



Review of operations of sections 29A-29D
of the *Industrial Relations Act 1999*

Submission by

QUEENSLAND PUBLIC SECTOR UNION

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The Queensland Public Sector Union of Employees(QPSU) provides the following submission for consideration by the full bench of the Queensland Industrial Relations Commission as part of their review of the operations of sections 29A-29D of the *Industrial Relations Act 1999*.

As the major representative union for public sector employees in Queensland, the QPSU has been involved in both promoting better access to flexible working arrangements for employees and also in assisting our members to apply for extensions to parental leave and return to work part-time, in accordance with sections 29A-29D of the Act.

The QPSU has considered the questions provided in the discussion paper and provides the following specific comments, with those questions in mind, to each of the provisions being reviewed in the Act:

29A Extending period of parental leave by agreement

The QPSU believes that this provision provides an improved base level entitlement (over what is already provided by Directives and industrial instruments) for members to have a right to request an extension to the period of parental leave.

Furthermore, the QPSU believes that provisions such as this facilitate and encourage participation by both parents in the provision of primary care to their child through the ability to allow extension to spousal leave for parents.

With respect to section 29A, subsection four there is a view that in some cases this may prove to be restrictive. Specifically in cases where there are concerns about the decision-making process or where a dispute arises as a result of an employee seeking to extend their parental leave by agreement there may be a need to revisit the decision within a twelve month period. There may be other changes in circumstance such as new management or reformed business systems or practices which may also provide legitimate circumstances under which to review it sooner than the twelve month period currently allowed for.

29B Employee on parental leave may apply to work part-time

The QPSU acknowledges the highly utilized nature of this provision within the Queensland public service. Furthermore, it should be noted for the purposes of the review of the Act that this provision has been subsequently flowed on through the departmental specific policies of a number of state public sector agencies.

Similarly, as with the above noted potentially restrictive nature of section 29A, subsection four there may also be legitimate circumstances where it would be necessary and appropriate to put in more than one application within a twelve month period.

29C Application for extension or part-time work

The QPSU recognizes that these provisions were drafted with a view to providing a right to request part time work until the employee's child reached the relevant compulsory schooling age. Whilst the QPSU accepts that there may be some reasonable arguments in support of having a timeframe on when an employee can request part time work until it should also be acknowledged that there may be circumstances where an employee can reasonably request to continue to work part-time beyond the commencement of a child in compulsory schooling.

One such circumstance may involve a child who, whilst they may be attending school, may have high or complex needs due to a disability which requires a higher level of ongoing care from the parents. Subsequently, in order to better balance work and family obligations some employees may seek to work part time beyond the compulsory schooling age so that they can work whilst their child is attending school but be available to manage the daily routine of school drop offs and pick ups outside of their part time work arrangement.

29D Employer to give proper consideration to application for extension or part-time work

The QPSU provides strong support for the continuation of this provision and, in particular, the requirement for employers not to unreasonably refuse a request.

The QPSU has had a range of experiences in assisting members with implementing these provisions. One of the more common of these is a difficulty which arises for some members in receiving written reasons for a refusal of a right to request extension to leave or part time work. In particular written reasons, where they are received, are often not within a reasonable timeframe and in many cases employees have to fight for them to be provided at all. Not only is this in breach of the statutory obligations set out in section 29D it is furthermore leading to unnecessary disputation and conflict between managers and employees.

Lastly, the QPSU often finds that in the Queensland public service managers are making decisions about these kinds of flexible working options based not solely on the facts and circumstances of the individual staff member they are being asked to review but as a general decision for all staff in their work unit. Consequently a pattern seems to emerge in some areas that a manager seeks to ensure equity between staff members by saying no to all or most requests to access a range of flexible working arrangements. The QPSU strongly believes that this is not in line with the intent of sections 29A-29D and could be dealt with through better education and more consistent application of these sections of the Act.

In conclusion, the general experience of the QPSU with respect to sections 29A-29D of The Act is that there is a reasonable level of knowledge and understanding amongst our members about these statutory rights and furthermore that a significant proportion of public sector employees utilize these sections during their public sector employment to maximise their ability to balance their competing work and life priorities.

The QPSU believes that any change to these provisions which diminishes the right of employees to request extensions to parental leave or part-time work would reduce the overall effectiveness and usability of sections 29A-29D for Queensland's public sector employees.

Furthermore, the QPSU acknowledges and supports the submission of the Queensland Council of Unions.