

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 1999 – ss. 140G and 140GC – Variation of modern award
ss. 140G(3)(a) and 140GC(2)(a) – Commission acting on its own initiative

PARENTS AND CITIZENS ASSOCIATIONS AWARD – STATE 2016

Matter No. MA/2016/34

DEPUTY PRESIDENT O'CONNOR
DEPUTY PRESIDENT SWAN
INDUSTRIAL COMMISSIONER THOMPSON

1 March 2017

DETERMINATION

This matter coming on for hearing before the Commission at Brisbane on 1 March 2017 this Commission orders that the said Award be varied as follows as from 1 March 2017:

1. By deleting clause 2 and inserting the following in lieu thereof:

2. Operation

This Award operates from 1 September 2016.

2. In clause 3:

- (a) By deleting the definition of "Act" and inserting the following in lieu thereof:

Act means the *Industrial Relations Act 2016*

- (b) By deleting the definition of "QES" and inserting the following in lieu thereof:

QES means the Queensland Employment Standards contained in Part 3 of Chapter 2 of the Act

3. By deleting the heading of clause 5 in both the Table of Contents and the Award itself, and inserting the following in lieu thereof:

5. The Queensland Employment Standards and this Award

4. By deleting clause 6.2(c) and inserting the following in lieu thereof:

- (c) Any proposed genuine agreement reached between a P&C Association and employees in an enterprise is contingent upon the agreement being submitted to the Commission in accordance with Chapter 4 of the Act and is to have no force or effect until approval is given.

5. By deleting clause 6.3 and inserting the following in lieu thereof:

6.3 Procedures to implement facilitative award provisions

Wherever facilitative provisions appear in this Award which allow for determination of the conditions of employment by agreement between a P&C Association and a union, or a P&C Association and the majority of employees affected, the following procedures shall apply:

- (a) Facilitative award provisions can be negotiated between management and employees who are directly affected by such proposals or between management and the union depending on the particular award provisions.
- (b) Employees may be represented by their local union delegate/s and shall have the right to be represented by their union official/s or any other person authorised to represent them.
- (c) Facilitative award provisions can only be implemented by agreement.
- (d) In determining the outcome from facilitative provisions neither party should unreasonably withhold agreement.
- (e) Agreement is defined as obtaining consent of greater than 50% of employees directly affected or of the union depending upon the particular award provisions.
- (f) Where a provision refers to agreement by the majority of employees affected, all employees directly affected shall be consulted. This consultation shall be undertaken where practicable as a group, or in groups. Should the consultation process identify employees with specific concerns which relate to either equity or occupational health and safety issues, such concerns may be catered for on an individual basis subject to operational requirements.
- (g) Any agreement reached must be documented and shall incorporate a review period.

6. By deleting clause 8.1 and inserting the following in lieu thereof:

8.1 Full-time employment

Subject to clause 15.2, a full-time employee is one who is engaged to work an average of 38 ordinary hours per week.

7. By deleting clause 8.3 and inserting the following in lieu thereof:

8.3 Casual employees

- (a) A casual employee is an employee who:
 - (i) is engaged and paid as such; and
 - (ii) is engaged to work not more than 30 ordinary hours per week, on a regular basis, except where replacing another employee on leave; and
 - (iii) is entitled to receive, on a *pro rata* basis, the same pay and conditions of employment, other than leave entitlements, to those of an equivalent full-time employee who performs the same kind of work.
- (b) Subject to clause 8.3(c), a casual employee shall receive a minimum payment for working ordinary hours of duty as follows:
 - (i) for the Operations managers and Retail operations streams, respectively - 3 hours' work per day; and
 - (ii) for all other streams - 2 hours' work per day.
- (c) Subject to clause 13.1, a casual employee, except a Retail operations stream employee, may work a broken shift with a minimum payment of 1 hour per attendance.

- (d) In streams other than the Clerical and administrative, Operations managers and Retail operations streams, respectively - for each hour worked a casual employee shall be paid no less than the minimum hourly rate of pay for a part-time employee in the same classification plus a casual loading of 23%.
- (e) In the Clerical and administrative, Operations managers and Retail operations streams, respectively - for each hour worked a casual employee shall be paid no less than the minimum hourly rate of pay for a part-time employee in the same classification plus a casual loading of 25%.
- (f) A casual employee shall be entitled to receive overtime, weekend penalties and public holiday penalty payments in accordance with the terms of this Award. Any penalties shall be in substitution of and not cumulative upon the casual loading.
- (g) The long service leave entitlement of casual employees is recorded in clause 22.

