



INDUSTRIAL COURT OF QUEENSLAND
QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CHAMBERS OF VICE PRESIDENT LINNANE

The Hon. Jarrod Bleijie MP,
Attorney-General and Minister for Justice,
G.P.O Box 149,
BRISBANE. 4001

Dear Attorney-General,

Award Modernisation

I refer to your Request under section 140C(1) of the *Industrial Relations Act 1999* in respect of Award Modernisation and the requirement placed on me to provide you with periodic reports outlining certain matters as recorded at paragraph 27 of your Variation Notice dated 2nd May 2014.

In accordance with this Request I advise as follows.

Industries and/or occupations undergoing award modernisation

In my reply of 4th February 2014 to your Request, I advised that the priority industries and/or occupations for award modernisation were:

- Rail;
- Local Government (excluding Brisbane City Council);
- Public Sector; and
- Health.

As a result of the Variation Notice the Commission is now to complete the overall award modernisation process by 31st December 2015 and should have created a modern award or awards for each of the abovementioned priority industries by 31st August 2014. In this respect, I report as follows.

Rail

This modern award was made by a Full Bench of the Commission (Deputy President O'Connor, Deputy President Kaufman and Industrial Commissioner Neate) on 28th April 2014 and amended on 27th June 2014: see *Queensland Rail Award - State 2014*. This Award operated as and from 14th May 2014.

Local Government (excluding Brisbane City Council)

After inviting submissions from the interested parties, the Commission's Award Modernisation Team (AMOD Team) took the view that a single award covering local government could be created to replace, either in whole or in part, approximately eighteen (18) awards which presently have application to local government employers and employees in Queensland, excluding the Brisbane City Council. The Local Government Association of Queensland (LGAQ) supported this position. However a number of Unions disagreed, suggesting between three to five awards.

I then referred this preliminary matter to a Full Bench of the Commission (Deputy President O'Connor, Deputy President Kaufman and Industrial Commissioner Neate) for determination. This matter was heard on 1st April 2014 with the decision of the Full Bench being released on 23rd May 2014. The Full Bench determined that only one award should apply to the Queensland Local Government (excluding Brisbane City Council).

Deputy President Bloomfield has subsequently chaired nine conferences of the parties to this proposed new award to canvas their views about its likely contents. Armed with this information he and the AMOD Team prepared an Exposure Draft of a new Queensland Local Government Industry Award – State 2014 which was sent to all the parties on 15th August 2014.

Given the urgency of establishing a modern award for this industry and the very significant differences in views between the interested parties about the contents of the proposed Award I established a Full Bench of the Commission (Vice President Linnane, Deputy President O'Connor and Industrial Commissioner Neate) on 15th August 2014 to deal with any objections to the AMOD Team's Exposure Draft. As a result of the workload of Members of the Commission and the timeframes within which the Commission is to have completed a modern award for this industry, the hearing of these objections (substantial in number) has had to be scheduled for Saturday 20th and Sunday 21st 2014. The Commission is committed to having a modern award in place for this industry to operate as and from 1st October 2014.

Public Sector (white-collar)

As a result of a survey of Queensland government departments and agencies, the AMOD Team considered the contents of paragraph 22 of your initial Request and subsequently created a single "white-collar" award covering all persons (AO, PO, TO and OO) appointed as "public service officers" under s. 119 and s. 148 of the *Public Service Act 2008* and those employees previously covered by the following specific Awards:

- *Crime and Misconduct Commission Employees Award - State 2012;*
- *Queensland Building Services Authority Award - State 2012;*
- *QRAA Award - State 2012;*
- *Residential Tenancies Authority Employees Award - State 2012;* and
- *Safe Food Production Queensland - Employees' Award 2012.*

A small list of objections to the AMOD Team's Exposure Draft award (developed through a series of conferences between the interested parties chaired by Deputy President

Bloomfield) were heard by a Full Bench of the Commission (Deputy President O'Connor, Deputy President Kaufman and Industrial Commissioner Neate) on 24th July 2014, with the Full Bench announcing its decision on the matters in dispute on the following day. As a result of the Full Bench decision the *Queensland Public Service Officers and Other Employees Award – State 2014* was made on 28th August 2014 to operate as and from 31st August 2014.

