pm
Wide Bay & Fraser Coast Home Show and Caravan, Camping, 4x4 and Fishing Expo (July or August)					9am-5pm	9am-5pm	9am-4pm
Rockhampton Home Show and Caravan and Camping, 4x4 and Fishing Expo (August or September)					9am-5pm	9am-5pm	9am-4pm
Townsville Home Show and Caravan, Camping Expo (August or September)						9am-5pm	9am-4pm

<i>Special Exhibition or Display Order</i>	<i>Monday</i>	<i>Tuesday</i>	<i>Wednesday</i>	<i>Thursday</i>	<i>Friday</i>	<i>Saturday</i>	<i>Sunday</i>
Mackay Caravan, Camping and Boating Expo (September)					9am-5pm	9am-5pm	9am-4pm
Sunshine Coast Home Show and Caravan, Camping & Boating Expo (October)					9am-5pm	9am-5pm	9am-4pm
South Queensland Caravan, Camping, Boating and Fishing Expo (March or April)					9am-5pm	9am-5pm	9am-4pm
Mackay Home Show, Caravan and Camping Expo (May)					9am-5pm	9am-5pm	9am-4pm
C.Q. Recreation & Travel Expo (August or September)						8am – 5pm	8am-5pm
Moreton Bay Caravan Camping and Boating Expo (March)					9am-5pm	9am-5pm	9am-4pm
Gold Coast Caravan and Camping Expo (March)					9am-5pm	9am-5pm	9am-5pm
Gold Coast Outdoor Adventure and Motoring Expo (February/March)					9am-5pm	9am-5pm	9am-5pm
Farm Fantastic Expo (July)					8.30am-4pm	8.30am-4pm	8.30am-4pm
Cleveland Caravan Camping Boating and 4x4 Expo (September)					9am-5pm	9am-5pm	9am-4pm

TRADING HOURS - NON-EXEMPT SHOPS SELLING MOTOR VEHICLES – STATE

<i>Area/Class of Shop</i>	<i>Mon to Fri</i>	<i>Saturday</i>	<i>Sunday</i>	<i>Public Holidays</i>
All areas	8am-9pm	8am-5pm	Closed	Closed*
Defined areas of Gold Coast, Redcliffe Peninsula, City of Brisbane, City of Logan, Town of Beenleigh, Near North Coast, Shire of Pine Rivers, Redland Shire and City of Ipswich	8am-9pm	8am-6pm	Closed	8am-6pm**

*Closed on December 25.

** Closed on December 25, Good Friday, April 25 and Labour Day.

TRADING HOURS - SPECIAL DISPLAYS OF NEW SEASON MODEL MOTOR VEHICLES

<i>Area/Class of Shop</i>	<i>Mon to Fri</i>	<i>Saturday</i>	<i>Sunday</i>	<i>Public Holidays</i>
All areas	8am-10pm	8am-10pm	Closed	Closed

- Special displays for the previewing of new season model motor vehicles shall not be held on more than three days at any one time.
- A special display shall not be held without a permit having first been obtained from the Chief Industrial Inspector.

TRADING HOURS - NON-EXEMPTED SHOPS SELLING CARAVANS – STATE

<i>Area/Class of Shop</i>	<i>Mon to Fri</i>	<i>Saturday</i>	<i>Sunday</i>	<i>Public Holidays</i>
All areas	8am-9pm	8am-6pm	Closed	Closed
Shops selling both caravans and motor vehicles	8am-9pm	8am-5pm	Closed	Closed

TRADING HOURS - AGRICULTURAL PRODUCE, FRUIT AND GRAIN STORES*

<i>Area/Class of Shop</i>	<i>Mon to Fri</i>	<i>Saturday</i>	<i>Sunday</i>	<i>Public Holidays</i>
Within the defined area in the City of Brisbane	7am-9pm	Closed	Closed	Closed
Outside the area above	8am-9pm	Closed	Closed	Closed
Fruit Stores and Banana Stores (all areas)	7am-9pm	Closed	Closed	Closed

TRADING HOURS ORDER - MACHINERY WAREHOUSES, WHOLESALE WAREHOUSES AND FOOD AND DRUG STORES*

<i>Area/Class of Shop</i>	<i>Mon to Fri</i>	<i>Saturday</i>	<i>Sunday</i>	<i>Public Holidays</i>
Machinery Warehouses	8am-9pm	Closed	Closed	Closed
Wholesale Warehouses	7.30am-9pm	Closed	Closed	Closed
Wholesale Cash and Carry Warehouses	7am-9pm	7am-5pm	Closed	Closed
Food and Drug Stores	8am-9pm	Closed	Closed	Closed

*Applies to wholesalers only.

BRISBANE MARKET

<i>Area/Class of Shop</i>	<i>Mon to Fri</i>	<i>Saturday</i>	<i>Sunday</i>	<i>Public Holidays</i>
Non-exempt shops selling by wholesale - Agricultural Produce, Fruit, Vegetable and Banana Sections	7am-9pm	Closed	Closed	Closed

Appendix 3: Exempt shops in each jurisdiction

Exempt shops (i.e. shops exempted from trading hours regulation) in each jurisdiction

Note: Northern Territory and Australian Capital Territory have not been included as trading hours are deregulated in those jurisdictions.

