

Trading (Allowable Hours) and Other Legislation Amendment Bill 2022



Queensland

Trading (Allowable Hours) and Other Legislation Amendment Bill 2022

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2022

A Bill

for

An Act to amend the *Education (General Provisions) Act 2006*, the *Education (Queensland College of Teachers) Act 2005* and the *Trading (Allowable Hours) Act 1990* for particular purposes

Trading (Allowable Hours) and Other Legislation Amendment Bill 2022 Part 1 Preliminary

The Parliament of Queensland enacts-1 Part 1 **Preliminary** 2 Short title Clause 1 3 This Act may be cited as the *Trading* (Allowable Hours) and 4 Other Legislation Amendment Act 2022. 5 Part 2 Amendment of Education 6 (General Provisions) Act 2006 7 Clause 2 Act amended 8 This part amends the Education (General Provisions) Act 9 2006. 10 Clause 3 Insertion of new s 129A 11 After section 129-12 insert— 13 129A Attendance at meetings 14 This section applies in relation to an association (1)15 meeting if a provision of this Act requires or 16 permits a person to physically attend the meeting. 17 A person who is required or permitted to attend (2)18 the association meeting may do so by using any 19 technology allowing reasonably 20contemporaneous and continuous communication 21 between persons taking part in the meeting. 22 23 Examples of use of technology-

teleconferencing, videoconferencing

24

[s 1]

Trading (Allowable Hours) and Other Legislation Amendment Bill 2022 Part 3 Amendment of Education (Queensland College of Teachers) Act 2005

					[s 4]	
		(3)	und		n who attends an association meeting bsection (2) is taken to be present at the	1 2 3
	Part	3	(Qı	lee	dment of Education nsland College of ers) Act 2005	4 5 6
Clause	4	Act amended				7
		This part <i>Teachers</i>)			ne Education (Queensland College of	8 9
Clause	5	Amendment o attendance)	ofs1	81 (I	Power to require information or	10 11
		(1) Section 18	1(b)—	_		12
		omit, inser	<i>t</i> —			13
			(b)		ttend before the investigator to answer stions by—	14 15
				(i)	attending in person at a stated reasonable time and place; or	16 17
				(ii)	attending by audio link or audio visual link at a stated reasonable time; or	18 19
			(c)	to p by–	roduce a stated thing to the investigator	20 21
				(i)	attending before the investigator at a stated reasonable time and place to produce the thing in person; or	22 23 24
				(ii)	producing the thing at or before a stated reasonable time in another stated way that does not involve physically attending before the investigator.	25 26 27 28

[s 6]

				Examples of a way a thing may be produced for subparagraph (ii)—	1 2
				by post, by email	3
		(2)	Section 181-	_	4
			insert—		5
			(2)	In this section—	6
				<i>audio link</i> means facilities, including telephone, that enable reasonably contemporaneous and continuous audio communication between persons at different places.	7 8 9 10
				<i>audio visual link</i> means facilities, including closed-circuit television, that enable reasonably contemporaneous and continuous audio and visual communication between persons at different places.	11 12 13 14 15
	Part	4		Amendment of Trading (Allowable Hours) Act 1990	16 17
è	6	Act	amended		18
			This part am	ends the Trading (Allowable Hours) Act 1990.	19
			Note—		20
			See also the	amendments in schedule 1.	21
	7	۵m	endment of	s 5 (Exempt shops)	22
,		(1)	Section 5(1)		22
		(1)	omit, insert–		23 24
			,	(c) a shop operating in an area to which a special event declaration applies.	24 25 26
		(2)	Section 5(2)	and (3)—	27

