

INDUSTRIAL REGISTRAR

26 AUG 2019

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

QUEENSLAND

*Industrial Relations Act 2016 – s 458*

**APPLICATION FOR A DECLARATION OF GENERAL RULING  
STATE WAGE CASE**

**Re: STATE WAGE CASE 2018 – Matter Nos B/2019/32, B/2019/33 and B/2019/34**

**Submissions - Together Queensland, Industrial Union of Employees  
August 2019**



## Introduction

1. **The Claim.** Together Queensland, Industrial Union of Employees (Together Qld), is seeking the Queensland Industrial Relations Commission following decisions:
  - a. A general ruling amending all state awards by a 3% wage adjustment,
  - b. A general ruling amending all state awards by increasing award allowances which relates to work or conditions which have not changed in service increments by 3%,
  - c. Increase the Queensland Minimum Wage as it applies to all employees by 3%, and
  - d. Determine the operative date of the above from 1 September 2019.

## Legislative Parameters

2. **General Ruling.** Subdivision 1, Division 4, Part 2 of the *Industrial Relations Act 2016* (the Act), relevantly provides:

### 458 Power to make general rulings

- (1) The full bench may make general rulings about—
  - (a) an industrial matter for employees bound by an industrial instrument if multiple inquiries into the same matter are likely; or
  - (b) a Queensland minimum wage for all employees.
- (2) The full bench must ensure a general ruling about a Queensland minimum wage for all employees is made at least once each year.
- (3) Before conducting a hearing about the ruling, the full bench must—
  - (a) give reasonable notice, in the way it considers appropriate, of its intention to conduct the hearing; and
  - (b) give all interested persons an opportunity to be heard.

### 459 Requirements for general rulings

- (1) A ruling—
  - (a) must state a date (the *stated date*) on and from which it has effect; and
  - (b) has effect as a decision of the full bench on and from the stated date.
- (2) A ruling may exclude from the operation of any of its provisions—
  - (a) a class of employers or employees; or
  - (b) employers or employees in a particular locality; or
  - (c) an industrial instrument or part of an industrial instrument.
- (3) As soon as practicable after making a ruling, the registrar must publish a notice of the ruling and the stated date on the QIRC website.
- (4) The notice, on and from the stated date, replaces a notice of a ruling on the same subject matter previously published.
- (5) The ruling continues in force until the end of the day immediately before the stated date for a subsequent ruling on the same subject matter.

### 3. Objects of the Act.

#### 460 Relationship with industrial instruments

- (1) If a ruling takes effect while an industrial instrument, other than an industrial instrument or part of an industrial instrument excluded under section 459(2), is in force—
  - (a) the industrial instrument is taken to be amended so it is consistent with the ruling on and from the stated date; and
  - (b) the amendment has effect as an industrial instrument on and from the stated date.
- (2) The registrar may amend an industrial instrument taken to be amended under subsection (1) as the registrar considers appropriate—
  - (a) on an application made under the rules; or
  - (b) on the registrar's own initiative.
- (3) This section applies despite chapter 3.

4. Since 1997, the administrative process for awarding wage and allowance increases has been by way of general ruling.<sup>1</sup>

5. As set out in s3 of the Act, the main purpose of the Act is to provide for a framework for cooperative industrial relations that:

- (a) is fair and balanced; and
- (b) supports the delivery of high quality services, economic prosperity and social justice for Queenslanders.