Queensland	New South Wales	Victoria	Tasmania	South Australia	Western Australia
<p>Exempt shops are listed in section 5 of the Act. An exempt shop is a shop described in the section that is used predominantly for selling goods by retail or for supplying services that a reasonable person would expect to be sold or supplied in that shop.</p> <p>The list includes: (a) antique shop; or (b) art gallery; or (c) aquarium and aquarium accessories shop; or (d) arts and crafts shop; or (e) bait and tackle shop; or (f) bookseller's shop, newsagent's shop, railway bookstall; or (g) bread shop, cake shop, pastry shop; or</p>	<p>The list of exempt shops includes: Bazaars, fairs or markets if the bazaars, fairs or markets are conducted for charitable or public fundraising purpose Book shops Cake and pastry shops Chemists shops Cooked provision shops Florists shops Fruit and vegetable shops Newsagencies Nurseries Pet shops Recorded music, video or dvd shops Restaurants, cafes or kiosks Seafood shops</p>	<p>Exempt shops are businesses that meet the following criteria: they have 20 or fewer persons employed in the shop at any time during a restricted trading day the number of persons employed by the business and its related entities is no more than 100 at any time during the seven days immediately before a restricted trading day</p> <p>Certain types of business are also exempt from trading hours' restrictions. They</p>	<p>The trading hours of certain retail shops are exempted from regulation by the legislation including shops at sports events, agricultural shows, fetes, bazaars, markets or trade exhibitions, car yards and shops selling motor vehicle spare parts, shops at which property auctions are conducted, shops at which liquor is the principal class of goods sold, shops that sell cooked food (eat-in or take-away), service stations and hairdressing shops.</p>	<p>Shops outside the Greater Adelaide Shopping District (Central Business District Tourist Precinct, the Metropolitan Shopping District, and the Glenelg Tourist Precinct) and also outside the 35 Proclaimed Shopping Districts (country areas) are exempt and can trade when they choose, including on all public holidays.</p> <p>Other shops are exempt by virtue of the type of goods they sell or because they are smaller than a certain size. These shops can</p>	<p>Regulation of trading hours applies only to retail shops south of the 26th parallel.</p> <p>Trading hours of restaurants, cafes and takeaway food shops are not covered by the Act.</p> <p>Special retail shops are considered necessary for emergency, convenience or recreation goods. They may trade 6.00 am – 11:30 pm every day of the year. Special retail shops include: pharmacies; garden nurseries; hardware and home improvement shops; newsagencies and bookshops; video shops; art and craft shops; souvenir and duty free shops; shops at sports venues;</p>

Queensland	New South Wales	Victoria	Tasmania	South Australia	Western Australia
<p>(h) camping equipment shop; or</p> <p>(i) chemist shop; or</p> <p>(j) confectionary shop; or</p> <p>(k) cooked provisions shop where the provisions are cooked or heated on the premises immediately before sale; or</p> <p>(l) delicatessen; or</p> <p>(m) fish shop; or</p> <p>(n) flower shop; or</p> <p>(o) fruit shop, vegetable shop, fruit and vegetable shop; or</p> <p>(p) funeral director's premises; or</p> <p>(q) hairdresser's, beautician's or barber shop; or</p> <p>(r) ice-cream parlour; or</p> <p>(s) licensed premises under the <i>Liquor Act 1992</i> or the <i>Wine Industry Act 1994</i>; or</p> <p>(t) marine shop; or</p> <p>(u) milk bar; or</p> <p>(v) nursery (plant) shop for selling garden plants and shrubs, seeds, garden</p>	<p>Shops ancillary to venues for playing sport of physical recreation</p> <p>Souvenir shops</p> <p>Take-away food and drink shops</p> <p>Tobacconists shops</p> <p>Vehicle shops, vehicle service centres or petrol stations</p> <p>Trading hours – Unrestricted, but on a restricted trading day (i.e. Good Friday, Easter Sunday, prior to 1pm on ANZAC Day, Christmas Day, Boxing Day) an exempted shop may only be staffed by persons who have freely elected to work on that day.</p> <p>Retailers operating in local authority areas which were</p>	<p>can open whenever they wish throughout the year. The types of business that are exempt are:</p> <p>chemists</p> <p>petrol shops</p> <p>restaurants</p> <p>cafes</p> <p>takeaway outlets</p> <p>service providers</p> <p>hire outlets (including video stores).</p> <p>Trading hours – Unrestricted.</p>	<p>Additional exemptions apply on ANZAC Day for:</p> <p>a pharmacy; or</p> <p>a newsagency; or</p> <p>a shop that is not part of a shopping centre, plaza or mall and the number of persons engaged at the shop does not exceed 10; or</p> <p>a shop, or a class or group of shops, that the Minister, by order, has declared may be kept open before 12.30 p.m. on Anzac Day.</p> <p>It is an offence to require an employee to work on Anzac Day (or any other public holiday) without the employee's written agreement.</p>	<p>also trade when they choose, including on all public holidays.</p> <p>The list of exempt shops includes:</p> <p>A shop with a floor area not exceeding 200m², that does not adjoin a building used as a storeroom with a floor area greater than one-half the floor area of the shop.</p> <p>A shop selling foodstuffs (e.g. a supermarket) with a floor area not exceeding 400m², that does not adjoin a building used as a storeroom with a floor area greater than one-half the floor area of the shop.</p>	<p>boating shops;</p> <p>motor vehicle spare parts shops; and</p> <p>shops at international standard hotels.</p> <p>Small retail shops are shops owned by up to six people who operate no more than four retail shops, in which up to 25 people work at any one time. Small retail shops may sell any goods other than motor vehicles.</p> <p>Trading hours in small retail shops are unrestricted.</p> <p>Filling (petrol/service) station trading hours are deregulated in all areas.</p> <p>There are restrictions on the range of non-petroleum goods which may be sold from filling stations after general retail shop trading hours. The range of goods approved will depend on the corporate circumstances of each business. A more expansive range of goods is</p>

Queensland	New South Wales	Victoria	Tasmania	South Australia	Western Australia
and landscaping supplies or equipment and associated products; or (w) pet shop; or (x) photographic shop; or (y) premises in relation to which a pawnbrokers licence under the <i>Pawnbrokers Act 1984</i> is in force; or (z) restaurant, cafe, refreshment shop; or (za) service station; or (zb) shop of a class declared by regulation to be a class of exempt shop; or (zc) shop for selling motor vehicle spare parts or motorcycle spare parts or both; or (zd) soap shop; or (ze) souvenir shop; or (zf) sporting goods shop; or (zg) temperance beverages shop; or (zh) tobacconist's shop; or (zi) toy shop; or	exempted from public holiday restrictions under the former section 89B of the <i>Shops and Industries Act 1962</i> are also exempted from the <i>Retail Trading Act 2008</i> and therefore do not need to apply for a separate exemption.			Any of the following types of shop (regardless of size): cafes, restaurants and take-away food service stations, licensed under Section 17 of the Act, selling a range of goods common to service stations which could include goods generally stocked by convenience stores hairdressers shops in ten pin bowling alleys, squash centres and golf courses antiques (other than coins or stamps) live fish and aquariums etc. paintings and crafts bookshops and newsagents pharmacies cosmetics	available to small filling stations. These in part are stations: owned by up to six people who collectively operate no more than three filling stations; and in which a maximum of 10 people work at any time.

