

Daylight Saving for South-east Queensland Referendum Bill 2010

Explanatory Notes

Objectives of the Bill

To provide that a part of south-east Queensland, consisting of the cities of Brisbane, Ipswich, Logan, Gold Coast and Redland and the regions of Moreton Bay, Scenic Rim and Sunshine Coast (“the south-east Queensland daylight saving time region”) will observe daylight saving time (“DST”) from early October till early April each year – but only if the majority of the electors of the whole State of Queensland approve the proposal at a referendum.

Reasons for the Bill

Daylight saving has been a controversial topic in Queensland. A referendum, held after daylight saving had been trialled from 1989-92, showed that the majority in a narrow coastal strip from the southern border to Noosa and extending inland only as far as Ipswich were in favour of it but that the other regions voted against it by a large majority. It is therefore proposed in this Bill that DST should be observed only in the south-east Queensland daylight saving time region, as defined. The provision that the amendments implementing DST in that region will not commence until the principle of the Act is approved in a referendum (see next paragraph) is included in deference to the view that citizens in other parts of the State have an interest in the matter, as they might feel inconvenienced by having to observe a time one hour behind the State capital.

Achievement of the Objectives

Part 3 of the Bill proposes amendments to the *Standard Time Act 1894*; these amendments provide for DST, one hour in advance of standard time, to be observed in the south-east Queensland daylight saving time region from the first Sunday in October in each year till the first Sunday in April the following year – the same period in which DST is observed in New South Wales, Victoria and Tasmania. Section 2, however, provides that Part 3 cannot commence until a question which summarises the effect of Part 3 receives a “yes” vote in a referendum, to be held concurrently with the next State general election. Part 2 supplies the details of the referendum question and specifies how the provisions of the *Referendums Act 1997* are to apply to the proposed referendum.

Estimated Cost for Government Implementation

It is understood that Queensland Rail may incur some expense in re-organising timetables for services that cross the “time boundary” – ie, the boundary between the south-east Queensland daylight saving time region and the remainder of the State. This has not been quantified, but the cost will certainly be small compared with the annual

budget of the organisation. The cost for other government departments and authorities will be in intangibles such as having to allow for a time difference across the state when communicating between branch offices and headquarters, and possible adjustment of the time settings on computer systems.

Consistency with Fundamental Legislative Principles

Proposed new s 11 of the amended Act gives delegated power to the Governor in Council, to make changes to matters that are currently regulated under other Acts. It could therefore be seen as a kind of “Henry VIII clause”, but, as explained in the Notes on Provisions it is a very mild one with a limited purpose. Otherwise, the Bill has no impact on FLPs.

Notes on Provisions

Clause 1 provides for the short title of the Bill.

Clause 2 makes no provision for the commencement of Parts 1 and 2 – therefore they commence on assent. The clause, however, provide that Part 3 is not to commence at all unless a “question” which summarises the intent of that Part is approved at a referendum. (*Clause 4*, below, provides for the conduct of the referendum.) If the question *is* approved the Part will commence on a day to be proclaimed.

The matter of whether the question has been approved is made subject to any order of the Court of Disputed Returns, so there is an implication that the Executive Council must necessarily wait until after the time for lodging an appeal has expired (and, if an appeal is lodged, for its outcome) before submitting a proclamation of commencement for the Governor’s signature, lest embarrassment should be caused by a successful appeal. This provision also means that if there is any appeal then the outcome of the referendum will be taken to have been determined by the order of the Court, or of the Court of Appeal, rather than by the notification made on the writ when returned by the Electoral Commission.

If no proclamation of commencement has been made within one year of the return of the writ, the Part will automatically commence on the next day under s 15DA of the *Acts Interpretation Act 1954*, as modified by cl 2(3), but only if the question has been approved. If automatic commencement would mean that the first daylight saving period were to start at an inconvenient time (eg, when only a few weeks of the period were left), s 15DA(3) of the *Acts Interpretation Act 1954* can be applied. It provides that a regulation may be made, postponing the commencement for no more than another year.

Clause 3 provides definitions of terms used frequently in the Act.