The AMOD Team also decided not to incorporate the terms of the following Awards into the *Queensland Public Service Officers and Other Employees Award - State 2014* but, rather, to make stand-alone modern awards to replace them:

- *Legal Aid Queensland Employees Award - State 2012;*
- *Parliamentary Service Award - State 2012;*
- *Tourism Queensland Employees Award - State 2012;*
- *Workers' Compensation Queensland Award - State 2012: and*
- *Agricultural Colleges (Domestic and General Staff) Award - State 2012 and the Agricultural Colleges of Queensland (Excluding Domestic and General Staff) Award - State 2012 (2 Awards).*

To this end, the AMOD Team prepared final Exposure Drafts of new awards to apply to these five agencies. The following Awards were made by a Full Bench of the Commission (Deputy President O'Connor, Deputy President Kaufman and Industrial Commissioner Neate) on 27th August 2014 to operate as and from 31st August 2014:

- *Legal Aid Queensland Employees Award - State 2014;*
- *Queensland Parliamentary Service Award - State 2014;*
- *Tourism and Events Queensland Employees Award - State 2014;*
- *WorkCover Queensland Employees Award - State 2014; and*
- *Queensland Agricultural Colleges Award - State 2014.*

Health

The situation in this sector is similar to local government. The AMOD Team took the view that four awards should be developed to cover employees in Queensland Health. This position was opposed both by Queensland Health and several Unions for different reasons (as per my previous report).

A Full Bench of the Commission (Deputy President O'Connor, Deputy President Kaufman and Industrial Commissioner Neate) dealt with this preliminary issue on 1st April 2014 and determined on 23rd May 2014 that there would be four awards namely:

- an award covering Medical Officers;
- an award covering Nurses, including Midwives;
- an award covering Health Professionals (including Health Practitioners and Dentists); and
- an award covering all other staff not employed under the *Public Service Act 2008*.

The AMOD Team prepared a final Exposure Draft for a new Resident Medical Officers Award in consultation with the interested parties which was provided to me on 28th August 2015 and which was referred a Full Bench of the Commission (Vice President Linnane, Deputy President O'Connor and Industrial Commissioner Neate) on the same day. The Full Bench approved the *Resident Medical Officers (Queensland Health) Award - State 2014* on 29th August 2014 with all parties consenting to its terms.

The proposed Health Practitioners and Dental Officers Award has also been the subject of a number of conferences before Deputy President Bloomfield. The proposed award has now been circulated by the interested parties to their stakeholders for final review. It is anticipated that this award will be able to be referred to a Full Bench in early September, when it is hoped that it, too, will also be approved with the consent of the parties.

Notwithstanding the success in finalising the above awards, progress towards developing a new Nurses and Midwives Award has been somewhat slower. This is for several reasons. Firstly, the existing award is a very complex one with its terms having been decided by both the Australian Industrial Relations Commission (as it then was) and the Queensland Industrial Relations Commission over a number of decades. Secondly, there was the impact of the decision taken by the AMOD Team to divert significant resources away from preparing consultation drafts for this award and to devote those resources towards finalising each of the awards mentioned above. In addition, Deputy President Bloomfield, with the agreement and concurrence of the parties, decided that the preparation of a new Nurses and Midwives Award would be greatly enhanced if he were to continue the process of conducting regular conferences between the parties to try to settle its terms.

Progress of Award Modernisation

After a number of months overseeing the award modernisation process, Deputy President Bloomfield appears to remain firmly of the view that the quality of any Exposure Draft, and the resultant award, is totally reflective of the care and attention given to its preparation. In particular, he has identified that, subject to the parties' preparedness to participate in meaningful negotiations, significant progress towards the development of any new award can be achieved through a process of conducting regular conferences of the parties concerned. As such he, and the AMOD Team, are fully focused on producing a "quality" product which will stand the test of time, rather than a mass produced or template type document.

Although this might have led to the circumstance where modern awards are presently taking longer to produce than was initially envisaged, the feedback from affected government departments, agencies and unions is to the effect that they prefer this approach rather than having a document imposed on them where they have had little input.