Queensland	New South Wales	Victoria	Tasmania	South Australia	Western Australia
<p>(zj) veterinary supplies shop; or (zk) video cassette shop (blank or prerecorded).</p> <p>Trading hours - Unrestricted (i.e. they are “exempt” from trading hours restrictions on any day of the year as none are prescribed in the Act).</p>				<p>medical and surgical appliances florists non-alcoholic drinks, ice-cream, confectionery or light refreshments pets and accessories plant nurseries souvenirs tobacconists cash-and-carry wholesale warehouses shops at horticultural or agricultural shows short-term charitable, religious or benevolent sponsored shops agricultural machinery fine art, either by auction or on commission caravans and/or trailers any shops that hire out goods rather</p>	

Queensland	New South Wales	Victoria	Tasmania	South Australia	Western Australia
				than sell them (e.g. video hire, machinery hire etc.).	

Appendix 4: Independent retail shops in each jurisdiction

Independent retail shops (i.e. small shops with partial or total exemptions from trading hours regulation) in each jurisdiction

Note: Northern Territory and Australian Capital Territory have not been included as trading hours are deregulated in those jurisdictions.

Queensland	New South Wales	Victoria	Tasmania	South Australia	Western Australia
Independent retail shops are defined at section 6 of the Act. They may sell any type of good. There are a number of criteria for a shop to be classified as an independent retail shop but the most commonly relied on criteria is that such shops are run by a single operator or a proprietary company and where no more than 20 persons are engaged in the shop at any one time or, where a number of shops are operated, a maximum of 60 persons throughout the State are engaged. Additionally the business for which the shop is maintained must be wholly owned by a person, or by persons in partnership, or by a proprietary company,	<p>A small shop is exempted from any restrictions on trading hours.</p> <p>A small shop is defined as a shop where:</p> <ul style="list-style-type: none"> the number of people that own the shop does not exceed 2, or one corporation, and the owner or owners of the shop take the profits from the business, and the total number of employees engaged must not exceed a total of 4 regular employees, whether working 	<p>There is no specific category of small shops in Victoria but the definition of exempt shops (unrestricted trading) includes businesses that meet the following criteria:</p> <ul style="list-style-type: none"> they have 20 or fewer persons employed in the shop at any time during a restricted trading day the number of persons employed by the business and its related entities is no more than 100 at any time during the seven days 	<p>There is no category of small shop in Tasmania.</p> <p>It should be noted that there is an exemption from closure on ANZAC Day for a shop that is not part of a shopping centre, plaza or mall and the number of persons engaged at the shop does not exceed 10.</p> <p>Further, shops (other than exempted shops) that are retailers or franchise groups employing more than 250 employees must not be kept</p>	<p>There is no specific category of small shop in South Australia but the definition of exempt shop (unrestricted trading) includes businesses that meet the following criteria:</p> <ul style="list-style-type: none"> A shop with a floor area not exceeding 200m², that does not adjoin a building used as a storeroom with a floor area greater than one-half the floor area of the shop. A shop selling foodstuffs (e.g. a supermarket) with a floor area not exceeding 	<p>‘Small retail shops’ are shops owned by up to six people who operate no more than four retail shops, in which up to 25 people work at any one time. Small retail shops may sell any goods other than motor vehicles.</p> <p>Trading hours in small retail shops are unrestricted.</p> <p>Filling station trading hours are deregulated in all areas. There are restrictions on the range of non-petroleum goods which may be sold from filling stations after general retail shop trading hours. The range of goods approved will depend on the corporate circumstances of each business. A more expansive</p>

Queensland	New South Wales	Victoria	Tasmania	South Australia	Western Australia
<p>that is not a related body corporate.</p> <p>Trading hours - Unrestricted, except for closure on 25 December (Christmas Day) and Good Friday and until 1.00 pm on 25 April (Anzac Day). Independent retail shops that are predominantly food and/or grocery shops are totally unrestricted.</p>	<p>at the same time or different times.</p> <p>The number of persons engaged in a small shop does not include:</p> <ul style="list-style-type: none"> • The occupier or occupiers. If the occupier is a corporation, then 2 natural persons who are shareholders of the corporation; or • Any person engaged in an emergency during the absence from the shop for part of a day of a person who is engaged in the shop on that day; or • Any person engaged outside the normal working hours of 	<p>immediately before a restricted trading day (i.e. Good Friday, Christmas Day and between 12.01 am and 1pm on ANZAC Day).</p>	<p>open at any time on Christmas Day or on Good Friday.</p>	<p>400m², that does not adjoin a building used as a storeroom with a floor area greater than one-half the floor area of the shop.</p>	<p>range of goods is available to small filling stations. These in part are stations:</p> <ul style="list-style-type: none"> • owned by up to six people who collectively operate no more than three filling stations; and • in which a maximum of 10 people work at any time.

Queensland	New South Wales	Victoria	Tasmania	South Australia	Western Australia
	<p>any person engaged on a full-time basis.</p> <p>If the owner of a shop is a corporation, or a Director of a corporation and is engaged in another business, then it fails to comply with the definition of a small shop.</p>				

Appendix 5: Non-exempt shops in each jurisdiction

Non-exempt shops (i.e. large retail shops subject to trading hours' restrictions) in each jurisdiction

Note: New South Wales, Victoria and Tasmania only have restrictions on trading on Christmas Day, Good Friday and ANZAC Day (until 1pm in New South Wales and Victoria and 12.30pm in Tasmania)

Note: Northern Territory and Australian Capital Territory have not been included as trading hours are deregulated in those jurisdictions.

