

## QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *Application for Declaration of General Ruling (State Wage Case 2014)* [2014] QIRC 129

PARTIES: **Queensland Council of Unions**  
**The Australian Workers' Union of Employees, Queensland**  
(Applicants)  
**and**  
**The State of Queensland**  
**Local Government Association of Queensland Ltd**

CASE NO'S: B/2014/28  
B/2014/30

PROCEEDING: Application for Declaration of a General Ruling

DELIVERED ON: 22 August 2014

HEARING DATE: 1 August 2014

MEMBERS: Deputy President Kaufman  
Industrial Commissioner Fisher  
Industrial Commissioner Thompson

APPEARANCES: Mr J. Martin, for the Queensland Council of Unions  
Mr B. Watson, for Australian Workers Union of Employees, Queensland  
Mr N. Braid, for Local Government Association Queensland Ltd  
Mr T. Schostakowski, for the State of Queensland, Department of Justice and Attorney General.

### Reasons for Decision

- [1] On 3 June 2014 the Queensland Council of Unions (QCU) lodged an application seeking a general ruling pursuant to s 287 of the *Industrial Relations Act 1999* (Act) "in regard to wage and allowance adjustments for award employees". The application was for:

- (i) a \$22.30 wage adjustment for workers employed at award classification rates equivalent to, or below, the *Engineering Award - State 2012* C10 classification;
  - (ii) a 3% wage adjustment for workers employed at award classification rates above the *Engineering Award - State 2012* C10 classification;
  - (iii) an increase in existing award allowances which relate to work or conditions which have not changed [and] service increments by 3%;
  - (iv) a \$22.30 increase to the Queensland Minimum Wage as it applies to all employees, pursuant to s.287(2) of the Act; and
  - (v) an operative date of 1 September 2014.
- [2] On 12 June 2014 The Australian Workers' Union of Employees, Queensland (AWU) filed a similar application. The applications were joined with the consent of the parties.
- [3] We heard the matter on 1 August 2014 at which hearing the QCU, the AWU, the Local Government Association Queensland Ltd (LGAQ) and the Queensland Government appeared and made submissions.

### **Change to the Act**

- [4] On 1 December 2013, amendments to s 287 came into operation, the effect of which was that the Commission may make general rulings "about - for employees bound by a pre-modernisation industrial instrument - an industrial matter, to avoid a multiplication of enquiries into the same matter; or a Queensland minimum wage for all employees". Prior to the amendment to s 287(1) the words "pre-modernisation" were not part of the section. Section 287(b), which provided for rulings about a review of a general employment condition under Chapter 2, was repealed.
- [5] As no modern awards had been made at the time of the hearing, and as only limited submissions were made about the effect of the amendments to s 287, it is not desirable that we decide whether the general ruling that we make could apply beyond pre-modernisation awards. Having regard to the operation of ss 140EB and 824 it is unlikely that any modern awards that have been made since the hearing have started operating. However, it is our provisional view that the Commission may not make general rulings for employees bound by modern awards.
- [6] Given that no submissions were made about increasing the rates in modern awards, even were the Commission empowered to do so, it would clearly be inappropriate. Accordingly, our decision, and orders giving effect to it, will only apply to industrial instruments which are pre-modernised awards.
- [7] Section 288 of the Act was repealed with the result that the Commission may no longer make statements of policy. No party has asked us to do so. Prior to the hearing we sought additional submissions from the parties. We asked whether the notation that had traditionally been made as paragraph 1(f) of the Declarations of General Ruling should be retained. Given the effect of the repeal of s 288, it was common ground that it should not. We will not include such a clause in our

General Ruling, nor will we issue a Statement of Policy in relation to wage principles.

