

# **Workers' Compensation and Rehabilitation and Other Acts Amendment Bill 2004**

## **Explanatory notes for amendments to be moved during consideration in detail by The Honourable Tom Barton MP**

### **Title of the Bill**

*Workers' Compensation and Rehabilitation and Other Acts Amendment  
Bill 2004.*

### **Objectives of the Amendments**

The objectives of the proposed amendments to the Bill are:

- to make amendments of a technical nature to a number of clauses in the Bill which amend the *Workers' Compensation and Rehabilitation Act 2003*, *Workplace Health and Safety Act 1995* and *Electrical Safety Act 2002*. These amendments are required to correct errors or omissions in provisions of the Bill to ensure that these provisions align with their policy intent; and
- to amend the *Trading (Allowable Hours) Act 1990* in relation to shops covered by the Order – Non-Exempt Shops Trading by Retail – State to—
  1. prescribe the closure of non-exempt shops trading by retail in the South East Queensland Area (excluding the Gold Coast and Sunshine Coast Areas) on 26 December 2004
  2. provide that employers must not require employees to work in a non-exempt shop in the relevant area on 26 December 2004 unless the employee has agreed in writing to do so.

### **Achievement of the Objectives**

The matter of allowable trading hours for retail non-exempt shops on public holidays is regulated by orders made by the Queensland Industrial

Relations Commission under the provisions of the *Trading (Allowable Hours) Act 1990*.

Currently, Sunday 26 December 2004 is not a public holiday and such day is treated as a normal Sunday for all retail non-exempt shops. Non-exempt shops in the South East Queensland Area and in tourist areas may trade between 9am-6pm while the day is a closed day in the remainder of the State. A substituted public holiday for Boxing Day has been gazetted on Monday 27 December 2004.

Concerns have been raised regarding the unique nature of Christmas Day, Boxing Day and New Years Day falling on weekends in the Christmas/New Year holiday period for 2004/2005. In the retail industry employees may be required to work on any day between Sunday 26 December 2004 to Monday 3 January 2005, that is all days over the Christmas/New Year period without a break.

The current situation disadvantages retail employees required to work on Sunday 26 December 2004, especially where employees may be rostered to work on both Boxing Day and the substituted holiday on Monday 27 December 2004.

The Queensland Industrial Relations Commission does not have the jurisdiction under the *Trading (Allowable Hours) Act 1990* to reduce the allowable trading hours on Sunday 26 December 2004 in the South East Queensland Area.

This amendment provides that on Sunday 26 December 2004 non-exempt shops in the South-East Queensland area (excluding the Gold Coast and Sunshine Coast Areas) are to be closed. This will ensure the same situation will apply in the South East Queensland Area and the remaining parts of the State. At present outside the South East Queensland Area, on Sunday 26 December 2004 non-exempt shops are to close except for the tourist areas.

This amendment additionally provides that any work required to be performed by employees on Sunday 26 December 2004 in the South East Queensland Area is to be on a voluntary basis. This will ensure employees will not be forced to work in any non-exempt shop in the South East Queensland Area on the Sunday, for example shop filling etc for the next day.

This amendment, by requiring retail non-exempt shops to close on Sunday 26 December 2004, addresses these concerns and additionally, ensures that

the majority of employees in the retail trade will have a 2 day break on Saturday 25 December 2004 and Sunday 26 December 2004.

### **Alternative Ways of Achieving Policy Objectives**

There are no alternative ways of achieving the policy objectives.

### **Estimated Cost for Government Implementation**

There will be no increase in costs for Government arising from this legislation.

### **Consistency with Fundamental Legislative Principles**

The Bill has been drafted with regard to the fundamental legislative principles prescribed by the *Legislative Standards Act 1992* and is considered to comply with these principles.

### **Consultation**

Consultation has been undertaken with the Department of Premier and Cabinet and key stakeholders in the preparation of these amendments.

## **Notes on Provisions**

Clause 1 amends clause 21 of the Bill by clarifying the amount of compensation payable to injured workers from the end of the first 26 weeks of incapacity until the end of the first 39 weeks of incapacity. The clause corrects the percentage of QOTE payable in line with the intent of the clause.

Clause 2 amends clause 107 of the Bill by making a consequential amendment as a result of the amendment to s 118 (1) and (2) in clause 107 (1). The amendment ensures alignment between the circumstances in which a prohibition notice can be given by an inspector and the requirements for the written notice.

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Clause 3 amends clause 113 of the Bill by clarifying that existing advisory standards and industry codes of practice continuing as codes of practice can be amended or repealed.

Clause 4 amends clause 132 of the Bill by clarifying that the existing codes of practice can be amended or repealed.

Clause 5 inserts a new Part 7 into the Bill which amends the *Trading (Allowable Hours) Act 1990*. The clause inserts a new Part 9 in the Act to provide for changes to allowable trading hours for non-exempt shops in the South East Queensland Area (excluding the Gold Coast and Sunshine Coast Areas) on Sunday 26 December 2004.

New section 49 defines the trading hours order and the South East Queensland Area which are referred to in the proposed amendments.

New section 50 limits the application of the trading hours arrangements contained in this Bill to those non-exempt shops in the South East Queensland Area covered by the order made by the Queensland Industrial Relations Commission titled "Trading Hours – Non-Exempt Shops Trading By Retail – State". The order does not apply where it is inconsistent with the new Part 9.

New section 51 details the allowable trading hours for non-exempt shops in the South East Queensland Area (excluding the Gold Coast and Sunshine Coast Areas) covered by the applicable order on Sunday 26 December 2004. The areas referred to are as defined in the trading hours order.

Occupiers of non-exempt shops must ensure such shops are closed to the complete exclusion of the public on Sunday 26 December 2004.

New section 52 provides that an employer must not require an employee to work on Sunday 26 December 2004 unless they have agreed in writing. Whether or not the shop is required to be closed under the Amendment, an employee needs only to work on that day if they have agreed to do so (e.g. on stock take or shelf filling duties).

New section 53 provides that new Part 9 expires on 31 March 2005, as the proposed amendments contained therein will have had their effect in law.

Clause 6 amends section 17 in the Schedule of the Bill by clarifying that the section converts the timeframe an Authority has to make a review decision under Chapter 13 of the Act from calendar days to business days in line with the intent of the clause. This is consistent with various other amendments made by the Schedule.

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