Queensland	South Australia	Western Australia
<p>Non-exempt shops are not defined but the category includes large retailers operating supermarkets and department stores.</p> <p>The trading hours for non-exempt shops are decided by the QIRC. The QIRC is not permitted to decide trading hours that are less than those in the Trading Hours Act as follows:</p> <ul style="list-style-type: none"> • 8am to 9pm for Monday to Friday, and • 8am to 5pm for Saturday. <p>No hours are prescribed for public holidays or for Sundays making them closed days.</p> <p>The hours prescribed in the Act are the trading hours for non-exempt shops throughout Queensland unless the QIRC has decided in an order to allow longer hours.</p> <p>For the South East Queensland Area, the Trading Hours Act also prescribes additional allowable trading hours of 9am to 6pm on Sundays and most public holidays (i.e. Good Friday, Easter Sunday, Anzac Day, Labour Day and Christmas Day are closed days).</p>	<p>South Australia regulates large shop trading hours in the Greater Adelaide Shopping District (CBD Tourist Precinct, Metropolitan Shopping District and Glenelg Tourist Precinct) and in 35 Proclaimed Shopping Districts in country areas. All shops outside those areas are exempt and can trade when they choose, including on all public holidays.</p> <p>Non-exempt shops in the CBD Tourist Precinct can trade:</p> <ul style="list-style-type: none"> • until 9pm Monday to Friday, including part-day public holidays • until 5pm on Saturdays, including Easter Saturday • from 11am to 5pm on Sundays or full-day public holiday (except Good Friday, 25 December and before 12 noon on 25 April). <p>Non-exempt shops in the Metropolitan Shopping District and Glenelg Tourist Precinct can trade:</p>	<p>In Western Australia trading hours' regulation applies to shops south of the <u>26th parallel</u>. The trading hours of restaurants, cafes and takeaway food shops are not covered by the Act. All shops are regarded as general retail shops unless they fall under any one of the other categories including: small retail shops, special retail shops, filling - service stations or motor vehicle shops.</p> <p>Trading hours for general retail shops in the Perth metropolitan area are:</p> <ul style="list-style-type: none"> • 8.00 am – 9.00 pm on Monday to Friday • 8.00 am – 5.00 pm on Saturday • 11.00 am – 5.00 pm on Sunday • 11.00 am – 5.00 pm on public holidays • Christmas Day, Good Friday and ANZAC Day - Closed <p>Trading hours for general retail shops not in the Perth metropolitan area are:</p> <ul style="list-style-type: none"> • Monday, Tuesday, Wednesday and Friday - 8am - 6pm • Thursday - 8am - 9pm • Saturday - 8am - 5pm

Queensland	South Australia	Western Australia
<p>Extended trading hours have been established by QIRC order in most of the major population and tourist areas of the state allowing trading on seven days per week including most public holidays. Commonly, the hours allowed in these seven day trade areas are:</p> <ul style="list-style-type: none"> • 8am to 9pm for Monday to Friday, • 8am to 5pm/5.30pm for Saturday, and • 9am to 6pm/8.30am-5.30pm for Sundays and most public holidays • Good Friday, 25 April, Labour Day and 25 December are closed days. <p>The QIRC has made other orders for specific classes of non-exempt shops. For example:</p> <ul style="list-style-type: none"> • Shops selling motor vehicles (in the majority of the State) may trade 8am – 9pm Monday to Friday, 8am – 5pm Saturday but must remain closed on Sundays and public holidays, and • Shops selling caravans may trade 8am – 9pm Monday to Friday, 8am – 6pm Saturday but must remain closed on Sundays and public holidays. <p>QIRC orders can also permit special displays or exhibitions to be conducted outside the hours that shops selling those goods would normally be permitted to trade (e.g. on a Sunday, public holiday or late night).</p>	<ul style="list-style-type: none"> • until 9pm Monday to Friday, including part-day public holidays • until 5pm on Saturdays, including Easter Saturday • from 11am to 5pm on Sundays, excluding Easter Sunday • but cannot trade on a public holiday, except Easter Saturday. <p>Non-exempt shops in a Proclaimed Shopping District can trade:</p> <ul style="list-style-type: none"> • until 6pm on all weekdays except Thursdays • until 9pm on Thursdays, including part-day public holidays • until 5pm on Saturdays, except Easter Saturday • but cannot trade on a Sunday or public holiday. <p>Shops that are solely or predominately the retail sale of boats and/or motor vehicles in a shopping district can trade:</p> <ul style="list-style-type: none"> • until 6pm Monday to Wednesday • until 9pm on Thursdays and Fridays, including part-day public holidays • until 5pm on Saturdays • but cannot trade on a Sunday or public holiday. 	<ul style="list-style-type: none"> • Sunday and public holidays - Closed. <p>Trading hours for a motor vehicle shop are:</p> <ul style="list-style-type: none"> • 8.00 am – 6.00 pm on Monday to Friday • 8.00 am – 9.00 pm on Wednesday • 8.00 am – 1.00 pm on Saturday • Sunday and public holidays – Closed. <p>Hardware and home improvement shops are defined as special retails shops and may trade 6am to 11.30 pm every day of the year.</p> <p>The Minister may make orders varying the opening and closing times of retail shops and fixing the closing times of general retail shops in holiday resorts. Extended trading permits from the Department of Commerce are available for swapmeets, trade fairs and industry expos.</p>

Queensland	South Australia	Western Australia
<p>The QIRC also makes orders permitting extended trading hours in the 4 weeks prior to Christmas each year.</p>	<p>Shops selling hardware and building materials, furniture, floor coverings or motor vehicle parts and accessories can trade:</p> <ul style="list-style-type: none"> • until 9pm on weekdays, including part-day public holidays • until 5pm on Saturdays, including Easter Saturday • from 9am to 5pm on a Sunday or public holiday (except Good Friday, 25 December and before 12 noon on 25 April). <p>Shops selling caravans are listed as one of the list of shops exempted from trading hours' regulations.</p> <p>The Minister may grant or declare special trading exemptions from the operation of the Act.</p>	

Appendix 6: History of decisions by the QIRC

Background Information

NRA & S26 CRITERIA

- The NRA has made several representations in the past seeking changes to the Act in respect of section 26 criteria in the Trading Hours Act, usually focussing on their perception that the QIRC places too great an importance on the views of local government (section 26 (h) of the Act).

QIRC Decisions

- Note that some failed applications are based on the applicant's failure to demonstrate a 'need' (rather than a mere desire) for Sunday trading and a failure to comprehensively address the criteria for extension of trading hours set by the Act.

