

CITATION: *Queensland Council of Unions
AND Local Government Association of Queensland Ltd and Others (B/2012/14)
The Australian Workers' Union of Employees, Queensland
AND Local Government Association of Queensland Ltd and Others (B/2012/15)
Decision*
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QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

*Industrial Relations Act 1999 - s. 287 - application for declaration of a general ruling
s. 288 - application for statement of policy*

Queensland Council of Unions AND Local Government Association of Queensland Ltd and Others (B/2012/14)

**The Australian Workers' Union of Employees, Queensland
AND Local Government Association of Queensland Ltd and Others (B/2012/15)**

DEPUTY PRESIDENT SWAN
COMMISSIONER BROWN
COMMISSIONER THOMPSON

16 August 2012

STATE WAGE CASE 2012

DECISION

[1] The *Industrial Relations Act 1999* (the Act) states as follows:

"287 General rulings

- (1) The full bench may make general rulings about -
...
- (2) The full bench must ensure a general ruling about a Queensland minimum wage for all employees is made at least once each calendar year
..."

The Parties

[2] The parties are the Queensland Council of Unions (QCU), the Australian Workers' Union of Employees, Queensland (AWU), the Local Government Association of Queensland Ltd (LGAQ), Queensland Services, Industrial Union of Employees (QSU) and the Queensland Government.

The Applications

[3] Two applications have been received by the Queensland Industrial Relations Commission (QIRC) for a ruling concerning the setting of a minimum wage rate for award-reliant workers in Queensland.

[4] The applications have been made by the QCU and the AWU (the Unions). The applications seek the following:

- a general ruling to provide a \$26.00 per week increase to all State award rates of pay equivalent to or below the *Engineering Award - State 2002 C10* classification and the Queensland Minimum Wage (QMW);
- a general ruling to provide a 3.8% increase to all State award rates of pay above the *Engineering Award - State 2002 C10* Classification;
- a 3.8% adjustment to allowances which relate to work conditions which have not changed and to service increments; and
- an operative date of 1 September 2012.

[5] There was no opposition by any party to the QIRC granting an increase to the Queensland Minimum Wage. The difference lay in the question of quantum of such an increase.

Operative date for implementation of decision

[6] All parties agree that the operative date for the decision of 1 September 2012 should be adopted by the Commission.

Decisions from other Tribunals

- [7] Fair Work Australia (FWA) handed down its *Annual Wage Review 2011-2012* on 1 June 2012. A 2.9% increase to minimum wages contained within modern awards was granted. This increased the federal minimum wage from \$589.30 to \$606.40 per week.
- [8] The Western Australian Industrial Relations Commission handed down its decision on 11 June 2012. The minimum award rate was increased by 3.4%. This amount represented an increase of \$20.60 per week to the Western Australian minimum wage.

Position of the parties

- [9] The applications have been supported by the Queensland Services, Industrial Union of Employees.
- [10] The Queensland Government recorded "some opposition" (T 1-4) to the claims and the LGAQ opposed the claims. Though not a party to these proceedings, the Electrical and Communications Association, Queensland Industrial Organisation of Employers (ECA) made submissions opposed to the application.
- [11] The Queensland Government's position, while not nominating a specific quantum, is that the Commission adopt the following approach to making its determination:
- a cautious approach to setting wages for award reliant workers in the State industrial relations system;
 - an approach which is consistent with achieving an unemployment rate of 4% in the medium term; and
 - an operative date of 1 September 2012 for any increase awarded. (Queensland Government submissions - point 2)
- [12] LGAQ seek the following outcome:
- an increase of 2.8% or \$20 per week to the State Minimum Wage and all Award rates of pay;
 - an increase of 2.8% to Award allowances; and
 - an operative date of 1 September 2012.
- [13] ECA proposed the following:
- a 2.9% Wage adjustment for award employees; and
 - a 2.9% adjustment to allowances for award employees.