(a) For the purposes of this matter, s4 relevantly provides that the above purpose is to be achieved by:

- (d) providing for a fair and equitable framework of employment standards, awards, determinations, orders and agreements, and...
- (f) providing for a guaranteed safety net of fair, relevant and enforceable minimum employment conditions through the Queensland Employment Standards; and...
- (g) ensuring wages and employment conditions provide fair standards in relation to living standards prevailing in the community;

(b) Further, the Act requires the Commission to:

- a. ensure modern awards provide for "fair and just" wages and employment conditions that are at least as favourable as the Queensland Employment Standards, which includes the QMW (s 141(1)(a));

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<sup>1</sup> See *Workplace Relations Act 1997 (Qld)*, s132

- b. ensure that a modern award generally reflects the prevailing employment conditions of employees covered by the award (s 141(1)(b));
  - c. establish and maintain minimum wages that are fair and just, having regard to those matters mentioned in s141(2)(a) to (d) and (f); and
  - d. ensure a modern award provides fair standards for employees in the context of living standards generally prevailing in the community (s 143(1)(i)).
6. **Operative date.** s459(1) provides that a ruling must state a date on and from which the ruling applies and that the ruling has effect as a decision of the full bench on and from the stated date.
7. s148 applies to an order varying a modern award and provides that the order takes effect of the day stated in the order and that the stated day must not be earlier than the day on which the order is made unless:
- a. the variation removes an ambiguity or uncertainty or corrects an error; and
  - b. the commission is satisfied exceptional circumstances justify stating an earlier day; and
  - c. the order does not adversely affect an employee.
8. The operative date for such general rulings has generally been 1 September 2019. The timing of this year's proceeding departs from that history and, in itself, creates the requisite exceptional circumstances.<sup>2</sup> Together seeks a continuation of this operative date to ensure employees relying on the State Wage Case outcome receive an annual increase.

### National Wage Review

9. The Fair Work Commission has handed down a decision to increase minimum wages by 3% from 1 July 2019. In making that decision the Fair Work Commission observed that:
- “The prevailing economic circumstances provide an opportunity to improve the relative living standards of the low paid, and to enable them to better meet their needs, by awarding a real increase in the NMW and modern award minimum wages. No party identified any data which demonstrated adverse employment or other effects arising from the previous 2 Review decisions, each of which resulted in real wage increases for NMW and award-reliant employees.”<sup>3</sup>*
10. Further, with respect to the effects of the level of increase decided the Full Bench noted:
- “We are satisfied that the level of increase we have decided upon will not lead to any adverse inflationary outcome and nor will it have any measurable negative impact on*

<sup>2</sup> See Macquarie Dictionary: “**exceptional** *adj.* 1. Forming an exception or unusual instance; unusual; extraordinary”

<sup>3</sup> [2019] FWCFB 3501 at [7]

*employment. However, such an increase will mean an improvement in real wages for those employees who are reliant on the NMW and modern award minimum wages and an improvement in their living standards.”<sup>4</sup>*

11. The Queensland Government submission to the Review advocated for a 3.5% increase to the NMW and a fair and reasonable increase to minimum award rates of pay.<sup>5</sup> Further it was noted that:

*“an increase that rewards productivity gains and improves the value of real wages as well as the living standards for workers receiving the NMW or award wage reliant workers is economically responsible and protects the low paid;”<sup>6</sup>*

*“due to increased reliance upon the NMW and award rates of pay it is incumbent on the Panel to set minimum wages that are fair in the context of living standards generally;”<sup>7</sup>*  
and

*“raising the minimum and award wages will promote gender pay equity due to the greater reliance of women workers on minimum and award wage rates”<sup>8</sup>*

12. Together commends those sentiments and submits they have equal application in the State context.

### **Economic Factors**

13. **Australian Economy.** Australian Treasury estimates Australian real GDP growth to be 2.25% in 2018-19, strengthening to 2.75% in 2019-20 and 2020-21.<sup>9</sup> Most sectors are expected to contribute to growth with an expectation of a resurgence in mining investment as well as non-mining business investment, household consumption and exports.<sup>10</sup>

14. The Australian Government expects global growth to remain solid with strong labour market conditions evident across most advanced economies. The Australian economy is expected to continue to benefit from growth in major trading partners, with economies in the Asian region growing relatively strongly.<sup>11</sup>