8. By deleting clause 9.1 and inserting the following in lieu thereof:

9.1 Notice of termination by an employer

Notice of termination by an employer is provided for in Division 13 of the QES. Clauses 9.2 to 9.5 supplement the QES provisions.

9. By deleting clause 10.1 and inserting the following in lieu thereof:

10.1 Redundancy pay

Redundancy pay is provided for in Division 13 of the QES. Clauses 10.2 to 10.9 supplement the QES provisions.

10. By deleting all references in clause 12.4 to "(P/T x 25%)" and "(P/T x 23%)", respectively, and substituting in lieu thereof "(P/T + 25%)" and "(P/T + 23%)" as is appropriate.

11. By deleting clause 12.9(e) and inserting the following in lieu thereof:

- (e) (i) An employee employed as a Level 4 employee in the OSHC and vacation care stream will only be paid at the Level 5 rate if the absence of the Level 5 employee is for more than two consecutive working days.
- (ii) Unless otherwise agreed no employee shall be required to perform the duties of a Level 5 employee for more than a maximum period of six weeks.

12. By deleting clause 12.11(c) and inserting the following in lieu thereof:

- (c) Where such an arrangement is entered into, the employee's total salary shall be reduced by an amount equivalent to that nominated in the salary sacrifice arrangement.

13. By deleting clauses 13.5 to 13.10 and inserting the following in lieu thereof:

13.5 Laundry allowance

- (a) An employee required to wear a uniform and/or apron shall be supplied with such uniform and/or apron, which is to be maintained and laundered at the employer's expense and shall remain the property of the employer.

- (b) Where by mutual agreement an employee launders such items of clothing the employee shall be paid an additional \$2.00 per week, or if a part-time or casual employee \$0.40 per day (i.e. one-fifth of the weekly rate).

13.6 Motor vehicle allowance

- (a) Where the employer requires an employee to use their own vehicle in or in connection with the performance of their duties, the employee shall be paid an allowance for each kilometre of authorised travel as follows:
- (i) motor vehicle - \$0.77 per kilometre; and
 - (ii) motorcycle - \$0.26 per kilometre.
- (b) The employer may require an employee to record full details of all such official travel requirements in a log book.

13.7 Overtime meal allowance

- (a) An employee required to work more than one hour of overtime after their usual ceasing time, without being given 24 hours' notice of the requirement to work overtime, shall be either provided with a meal of adequate quantity and quality or paid a meal allowance of \$12.85. Where such overtime exceeds four hours a further meal allowance of \$12.85 shall be paid.
- (b) No meal allowance will be payable where an employee could reasonably return home for a meal within the period allowed.

13.8 Personal expenses

Where an employee incurs a personal expense in the ordinary course of their duties, the employee shall be reimbursed for all reasonable expenses incurred. An employee is required to provide evidence of such an expense within 28 days of the expense being incurred.

13.9 Supervisory allowance - Retail operations stream

An employee in the Retail operations stream who is required to supervise another paid employee shall be entitled to an additional \$14.85 per week, or if a part-time or casual employee \$0.41 per hour.

13.10 Adjustment of monetary allowances

- (a) Other than the expense related allowances at clauses 13.6 (motor vehicle allowance) and 13.7 (overtime meal allowance) and Divisional and District parities at clause 13.2, respectively, all other monetary allowances specified in clause 13 (including clause 13.5 (laundry allowance)) shall be automatically increased from the same date and in the same manner as such monetary allowances are adjusted in any State Wage Case decision or other decision of the Commission adjusting minimum wage rates in this Award.
- (b) At the time of any adjustment to the wage rates in this Award the expense related allowances at clauses 13.6 (motor vehicle allowance) and 13.7 (overtime meal allowance), respectively, shall be automatically increased by the relevant adjustment factor. The relevant adjustment factor for this purpose is the percentage movement in the applicable index figure most recently published by the Australian Bureau of Statistics since the allowance was last adjusted.
- (c) The applicable index figure is the index figure published by the Australian Bureau of Statistics for the Eight Capitals Consumer Price Index, as follows:

Allowance

Eight Capitals Consumer Price Index
(ABS Cat No. 6401.0 - Table 7)

Motor vehicle allowance
(last adjusted 1 September 2014)

Private motoring sub-group

Overtime meal allowance
(last adjusted 1 September 2016)

Take-away and fast foods sub-group

14. By deleting the heading and first paragraph of clause 19 and inserting the following in lieu thereof:

19. Annual leave

Annual leave is provided for in Division 5 of the QES. Clauses 19.1 and 19.2 supplement the QES.