Employees affected by this decision

- [14] The majority of employees in Queensland within the private sector are covered by the *Fair Work Act 2009*.
- [15] Whilst the Queensland Government employs approximately 250,000 workers in the State system, around 1,000 employees would be affected by this decision. These employees are engaged by small organisations which fall outside of the Core Agreement.
- [16] Within the local government sector, there are around 37,000 employees. Of that number, less than 2,000 are directly award-reliant. These employees are mostly concentrated in regional and remote councils not covered by enterprise agreements. LGAQ points out, however, that many of the Certified Agreements in existence provide for a flow-on effect with adjustments to Certified Agreements linked to State Wage Case increases. Consequently, the wage case decision could affect up to 40,000 local government employees in Queensland.

Legislative considerations

"s. 3 Principal object of this Act

The principal object of this Act is to provide a framework for industrial relations that supports economic prosperity and social justice by -

- (a) providing for rights and responsibilities that ensure economic advancement and social justice for all employees and employers; and
- (b) providing for an effective and efficient economy, with strong economic growth, high employment, employment security, improved living standards, low inflation and national and international competitiveness; and

- (c) preventing and eliminating discrimination in employment; and
- (d) ensuring equal remuneration for men and women employees for work of equal or comparable value; and
- (e) helping balance work and family life; and
- (f) promoting the effective and efficient operation of enterprises and industries; and
- (g) ensuring wages and employment conditions provide fair standards in relation to living standards prevailing in the community; and
- (h) promoting participation in industrial relations by employees and employers; and
- (i) encouraging responsible representation of employees and employers by democratically run organisations and associations; and
- (j) promoting and facilitating the regulation of employment by awards and agreements; and
- (k) meeting the needs of emerging labour markets and work patterns; and
- (l) promoting and facilitating jobs growth, skills acquisition and vocational training through apprenticeships, traineeships and labour market programs; and
- (m) providing for effective, responsive and accessible support for negotiations and resolution of industrial disputes; and
- (n) assisting in giving effect to Australia's international obligations in relation to labour standards; and
- (o) promoting collective bargaining and establishing the primacy of collective agreements over individual agreements; and
- (p) ensuring that, when wages and employment conditions are determined by arbitration, the following are taken into account -
 - (i) for a matter involving the public sector - the financial position of the State and the relevant public sector entity, and the State's fiscal strategy;
 - (ii) for another matter - the employer's financial position."

"s. 126 Content of Awards

The commission must ensure an award -

...

- (d) provides for secure, relevant and consistent wages and employment conditions; and
- (e) provides for equal remuneration for men and women employees for work of equal or comparable value; and
- (f) provides fair standards for employees in the context of living standards generally prevailing in the community; and
- (g) is suited to the efficient performance of work according to the needs of particular enterprises, industries or workplaces; and
- (h) takes account of the efficiency and effectiveness of the economy, including productivity, inflation and the desirability of achieving a high level of employment; and ...".

"s. 273 Commission's Functions

- (1) establishing and maintaining a system of non-discriminatory awards that provides fair wages and employment conditions;

...".

Relevant 2012 Wage Decisions from other Tribunals

- [17] FWA in its 1 June 2012 Annual Wage Review determined that the Federal Minimum Wage and *minimum* wages in modern awards increase by 2.9%. The federal weekly minimum wage is now \$606.40.
- [18] In its decision of 11 June 2012, the Western Australian Industrial Relations Commission increased the minimum wage by 3.4%. In monetary terms, this represented an increase of \$20.60 per week.

The Claim

- [19] The Unions' submissions seek a flat-dollar increase to workers employed at rates of pay equivalent to or lower than C10 of the *Engineering Award - State 2002* similar to the approach adopted by the QIRC in its 2011 State Wage decision. For employees employed at rates of pay higher than C10 of the *Engineering Award - State 2002*, a percentage increase is sought.
- [20] The response from the Queensland Government primarily deals with the economic outlook for Queensland.
- [21] LGAQ adopted the "cautious approach" encapsulated within the Government's submissions. The LGAQ, as previously cited, says that the decision affects employees in approximately 80% of the Queensland Councils.