Clause

Clause

		[s 8]	
		(3) Section 5(4) and (5)—	1
		<i>renumber</i> as section $5(2)$ and (3) .	2
Clause	0	Amondment of a 16A (Definitions for division)	2
Clause	8	Amendment of s 16A (Definitions for division)	3
		Section 16A, definitions <i>south-east Queensland area</i> and <i>tourist area</i> —	4 5
		omit.	6
Clause	9	Insertion of new s 16AA	7
		After section 16A—	8
		insert—	9
		16AA References to particular areas	10
		 This section applies to a reference in this division to any of the following areas— 	11 12
		(a) Area of New Farm of Inner City of Brisbane;	13 14
		(b) Gold Coast Coastal Tourist Area;	15
		(c) Hamilton North Shore Area;	16
		(d) Mossman and Port Douglas Tourist Area;	17
		(e) South-East Queensland Area;	18
		(f) The Cairns CBD Area;	19
		(g) The Great Barrier Reef Wonderland Tourist Complex;	20 21
		(h) Townsville Tourist Area.	22
		(2) Also, this section applies to a reference in schedule 1AB to an area.	23 24
		(3) The reference is a reference to the area within the meaning of the 2017 trading hours order.	25 26
		(4) However, to the extent the area is the subject of a trading area order that is inconsistent with the	27 28

[s 10]

		,	2017 trading hours order—	1
			(a) the trading area order prevails; and	2
			(b) the reference to the area must, to the extent the context permits, be interpreted consistently with the trading area order.	3 4 5
Clause	10		s 16B (Shops to be closed other than ed trading hours)	6 7
		Section 16B((1)—	8
		omit, insert—	-	9
		(]]	A non-exempt shop must be closed on a particular day other than during the shop's core trading hours under subdivision 2 for the day or, if relevant, the extended trading hours under subdivision 3.	10 11 12 13 14
Clause	11		s 16D (Shops other than hardware shops ng motor vehicles or caravans)	15 16
		(1) Section 16D((2), table—	17
		omit, insert—	-	18

[s 11]

Day	Opening time	Closing time	Descr areas	iption of trading			
In type 1 trading areas							
Monday to Friday	6a.m.	10p.m.	F	Area of New Farm of Inner City of Brisbane			
Saturday	7a.m.	10p.m.		Gold Coast			
Sunday and public holidays,	7a.m.	9p.m.	0	Coastal Tourist Area			
other than closed days				Hamilton North Shore Area			
			I	Mossman and Port Douglas Fourist Area			
			Ν	Note—			
				See, however, section 65.			
				The Cairns CBD Area			
			F	The Great Barrier Reef Wonderland Fourist Complex			
				he Pacific Fair Shopping Centre ocated at Broadbeach Waters on the corner of Hooker Boulevard and Sunshine Boulevard			
			t t	iny other area leclared in a rading area order o be a type 1 rading area			

[s 11]

Day	Opening time	Closing time	Description of trading areas
In type 2 tradin	g areas	·	
Monday to Friday	7a.m.	9p.m.	• the South-East Queensland Area,
Saturday	7a.m.	9p.m.	- other than a part of the area that is
Sunday and public holidays,	9a.m.	6p.m.	a type 1 trading area
other than closed days			• any other area declared in a trading area order to be a type 2 trading area
In type 3 tradin	g areas		
Monday to Friday	(a) if the shop is in the Townsville Tourist	9p.m.	• an area mentioned in schedule 1AB
	Area— 7a.m. (b) otherwise —8a.m.		• any other area declared in a trading area order to be a type 3 trading area
Saturday	8a.m.	6p.m.	_
Sunday and public holidays, other than closed days	9a.m.	6p.m.	

[s 12]

1

2 3

4

5

6 7

8

9

Day	Opening time	Closing time	Description of trading areas
In type 4 tradin	g areas		
Monday to Friday	8a.m.	9p.m.	• any other area that is not a type
Saturday	8a.m.	6p.m.	1, 2 or 3 trading area
Sunday	n/a	n/a	
Public holidays, other than closed days	9a.m.	6p.m.	

(2) Section 16D(3), definitions *schedule 1AB area* and *seaside resort*—

omit.

(3) Section 16D(3)—

insert—

Note—

See also section 16AA in relation to the meaning of references to particular areas in this section and schedule 1AB.