15. By deleting clauses 20(a) and (b) and inserting the following in lieu thereof:

(a) Personal leave is provided for in Division 6 of the QES and covers:

- (i) sick leave;
- (ii) carer's leave;
- (iii) bereavement leave; and
- (iv) cultural leave

(b) In addition to the provisions of Subdivision 2 of Division 6 of the QES an employee is entitled to use any sick leave to which they have an entitlement for carer's leave purposes.

16. By deleting clause 21 and inserting the following in lieu thereof:

21. Parental leave

Parental leave is provided for in Division 8 of the QES and covers:

- (a) birth-related leave for an employee who is pregnant or whose spouse gives birth;
- (b) adoption leave; and
- (c) surrogacy leave.

17. By deleting clause 22 and inserting the following in lieu thereof:

22. Long service leave

Long service leave, including for casual employees, is provided for in Division 9 of the QES.

18. By deleting the heading and first paragraph of clause 23 and inserting the following in lieu thereof:

23. Public holidays

Public holidays are provided for in Division 10 of the QES. Clause 23.1 to 23.4 supplement the QES provisions.

19. By deleting clause 23.3 and inserting the following in lieu thereof:

23.3 Term time employees

If a full-time or part-time employee:

- (a) is stood down by an employer during the end of year school vacation period; and
- (b) is re-employed by the employer before the end of January the following year; and
- (c) was employed by the employer for a continuous period of at least two weeks immediately before being stood down,

the employee is entitled to be paid, at their ordinary rate immediately before the stand down, for the Christmas Day, Boxing Day and New Year's Day public holidays between the stand down and the re-employment.

20. By deleting clause 24(a) and inserting the following in lieu thereof:

- (a) Jury Service is provided for in Division 12 of the QES. Clause 24(b) supplements the QES provisions.

21. By deleting clause 30 and inserting the following in lieu thereof:

30. Right of entry

(a) Authorised industrial officer

- (i) An 'authorised industrial officer' is any union official holding a current authority issued by the Industrial Registrar.
- (ii) Right of entry is limited to workplaces where the work performed falls within the registered coverage of the union.

(b) Entry procedure

- (i) An authorised industrial officer may enter a workplace at which an employer carries on a calling of the officer's organisation, during the employer's business hours, to exercise a power under Chapter 9, Part 1, Division 5, Subdivision 2 of the Act as long as the authorised industrial officer:
 - (A) has notified the employer or the employer's representative of the officer's presence; and
 - (B) produces their authorisation, if required by the employer or the employer's representative.
- (ii) Clause 30(b)(i) does not apply if, on entering the workplace, the officer discovers that neither the employer nor the employer's representative having charge of the workplace is present.
- (iii) A person must not obstruct or hinder any authorised industrial officer exercising their right of entry.
- (iv) If the authorised industrial officer does not comply with a condition of clause 30(b)(i) the authorised industrial officer may be treated as a trespasser.

(c) Inspection of records

- (i) An authorised industrial officer is entitled to inspect the time and wages record required to be kept under section 339 of the Act.

- (ii) An authorised industrial officer is entitled to inspect such time and wages records of any current employee except if the employee:
 - (A) is ineligible to become a member of the authorised industrial officer's union; or
 - (B) has made a written request to the employer that they do not want their record inspected.
- (iii) The authorised industrial officer may make a copy of the record, but cannot require any help from the employer.
- (iv) A person must not, by threats or intimidation, persuade or attempt to persuade an employee or prospective employee to make, or refuse to make, a written request to the employer or prospective employer that the record not be available for inspection by an authorised industrial officer.

(d) Discussions with employees

An authorised industrial officer is entitled to discuss with the employer, or a member or employee eligible to become a member of the union:

- (i) matters under the Act during working or non-working time; and
- (ii) any other matter with a member or employee eligible to become a member of the union, during non-working time.

(e) Conduct

- (i) The employer must not obstruct the authorised industrial officer exercising their right of entry powers.
- (ii) An authorised industrial officer must not wilfully obstruct the employer, or an employee during the employee's working time.

Note: Clause 30 - Right of entry, deals with comparable provisions contained within the Act. In order to ensure the currency of existing legal requirements parties are advised to refer to Chapter 9, Part 1, Division 5 of the Act as amended from time to time.

Dated: 1 March 2017

By the Commission,
M. Shelley,
Deputy Industrial Registrar.

Operative Date: 1 March 2017
Determination - Correction of error

Released: 6 March 2017