Views of the Parties

- If the parties express their views and provide evidence in a written submission and they do not make themselves available to the QIRC, for example for cross-examination of evidence presented, then the weight attributed by the QIRC diminishes.

Cases

New Farm – 2000

- Application granted.
- Urban Renewal Taskforce (since 1991 tasked with revitalising inner north-eastern suburbs) supported that application i.e. Sunday trading fits with the aim of the Taskforce to make the built infrastructure and the services compliment residents' lifestyles.
- The work of the Taskforce was viewed by the QIRC as "special circumstances of a sufficiently significant nature" (principles established by previous Full Bench) which is often considered by the QIRC when deciding whether to approve or refuse application for seven day trading.
- Evidence that New Farm and surrounding areas had experienced significant population growth and also a significant change in demographics, due in part to the massive residential development in the area. The number of families in the area were very low and therefore New Farm residents shopping patterns were different to those in the suburbs.
- Positive employment impact also raised by the QIRC when granting application.

SEQ Case – 2002

- The application was granted in part only to the local government area of the City of Brisbane; to operate from 1 July 2002.

- Application to introduce Sunday trading (10.00 a.m. to 5.00 p.m.) in the “Brisbane and Near Metropolitan Area” (north to Caboolture, west to Ipswich and south to Beenleigh).
- In granting the application to this defined area only, the QIRC considered principles established by previous Full Benches that there needs to be a degree of commonality within the whole of the area to justify a common trading hours result. The QIRC did not see the “Brisbane and Near Metropolitan Area” as having the necessary degree of commonality.
- The decision was criticised on the basis that it potentially disadvantaged traders, shopping centres and consumers in areas adjacent to Brisbane by disallowing access to Sunday trading and, as such, was not in the public interest. Areas excluded from the decision included Ipswich, Redbank, Strathpine, Pine Rivers, Arana Hills, Caboolture, Redcliffe, Capalaba, Browns Plains, Springwood, Redlands and Logan.

Expansion of SEQ - 2004 - Regional Queensland (Southern & Eastern Areas)

- Application rejected.
- Of significance as the likely detrimental economic effect of Sunday trading in regional Queensland on small and medium business.
- No evidence or insufficient evidence of changing needs or shopping patterns of consumers that needs addressing.
- No real evidence of increased employment through Sunday trading.
- Towns and cities in regional Queensland are still “country” areas as opposed to being “tourist” areas and tourism in these areas is not “clearly distinguishable” from the normal situation or not sufficiently special.
- While a survey was presented showing that a majority of consumers say they want Sunday trading, the QIRC pointed out that this does not equate with needs.
- Many local authorities chose not to actively participate in proceedings

Westfield Chermside Shopping Complex – 24 hour trading

2003

- On 2 September 2003 the RAQ filed an application with the QIRC for 24 hour trading at Westfield Chermside Shopping Complex on 23/24 December 2003.
 - a close time of business on 23 December was 12 midnight to the usual start of business on Wednesday, 24 December at 8am
- The application was based on successes with continuous trading prior to Christmas at major regional shopping complexes in Melbourne and Sydney.
- On Tuesday, 2 December 2003 a Full Bench of the QIRC decided to allow the application on a trial basis only, subject to the following conditions:
 - the hours to be voluntary for all retailers and employees
 - security arrangements to be made by Westfield Ltd with Queensland Police
 - security arrangements to be discussed with employees

- the applicant (RAQ) to collect data relating to the trial period namely - pedestrian traffic, traffic congestion, the trading practices of all retailers, changes in turnover for individual stores and any security incidents
- respondent organisations are to be allowed reasonable access to monitor the trial.

2004

- By decision of 1 July 2004, the QIRC allowed 24 hour trading at Westfield Chermside from 8am on 23 December to 9 pm on 24 December for both 2004 and 2005.
- The approval was limited to a two year trial because:
 - some problems were evident in the first trial regarding staffing levels and the expectation that only employees who volunteered would work extended hours;
 - the Commission would be assisted by a further two years' experience before any permanent approval was granted; and
 - the circumstances of 23 and 24 December in 2006 falling on a Saturday and Sunday would need special consideration taking account that the results of trading in 2005.
- In respect of a similar application for the Indooroopilly Shopping Complex for which hearings were pending, the QIRC indicated that the application, if pursued, would be treated on its individual "specific, unique or particularly telling" merits.
- Applications for similar trading at shopping complexes at Robina, Pacific Fair and Indooroopilly were refused by the QIRC in 2004.

2006

- The NRA argued that it is appropriate for the QIRC to grant a permanent order in the same or similar terms to the orders issued arising from the earlier decisions. It was submitted that a three year trial has provided an adequate test of the sustainability of the 32 hour event at Westfield Chermside and a permanent order was warranted

"A permanent order would provide certainty which will materially assist the planning, promotion, and organisation of the event over future years. ..."

- The QIRC concluded that the applicant has demonstrated that:
 - participation by retailers in the event is on a voluntary basis;
 - participation by employees in the event is on a voluntary basis;
 - initial concerns about staffing levels, as revealed in the 2003 trial, have been resolved;
 - adequate arrangements appear to have been made by Westfield and/or the major stores to provide security escorts for staff to their vehicles during the extended trading hours;

- the extended trading hours event has not seen any unusual security issues arise - at least from the perspective of Westfield and the Queensland Police Service;
- there is no evidence of any unusual parking congestion issues or local traffic flow issues. If anything, any such concerns will be greatly alleviated by the commissioning of a further 2,300 parking spaces and several new entry points to the Westfield Chermside Shopping Complex on its northern and western sides later this month; and
- the number of persons attending the centre during the extended trading hours continues to be strong which demonstrates, to us, that the event is meeting a particular consumer need.
- The QIRC made a point of highlighting that the earlier trials established that the event exhibits the necessary special, unique or particularly telling features which justify the application being granted. The 3 previous trials were very well supported by consumers and retailers and the QIRC saw nothing in the evidence to suggest that this will not continue to be the case. The QIRC added that the impending extensions to the Westfield Chermside Shopping Complex would only enhance the likelihood that the 32 hour continuous trading event will receive increased patronage and support.