### **The Claims**

- [8] In 2013 the unions' claims were for a \$30.00 per week increase for workers below the C10 rate, a 4.9% increase for workers receiving C10 rates and above, with a similar increase to allowances and \$30 per week increase to the Queensland Minimum Wage.
- [9] In the State Wage Case 2013 this Commission awarded a \$15.80 per week increase to award wage rates for employees below C10, a 2.6% increase in award wage rates for employees at C10 and above, with a similar increase to allowances, and an increase of \$15.80 per week to \$646.50 per week for the Queensland Minimum Wage.
- [10] In its Annual Wage Review decision of 3 June 2013 the Fair Work Commission awarded an increase of 2.6% for all classifications, as well as to the federal minimum wage, bringing it to \$622.20 per week.
- [11] This year the unions' claims were much more modest, seeking increases commensurate with those awarded by the Fair Work Commission in June 2014, albeit that the Fair Work Commission awarded a 3% increase for all classifications, and increased the national minimum wage to \$649.00 per week. This represented an increase to the national minimum wage of \$18.70 per week; also 3%.
- [12] This Commission has historically attached considerable weight to the National Wage/Annual Wage Review decisions of its federal counterpart, whilst always having regard to the particular economic conditions of the state of Queensland at the time. A significant reason for having regard to the decisions of the federal tribunal (now called the Fair Work Commission) is because the federal commission has the benefit of considerable material about the economic position of Australia. In the federal Annual Wage Review parties present detailed statistical data in relation to the Australian economy and to the economies of the various states and territories. The decision of the Fair Work Commission affects the majority of award reliant employees throughout Australia, including those in Queensland.
- [13] Given that this year the unions' claims essentially mirror the increase awarded by the Fair Work Commission and that none of the parties, other than the LGAQ, sought an outcome greatly at variance with that of the Fair Work Commission, the scope of our inquiry has been significantly narrowed. Indeed, the LGAQ submitted that, unless there are convincing reasons to depart from the Fair Work Commission's ruling, that ruling should be adopted. The other parties' submissions also made significant mention of the decision of the Fair Work Commission. Having regard to the submissions of the parties in these proceedings, we broadly agree that, unless there are cogent reasons for not doing so, we should follow the ruling of the federal tribunal, with any necessary or desirable modifications, having regard to the particular circumstances of Queensland.
- [14] We were taken to the 2014 State Wage Order of the Western Australian Industrial Relations Commission which awarded a flat \$20 per week increase, but none of the parties asked us to adopt that approach.

- [15] In the circumstances we do not consider it necessary or desirable to summarise the submissions of the parties. They are fairly concise and may be found on the Commission's website.<sup>1</sup>
- [16] As a result of the referral of its industrial relations powers with respect to the private sector to the Commonwealth, the vast majority of Queensland-based private sector employees are covered by the federal jurisdiction.
- [17] The Queensland Government submitted that its employees are employed under an enterprise agreement and that approximately 20,000 of its employees in the lower classifications were directly impacted by the State Wage Case in 2013. However it noted that a direct impact will be short lived because the next administrative increase to be awarded by the government is due on 1 December 2014. As a result of the 2013 State Wage Case decision some public sector award wage rates were higher than those prescribed by the *State Government Departments Certified Agreement 2009* and four other certified agreements. Subsequently, the Minister Assisting the Premier issued Directive 16/13: Remuneration for Certain Employees. This resulted in employees covered by the directive receiving a salary increase of 2.2% on 1 December 2013. The directive provides for a similar increase on 1 December 2014 and 2015. Insofar as local government is concerned, the Queensland Government submitted that approximately 2000 of the 41,250 employees in the local government sector in Queensland are directly award reliant. Additionally, it submitted that parents and citizens associations employ between 3000 and 4000 employees who are largely award reliant. These employees provide assistance to schools through the operation of ancillary services such as after school care.
- [18] The QCU submitted that in the order of 2.2% of the Queensland jurisdiction is award reliant. From the QCU's perspective, approximately 2,000 employees of local government are directly impacted by the State Wage Case. The AWU noted that there are approximately 250,000 State government employees of whom approximately 1000 will be directly affected by this decision; that of the 37,000 local government employees fewer than 2000 are award reliant with some 3000 to 4000 employees of the 1250 parents and citizens associations also being award reliant.
- [19] Although the figures provided by the parties are slightly inconsistent one with the other, it is evident the impact of this decision is of limited effect.
- [20] The QCU sought a flat-dollar increase to workers employed at rates of pay equivalent to, or lower than, the C10 rate in the *Engineering Award - State 2012*. The resulting effect was said to benefit the lower paid workers with a proportionally higher increase than other employees: See the decision of the Full Bench in *Queensland Council of Unions AND The Crown and Ors* (State Wage Case 2006).<sup>2</sup>
- [21] The AWU's reasoning was that "Flat rate increases erode the relative gap between the classification levels contained in awards. The decision to award both a flat and relative increase in the 2011, 2012 and 2013 State Wage Cases has assisted in

---

<sup>1</sup> [http://www.qirc.qld.gov.au/qirc/agreement\\_award/state\\_wage\\_case/2014/index.htm](http://www.qirc.qld.gov.au/qirc/agreement_award/state_wage_case/2014/index.htm).