As part of its review of the coverage of existing awards which needed to be modernised, the AMOD Team identified, and subsequently verified, that the following ten (10) awards which the Commission previously believed were utilised by the public sector and/or local government were, in fact, not relevant to either area:

- *Cold Storage and Ice-making Award - State 2012;*
- *Fishery Employees Award - State 2012;*

- *Furniture and Allied Trades Award - State 2012;*
- *GoPrint Award - State 2012;*
- *Metropolitan Race Club Maintenance Employees' Award - Brisbane and Ipswich 2003;*
- *Miscellaneous Workers' Award - State 2012;*
- *Outdoor Leaders Award - State 2012;*
- *Prawn and Other Seafood Processing Award - State 2012;*
- *Sugar Milling Industry Award - State 2012; and*
- *Torres Strait Islander Communities - Community Development Employment Projects (Torres Strait) Award - State 2012.*

In those circumstances I issued an Order on 14th August 2014 declaring each of these Awards obsolete.

In the course of identifying relevant awards which underpin certified agreements, the AMOD Team also examined the list of certified agreements published on the Commission's webpage and identified that twenty-one (21) of these certified agreements had expired in accordance with the provisions of section 164(3) of the *Industrial Relations Act 1999*. Accordingly, on 27th August 2014 I issued an Order declaring these certified agreements obsolete.

Summary of progress towards development of modern awards

At the commencement of the award modernisation process the Commission believed that there were eighty-three (83) awards currently in use in Queensland in the public sector and the local government sector. As a result of the creation of the new modern awards mentioned above, as well as the declaration that ten (10) awards were obsolete, this number has been reduced to sixty-seven (67) awards. Once a new single local government industry award is created this number will reduce even further. I suspect that it will reduce to around fifty (50) awards. However, because of the effect of section 824 of the *Industrial Relations Act 1999*, these pre-modernised awards will need to remain on the Commission's webpage until the relevant modernised awards becomes operative.

Developments scheduled for the next two months

The AMOD Team has developed an Exposure Draft of an award to replace the existing *Employees of Queensland Government Departments (Other than Public Servants) Award - State 2012* (the OPS Award) and two other Awards. However, because of the heavy involvement of the Public Service Commission and the Union representatives in the preparation and finalisation of the other public sector awards mentioned above, its release was held over pending completion of that work. An Exposure Draft covering "blue-collar" employees in the public sector will be released in the week commencing 1st September 2014.

The AMOD Team has also made significant progress towards creating new Exposure draft awards to cover employees employed in certain industries or by certain employers as follows:

- a *single* "Cultural Centres" Award to apply to:
 - Gallery of Modern Art;
 - Queensland Art Gallery;
 - Queensland Museum; and
 - State Library;
- Water distribution entities;
- City Parklands Transitions Services;
- Local Government (Brisbane City Council);
- Building, Engineering and Maintenance;
- Education sector (including TAFE);
- Fire and Emergency Services (including Auxiliaries);
- Parents and Citizens Associations;
- the remaining areas in Health; and
- Stadiums Queensland.

Exposure Drafts of awards to apply in these areas will be progressively released during the course of this year and into early 2015. The creation of new awards in these areas will further reduce the number of awards currently in operation on a progressive basis.

In this respect, it is worthwhile drawing to your attention that the task of preparing Exposure Drafts and finalising the terms of modern awards has little to do with the number of employees covered by a particular award or awards. The task very much depends upon the individual award and its complexity. A complex award covering only several hundred employees might take longer to develop and settle than an award covering several thousand employees.

In the immediate future, the AMOD Team will be concentrating on firefighters (including auxiliary firefighters) and finalising the awards in the health sector which are presently out for consultation with stakeholders. This will be followed by the proposed blue-collar public sector award to replace the OPS Award and several other existing awards. Exposure drafts for water distribution authorities and Brisbane City Council are well advanced and the AMOD Team expects to release them for consultation with the parties during late September or early October.

I trust that the information contained in this report meets the requirements of paragraph 27 of your Request. I will provide my next report to you by the due date of 31 December 2014.

Yours sincerely,



DIANNE LINNANE
Vice President

29th August 2014