

**Submission by Master Grocers Australia**  
**to**  
**Queensland Office of Industrial Relations**  
**Consultation Regulatory Impact Statement**

**Investigation into Proposed Christmas Eve Part- day Public Holiday 2019**

## **Introduction**

Master Grocers Australia is an employer association and welcomes the opportunity to respond to the Queensland Government Consultation Regulatory Impact Statement(CRIS) in respect of a proposed Christmas Eve Part day Public Holiday 2019 that will affect the members of our organisation. We appreciate the opportunity to comment on issues that are raised in the CRIS. It is our intention to focus on specific areas of the laws that are relevant to the independent supermarket sector and our commentary will be based on the experiences of our members in their businesses.

## **About Master Grocers Australia**

Master Grocers Australia (MGA) is a national employer industry association representing independent grocery and liquor supermarkets in all States and Territories of Australia. In Queensland alone, there are 760 independent supermarkets that trade under brand names such as IGA, Foodworks, Friendly Grocers and SPAR. These supermarkets range in size from small to medium or large businesses. While many of MGA's members are small family-operated businesses that employ 25 or fewer employees, these community businesses account for the employment of more than 21,000 full time, part time and casual employees, who are employed to work across a seven day working week. This represents retail sales in excess of \$2.8 billion, which is 156 million customer transactions per annum or 3 million customer transactions per week.

The role of independent supermarkets in Australia has traditionally been community-focused, with many of these supermarkets making and returning substantial contributions to the communities in which they trade. This is not only demonstrated in the forged relationships between independent supermarkets and their local communities but also in the strong commitment of independent supermarkets to support their local communities, through local fundraising initiatives that support schools, kindergartens, hospitals, clubs and so on. Independent supermarkets also support the businesses of local suppliers and service providers as well as provide employment. Many of their employees include working mothers, tertiary students, trainees, and apprentices.

All FoodWorks, IGA and SPAR stores across Queensland are independently owned and operated, and generally form the major investment for family/personal enterprises and form a large part of an individual's or group's investment and/or superannuation strategy. Each of the branded stores are small businesses independently owned and operated as sole traders or family run businesses, and some are partnerships where more than one family has a financial interest in the business.

Our members' stores range in size in Queensland from 100m<sup>2</sup> to 3,000m<sup>2</sup> and vary in service-type from pure convenience up to full offer supermarkets with all fresh departments. In many locations throughout Queensland, these stores form a major contribution to the local economy and employment.

## **The Proposal to introduce a Christmas Eve Part day Public Holiday 2019**

The Minister for Employment and Industrial Relations, the Hon Grace Grace, has proposed the introduction of a part- day public holiday on Christmas Eve, to commence on 24<sup>th</sup> December 2019. The Queensland Government has released a CRIS to consider the benefits and costs associated with the introduction of a part day public holiday proposed for this year.

The Queensland Government (the Government) is seeking comments on the proposal to introduce a part public holiday on Christmas Eve which would require an amendment to the Holidays Act 1983( the Act) . The public holiday would be declared between 6pm and midnight on 24<sup>th</sup> December and it is intended that the amended law would be effective as from 24<sup>th</sup> December 2019 if successful.

The amendment to the Act would mean that employees cannot be required to work on a public holiday and any work performed on the public holiday would attract public holiday penalty rates, subject to the appropriate industrial instrument applicable to the employee's employment .

The Government has invited the community, academic researchers and employers and employee groups to contribute their comments on this issue.

## **Response by MGA to the proposal to introduce a part public holiday on Christmas Eve**

In the following response by MGA to the proposal by the Government to introduce a part public holiday on 24 December, it is intended to make comment on the benefits and costs referred to in the CRIS, refer to the focus questions referred to in the CRIS and also to make comment on a number of the comparisons made with other States or Territories that have made similar changes to their Christmas public holidays.

There is no doubt that having the opportunity to leave work early on Christmas Eve is an attractive proposition for many employees and no doubt has considerable advantages, particularly where there are social, religious or cultural factors. There is the additional benefit for employees who are not able, or do not wish, to take advantage of finishing work early that they would be compensated by increased wages. Working longer hours particularly with a penalty rate of an additional 150% is an incentive to work their additional hours . Employees would have the right to refuse to work if this time was declared a public holiday.

However, there is the downside to what may be perceived as benefits arising from being able to be with family early on Christmas Eve, leaving work at an earlier time and earning additional money. Employers would be forced to pay higher wages or alternatively close their doors and have their staff lose the opportunity to work the hours they would normally work and therefore both employers and employees would incur losses . There is also the risk that if consumers are looking to shop on Christmas Eve, they may find that prices have increased, thereby incurring increased costs for them.

**Focus Question (1) , "is the part day public holiday from 6pm to midnight desirable or not and if not – why?"**

Response-: MGA regards any further introduction of increased penalties for employees at this inopportune time economically damaging for thousands of independent retailers across Queensland and ultimately for the Queensland economy.

The Government quotes “ spending the evening with family and friends” as valid reason for introducing the amendment to the law. In prosperous and affluent times this would no doubt be an excellent idea. But the Government is completely overlooking the fact that independent retailers operate under an award or an agreement and they have had to contend with increased wages over the last three years totalling 9.8%. Those who operate under the General Retail Industry Award have faced increased penalties for Sunday, Saturday, and weekday evenings – and weekday evening penalties are about to increase further in October 2019. Clearly, whilst providing an opportunity to spend an evening with family and friends may sound attractive and no doubt is well favoured but at what cost? For a store that relies on remaining open on Christmas Eve, when other larger stores are closed there is an opportunity for both the employer and the employee to reap benefits – the employer has an opportunity to trade a few extra hours and the employee can earn an expected reasonable ordinary rate for work performed.