Townsville – 2007

- Application granted but with conditions.
- QIRC made a decision to allow Sunday trading from 11am – 6pm in the Townsville and Thuringowa local authority areas effective from 17 September 2007.
- Application sought extension of allowable hours currently applying in the defined “Townsville Tourist Area” to a wider area encompassing the whole of the Townsville and Thuringowa local authority areas.
- The Townsville City Council (TCC) opposed the application to the extent that it would allow trading in suburban non-exempt retail stores between 9.00 a.m. and 11.00 a.m. on a Sunday. The TCC expressed a desire to strike a balance between the competing social and community views and the interests of TCC in the Cotters' Market and central business district (CBD) revitalisation.
- The submissions of the TCC was significant in the QIRC's decision to grant the reduced hours for Sunday trading in this matter.
- The QIRC decision included:
 - retaining the tourist zone of "Townsville Tourist Area" and the hours which are in existence for that zone; and
 - granting to the remaining local Government areas of Townsville and Thuringowa the trading hours of 11.00 a.m. to 6.00 p.m. By doing that QIRC created a new trading zone entitled the "Townsville and Thuringowa Area" incorporating the local authority areas for those 2 cities.

Area of City Heart of Inner City of Brisbane (Supermarkets)- 2007

- Application granted.
- The issue of tourism i.e. the increase in tourism in the city, was seen as significant.
- The rise in residential living in the CBD in the immediate past years has brought with it an expanding population which is a key matter for consideration in this application.
- The Council offered its full support to the application.

Gympie 2009

- Application refused
- The submission from the Council concluded as follows:

"Gympie Regional Council objects to Sunday trading because such a step will be detrimental to the lifestyle of its residents and the family focus of its community. Small business has traditionally provided a stable, solid foundation for the Gympie region and Council believes any measures which may damage this foundation are not in the community's best interests."
- The QIRC ruled that the view of the Gympie Regional Council about the type of community it wishes to encourage and, in that context, its opposition to 7 day trading was a strong factor in refusing the application.

Toowoomba 2010

- Application granted
- In delivering its decision the Commission noted:
 - The tourism industry is of particular importance to Toowoomba and there is a connection between tourism and retail shopping.
 - The impact on employment would be positive if the application was granted
 - The more meritorious submissions around the interests of small and large businesses were provided by the NRA.
- The Commission also noted that available evidence indicated that consumer support for the application was marginally less than opposition to Sunday trading.
- The Toowoomba Regional Council (TRC) did not register either support or opposition for the application so its position was seen as neutral.
- The TRC wrote to the Commission and provided a survey, to be used as the Commission wished, apparently showing a slight majority of those surveyed to be opposed to Sunday trading in Toowoomba. The Commission declined to accept it in evidence because the TRC declined to make an appearance in the case and therefore the survey could not be tendered by a person or organisation involved in its formation..
- Mr M. Horan MP, Member for Toowoomba South and Mr R. Hopper MP, Member for Condamine both gave evidence opposing the application. In summary their evidence indicated that granting the application would have an adverse impact on
 - The Sunday lifestyle of Toowoomba which is largely associated with sport, recreation, family time and church.

- Shopping in small towns surrounding Toowoomba as residents from those small towns would be drawn to Toowoomba to purchase their requirements on the weekend.

Gold Coast Coastal Tourist Area – Supermarkets – 2010

- Application granted.
- The interest of consumers, which in this case included tourists and therefore the tourism industry itself was significant.
- From the evidence of the volume of customer transactions, particularly at closing times at the coastal stores, we think it is reasonable to infer that customers who are likely to be tourists, may be confused about the trading hours which presently exist and are showing a preference for extended trading hours in order to accommodate their shopping needs.
- QIRC satisfied that this part of Gold Coast is continuing to experience significant tourism development. Further, QIRC acknowledged that domestic and international visitation is still high. It is clear that the Gold Coast tourist strip remains a popular holiday destination.
- QIRC noted the lack of any evidence opposing the application.

Mt Isa 2009- 2010

- Application refused.
- Mt Isa Mayor indicated tourism in Mt Isa was not about shopping. He noted that small businesses which currently trade on Sundays provide an adequate service for tourists to the township. The Mayor made issue of the viability of small businesses.
- The Mayor also noted that local sporting events, community events and family life could suffer with the introduction of seven day trade in Mt Isa. Many of the community events were held in Mt Isa on a Sunday.
- These sentiments were also included in the Resolution of the local Council in its opposition to the application.
- Mr Bob Katter (federal member) opposed the application citing the following points:
 - A significant percentage of the business for the small traders would be lost to two large stores (Coles & Woolworths);
 - Coles and Woolworths are in the CBD. No public transport exists in Mt Isa. If small traders (who are in suburbs) are forced to close the elderly and children will have trading problems;
 - Many of the smaller traders in Mt Isa contribute significantly into the local community infrastructure. An example was given of a Cloncurry trader who, during 2008, had donated \$62,000 to local charities and had also sponsored one of the local Rugby League teams;

- In Mr Katter's view, "the effect of this overwhelming concentration of market powers on Australian manufacturers, food processors, and farmers is to take away effectively all profit margin."
- The Mt Isa chamber of commerce opposed the application following a survey of financial members (83%) opposed. It is noteworthy that non-financial members had a significantly higher desire for 7 day trading.

Warwick 2010 - 2011

- Application refused.
- QIRC rejects application due to lack of support.
- Mayor of Southern Downs Regional Council, opposed application. He referred to local surveys opposing 7 day trading as the reason behind his stance.
- President of the Warwick Chamber of Commerce said that it was a personal view of each person that they did not want to open on a Sunday, not that seven day trading was good or bad for the economy. The Warwick Chamber of Commerce took the broader, more holistic view to consider the prosperity of the Warwick economy which they had to protect, sustain and encourage by supporting the application.