Economic Considerations

- [22] Primarily, the debate between the parties centres upon a consideration of the prevailing and predicted economic outcome for Queensland. Also, as the outcome will have an affect upon some State Government employees, the Commission is bound to consider the financial position of the State and the relevant public sector entity and the State's fiscal strategy.
- [23] As the Queensland State Budget will not be released until September 2012 (normally released in May/June of each year), some economic indicators usually relied upon are not as yet available.
- [24] Parties addressed the following matters:
- LGAQ submitted that Councils' capacity to absorb increases in wages costs of any form that are not correspondingly met with productivity or costs offsets will likely only contribute to a further weakening of Local Governments' financial positions. (LGAQ submissions - point 23)
 - The financial position of Local Governments show that aggregate capital and recurrent expenditure for the 73 members in 2012 was around \$11.5 billion with total assets of \$90 billion. Debt rates are currently around \$5.3 billion which is up from \$1.8 billion in 2008. The total local government workforce of 40,000 employees has remained static.
 - LGAQ believes that were it not for the mining industry output in recent times, the Australian and Queensland economy could not be described as "robust".

The National Economy

- Gross Domestic Product (GDP) growth of 3% was estimated for 2011-12, with growth forecasts of 3¼% and 3% for 2012-13 and 2013-14 respectively.
- In the June quarter 2012 annual employment growth was ½%, however annual employment growth was forecast to strengthen to 1¼% in the June quarter 2013 and 1½% in the June quarter 2014. Unemployment was forecast to rise to 5½% in the June quarter 2013 with a similar forecast for the June quarter 2014.
- Inflation was forecast to move from 1¼% over the year to the June quarter 2012 to 3¼% in the June quarter 2013.

- The annual wage price index (WPI) growth was estimated to be 3½% for the June quarter 2012 and to strengthen to 3¾% in each of the June quarter 2013 and the June quarter 2014. (All forecasts and data sourced from Commonwealth 2012-13 Budget, released May 2012)
- All submissions generally attest to a relatively strengthened outlook for the Australian economy.

The Queensland Economy

- [25] As the Queensland Government has delayed the release of the 2012-13 budget statement and forecast for 2012-2013 until September 2012, the Unions claim that some of the data usually taken into account and considered by the Commission in a state wage claim has resulted in some economic data being unavailable.
- [26] The 2011-12 Mid Year Fiscal and Economic Review (MYFER) conducted by the Queensland Government highlighted the following points.
- The growth in the Queensland's Gross State Product (GSP) was 4¼% in 2011-2012 with a forecast of 5% for 2012-13.
 - This growth is largely due to a surge in business investment and higher consumer spending. Investment had risen primarily because of heightened LNG and mining activity. (Queensland Government submissions - point 28). These views are not contested by the Unions.
 - Queensland Government claims that economic recovery has not been broad based and dwelling investment has not improved. That assessment is largely accepted by the Unions, however, with the following caveat:

"Award-reliant employees depend on a wage increase to maintain the real value of wages, to offset significant increases in housing prices, interest repayments and rent payments."
 - Employment growth for 2011-12 and 2012-13 has been forecast to be 1½% in 2011-12 and 2¼% in 2012-13. It is predicted that the year average unemployment rate will be 5½% in 2011-12 and 5¼% in 2012-13.
 - Significant jobs growth has occurred in industries related to mining, public sector related industries, finance and insurance services and agriculture. There had been noted declines in employment in the areas of retail, manufacturing, accommodation, transport and construction.
- [27] Inflation, as measured by the Brisbane Consumer Price Index (CPI) was forecast to be 3¼% in 2012-13 (which included the carbon price contributing ¾% of a percentage point to annual inflation).
- [28] The Federal Reserve has downgraded its growth outlook for 2012 based upon a slowdown in employment growth and consumer spending.
- [29] The Queensland Government says that international economic events have contributed to deterioration in business and household confidence in recent months.
- [30] The Unions question the Queensland Government's claims that Queensland faces a problematic economic future in light of the down-grade of its credit rating by both Moody's and Standard & Poor's. The Unions claim that both ratings agencies make reference to a "strong institutional framework and a diverse economic base with significant growth potential". (QCU submissions - page 24)
- [31] The CPI was recorded at 2% in the first three quarters of 2011-12, compared with the MYFER forecast of 2½% for the full financial year.
- [32] The Queensland Government also addressed what it termed "risks" to the state of the economy. Those risks are as follows:
- While the immediate risks associated with the Euro debt has eased temporarily following the EU Summit, some concerns are likely to re-escalate, or spread to other Euro nations.
 - Any slow down in the European economy could have severe affects upon Asia as Europe takes around 10% and 20% of Japan's and China's exports. If growth in Asia weakens, this could lower export volumes and prices.

