

**QUEENSLAND INDUSTRIAL RELATIONS COMMISSION**

*Industrial Relations Act 2016 s 458*

The Australian Workers' Union of Employees, Queensland  
*Applicant*

and

State of Queensland  
*Respondent*

*Matter No. B/2023/46*

  
INDUSTRIAL REGISTRAR

14 SEP 2023

  
QUEENSLAND  


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

**SUBMISSIONS OF THE AUSTRALIAN WORKERS' UNION OF EMPLOYEES,  
QUEENSLAND**

**Introduction**

1. It is the submission of The Australian Workers' Union of Employees, Queensland ("**AWUEQ**") that in accordance with the principles of fairness, economic prosperity and social justice, Queensland's award-reliant employees should receive a fair and reasonable pay rise. Furthermore, award wages and allowances should be increased to improve Queensland's award safety net.
2. To this end, the AWUEQ has filed an Application for a General Ruling ("**Application**") seeking an order from the Queensland Industrial Relations Commission ("**QIRC**") to:
  - a. make a general ruling amending all state awards by a wage adjustment 5.75%;
  - b. make a general ruling amending all state awards by increasing existing award allowances which relate to work or conditions which have not changed in service increments by 5.75%;
  - c. increase the Queensland minimum wage by at least 5.75%; and
  - d. determine that the operative date for these amendments be 1 September 2023.
3. As is customary, the Queensland Council of Unions ("**QCU**") and the Together Queensland, Industrial Union of Employees ("**Together**") have filed Applications for a General Ruling seeking identical orders.<sup>1</sup>
4. The AWUEQ has had the benefit of reading the draft submissions of the QCU and Together. The AWUEQ agrees with those submissions and further makes the

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<sup>1</sup> B/2023/48 and B/2023/47 respectively.

following submissions in support of our Application.

### **Legislative background**

5. The submissions of the QCU and Together identify the provisions of the *Industrial Relations Act 2016* (Qld) (“**IR Act**”) that are relevant to our Application, including:
  - a. the provisions of the directly relevant to the making of a General Ruling;
  - b. the main purpose of the IR Act, and how that purpose is to be achieved;
  - c. the QIRC’s requirement to ensure modern awards provide fair and just wages and conditions of employment, and the requirement that modern awards reflect the prevailing employment conditions of the employees covered by those awards; and
  - d. the date from which a General Ruling applies from and the date from which a General Ruling takes effect.
6. The QCU also identify the relevant provision of the IR Act regarding the making of a General Ruling about the Queensland Minimum Wage (“**QMW**”).

### **Adoption of the Annual Wage Review in State Wage Cases**

7. The practice of the QIRC since 2014 is to grant award wage increases and minimum wage increases under the State Wage Case (“**SWC**”) that are consistent with increases to award wages and the national minimum wage ordered by the Fair Work Commission in each year’s Annual Wage Review (“**AWR**”).
8. The rationale for the maintaining consistent decisions between the AWR and the SWC was that the QIRC would need ‘cogent reasons’ for deviating from the ruling of the Fair Work Commission.<sup>2</sup>
9. However, the QIRC qualified that position in its decision in *Declaration of General Ruling (State Wage Case 2022)* [2022] QIRC 340 by saying at [55]:

There is no principle of law that the FWC’s ruling must be accepted unless there are cogent reasons for departure. There is no principle of law that the correctness of the FWC’s ruling must be accepted at all in a Queensland State Wage Case.

10. By way of affidavit, the parties to this year’s SWC have jointly filed affidavits from Mr Gene Tunney of Access Economics and Professor Emeritus David Peetz of Griffith University, which respectively include:
  - a. a statistical report, prepared by Adept Economics, modelled on the Statistical Report – Annual Wage Review 2022-23; and
  - b. a report by Prof. Peetz which *inter alia* examines the relevance of the AWR decision to the SWC.

11. Importantly, Professor Peetz’ report states at [163]:

It is not obvious that there is potentially something specific about Queensland that would raise doubts about the relevance of FWC’s analysis of the economic situation to Queensland. Whatever the rights and wrongs of the analysis, there appear no

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<sup>2</sup> *Application for Declaration of General Ruling (State Wage Case 2014)* [2014] QIRC 129 at [13].

convincing basis for considering it does not apply to Queensland.

12. The evidence of Professor Peetz and Mr Tunney also compares economic conditions in Queensland with those nationally and demonstrate the similarity between economic conditions and those nationally.<sup>3</sup>
13. Notwithstanding the QIRC's comments in the 2022 State Wage Case, the AWUEQ submits that, on the basis of the joint evidence of Mr Tunney and Professor Peetz, there is no cogent reason for the QIRC to deviate from the AWR decision of the Fair Work Commission in respect of the increase to be applied to award wages.
14. Additionally, in the *Annual Wage Review 2022-23*, the national minimum wage was changed to align with the C13 rate as the C14 rate, which the previous national minimum wage had been aligned with. In respect of the historic use of the C14 rate to set the minimum wage, the FWC said that the C14 rate  
  
was only ever intended to constitute a transitional entry rate for new employees. As such, it does not constitute a proper minimum wage safety net for award and agreement free employees in ongoing employment.<sup>4</sup>
15. The QCU's submissions also note the decision of FWC to raise the national minimum wage to the C13 rate, and then submit that the Queensland Minimum Wage should also be aligned with the C13 rate.
16. The AWU also submits that the Queensland Minimum Wage should be raised to the C13 rate. We respectfully submit that there is no cogent reason in Mr Tunney's report or Professor Peetz' report to justify deviating from the decision of the FWC in respect of aligning the minimum wage with the C13 rate.

## **Conclusion**

17. For the reasons given above, the AWUEQ submits that the preferable decision of the QIRC is to:
  - a. make a general ruling amending all state awards by a wage adjustment 5.75%;
  - b. make a general ruling amending all state awards by increasing existing award allowances which relate to work or conditions which have not changed in service increments by 5.75%;
  - c. make a general ruling to increase the Queensland minimum wage to align with the C13 rate, and to increase that rate by at least 5.75%; and
  - d. determine that the operative date for these amendments be 1 September 2023.

**The Australian Workers' Union of Employees, Queensland**  
**14 September 2023**

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<sup>3</sup> QCU submissions at [23] – [25].

<sup>4</sup> *Annual Wage Review 2022-23* [2023] FWCFB 3500 at [8].