

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *Application to amend Queensland Police Service Certified Agreement 2019* [2020] QIRC 123

PARTIES: **State of Queensland (Queensland Police Service)**
(Applicant)

v

Queensland Police Union of Employees
(First Respondent)

and

The Queensland Police Commissioned Officers' Union of Employees
(Second Respondent)

CASE NO: CB/2020/47

PROCEEDING: Application to amend bargaining instrument

DELIVERED ON: 18 August 2020

HEARING DATE: 18 August 2020

MEMBER: Hartigan IC

HEARD AT: Brisbane

ORDER: **1. *The Queensland Police Service Certified Agreement 2019 is amended.***

CATCHWORDS: INDUSTRIAL LAW – COLLECTIVE BARGAINING – Application for amendment of an agreement – Requirements for amendment – Agreement amended

LEGISLATION: *Industrial Relations Act 2016 (Qld)*, s 225,
s 952ZA

APPEARANCES: Mr R Gillespie of the Public Safety Business
Agency, for the Applicant

Mr L Hodge of the Queensland Police Union of
Employees, for the First Respondent

Mr J Franken of The Queensland Police
Commissioned Officers' Union of Employees,
for the Second Respondent

Reasons for Decision

- [1] The State of Queensland (Queensland Police Service) ("the QPS") has made an application to amend the *Queensland Police Service Certified Agreement 2019* "the agreement") pursuant to s 952ZA of the *Industrial Relations Act 2016 (Qld)* ("the Act").
- [2] The *Community Service Industry (Portable Long Service Leave) Act 2019* has amended the Act by, inter alia, including a new chapter, Chapter 15A, which is titled *Public Sector Response to COVID-19 emergency – maximising security*. Section 952A sets out the main purpose of Chapter 15A, as being to maximise the protection of public sector employment and respond to the financial impact of the COVID-19 emergency, including by temporarily modifying the collective bargaining process under Chapter 4 of the Act.¹
- [3] Chapter 15A, Part 5 modifies the bargaining provisions within the Act. Relevantly, for the purpose of this application, Chapter 15A, Part 5, Division 4 modifies Chapter 4, Part 7 of the Act.
- [4] Section 952ZA falls within Chapter 15A, Part 5, Division 4. Section 952ZA(1) modifies s 225 of the Act to the extent that s 225 (1), (2), (3) and (5)(c) do not apply to an application to amend a certified agreement.
- [5] Section 952ZA(2) provides that the application to amend a certified agreement may only be made by an employer who is a party to the certified agreement.
- [6] Section 952ZA(3) states that the Commission must approve the application if:

¹ *Industrial Relations Act 2016 (Qld)* s 952A(c).

- (a) all employers who are parties to the certified agreement have agreed on the terms of the amendment; and
- (b) a majority of the employers and employee organisations who are parties to the agreement have agreed on the terms of the amendment.

[7] Section 952ZA(4) provides that for subsection (3)(b), all employers who are parties are collectively to be counted as one party.

The proposed amendments

[8] The proposed amendments to the agreement are set out in Attachment A to the Application in the following terms:

1. By inserting a new clause 12(3) as follows:

- (3) A one-off payment of \$1250 (pro-rata for employees working on a part-time basis and casual employees) will be paid to all non-commissioned officers and staff members employed as at 1 July 2020.

2. By deleting clause 13(1) & (2)(a) and inserting the following in lieu thereof:

(1) **Constables**

- (a) Constables commencing on paypoint 1.1 will progress to paypoint 1.2 subject to successful completion of the First Year Constable Program.
- (b) Between paypoints 1.2 to 1.5 Constables progress subject to a minimum of 12 months service on each paypoint, plus Competency Acquisition Program (CAP) or Constable Development Program (CDP) equivalent requirements, and satisfactory Performance and Development Agreement (PDA).
- (c) Constables who have not completed the CDP prior to 29 February 2020, can progress to paypoint 1.6 after serving 2 years on paypoint 1.5, subject to satisfactory PDA. As from 1 March 2020 there will be no further progression to 1.6 and it will be retained as a paypoint for disciplinary sanctions only.

(2) **Progression to Senior Constable**

- (a) As from 1 March 2020, Constables who have completed 12 months service on paypoint 5, plus Competency Acquisition Program (CAP) or Constable Development Program (CDP) equivalent requirements, and obtained satisfactory performance reports will be able to progress to Senior Constable paypoint 1.

Transitional arrangements for officers on paypoint 1.6 and completing CDP requirements

Constables at paypoint 1.6 who had submitted a CDP assessment item between 1 January 2019 and 22 January 2020 and had submitted all assessment items in order to complete year 2 of CDP by 1 March 2020 will commence at Senior Constable paypoint 2.2 when attaining the rank of Senior Constable.

A satisfactory performance report is a report from the officer's PDA supervisor to the effect that:

- (i) The officer's performance was satisfactory during the last completed PDA period;

- (ii) The officer's performance has continued to be satisfactory to the current date; and
- (iii) The officer is capable of undertaking and is likely to satisfactorily perform all of the duties normally undertaken by a Senior Constable in the type of duty and in the location in which the officer currently works.