Clause	12	Amendment of s 16E (Hardware shops)	10
		Section 16E(2), table—	11
		omit, insert—	12

[s 13]

Day	Opening time	Closing time	Description of trading areas	
In type 1 tradin	g areas			
Monday to Friday	6a.m.	10p.m.	a type 1 trading area mentioned in section	
Saturday	6a.m.	10p.m.	16D	
Sunday and public holidays, other than closed days	6a.m.	9p.m.		
In type 2 tradin	g areas			
Monday to Friday	6a.m.	9p.m.	a type 2 trading area mentioned in section	
Saturday	6a.m.	9p.m.	16D	
Sunday and public holidays, other than closed days	6a.m.	6p.m.		
In types 3 and 4	trading areas			
Monday to Friday	6a.m.	9p.m.	a type 3 or 4 trading area mentioned in	
Saturday	6a.m.	6p.m.	section 16D	
Sunday and public holidays, other than closed days	6a.m.	6p.m.		

Clause 13 Amendment of s 20A (Allowable trading hours for Retail Shop Leases Act 1994)

Section 20A—

				[s 14]	
		insert—			1
		(2)	In this sec	tion—	2
			section 16. the comm	Queensland area means the Queensland area within the meaning of A, as it was in force immediately before encement of the <i>Trading (Allowable ad Other Legislation Amendment Act</i>	3 4 5 6 7 8
Clause	14	Replacement of shops)	of pt 5, hdg	g (Orders concerning non-exempt	9 10
		Part 5, head	ling—		11
		omit, insert	<u>. </u>		12
		Part 5	5	Orders and	13
				declarations by	14
				commission	15
Clause	15	Insertion of ne	ew pt 5, div	v 1, hdg	16
		Before sect	ion 21—		17
		insert—			18
		Divisio	on 1	Making trading area orders	19
Clause	16	Replacement non-exempt s		ading hours orders on	20 21
		Section 21-			22
		omit, insert	<u>د</u>		23
		21 Ind ord		nmission may make trading area	24 25
		(1)		trial commission may make an order (a <i>ea order</i>)—	26 27

[s 17]

	(a) to declare that an area mentioned in section 16AA(1) or (2) is a type 1 or 2 trading area; or	1 2 3
	(b) to change the external boundaries of a trading area that is an area mentioned in section 16AA(1) or (2); or	4 5 6
	(c) to declare that an area not mentioned in section 16AA(1) or (2) is a type 1, 2 or 3 trading area.	7 8 9
	Example for paragraph (c) —	10
	an order declaring the town of Kingaroy, identified by reference to its external boundaries, is a type 2 trading area	11 12 13
(2)	However, the industrial commission must not make a trading area order if the effect of the order would be to reduce the core trading hours for a day, under section 16D or 16E, of a non-exempt shop situated in the area the subject of the order.	14 15 16 17 18
(3)	If the area the subject of a trading area order is an area not mentioned in section $16AA(1)$ or (2), the trading area order must identify the area by reference to its external boundaries.	19 20 21 22
(4)	A trading area order has effect for the purpose of—	23 24
	(a) section 16D; and	25
	(b) to the extent the context permits—section 16E.	26 27
Clause 17 Insertion of n	ew s 22	28
After section	on 21—	29
insert—		30
22 Cri	teria for making trading area order	31
	Before making a trading area order, the industrial commission must have regard to the following	32 33

[s 18]

		mat	ters—	1
		(a)	the location and external boundaries of the area the subject of the order;	2 3
		(b)	the needs of industry in the area, including the tourist industry;	4 5
		(c)	the effect of the order on the core trading hours of non-exempt shops in the area;	6 7
		(d)	the needs of the population of the area, including the rate of population growth;	8 9
		(e)	the likely impact of the order on employees and employment;	10 11
		(f)	the interests of business and consumers;	12
		(g)	the public interest;	13
		(h)	the view of a local government that—	14
			(i) is an applicant for the order; or	15
			(ii) has been granted leave to appear and be heard under section 23(5);	16 17
		(i)	any other matter the commission considers relevant to the making of the order.	18 19
Clause	18	Insertion of new pt	5, div 2, hdg	20
		Before section 2.	3—	21
		insert—		22
		Division 2	Powers and procedures for	23
			trading area orders	24
Clause	19	Amendment of s 2 proceedings under	3 (Powers and procedures relevant to r s 21)	25 26
			ing, 'relevant to proceedings under s 21'—	20
		omit, insert—	<i>c,</i> <u>r</u>	28

