

# QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *In the termination of the Department of Education Certified Agreement 2019 [2023] QIRC 139*

**State of Queensland (Department of Education)**

AND

**Together Queensland, Industrial Union of Employees**

CASE NO.: CB/2023/50

PROCEEDING: Termination of an agreement

DELIVERED ON: 24 May 2023

HEARING DATE: 24 May 2023

MEMBER: Power IC

HEARD AT: Brisbane

ORDER: ***The Department of Education Certified Agreement 2019 is terminated.***

CATCHWORDS: INDUSTRIAL LAW – QUEENSLAND – AGREEMENTS – application for termination of agreement after nominal expiry date – requirements for termination – agreement terminated

LEGISLATION: *Industrial Relations Act 2016* (Qld), ss 189 and 228

APPEARANCES: Ms J. Grant- Vicig and Ms S. Hellmrich for the Department of Education

Mr K. McKay for Together Queensland, Industrial Union of Employees

### Reasons for Decision

- [1] On 15 May 2023, the State of Queensland (Department of Education) ('the Applicant') applied, pursuant to s 228(1) of the *Industrial Relations Act 2016* (Qld) ('the Act'), to terminate the *Department of Education Certified Agreement 2019* ('the certified agreement').
- [2] The certified agreement has a nominal expiry date of 31 August 2022.
- [3] Section 228 of the Act provides:

#### 228 Termination after nominal expiry date

- (1) After the nominal expiry date of a certified agreement or arbitration determination, the following persons may apply to the commission to terminate the agreement or determination—
    - (a) the employer;
    - (b) a valid majority of the relevant employees;
    - (c) an employee organisation to which the agreement or determination applies and that has at least 1 member who is a relevant employee.
  - (2) The person who intends to apply to terminate the agreement or determination must give all other persons to whom the agreement or determination applies notice of the intention.
  - (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) The termination takes effect when the commission's approval takes effect.
- [4] I have had regard to:
- (a) the submissions made by the parties who appeared today; and
  - (b) the affidavit of Ms Helen McAuliffe of the Applicant.
- [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 15 May 2023, the Applicant made an application, pursuant to s 189 of the Act, to certify the *Department of Education Certified Agreement 2022*.

[8] The Applicant and the following employee organisations have agreed to the terms of the *Department of Education Certified Agreement 2022* which will replace the certified agreement:

(a) Together Queensland, Industrial Union of Employees

[9] I am satisfied that:

(a) all parties to the certified agreement agree to it being terminated; and

(b) 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 *Department of Education Certified Agreement 2019* with effect from 24 May 2023.

[12] I make the following order:

**The *Department of Education Certified Agreement 2019* is terminated.**