

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *Re: In the matter of the making of Modern Awards - Award for Operational Employees in Disability and Forensic Services - State 2016* [2016] QIRC 060

PARTIES: State of Queensland (Office of Industrial Relations)

State of Queensland (Department of Communities, Child Safety and Disability Services)

The Australian Workers' Union of Employees, Queensland

Together Queensland, Industrial Union of Employees

CASE NO: MAP/2016/9

PROCEEDING: Making of a modern award

DELIVERED ON: 27 May 2016

HEARING DATE: 27 May 2016

HEARD AT: Brisbane

MEMBER: Deputy President Kaufman
Industrial Commissioner Fisher
Industrial Commissioner Black

ORDERS:

- 1. That the Award for Operational Employees in Disability and Forensic Services - State 2016 be made pursuant to section 140CE(1)(a) of the Industrial Relations Act 1999 ("the Act") and operate on and from 27 May 2016, subject to the provisions of section 824 of the Act.**
- 2. That the Award for Employees in Direct Client Services - Department of Communities, Child Safety and Disability Services 2012 be repealed on and from 27 May 2016, subject to the provisions of section 824 of the Act.**

- CATCHWORDS: INDUSTRIAL LAW - AWARD MODERNISATION - MAKING OF A MODERN AWARD - Section 140C(1) of the *Industrial Relations Act 1999* - request from the Treasurer, Minister for Employment and Industrial Relations and Minister for Aboriginal and Torres Strait Islander Partnerships - *Award for Operational Employees in Disability and Forensic Services - State 2016* Modern Award made.
- CASES: *Industrial Relations Act 1999*, Chapter 5, Part 8, Division 2, ss 140BB, 140C(1), 140CE(1)(a), 824
- APPEARANCES: Ms T. Armstrong, State of Queensland (Office of Industrial Relations)
- Ms J. Preston, State of Queensland (Department of Communities Child Safety and Disability Services)
- Mr B. Watson, The Australian Workers' Union of Employees, Queensland
- Mr R. Rule, Together Queensland, Industrial Union of Employees

Reasons for Decision

[1] The Queensland Industrial Relations Commission ("the Commission") recommended the award modernisation process following the passing of amendments to the *Industrial Relations Act 1999* ("the Act") and the issuing of a variation to the existing Ministerial Request ("the Consolidated Request") on 17 July 2015.

[2] Section 140BB of the Act sets out the Commission's Award Modernisation functions, as follows:

"140BB Commission's award modernisation function

- (1) The functions of the commission include carrying out a process (*award modernisation process*) to reform and modernise pre-modernisation awards.
- (2) In performing its functions under this part, the commission must have regard to the following factors -
 - (a) promoting the creation of jobs, high levels of productivity, low inflation, high levels of employment and labour force participation, national and international competitiveness, the development of skills and a fair labour market;

- (b) the need to help prevent and eliminate discrimination in employment;
- (c) protecting the position in the labour market of young people, employees engaged as apprentices or trainees and employees with a disability;
- (d) the needs of low-paid employees;
- (e) the need to promote the principle of equal remuneration for work of equal value;
- (f) the need to help employees balance their work and family responsibilities effectively and to improve retention and participation of employees in the workforce;
- (g) the safety, health and welfare of employees;
- (h) the Queensland minimum wage;
- (i) the desirability of reducing the number of awards operating under this Act; and
- (j) the representation rights of organisations and associations under this Act.

(3) This section does not limit section 140D."

- [3] In accordance with Chapter 5, Part 8, Division 2 of the Act (i.e. the Award Modernisation process provisions of the Act) and the Consolidated Request made under s 140C(1) of the Act by the then Treasurer, Minister for Employment and Industrial Relations and Minister for Aboriginal and Torres Strait Islander Partnerships ("the Minister"), the Award Modernisation Team of the Commission prepared an Exposure Draft of a proposed *Award for Operational Employees in Disability and Forensic Services - State 2016* ("the Proposed Award").
- [4] On 23 May 2016, Deputy President Bloomfield referred a final version of the Proposed Award to Deputy President O'Connor for the consideration of the Full Bench. This version of the Proposed Award had the consent of the parties, albeit that it contained some later typographical corrections that had not been provided to the parties. Also on 23 May 2016, the Proposed Award was referred to this Full Bench and listed for hearing on 27 May 2016.
- [5] At the hearing the parties informed the Full Bench that they supported the making of the award in the terms of the final version of the Proposed Award.
- [6] The Full Bench, after considering the Proposed Award, and being satisfied that the Proposed Award complies with the requirements of the Act in relation to modern awards; is consistent with the statutory objects of the award modernisation process; and meets the requirements of the Minister's Consolidated Request, is of the view that the Proposed Award ought to be made in the terms of the award attached to these reasons and operate on and from 27 May 2016.
- [7] Accordingly, the Full Bench makes the following orders:
1. That the *Award for Operational Employees in Disability and Forensic Services - State 2016* be made pursuant to section 140CE(1)(a) of the *Industrial Relations Act 1999* ("the Act") and operate on and from 27 May 2016, subject to the provisions of section 824 of the Act.

2. That the *Award for Employees in Direct Client Services - Department of Communities, Child Safety and Disability Services 2012* be repealed on and from 27 May 2016, subject to the provisions of section 824 of the Act.