- There are sectors of the Australian economy which are sensitive to an elevated Australian dollar. These areas include manufacturing and tourism. While the Australian dollar remains elevated, many businesses could see this as a permanent change in operating conditions and consequently engage in cost-cutting efforts. Economic growth, employment and wage outcomes could be adversely affected by such an outcome.
- [33] Primarily, the submissions of the Queensland Government were supported by LGAQ. LGAQ also added that Councils' capacity to absorb increases in wages must be met with corresponding productivity or costs offsets.
- [34] In opposition to the assertions made by the Queensland Government, there is little difference as it goes to the particularised statistical data presented up until the time of this hearing. The difference lies in the interpretation of that data and of the predictions and projections made by the Government as to the approaches it has made to address a range of matters.
- [35] Particularly, the Unions believe that the economy continues to consolidate with a positive approach for the future and, within that context, the economy has the capacity to grant both applications.
- [36] Movements in wages growth both at a Federal and State level can be measured in a number of ways. The Unions submit that the most commonly used measures are:
- Average Weekly Warnings (AWE) of non-farm wages and salary earners published for all employees and also full-time adult employees.
 - Average Weekly Ordinary Time Earnings (AWOTE), which is derived from the same AWE survey but includes only ordinary time earnings of adults working full-time.
 - Average compensation per non-farm employee, published as part of the Australian Bureau of Statistic's Quarterly National Accounts (also referred to as Average Earnings on a National Accounts (AENA) basis; and
 - WPI, which forms part of the expanded Labour Price Index (LPI) Survey. (QCU submissions - page 49)
- [37] The Unions submit that the WPI is the Reserve Bank of Australia's preferred measure of wages growth. The QIRC has previously relied upon this measure in its Stage Wage Case decision of 2006 where it was stated:
- "We agree that the WPI is the most useful indicator of wage trends for the purposes of determining this application as the AWOTE and the AAWI are not adjusted for compositional change." (QCU submissions - point 8.9)
- [38] While the issue of an appropriate measuring tool for the purpose of examining wages growth generally was not a contested issue in this hearing, we can see no reason why this approach should not be continued by the Full Bench in this matter.
- [39] In considering the National wage price index, the total hourly rate of pay (excluding bonuses) index increased by 0.9 percent in the March quarter 2012 and by 3.6% over the twelve months to the March quarter 2012. (Australian Bureau of Statistics, 6345.0 - Labour Price Index, Australia, March 2012 <http://www.abs.gov.au/ausstats/abs@.nsf/mf/6345.0>)
- [40] Statistical data presented by the Unions show that AWOTE grew by 4.2% in the Year to February 2012 and AWE by 4% throughout the year. (Australian Bureau of Statistics 6345.0 - Labour Price Index, Australia March 2012)
- [41] Federally, the average annualised wage increases in Enterprise Bargaining increased by 0.2% to 3.9% from the September quarter. Further, it is contended that all current wage agreements, on average, show an increase of 4% per employee and this has not changed since 2011. (Department of Employment and Workplace Relations, *Trends in Federal Enterprise Bargaining - December Quarter (2011)*).
- [42] In Queensland, the total hourly rate of pay (excluding bonuses) increased by 0.6% in the March quarter 2012. In both the public and private sectors, during the February 2011 quarter, there was an increase of 1.4% in trend terms and an increase of 2.5% seasonally adjusted.
- [43] The Unions claim that the growth in Queensland WPI is estimated to rise by 2.25% in 2011-12 and 3.75% in 2012-13. (MYFER 2011-12)