3. By inserting a new clause 24(7)(j) & (k) as follows:

- (j)
 - (i) Prior to 1 July 2020, if there is a public holiday on which the Service does not require the employee to work, the Service will grant the employee a day off on the public holiday. Such a day off will be referred to on the roster as a "public holiday off". Such public holiday does not count as one of the 7 public holidays that may be rostered in an equity year in accordance with clause 24(7)(a)(iv) of this Agreement.
 - (ii) On or after 1 July 2020, where the employee is not required to work on a public holiday shift, in lieu of the abovementioned "public holiday off" arrangement, the provisions at clause 52(1) may apply.
- (k)
 - (i) The rostering of non-commissioned officers on a PDO or prior to 1 July 2020 on a rest day, on a public holiday, is not allowed. On such public holidays, an officer will either be rostered to work or be granted a day off on the public holiday as per subclause (j) above. Rest days will be rostered on other days within the fortnight.
 - (ii) On or after 1 July 2020, the provisions of subclause (j) above and clause 52 apply.

4. In clause 27 by deleting the rate "79 cents" and inserting in lieu thereof the rate "80 cents".

5. By inserting a new clause 52(1) as follows:

- (1)
 - (a) The rostering of non-commissioned officers on a programmed day off on a public holiday is not allowed. Prior to 1 July 2020, the rostering of a non-commissioned officer on a rest day on a public holiday is not allowed.
 - (b) On or after 1 July 2020, the rostering of non-commissioned officers on a rest day on a public holiday is allowed, provided that an additional day off is provided to the officer to be taken in the same manner as PDOs at clause 23(2)(d) of this Agreement. Any such accrued day off in lieu must be utilised on a rostered work day (excluding a public holiday).
 - (c) For commissioned officers, the rostering of a programmed day off on a public holiday is not advocated.

6. By deleting clause 55(3) and inserting the following in lieu thereof:

- (3)
 - (a) Based on this ability, the Service will implement a State-wide annual leave target for all police officers each year. There will only be one target date each year, being 30 June.
 - (b) The specified targets of accrued annual leave are 342 hours for non-commissioned officers in the Northern and Western parts of the State and 304 hours for non-commissioned officers in the remainder of the State.

- (c) For commissioned officers, the specified targets are 304 hours in the Northern and Western parts of the State and 266 hours in the remainder of the State.
- (d) See clause 20.1 of the Award for a description of the Northern and Western parts of the State. If officers do not voluntarily access appropriate leave, then they may be directed to take leave, provided that such direction is fair and reasonable.

[9] Whilst it is not a necessary consideration for an application to amend an agreement pursuant to s 952ZA of the Act, I note that the proposed amendments provide additional benefits and entitlements to the officers and employees to whom the agreement applies.

Consideration

[10] It is necessary to identify the relevant parties to the agreement when considering the provisions of Chapter 15A, Part 5, Division 4. Clause 3 of the agreement states that the agreement applies to:

- (a) The Commissioner of the Queensland Police Service as the employer;
- (b) The following persons:
 - (i) Police Officers of the Queensland Police Service;
 - (ii) Police Liaison Officers;
 - (iii) Torres Strait Island Police Support Officers;
 - (iv) Employees of the Police Pipes and Drums Band; and
 - (v) Assistant Watchhouse Officers;
- (c) The Queensland Police Union of Employees; and
- (d) The Queensland Police Commissioned Officers' Union of Employees.

[11] The application is made by the QPS and in accordance with s 952ZA(2) of the Act which provides that the application may only be made by an employer who is a party to the certified agreement.

[12] Having regard to the affidavit material filed and the submissions made by the QPS, I am satisfied² that the QPS, being the employer who is a party to the certified agreement, has agreed to the terms of the amendments.

[13] Further, having regard to the affidavit material filed and the submissions made by the QPS together with the submissions made by the Queensland Police Union of Employees,

² In accordance with s 952ZA(3)(a) of the *Industrial Relations Act 2016* (Qld).

I am satisfied³ that a majority of employers and employee organisations⁴ who are parties to the agreement have agreed on the terms of the amendment.

[14] Accordingly, pursuant to s 952ZA(3) of the Act, I must approve the application to amend the agreement.

[15] Pursuant to s 225(4) of the Act,⁵ the amendment takes effect when the Commission's approval takes effect, being 18 August 2020.

[16] The application to amend the Queensland Police Service Certified Agreement 2019 is granted.

[17] I make the following order:

- 1. The *Queensland Police Service Certified Agreement 2019* is amended in the terms of Attachment A to the application.⁶**

³ In accordance with s 952ZA(3)(b) of the *Industrial Relations Act 2016* (Qld).

⁴ The Queensland Police Commissioned Officers' Union of Employees appeared at the hearing and made submissions that although it was not consulted about the terms of the proposed amendments, that it does not object to the amendments being made and recommended to the Commission to approve the amendments.

⁵ Which continues to apply.

⁶ As referred to in [8] herein.