15. Nominal GDP is forecast to grow by 5 per cent in 2018-19, 3.25 per cent in 2019-20 and 3.75 per cent in 2020-21 and major trading partner growth is forecast to be 4% in 2019, 2020 and 2021.<sup>12</sup>

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<sup>4</sup> [2019] FWCFB 3501 at [11]

<sup>5</sup> Qld Government Submission to the Fair Work Commission Annual Wage Review 2018-19. p17

<sup>6</sup> Ibid

<sup>7</sup> Ibid

<sup>8</sup> Ibid

<sup>9</sup> The State of Queensland (Queensland Treasury) - 2019–20 Queensland Budget, Budget Paper No. 2. p32

<sup>10</sup> Commonwealth of Australia 2019, Budget Strategy and Outlook Budget Paper No. 1 2019-20. p2-3

<sup>11</sup> Ibid. p2-6

<sup>12</sup> Ibid. p2-5

16. However, there are a range of risks to the international outlook, including:
- a. Trade protection measures already announced or imposed by the United States and China are forecast to have a negative effect on activity in those countries.
  - b. Additional tariffs would be expected to result in weaker growth, though a resolution of current disputes could result in stronger growth than forecast.
  - c. Geopolitical uncertainty and vulnerabilities in emerging economies remain a concern for the international outlook, especially to the extent that they provoke broader financial market instability.
  - d. Uncertainties around the future UK-EU relationship.<sup>13</sup>
17. Labour market conditions have remained strong over the past 12 months, with employment increasing up 2.7% through the year to June quarter 2018 (seasonally adjusted). The unemployment rate has fallen to around 5% (seasonally adjusted), towards its lowest level in six years.<sup>14</sup>
18. The Queensland Government's submissions to the Fair Work Commission's Annual Wage review stated wage growth is expected to rise from 2.1% (seasonally adjusted) through the year to June quarter 2018 to 2.25% through the year to June quarter 2019 and to 3% through the year to June quarter 2020.<sup>15</sup>
19. **Queensland Economy.** Economic growth in Queensland is forecast to be 3% in 2018–19, before easing to 2.75% in 2019–20. This follows stronger than forecast growth of 3.5%<sup>16</sup> in 2017–18, driven largely by an earlier than expected rebound in business investment, further strengthening in household consumption and a recovery in coal exports.<sup>17</sup>
20. Despite this forecast strengthening in headline growth, domestic activity is still forecast to be constrained by subdued growth in household consumption and a further decline in dwelling investment.<sup>18</sup>
21. Of note, compared with both Australian Treasury and Reserve Bank of Australia forecasts, the Queensland government notes that 2019-20 is expected to be the third consecutive year where Queensland growth outstrips national economic growth<sup>19</sup>

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<sup>13</sup> Qld Government Submission to the Fair Work Commission Annual Wage Review 2018-19. p6.

<sup>14</sup> Ibid. p7.

<sup>15</sup> Ibid.

<sup>16</sup> Based on September quarter 2018 Queensland State Accounts.

<sup>17</sup> Queensland Budget Paper No. 2. op cit. p33

<sup>18</sup> Ibid. p34

<sup>19</sup> Ibid.

22. Household consumption in Queensland grew by a higher than expected 2.3% in 2017-18 (the strongest result since 2013-14). This was supported by strong employment growth and a modest pick-up in private sector wages.<sup>20</sup> The Queensland government is forecasting consumption growth to pick up gradually in subsequent years, supported by an improvement in employment and wages growth.<sup>21</sup>

23. Growth in household consumption is expected to accelerate in 2019–20, after stabilising in 2018–19. This will likely be constrained by modest income growth and the impact on wealth of the stock market decline experienced in late-2018.<sup>22</sup>