Expansion of SEQ area 2011 - to include Fernvale, Plainland and Gatton

- Application granted.
- The interests of large business and the increased employment opportunities were significant issues.
- The QIRC accepted that the area is an isolated six day trading area located between two seven day trading areas, namely South-East Queensland and Toowoomba.
- The QIRC consider there was merit in the evidence of the Regional Retail Support Manager for Woolworths, concerning the infrastructure, business and employment opportunities that Woolworths has helped to generate by the opening of their stores in Plainland and Fernvale and the lost employment opportunities and lost expenditure to these towns that the absence of seven day trading presents.
- A written submission was received from the Local Government Association of Queensland (LGAQ) on behalf of the Lockyer Valley Regional Council. The LGAQ advised that the Lockyer Valley Regional Council opposed the application.
- The QIRC noted the opposition of the Lockyer Valley Regional Council (which includes Gatton and Plainlands) but given the absence of direct evidence from that Council, the QIRC were concerned about the basis of the decision. On the face of the extract from the Lockyer Valley Regional Council minutes it seemed that eight businesses opposed the application and because of this the Lockyer Valley Regional Council resolved to oppose the application. Without more information the QIRC considered that it was unable to place much weight on the view of the Lockyer Valley Regional Council.

- The QIRC also noted that the Somerset Regional Council (which includes Fernvale) did not express a view to the QIRC.
- As a result, the views of the local government did not assist the QIRC in determining the application.

Townsville 2011

- Application refused
- Application for amalgamation of existing trading hours areas (i.e. the 'Townsville Tourist Area' and the 'Townsville and Thuringowa Area') into a single 'Townsville Area' with common hours for trading seven days a week and on public holidays.
- If successful the application would have removed the separate trading hours provisions applying to "The Townsville Tourist Area" (the Tourist Area) and "The Townsville and Thuringowa Area" (the Suburban Area) and establish a single trading hours area comprised of the local authority area of the City of Townsville. Trading hours on a Sunday for all non-exempt stores located outside the existing Tourist Area, would commence at 9.00 a.m. instead of 11.00 a.m., so that all stores within the local authority area could open at 9.00 a.m. on that day of the week.
- Townsville City Council (TCC) argued for the retention of the later starting time on a Sunday in the Suburban Area so as not to disadvantage development and revitalisation of the Tourist Area and in particular the Flinders Street Mall.
- In their decision the QIRC commented that:
"TCC's vision involves, inter alia, trying to achieve a balance between big and small, the Suburban Area and the Tourist Area, family/community and free trade, while still trying to foster development and growth in the city."

Ingham 2011 – 2012

- Application refused.
- The opinions expressed by elected members was a factor in the QIRC decision to dismiss the application
- The Mayor of Hinchinbrook Shires evidence was that the local Council opposed the application because of the adverse effect upon smaller traders. The Mayor believed that little leakage of trade to other towns' occurred and that local shops meet local retail needs.
- Mr Katter (Federal Parliamentary Member for the seat of Kennedy) supported local stores noting that they support the local community with local produce and joining with the community in fighting against the injustices of government decisions for the survival of small business and regional towns. Mr Katter also mentioned market share.
- Mr Cripps (State Member of Parliament for the electorate of Hinchinbrook) provided similar evidence.

Ayr 2012

- Application refused.
- QIRC ordered that a lack of evidence and strong community opposition defeated the application
- Ms Menkins (Member of Parliament Burdekin Shire) claimed little to no tourism and that local businesses would suffer if application granted. Ms Menkins claimed that it was not in the public interest for 7 day trading as no need for it existed. She claimed that local stores are more than adequate.
- The Chamber of Commerce largely repeated Ms Menkins claims.
- Mayor of Burdekin opposed the application due to the detrimental impact on local businesses and a survey indicating strong opposition.

Pre - Christmas Trading

QIRC decision on 19 November 1987 extended trading hours for non-exempt shops:

- Closing time on all days, except Saturday and Sunday, from 18 December to 23 December inclusive shall be 9 pm. Closing time on a Saturday falling within those dates shall be 5.30pm.

QIRC decision on 11 November 1990 permitted trading on 23 December but not 16 December.

- Application sought, amongst other things, Sunday trading on Sunday 16 December 1990 and Sunday 23 December 1990 between hours of 10am and 5pm.
- Arguments included that if non-exempt shops were not allowed to open on Sunday 23 December 1990, then Monday 24 December 1990 (Christmas Eve) would be extremely busy and it would be difficult to have sufficient perishable and other goods available to the public on that day.

QIRC decision on 10 September 1991 which sought opening time of 8:15am and closing time of 4pm on the two Sundays immediately preceding 25 December each year.

- QIRC decided that that trading by non-exempt shops should be permitted on the Sunday immediately preceding Christmas.
- QIRC satisfied sufficient reasons existed to make Order on a permanent basis.

Following decision of 10 September 1991:

- Closing time on all days except Saturday and Sunday from 18 December to the 23 December inclusive shall be 9pm. Closing time on a Saturday falling within those dates shall be 5.30pm; and
- For the Sunday immediately preceding 25 December each year – an opening time of 10:30 am and a closing time of 4pm.

Order - Motor Vehicles, Caravans, Boats etc.

Caravans

- Until October 1977, hours were uniform with that applying to motor vehicles i.e. 8am to 6pm Monday to Friday and 8am to 1pm on Saturday, but from that date the hours on a Saturday were extended from 1pm to 6 pm.
- Caravan Trade and Industries Association of Queensland advised that on 24 October 1977 that the Association made an application to the QIRC for all day trading on Saturdays and Sundays, but QIRC only granted Saturday trading to 6pm.
- Joint submission by Ipswich Caravan Centre, Riverview Caravans, Millard Caravans Toowoomba and Vicount Caravans Toowoomba sought removal of all restrictions for Ipswich and Toowoomba areas.
 - Argued that present legislation disadvantaged dealers and encourages “back yarders” and unlicensed dealers to operate from unlicensed premises at any time
 - It was said that that the purchase of a caravan is usually a joint husband and wife decision and therefore if they wish to make their choice on Sundays, they are driven to alternative sources that are open

Bunnings – (as at 2012)

- Bunnings is classified as a non-exempt (large) shop. Bunnings stores are likely to be considered to fall under the category of builder materials supply hardware stores and hardware stores in the QIRC order “Trading Hours Non-Exempt Shops Trading by Retail - State”. That order defines those categories of shop and provides for allowable trading hours specific to those categories.
- The allowable trading hours prescribed for builder materials supply hardware stores and hardware stores are generally less restricted than those for other non-exempt (large) retail stores.
- Builder materials supply hardware stores may open from 6.00am Monday to Saturday as opposed to the 8.00am commencement time that other non-exempt (large) retail shops must abide by.
- Hardware stores and builder materials supply hardware stores are allowed to trade on Sundays and most public holidays throughout Queensland even though in some areas other non-exempt (large) retail shops must remain closed on those days.
- Builder materials supply stores and hardware stores in areas outside south-east Queensland to be open from 8.30 am to 4.00pm on Sundays and from 8.30am to 5.30pm on public holidays (other than Anzac Day, Good Friday and Christmas Day).