[s 20]

			for making trading area order	1
	(2)	Section 23((2) and (3)—	2
		omit, insert	·	3
		(2)	The industrial commission must fix a day, time and place for a meeting of the commission to consider making a trading area order.	4 5 6
		(2A)	The industrial commission must give written notice of the meeting to the industrial organisations, other organisations and local governments the commission considers appropriate.	7 8 9 10 11
		(3)	A copy of the notice must be published on the QIRC website and in any other way the industrial commission considers appropriate.	12 13 14
	(3)	Section 23((4), from 'Every' to 'specify'—	15
		omit, insert	·	16
			The notice must state	17
	(4)	Section 23(5)—	18
		omit, insert	<u></u>	19
		(5)	The industrial registrar must grant an application for leave made in accordance with the notice under subsection (5) if the registrar is satisfied the applicant is, or is likely to be, concerned in the making of the order.	20 21 22 23 24
		(6)	Otherwise, the industrial registrar must refuse to grant the application for leave.	25 26
	(5)	Section 23((2A) to (6)—	27
		renumber a	as section 23(3) to (7).	28
20	Om	nission of s	26 (Matters relevant to s 21 order)	29
		Section 26-	_	30
		omit.		31

Clause

				[s 21]	
Clause	21	Insertion of ne	w p	t 5, div 3	1
		After sectio	n 31-		2
		insert—			3
		Divisio	on 3	Special event declarations	4
				al commission may make declaration ial event	5 6
		(1)	gov indu	an application by a chief executive, local ernment, organisation or any other person, the ustrial commission may declare an event to be becial event.	7 8 9 10
		(2)		eclaration for subsection (1) (a <i>special event</i> <i>laration</i>) must state the following matters—	11 12
			(a)	details of the event the subject of the declaration;	13 14
			(b)	the period for which the declaration applies;	15
			(c)	the area to which the declaration applies;	16
			(d)	that section 36BA applies in relation to an employee of particular shops in the area to which the declaration applies.	17 18 19
			Note	·	20
				shop in the area to which the declaration applies is an kempt shop.	21 22
		(3)		pecial event declaration must be published on QIRC website.	23 24
			idin lara	g application for special event tion	25 26
		(1)	spee	leciding whether to declare an event to be a cial event, the industrial commission must sider—	27 28 29

[s 21]

	(a)	whether the event is a unique or infrequent event of local, State or national significance; and	1 2 3
		Examples—	4
		• the 2032 Olympic and Paralympic Games	5
		the Weipa Fishing Classic event	6
	(b)	the cultural, religious or sporting significance of the event; and	7 8
	(c)	the significance of the event to the economy and the tourism industry; and	9 10
	(d)	whether there is a need for a non-exempt shop, or a class of non-exempt shops, to trade for hours greater than the core trading hours for the shop or class of shops under this Act for the period of the event.	11 12 13 14 15
(2)		considering the matters mentioned in section (1), the industrial commission must have regard to the following—	16 17 18
	(a)	the size of a place where the event will be held;	19 20
	(b)	whether the event will be held at multiple places;	21 22
	(c)	the predicted attendance numbers;	23
	(d)	any expected media coverage;	24
	(e)	any contribution the event may make to Queensland's national or international reputation;	25 26 27
	(f)	a submission made by—	28
		(i) a local government for an area where the special event declaration is likely to have an impact; or	29 30 31