24. Business investment rebounded strongly in 2017–18, rising 13.0%. Growth was primarily driven by a 16.8% increase in non-dwelling construction, supported by significant investment in renewable energy projects, including wind and solar farms. Meanwhile, machinery and equipment investment rose 7.7%, supported by strong employment growth, elevated capacity utilisation and sustained lower lending rates. Business investment is expected to ease slightly in 2018–19, before continuing its expansion from 2019–20 onwards.<sup>23</sup>

25. The nominal value of Queensland’s overseas goods and services exports reached a record high of \$94.3 billion in 2017–18, boosted by a recovery in coal export volumes, as well as sustained high global commodity prices. Looking ahead, while commodity prices are expected to return to more sustainable levels, export volumes are forecast to continue to grow, reflecting modest growth in resources exports, increased metals mining capacity coming online and a competitive A\$ exchange rate supporting ongoing growth in services exports.

26. Public final demand, which includes both consumption and investment spending across all levels of government, is expected to continue to grow strongly, averaging around 4% per annum over the forecast period to 2020-21.<sup>24</sup>

27. The employment growth in 2017-18 was exceptionally strong level, reaching 4.1%. Employment growth is expected to return to more sustainable rates in coming years.<sup>25</sup> With employment growth forecast to largely keep pace with population growth over the next two years, the unemployment rate is still forecast to remain at 6.25% in June quarter 2019, while a modest improvement to 6% is expected by June quarter 2020. While not uniform, labour market conditions in regional Queensland have continued to converge with those in South East Queensland over the past 12 months.

28. Despite the strong pick-up in employment, the unemployment rate remains largely unchanged, while the labour underutilisation rate remains elevated, partly explaining subdued wages growth. Wages growth in 2017–18 picked up slightly from its historic low, with the Wage Price Index up 2.2% compared with 1.9% growth recorded in each of the previous two financial years. Wages growth in

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<sup>20</sup> Qld Government Submission to the Fair Work Commission Annual Wage Review 2018-19. p8

<sup>21</sup> Queensland Budget Paper No. 2. op cit. p35

<sup>22</sup> Ibid

<sup>23</sup> Ibid

<sup>24</sup> Ibid

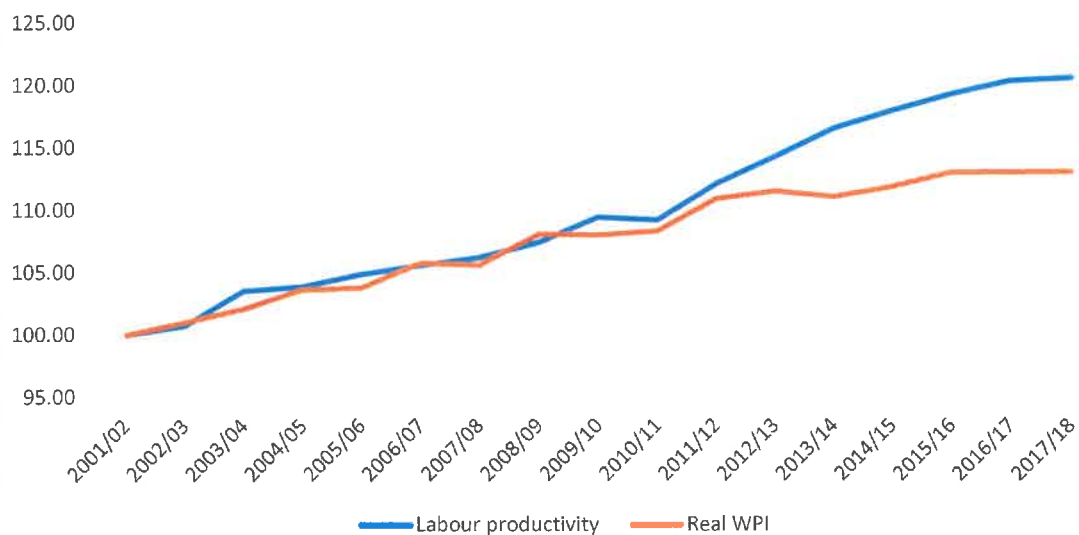
<sup>25</sup> Ibid. p40

Queensland in 2018–19 is expected to remain modest, however a subdued price inflation outlook means that wages are expected to grow in real terms.<sup>26</sup>