<sup>2</sup> *Queensland Council of Unions AND The Crown and Ors* (State Wage Case 2006) (B/2005/1197) Decision <<http://www.qirc.qld.gov.au/>>.

closing this relativities gap. Awarding both the flat and percentage increase on the grounds laid out in this claim will further reduce this relativities gap."

[22] The LGAQ opposed the awarding of a flat dollar increase submitting that given the increasing trend of awarding such increases the beneficial outcome of decreasing the gap between the Queensland weekly ordinary time earnings and the Queensland minimum wage, thus assisting low paid workers to participate in society would no longer be the case. It also noted the long term distortion to wage relativities by awarding flat rate increases. We do not understand the first part of this submission.

[23] Although the Queensland Government urged that the Commission adopt a cautious approach it did not suggest what outcome such an approach should deliver. The Fair Work Commission, in its decision to award 3% observed that:

"There is no evidence that minimum wage increases arising out of the annual wage review will have an adverse impact upon productivity, at an aggregate level or at the firm level. The limited evidence before us suggests that minimum wages increases are more likely to stimulate productivity measures by some employers directly affected by minimum wage increases."<sup>3</sup>

[24] In its 2012-13 Review, the Fair Work Commission also noted that the "research presented by parties to this Review has not convinced the Panel to alter its position from previous reviews that a modest increase in minimum wages has a very small, or even zero, effect on employment."<sup>4</sup>

[25] It appears to us, that in awarding its increase of 3%, the Fair Work Commission could be said to have adopted a cautious approach.

[26] The LGAQ, submitted that there were compelling reasons for us not to adopt the reasoning and decision of the Fair Work Commission. As did the other parties, it referred to elements of that decision. As can be seen from its submissions it pointed to what it submitted was the uncertainty as to how the economy will fare in the climate of a post resources boom. It pointed to what it considers to be a trend of reduction in growth in the Queensland economy. It noted the Queensland debt which it puts in excess of \$70 million. This seems to be a typographical error; the Queensland state debt is in the order of \$80 billion. The LGAQ also pointed to the funding cuts that will affect Queensland councils this year.

[27] The LGAQ submitted that any increase over 2.5% will compound the debt pressures of the Queensland Government and lead to labour costs increases that may have the effect of undermining the system. However, it provided no rationale or explanation for that assertion.

[28] Although we are mindful of the fact that many of the LGAQ's members are small employers, as the table below demonstrates, the difference between an increase of 2.5% and 3% to award wages is minimal.

***Parents and Citizens Association Retail Award - State 2012***

---

<sup>3</sup> *Annual Wage Review 2013 – 2014* [2014] FWCFB 3500 [173].

<sup>4</sup> *Annual Wage Review 2012 – 2013* [2013] FWCFB 4000 [40].

<b>Classification</b>	<b>Per week \$</b>	<b>QCU claim \$</b>	<b>3% \$</b>	<b>Difference \$</b>	<b>2.5% \$</b>	<b>Difference between QCU claims and 2.5%</b>
Tuckshop employees; Assistant Convenor; Convenor, Partially Unpaid	705.50	727.80	726.70	1.10	723.10	4.70
Senior Convenor, Partially Unpaid Managing Convenor	715.70	738.00	737.20	0.80	733.60	4.40
Senior Managing Convenor	744.60	766.90	766.90	-	763.20	3.70
<b>P&amp;C Administration Assistants</b>						
Year 1	744.60	766.90	766.90	-	763.20	3.70
Year 2	776.40	799.70	799.70	-	795.80	3.90
<b>P&amp;C Operations Manager</b>						
Level 1	842.40	867.70	867.70	-	863.50	4.20
Level 2	856.20	881.90	881.90	-	877.60	4.30
Level 3	909.80	937.10	937.10	-	932.50	4.60