				[s 22]	
			(ii)	an industrial organisation in relation to the likely impact of the special event declaration on employees.	1 2 3
Clause	22	em	nendment of s 36A (I ployees—extended urs) Amendment Ac	hours under Trading (Allowable	4 5 6
		(1)	Section 36A(2)—		7
			omit.		8
		(2)	Section 36A(3), defin	ition industrial instrument—	9
			omit.		10
		(3)	Section 36A(3)—		11
			<i>renumber</i> as section 3	6A(2).	12
Clause	23			(Protection for employees—Liquor Amendment Act 2017)	13 14
		(1)	Section 36AA(2)—		15
			omit.		16
		(2)	Section 36AA(4), def	inition industrial instrument—	17
			omit.		18
		(3)	Section 36AA(4)—		19
			insert—		20
			section 1 the com	st Queensland area means the st Queensland area within the meaning of 6A, as it was in force immediately before mencement of the <i>Trading (Allowable</i> and Other Legislation Amendment Act	21 22 23 24 25 26
		(4)	Section 36AA(3) and	(4)—	27
			renumber as section 3	66AA(2) and (3).	28

[s 24]

Clause	24	em		xter	nded	Protection for hours under Trading (Allowable t 2017)	1 2 3
		(1)	Section 36I	B(2)-	_		4
			omit.				5
		(2)	Section 36	B(4),	defin	ition industrial instrument—	6
			omit.				7
		(3)	Section 36H	B(3) a	and (4	-)—	8
			<i>renumber</i> a	s sec	tion 3	6B(2) and (3).	9
Clause	25	Ins	ertion of ne	ew s	36B	A.	10
			After section	on 36	B—		11
			insert—				12
			36BA P hoເ		ction	for employees—other extended	13 14
			(1)	Thi	s sect	ion applies if—	15
				(a)		core trading hours under this Act for a exempt shop are increased because—	16 17
					(i)	an amendment of this Act commences; or	18 19
					(ii)	a trading area order takes effect; or	20
				(b)		op becomes an exempt shop because a ial event declaration takes effect.	21 22
			(2)	sho dur	p mu ing ex	oyer of an employee employed in the st not require the employee to work stended hours unless the employee has octed to work during extended hours.	23 24 25 26
				Ma	ximuı	n penalty—	27
				(a)	for a	a first offence—16 penalty units; or	28
				(b)	for unit	a second or later offence—20 penalty s.	29 30

[s 25]

(3)	For subsection (2), an employee has not freely elected to work during extended hours—	1 2				
	 (a) if the employee elects to work during extended hours because the employee has been coerced, harassed, threatened or intimidated by or for the employer; or 	4				
	(b) only because the employee is rostered, or required under an industrial instrument, to work during those hours.	7 8 9				
(4)	In this section—	10				
	<i>allowable trading hours</i> means the shop's core trading hours under part 4, division 2, subdivision 2 and, if relevant, the shop's extended trading hours under part 4, division 2, subdivision 3.	11 12 13 14				
	<i>elect</i> means agree in writing for a stated or indefinite period.	15 16				
	extended hours means—					
	 (a) for a non-exempt shop mentioned in subsection (1)(a)—the core trading hours under this Act for the shop on any day (other than a closed day), but only to the extent the hours are greater than the shop's core trading hours immediately before— 	18 19 20 21 22 23				
	(i) the commencement of the amendment mentioned in subsection (1)(a)(i); or	24 25				
	(ii) the trading area order mentioned in subsection (1)(a)(ii) taking effect; or	26 27				
	 (b) for a shop mentioned in subsection (1)(b)—the trading hours for the shop during the period of the special event stated in the special event declaration, but only to the extent the hours are greater than what the shop's allowable trading hours would be if the declaration had not taken effect. 	28 29 30 31 32 33 34				

[s 26]

Clause	26	Insertion of n	ew pt 8, di	v 7	1
		Part 8—			2
		insert—			3
		Divisi	on 7	Transitional provisions for	4
				Trading (Allowable Hours)	5
				and Other Legislation	6
				Amendment Act 2022	7
		Subdi	vision 1	Preliminary	8
		64 De	finitions fo	or division	9
			In this div	ision—	10
			<i>amended</i> amending	<i>Act</i> means this Act as amended by the Act.	11 12
			0	Act means the Trading (Allowable nd Other Legislation Amendment Act	13 14 15
			•	or a provision of this Act, means the as in force from time to time before the ement.	16 17 18
				<i>m period</i> means the period starting on nencement and ending on 31 August	19 20 21
				a provision of this Act, means the as in force from the commencement.	22 23
		Subdi	vision 2	Moratorium provisions	24
		65 Sh Are		ssman and Port Douglas Tourist	25 26
		(1)	This section	on applies to a shop in the Mossman and	27