Clause 4 states the question – ‘are you in favour of daylight saving being introduced into the South-east Queensland daylight saving time region only, while the remainder of the State does not change?’ – and provides that it is to be submitted to the electors on the day of the next general election.

Clause 5 provides that the *Referendums Act 1997* is to apply to the conduct of the referendum, subject to some modifications provided in the clause, and with other changes that may be necessary or convenient.

The remaining clauses are all in Part 3, and therefore do not commence at all if the question is not approved at the referendum, and commence as provided by clause 2 if it is approved.

Clause 6 provides that the Act amended in Part 3 is the *Standard Time Act 1894*, which is referred to as “the principal Act” in the notes below.

Clauses 7 and 9 amend the long title and the short title of the principal Act to include reference to DST.

Clauses 8 and 10 insert new Part headings, to pave the way for the addition of the new sections about DST as Part 3.

Clause 11 inserts the new Part 3 into the principal Act. Its provisions include:

Proposed section 5 provides that the part applies despite part 2 – ie, that the provisions for DST override the general provision in existing sections 3 and 4 as to standard time. (There is an existing section 5 which is to be moved and renumbered – see clause 12 below)

Proposed section 6 lists terms that are defined in the Act (in all cases cross-referring to other sections that provide the actual definition)

Proposed section 7 is the section that provides that DST, one hour in advance of standard time, is to be observed in the South-east Queensland daylight saving time region, from the first Sunday in October each year till the first Sunday in the following April. It defines the moment of transition as 2am *by standard time* – ie, at the onset of DST in October the time will advance from 2 am to 3am, and at its conclusion in April time will jump back from 3am to 2am. To avoid any lingering doubt, the section also declares that standard time will continue to be observed in the rest of the State.

Proposed section 8 defines the south-east Queensland daylight saving time region as consisting of the cities of Brisbane, Ipswich, Logan, Gold Coast and Redland, and the regions of Moreton Bay, Scenic Rim and Sunshine Coast.

Proposed section 9 spells out the legal effect of DST – if a time is referred to in a legal instrument, or the doing or not doing of anything at a certain time or in a range of times has an effect in law, then during the period of observance of DST, in the DST region only, that time is to be determined by reference to DST – ie, for example, if an action is to be done by 5pm that will mean by 5pm DST, even though there is one hour left until 5pm standard time. It provides that the section can be overridden by an express statement to the contrary – eg, if parties for some reason wished to contract that a thing may or must be done by 5pm standard time, that would be given effect according to its terms.

Proposed section 10 provides that the adoption of DST is not to affect the use of standard time for the purposes of astronomy, meteorology or navigation. In fact, in these disciplines time is quite often measured by reference to Co-ordinated Universal Time (formerly Greenwich Mean Time) rather than local time, but where local time is used the intention expressed in the Act is to avoid disruption of observations or calculations by imposing a one-hour jump. The section does not, however, mean that tables of sunrise and sunset times and similar things cannot be issued for public information with the time adjusted to DST.

Proposed section 11 provides that regulations, having effect within the DST region during the DST period, can be made to vary trading hours, work hours, school hours or any other matter considered necessary, but not so as to increase total working or trading hours and only so as to retard them by up to one hour – compared, that is, to the time generally applying in the locality which will be DST. This provision may seem to be a “Henry VIII” clause in that it allows for the provisions of other Acts, or secondary laws made under those Acts, to be overruled. However, its effect is simply to allow the cancelling-out of effects imposed by *this* Act. Regulations under the section will cancel out DST for selected businesses or schools, or businesses and schools in a selected area, so that they can continue to open during their normal hours *as measured by standard time* rather than having to operate an hour earlier. The section is based on provisions in the legislation of other States, where it is included in order to moderate the effect of DST on locations well to the west of the capital city. Since DST is only to apply in a region of Queensland that does not extend far west of the coast, it may be that this section’s inclusion is less necessary, but it is included in case there is any need to moderate disruptive effects on businesses and schools near the “time boundary”.

Clauses 12 and 13 tidy up the principal Act by taking the existing section 5, a transitional provision dealing with an amendment to the Act made in 2005, and moving it to the end of the Act, where transitional provisions belong, and placing it under its own part heading.