***Local Government Employees' (Excluding Brisbane City Council) Award - State  
2003***

<b>Classification</b>	<b>Per week \$</b>	<b>QCU claim \$</b>	<b>3% \$</b>	<b>Difference \$</b>	<b>2.5%</b>	<b>Difference between 2.5% and QCU Claim \$</b>
<b>Level 1</b>						
- First 6 months	686.20	708.50	706.80	\$1.70	703.40	5.10
- Thereafter	696.60	718.90	717.50	\$1.40	714.00	4.90
Level 2	707.10	729.40	728.30	\$1.10	724.80	4.60
Level 3	717.80	740.10	739.30	\$0.80	735.70	4.40
Level 4	728.70	751.00	750.60	\$0.40	746.90	4.10
Level 5	744.60	766.90	766.90	-	763.20	3.70
Level 6	767.30	790.30	790.30	-	786.50	3.80
Level 7	790.00	813.70	813.70	-	809.80	3.90
Level 8	810.60	834.90	834.90	-	830.90	4.00
Level 9	833.40	858.40	858.40	-	854.20	4.20

[29] Since the hearing the Australian Bureau of Statistics has released its July update. We note that the all groups consumer price index has increased by 0.5% to 3% for

the June quarter 2013 to the June quarter 2014. Employment increased to 11,582,200 from a revised June 2014 estimate; unemployment increased to 756,700; the unemployment rate increased 0.1 points to 6.1% and the participation rate remained steady at 64.7%. The largest absolute increases in seasonally adjusted unemployment were in Victoria (up 14,500 persons), and Queensland (up 12,100 persons). The largest absolute decreases in seasonally adjusted employment were in Queensland (down 12,600 persons), and South Australia and New South Wales (are both down 4200 persons).

- [30] Although the latest ABS statistics give us cause for concern we have nevertheless decided that they are not sufficient to warrant us deviating from our decision that we ought to grant the claims of the QCU and the AWU. We are not persuaded that there is any sound basis to depart from the 3% awarded by the Fair Work Commission.
- [31] Last year the Commission noted that in recent years the Queensland Minimum Wage has not kept pace with real wage growth as measured by the AWOTE. From May 2013 to May 2014 the full-time adult AWOTE increased by 2.4%. Our decision will go some way to ameliorating that trend.
- [32] In the State Wage Case 2013 the relevant legislative framework was set out at paragraph [62]. Although that framework remains largely unchanged it should be noted that sections 126 to 132 of the Act have since been repealed. Although none of the parties made submissions in relation to this matter, it seems to us that the repeal of those sections does not affect our reasoning in these proceedings. In particular, the repeal of s 126, which was referred to in the 2013 State Wage Case does not appear to require us to take a different approach to our deliberations in these proceedings.
- [33] We have decided to award the flat increase sought by the unions up to but not including the C10 level and 3% beyond that. Although the unions sought the flat rate increase to apply to the C10 rate, this is a departure from the past and, in our view ought not be granted. The C10 rate is generally regarded as a benchmark. In our view wage rates at that level ought to be increased conformably with the decision of the Fair Work Commission, especially as no submissions were made in relation to this issue. The table discloses that the difference between 3% and the flat rate increase is fairly minimal, as is the further compression in relativities. In his oral submissions Mr Watson, who appeared for the AWU, explained the history of and rationale for the recent applications for flat rate increases up to C10 and percentage increases thereafter. We see no reason, at this stage, not to accede to the unions' submissions in this regard.

## **Decision**

[34] Our formal decision is that there will be:

- (i) a \$22.30 per week wage increase in award rates for workers employed at award classification rates below the C10 classification in *Engineering Award - State 2012*;
- (ii) a 3% wage adjustment for workers employed at award classification rates equivalent to, or above, the C10 classification in *Engineering Award - State 2012*;
- (iii) an increase of 3% in existing award allowances which relate to work or conditions which have not changed and service increments;
- (iv) an increase of \$22.30 per week to the Queensland Minimum Wage as it applies to all employees; and
- (v) an operative date of 1 September 2014.

[35] A declaration of General Ruling giving effect to this decision will issue concurrently with this decision.