29. **Economic impacts of low wage growth.** Australia has experienced a sustained period of subdued wage growth, both in the public and private sectors. Since 2013, nominal wages have been growing at the slowest rate of any sustained period since World War 2. During this period nominal wages have barely kept up with consumer prices. Real pay has become de-linked from labour productivity growth and the national; share of income going to workers has reduced.<sup>27</sup>

30. In its submission to the Fair Work Commission Annual Wage Review 2018-19 the Queensland Government noted this de-linking of real wages and labour productivity growth in the table reproduced below<sup>28</sup>:

Figure 1. Real Wages and Labour Productivity growth - Australia  
(Index 2001/02 =100)  
2001/02 to 2017/18



31. Additionally, the Qld Government submission stated the following:

*“A sustained period of low wage growth will have implications for the broader economy. Subdued wage growth constrains growth in household income, one of the key drivers of household consumption (which accounts for around 60% of total economic activity), with potential flow-on effects for businesses and government revenues. The Queensland Government submission notes that the Annual Wage Review decision last year supported this view, observing the negative economic and social consequences of current low*

<sup>26</sup> Qld Government Submission to the Fair Work Commission Annual Wage Review 2018-19. p9

<sup>27</sup> Stewart, Stanford and Hardy (eds) 2018, *The Wage Crisis in Australia*, Adelaide University Press, Adelaide p6.

<sup>28</sup> Qld Government Submission to the Fair Work Commission Annual Wage Review 2018-19. Figure 1



wages growth. As further explored below, the Reserve Bank has also been increasingly vocal in its concerns about persistently low wages growth.”<sup>29</sup>

“The Queensland Government recognises that stagnant wage growth has been widely identified as a significant problem in recent years and that rising income inequality has become an issue of significant social concern. The Governor of the RBA has argued this is a major problem, suggesting that flat real wages are diminishing our sense of shared prosperity and the lack of real wage growth is one of the reasons why some in our community question whether they are benefiting from our economic success. Governor Lowe used Figure 2 below to show that from 1995 to 2012, on average, real wages increased by almost 2% per year. This occurred while inflation averaged around the mid-point of the 2-3% target range. However, since 2012, there has been little change in average real hourly earnings. Wage increases have been broadly matched by inflation. On 16 February 2018, appearing before a House of Representatives Committee Hearing on Economics, Governor Lowe commented that 3.5% wages growth would be considered a normal level of wage growth with inflation within the RBA target range of 2–3%.”<sup>30</sup>

“Additionally, the demand for government services (such as social housing) may rise if households’ purchasing power is reduced by low wage growth conditions. Lower-income households may seek to access a broader range of government services if wage growth falls behind the rate of increase in the cost of non-discretionary goods and services. This, combined with the flow-on effects for government revenues identified above, could adversely affect the government’s fiscal position.”<sup>31</sup>

## Conclusion

### 32. Together Qld submits:

- a. Overall, the Queensland economy is expected to continue to grow at rate of 2.75% to 3% over the forward estimates.
- b. an increase that rewards productivity gains and improves the value of real wages as well as the living standards for award wage reliant workers is economically responsible and protects the low paid.
- c. due to increased direct or indirect reliance upon award rates of pay it is incumbent on the Commission to set minimum wages that are fair in the context of living standards generally.
- d. raising the minimum and award wages will promote gender pay equity due to the greater reliance of women workers on minimum and award wage rates.
- e. A general ruling in the terms requested is fair and appropriate.

<sup>29</sup> Qld Government Submission to the Fair Work Commission Annual Wage Review 2018-19. P10

<sup>30</sup> Ibid p13

<sup>31</sup> Ibid p10