Page 24

[s 26]

	Port Douglas Tourist Area.	1
(2)	For the moratorium period—	2
	(a) if the shop is a non-exempt shop—the shop is taken to be an exempt shop; or	3 4
	(b) if the shop is an independent retail shop—section 17 does not apply to the shop.	5 6 7
(3)	This section applies despite any other provision of this Act.	8 9
(4)	In this section—	10
	<i>Mossman and Port Douglas Tourist Area</i> has the meaning given by the 2017 trading hours order.	11 12
	ratorium on trading area orders and triction on making applications	13 14
(1)	During the moratorium period—	15
	(a) the industrial commission must not make a trading area order; and	16 17
	(b) an industrial organisation, another organisation or a local government must not make an application for a trading area order.	18 19 20
(2)	An application for a trading area order made or purportedly made during the moratorium period is of no effect.	21 22 23
Subdi	vision 3 Declarations of events	24
67 Exi	sting declarations of events	25
(1)	This section applies if—	26
	(a) before the commencement, a declaration of an event was made by the industrial	27 28

[s 26]

		commission under former section 5(1)(c); and	1 2
		(b) immediately before the commencement, the period of the event—	3 4
		(i) had not started; or	5
		(ii) had started but not ended.	6
	(2)	If subsection (1)(b)(i) applies, from the commencement the declaration is taken to be a special event declaration under the amended Act.	7 8 9
	(3)	If subsection (1)(b)(ii) applies, this Act as in force immediately before the commencement continues to apply, as if the amending Act had not been enacted, in relation to the declaration.	10 11 12 13
68		sting application for declaration of event heard before commencement	14 15
	(1)	This section applies if—	16
		 (a) an application for a declaration under former section 5(1)(c) was made, but not decided, before the commencement; and 	17 18 19
		(b) the industrial commission had not started to hear the application before the commencement.	20 21 22
	(2)	New part 5, division 3 applies in relation to the application as if it were an application for a special event declaration.	23 24 25
69		sting application for event declaration and but not decided before commencement	26 27
	(1)	This section applies if—	28
		 (a) an application for a declaration under former section 5(1)(c) was made, but not decided, before the commencement; and 	29 30 31

		[\$ 27]	
			1 2
		amending Act had not been enacted, for hearing	3 4 5
		declaration the subject of the application, the declaration is taken to be a special event	6 7 8 9
Clause	27	Amendment of sch 1AB (Areas for s 16D)	10
		(1) Schedule 1AB, heading, 'Areas for s 16D'—	11
		omit, insert—	12
		Type 3 trading areas	13
		(2) Schedule 1AB, item 4—	14
		omit.	15
Clause	28	Amendment of sch 1 (Dictionary)	
			17 18
		omit.	19
		(2) Schedule 1—	20
		insert—	21
		within the meaning of the Industrial Relations Act	22 23 24
			25 26
		(b) a federal industrial instrument.	27
		<i>special event declaration</i> see section 31A(2).	28
		trading area means an area described as a trading	29

[s 29]

		area of a particular type in the table in section $16D(2)$, including the area as it applies under section $16E(2)$.	1 2 3
		<i>trading area order</i> see section 21(1).	4
	Part	5 Minor and consequential amendments	5
		amenuments	6
Clause	29	Legislation amended	7
		Schedule 1 amends the legislation it mentions.	8

ection 29

Schedule 1

6	Section 36C(1)(c) and (d), 'or an order of a kind referred to in section 21'—				
	omit.		3		
7	Section 46B—		4		
	omit.		5		
8	Schedule 1AA, item 23, 'section 5(4)'—				
	omit, insert	<u> </u>	7		
		section 5(2)	8		
9	Schedule 1AB, after item 25—				
	insert—		10		
		Note—	11		
		See also section 16AA in relation to the meaning of references to particular areas in this schedule.	12 13		
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