

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *In the termination of the Nurses and Midwives (Queensland Health and Department of Education) Certified Agreement (EB10) 2018 [2022] QIRC 479*

PARTIES: **State of Queensland (Queensland Health and Department of Education)**

AND

Queensland Nurses and Midwives' Union of Employees

The Australian Workers' Union of Employees, Queensland

CASE NO: CB/2022/134

PROCEEDING: Termination of an agreement

DELIVERED ON: 7 December 2022

HEARING DATE: 7 December 2022

MEMBER: O'Connor VP

HEARD AT: Brisbane

ORDER: ***The Nurses and Midwives (Queensland Health and Department of Education) Certified Agreement (EB10) 2018 is terminated.***

CATCHWORDS: INDUSTRIAL LAW - COLLECTIVE BARGAINING - application for termination of agreement after nominal expiry date - requirements for termination - agreement terminated.

LEGISLATION: *Industrial Relations Act 2016, s 228*

APPEARANCES: Ms J. Gardner, State of Queensland (Queensland Health)
Ms H. McAuliffe, State of Queensland (Department of Education)
Ms V. Semple, Queensland Nurses and Midwives' Union of Employees
Mr G. Taylor, The Australian Workers' Union of Employees, Queensland.

Reasons for Decision

- [1] On 2 December 2022, the State of Queensland (Queensland Health) ('the Applicant') applied, pursuant to s 228(1) of the *Industrial Relations Act 2016* ('the Act'), to terminate the *Nurses and Midwives (Queensland Health and Department of Education) Certified Agreement (EB10) 2018* ('the certified agreement').
- [2] The certified agreement has a nominal expiry date of 31 March 2022.
- [3] Section 228(3) of the Act provides:
- (3) The commission must approve the termination if, and must refuse to approve the termination unless, satisfied subsection (2) has been complied with and -
 - (a) for an agreement or determination that provides that it may be terminated if particular conditions are met - the conditions have been met; or
 - (b) for an agreement or determination that does not provide for the way it may be terminated-
 - (i) the other parties to the agreement or determination agree to it being terminated; and
 - (ii) termination of the agreement or determination is not contrary to the public interest.
- [4] I have had regard to:
- the submissions made by the parties who appeared today; and
 - the affidavit of Mr Shaun Drummond, Director-General, Department of Health filed on 2 December 2022.
- [5] The certified agreement does not provide that particular conditions need to be met before it may be terminated.
- [6] I am satisfied that the Applicant has given the requisite notice of its intention to apply to terminate the certified agreement.
- [7] On 2 December 2022, the Applicant made an application, pursuant to s 189 of the Act, to certify the *Nurses and Midwives (Queensland Health and Department of Education) Certified Agreement (EB11) 2022*.
- [8] The Applicant and the following employee organisations have agreed to the terms of the *Nurses and Midwives (Queensland Health and Department of Education) Certified Agreement (EB11) 2022*, as amended, which will replace the certified agreement:
- Queensland Nurses and Midwives' Union of Employees; and
 - The Australian Workers' Union of Employees, Queensland.

[9] I am satisfied that:

- all parties to the certified agreement agree to it being terminated; and
- the termination of the certified agreement is not contrary to the public interest.

[10] Section 228(4) of the Act provides that termination takes effect when the Commission's approval takes effect.

[11] I approve the termination of the *Nurses and Midwives (Queensland Health and Department of Education) Certified Agreement (EB10) 2018* with effect from 7 December 2022.

[12] I make the following order:

The Nurses and Midwives (Queensland Health and Department of Education) Certified Agreement (EB10) 2018 is terminated.