There is no doubt that the independent retail sector will be disadvantaged if the Government introduces the proposed part public holiday. If this amendment proceeds there will be a heavy cost to retailers because any gains made in sales will be lost in wages. The only option would be to close the store at 6pm and lose three hours of trading , which means that the employer loses , the employee loses and the customer loses.

**Focus Question (2) What are the key benefits for workers, employers, Government, , community of working on a Christmas Eve part public holiday ?**

Response: As the Government has pointed out there are benefits for employees as they have options. MGA appreciates that there may be employees who have religious reasons for not working on Christmas eve. There are also , no doubt, employees who would prefer to take time to be with family and friends early for the festive season and there may also be those who prefer to earn additional money to cover Christmas expenses. However, there is a significant downside to the proposal. This proposal will certainly have a positive effect for some but there is a significant damaging downside for many retailers who are struggling to make a living and having yet another burdensome cost placed in their way when there does not seem to be any justification, other than, “ it seems like a ‘nice’ thing to do” appears to be ignoring the survival needs of small businesses.

The Community could also be disadvantaged if prices are increased during the extended time. Whilst this is unlikely in retail it could happen if retailers chose the option to increase prices. Retailers would most definitely be the losers if the amendment proceeds as they will either close and lose trade or they will still lose by having to pay excessively high wages.

**Focus question (3) Estimates of increased costs based on a 2011 survey**

There would be a significant impact on the cost of doing business in Queensland if the proposed amendment to introduce a part public holiday is introduced in Queensland. Based on the 760 independent retail stores in Queensland it is estimated that currently most stores would trade until

9pm on Christmas Eve , with approximately 15 employees in each one. The current base hourly rate (Level 1) under the General Retail Industry Award is \$21.50 and the public holiday rate is \$47.50 , being a difference of \$26.00 per hour. The additional costs for the industry to do business with no additional sales or productivity equates to :

760x 15x \$26 per hour x 3 hours = \$890,000 or \$\$1,170 per store.

The costs indicate that the introduction of the proposed amended trading hours on Christmas Eve is , in respect of the independent supermarket industry, simply unviable.

#### **Focus Question 4 Comparison of impact on South Australia in 2012 and in Queensland in 2019**

The Government has drawn a comparison between the introduction of a part public holiday In South Australia and has considered that the cost estimates in South Australia were much lower that were anticipated and that overall a comparison between the two states may be appropriately drawn in respect of the costings in Queensland .

It is very difficult, and possibly impractical, to draw a comparison with costings that were made in South Australia in 2011 with the costings in Queensland almost a decade later. It should be noted that currently South Australia the unemployment rate in South Australia is one of the highest at 6.8%.

There is no doubt that issues such as the significance of Christmas Eve is a factor that should be considered from social and religious perspectives but they should be measured against the economic factors. Ten years ago, the penalty rates system in the awards was less stringent than today, also at that time Australia was not facing an economic downturn. There have been 5 increases in penalty rates in the General Retail industry award in recent times and significantly high increased wage rates annually. Our economy is not as healthy as it was 10 years ago, currently, our inflation rate is 1.90% and if this percentage remains the same AU\$1 today will be equivalent in buying power to AU\$1.02 next year. Our employment level in Australia is reasonable but our underemployment is 8.4% and it is the underemployment factor that needs to be given careful consideration when contemplating increasing wage costs further for retailers, Retail workers especially are finding that their hours of work are being reduced as businesses have to cope with increased wages. Furthermore, if foreign powers continue their economic battle over tariffs there is a strong possibility that Australia will face recession and even the smallest increase to wages will have a devastating effect on the welfare of businesses in Australia. Increasing wages for several hours during the busy 2019 Christmas period is not a viable economic option for independent supermarket retailers and MGA urges the Government not to consider any changes to the Queensland Holidays Act in the current economic climate .

#### **What are the Options ?**

MGA notes that there are several options proposed in order to introduce extended trading hours on Christmas Eve.

The first option proposes that no change is made to the legislation. As referred to previously MGA would prefer to see the status quo remain for trading hours on Christmas Eve in the best interests of all parties. This preference is particularly due to the current economic instability that is being faced by independent retailers. To introduce a further drain on the cost of doing business for independent retailers is unjustifiable and unnecessary in the current economic climate.

A second option may be to consider the introduction of the Christmas Eve public holiday hours to be applicable from 8.00pm. on Christmas Eve. This would provide some respite for stores that need to stay open both for their customers and for the business opportunity and it would at least lessen the financial impact of closure at 6.00 pm by two hours. Although this option would still be costly it would have a lesser economic impact on retailers.

A third option could be that the Christmas Eve public holiday trading hours becomes part of Christmas day trading which would allow exempt stores to trade from 6.00pm on Christmas Eve.

## **Conclusion**

MGA submits that the proposals by the Queensland Government to make amendments to the Act are not in the best interests of a significant sector of the retail Industry. The impact on small businesses will be damaging as there will be a significant detrimental effect on the independent supermarket sector if this proposal becomes law. Ultimately if the pressures on small business continue, we will see the demise of independent supermarkets which will seriously affect the Queensland economy. Amending the Public Holidays Act to introduce a part public holiday will not be produce any significant benefits in the current delicate economic climate. MGA seeks that the Government reconsiders the proposed amendments to the Act to help ensure the future of small business owners in Queensland .

MGA again thanks the Office of Industrial Relations, Queensland Government for the opportunity to make this submission.

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30 August 2019