Conclusion

[44] We have determined to award the following increases:

- A **\$20.50** per week increase in Award wage rates for employees at Award classification rates below the C10 classification in the *Engineering Award - State 2002*;
- A **2.9%** increase in Award wage rates for employees at Award classification rates equivalent to or above the C10 wage level in the *Engineering Award - State 2002*;
- An increase of **2.9%** in existing Award allowances which relate to work or conditions which have not changed and service increments;
- An increase of **\$20.50** per week in the level of the Queensland Minimum Wage (QMW) as it applies to all employees;
- A statement of policy in regard to a statement of principles that may be generated as a result of the abovementioned general rulings; and
- An operative date of 1 September 2012.

[45] In making our decision, the Full Bench is conscious of the social impact of this decision on those employees subject to award rates of pay.

[46] The Commission has consistently stated that it has an obligation to ensure that workers who are Award dependent and thus more vulnerable to movements in prices and the general cost of living increases, are granted a rate of pay which compensates for those changes.

[47] We propose to continue the practice adopted in the 2010-2011 State Wage Case of ensuring that workers who are Award-reliant receive a higher level of increase than would otherwise flow to them if they were granted the same level of increase as other workers.

[48] Within that context, we adopt the comments of the Full Bench in that State Wage Case (2009) 192 QGIG 18 at 118 where the Full Bench stated:

"It is imperative that the gulf between award-reliant employees and the vast majority of employees who gain outcomes through collective bargaining is not widened to the point where a sub-group of disadvantaged employees emerge. The statutory requirements to provide relevant and consistent wages which provide for fair standards for employees in the context of living standards and outcomes which ensure "social justice" demand a measured response from the Commission, after taking into consideration current and projected economic conditions."

[49] In our consideration of the claims made by all parties, we would make the following comments:

- After considering all of the economic data submitted, we would cautiously state that while there are some areas of the State's economy which have not shown any real growth, we are of the view that the projected growth in the State's economy generally over the next twelve months more than suggests that the economy is able to accommodate the wage increase granted. We are mindful, however, that there are marked economic differences between industry sectors.

Decision

Adjustment to allowances

[50] Existing Award allowances which relate to work or conditions which have not changed and service increments are to be increased by 2.9%.

Operative Date

[51] The increase we have determined to the QMW, Award wages and allowance adjustments is to operate from 1 September 2012.

Declaration of General Ruling

[52] A formal Declaration of General Ruling will be issued at the same time as the release of these reasons for Decision, therefore giving effect to this Decision.

Wage Fixation Principles

[53] The parties were in agreement that the current statement of principles, through a Statement of Policy, should continue with the necessary amendments to reflect changes to the operative date, the quantum of wage and allowance adjustments awarded in this Decision, and other consequential amendments. A new Statement of Policy with respect to wage fixation principles will be issued concurrently with this Decision.

[54] The Commission determines and orders accordingly.

D.A. SWAN, Deputy President.

D.K. BROWN, Commissioner.

J.M. THOMPSON, Commissioner.

Hearing Details:

2012 24 July (*Hearing*)
 31 July (*QCU Written Submissions*)
 7 August (*Queensland Government
 Written Submissions*)
 (*LGAQ Written Submissions*)
 (*ECA Written Submissions*)
 9 August (*AWU Written Submissions*)
 (*QCU Written Submissions in Reply*)

Appearances:

Mr B. Watson for Queensland Council of Unions.
 Mr D. Broanda for The Australian Workers' Union of Employees, Queensland.
 Mr K. Ryalls for the Local Government Association of Queensland Ltd.
 Ms S. Crook, for the Queensland Government.
 Mr N. Henderson, for the Queensland Services, Industrial Union of Employees.

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