Appendix 7: List of orders granted by QIRC from 1988 - 2016

QIRC Decisions allowing Sunday/Public Holiday and other extensions of trading hours for Non-Exempt shops in specified areas

Year of Decision	Details of Area
1988	Brisbane City Heart.
1992	Gold Coast Area.
1994	Sunshine Coast Area.
1995	<ul style="list-style-type: none"> • Townsville CBD • Cairns Tourist Area.
1999	Douglas Shire Tourist Area.
2000	<ul style="list-style-type: none"> • Whitsunday Tourist Area • New Farm Area.
2001	<ul style="list-style-type: none"> • Inner City of Brisbane • Brisbane City (Local Government Area)
2002	<i>In 2002, legislation was passed to improve the QIRC Brisbane City decision i.e. Sunday/public holiday trading in the south-east Queensland area. Establishes new area (from Noosa to Gold Coast and west to Amberley) within which non-exempt shops can open from 9am-6pm on Sundays and most public holidays.</i>
2003	<ul style="list-style-type: none"> • Hervey Bay (<i>Application failed in part for Yeppoon and Capricorn Coast</i>)
2004	<ul style="list-style-type: none"> • Townsville CBD area expanded (North Ward) and renamed Townsville Tourist Area. • Cairns Tourist Area expanded (Clifton Beach and Mt Sheridan). • Failed application to expand South East Queensland area North to Bundaberg and West to include Toowoomba, Warwick and Stanthorpe. Appeal dismissed. • 24 hour trading on 23 December (from 8am on 23/12 to 9pm on 24/12) for the Westfield Chermside Shopping Complex. Granted for 2003, 2004 & 2005 only. (Similar applications for Indooroopilly, Robina and Pacific Fair refused)
2005	<ul style="list-style-type: none"> • Cairns Tourist Area expanded (Redlynch). • Whitsunday Tourist Area expanded (Cannonvale).
2006	<ul style="list-style-type: none"> • South East Queensland area expanded to include Nambour and Beerwah. • Trading from 8am 23 Dec to 9pm 24 Dec at Westfield Chermside.
2007	<ul style="list-style-type: none"> • Townsville and Thuringowa • Yeppoon • South East Queensland area expanded to include Beaudesert • Cairns (Redlynch) • Supermarkets in Brisbane City Heart
2008	<ul style="list-style-type: none"> • Failed application at Mackay. Appeal orders rehearing. See 2010 below.
2009	<ul style="list-style-type: none"> • Moranbah • Expand Douglas Shire Tourist Area to include Mossman and extended hours for supermarkets in Port Douglas • South East Queensland area expanded to include Woolworths at Cooloola (Application failed in part for Gympie and Cooroy) • Rockhampton
2010	<ul style="list-style-type: none"> • Toowoomba • Mackay

Year of Decision	Details of Area
	<ul style="list-style-type: none"> • Failed application at Mt Isa • Edmonton (Cairns Tourist area) • Failed application at Woodford • Failed application at Mission Beach and Bargara • Gold Coast – supermarkets on coastal strip 7-10 Mon-Sat & 8-8 Sun/pub hols
2011	<ul style="list-style-type: none"> • Failed application at Warwick • Innisfail • Emerald • Cairns CBD Supermarkets – open till 9pm Saturdays and Sundays • Failed application at Kingaroy • Gladstone • Tablelands (Mareeba and Atherton) • South East Queensland area expanded to include Fernvale, Plainland and Gatton • New Farm – 7am-9pm every day including public holidays • Failed application for amalgamation of Townsville/Thuringowa
2012	<ul style="list-style-type: none"> • City Heart of Inner City of Brisbane – opening time 7am weekdays (Application failed in part re: 7pm Saturday closing Inner City of Brisbane) • Bundaberg (which includes Elliot Heads, Bundaberg and Bargara) • Failed application to create Sunshine Coast Coastal Tourist area with 9pm closing every day • Fraser Coast • Gympie • Failed application at Ingham • Application for 7am-7pm trading in SEQ area discontinued by NRA • Biloela • Failed application at Ayr • South East Queensland area expanded to include Woodford
2013	<ul style="list-style-type: none"> • Dismissed application by NRA to allow trading hours 8am – midnight 23 December and 12am – pm 24 December
2014	<ul style="list-style-type: none"> • Inner City of Brisbane (7am-9pm Mon-Fri, & 7am-7pm Sat) and include Petrie Terrace and Kelvin Grove. • Ipswich CBD (7am-9pm Mon-Fri, 7am-7pm Sat, 9am-6pm Sun and certain public holidays) • Toowong (7am-9pm Mon-Fri, 7am-7pm Sat, 9am-6pm Sun and certain public holidays) • New Cairns CBD Area (8am-9pm Mon to Sat, 9am-9pm Sunday and 8.30am-5.30pm Pub Hols) • Marian in Mirani Shire. • Townsville Tourist Area (Mon-Sat 7am-9pm, Sun 9am-6pm, certain public holidays 8.30am-5.30pm) • Extended trading on 23 and 24 December each year for non-exempt shops within the Westfield Garden City Shopping Complex
2015	<ul style="list-style-type: none"> • New Farm area (7am-9pm Mon-Sun) to include Newstead • Hamilton North Shore area to 6am-10pm Mon-Fri, 7am-10pm Saturday 7-9pm Sunday and public holidays

Year of Decision	Details of Area
	<ul style="list-style-type: none"> • Emu Park Tourist Area • Dalby • Failed application for Mt Isa • Extend the Gold Cost Coastal Tourist Area (2010) to include parts of Southport and Burleigh Heads • Failed application for Goondiwindi • Trading on Monday, 28 December 2015 in regional areas without 7 day trading
2016	<ul style="list-style-type: none"> • South East Queensland Area 7am-9pm Monday to Saturday