

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *In the making of the Queensland Police Service Staff Members Certified Agreement 2023 [2024] QIRC 075*

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

AND

Together Queensland, Industrial Union of Employees

Automotive, Metals, Engineering, Printing and Kindred Industries Industrial Union of Employees, Queensland

The Electrical Trades Union of Employees Queensland

United Workers' Union, Industrial Union of Employees, Queensland

Queensland Nurses and Midwives' Union of Employees

Transport Workers' Union of Australia, Union of Employees (Queensland Branch)

CASE NO: CB/2024/17

PROCEEDING: Application for certification of an agreement

DELIVERED ON: Order made on 22 March 2024; reasons delivered on 2 April 2024.

HEARING DATE: 22 March 2024

MEMBER: Butler IC

HEARD AT: Brisbane

ORDER: ***The Queensland Police Service Staff Members Certified Agreement 2023 is certified.***

- CATCHWORDS: INDUSTRIAL LAW – COLLECTIVE BARGAINING – application for certification of an agreement – requirements for certification – agreement certified
- LEGISLATION: *Industrial Relations Act 2016* (Qld) s 189, s 191, s 196, s 227 and s 228
Industrial Relations (Tribunals) Rules 2011 r 93
- APPEARANCES: Mr G. Patterson and Ms K. Matley for State of Queensland (Queensland Police Service)
- Mr K. McKay of Together Queensland, Industrial Union of Employees
- Mr D. Lacey of Automotive, Metals, Engineering, Printing and Kindred Industries Industrial Union of Employees, Queensland
- Mr A. Nash of United Workers' Union, Industrial Union of Employees, Queensland
- Mr D. Seage of Queensland Nurses and Midwives' Union of Employees

Reasons for Decision

- [1] On 13 March 2024, the State of Queensland (Queensland Police Service) ('the Applicant'), pursuant to s 189 of the *Industrial Relations Act 2016* ('the Act'), made an application to certify the *Queensland Police Service Staff Members Certified Agreement 2023* ('the agreement').
- [2] At hearing on 22 March 2024, I decided that the agreement was certified and indicated I would publish reasons for my decision.
- [3] The named parties to the agreement are the Applicant and the following employee organisations:
1. Together Queensland, Industrial Union of Employees;
 2. Automotive, Metals, Engineering, Printing and Kindred Industries Industrial Union of Employees, Queensland;

3. The Electrical Trades Union of Employees Queensland;
 4. United Workers' Union, Industrial Union of Employees, Queensland;
 5. Queensland Nurses and Midwives' Union of Employees; and
 6. Transport Workers' Union of Australia, Union of Employees (Queensland Branch).
- [4] The agreement applies to various staff members of Queensland Police Service, including employees who are covered by three awards listed in the agreement, and a further cohort of award-free employees who are regarded as operational employees, and who are engaged in aviation.

The scope order

- [5] On the application of Together Queensland, Industrial Union of Employees, a party to this agreement, a scope order was made on 6 July 2023 pursuant to section 185 of the Act in matter number CB/2023/21. The scope order had the effect that the employees to be covered by the agreement that is now the subject of these proceedings were 'scoped out of' bargaining for what is now the *State Government Entities Certified Agreement 2023*. In other words, though the employees covered by the agreement in these proceedings were previously covered by *State Government Entities Certified Agreement 2019*, also known as "the Core agreement," they would be moved out of the coverage of the Core agreement and into a separate, new, agreement covering only Queensland Police Service staff members.
- [6] The Applicant stated that Together Queensland's application for scope orders satisfied the requirement under section 169 of the Act for the giving of notice of intention to bargain. No party sought to contradict this proposition, and I accepted it.

Section 191 time period

- [7] In correspondence to the Industrial Registrar of 13 March 2024, which was subsequently provided to the other parties, the Applicant requested the Commission's urgent assistance and indulgence to provide a listing for hearing at the earliest available time. The correspondence went on to state:
- "A hearing at the Commission's earliest available time is requested to facilitate the expedient processing of the enhanced wages package including back payments to 1 July 2023 to the value of 4% of current wages as well as the first year's cost of living allowance (COLA) payment to the value of 3% of base wages."
- [8] Although various parties agreed on 15 March 2024 to the hearing date being 22 March 2024, the notice of listing was not given until 18 March 2024. This meant that seven days did not elapse between notice being given and the hearing being conducted.

- [9] The Applicant, with the consent of the other parties, made an oral application at hearing for the time limit required under section 191 of the Act to be shortened, pursuant to rule 93 of the *Industrial Relations (Tribunals) Rules 2011*.
- [10] Having regard to the materials filed in support of the substantive application, the correspondence of 13 March 2024, and the unanimous support from all parties present at hearing, I formed the view that circumstances existed for me to exercise my discretion under rule 93 of the *Industrial Relations (Tribunals) Rules 2011* to allow the 7-day period to be shortened, and for the hearing to proceed on 22 March 2024.

Designated awards

- [11] In respect of those award-free employees, the Commission had, in separate proceedings, designated the following awards for the purposes of section 213 of the Act, and of the no disadvantage test:
1. with respect to pilots, the federal *Air Pilots Award 2020*; and
 2. with respect to engineers, the federal *Airline Operations – Ground Staff Award 2020*.

No disadvantage test and the designated awards

- [12] Those designated awards were taken into account in considering the application of the no disadvantage test. No party submitted that the no disadvantage test was not met, having regard to those designated awards.

Section 191 notice and the designated awards

- [13] The notice given pursuant to section 191 did not include within it the designated awards. It was not necessary for it to do so, as they were not designated awards at the time it was issued. However, if I am wrong about that, then, having heard from the parties in this regard, I waive the requirement for the two newly-designated awards to have been included in the notice given pursuant to section 191.

Absence of signatures

- [14] The agreement is signed by the Applicant and three of the above-mentioned union parties. The other three had not signed it. The affidavit evidence of Ms McCarthy was that in accordance with section 196(2)(a) of the Act all parties had agreed on the terms of the proposed agreement, on the basis that the three that had not signed has also not objected. Of those three:
1. the Transport Workers' Union of Australia, Union of Employees (Queensland Branch) neither attended the hearing nor registered any objection; and
 2. the Queensland Nurses and Midwives' Union of Employees was represented at the hearing; and

3. the United Workers' Union, Industrial Union of Employees, Queensland was represented at hearing.

[15] The Queensland Nurses and Midwives' Union of Employees did not oppose certification.

[16] The representative of the United Workers' Union, Industrial Union of Employees, Queensland ('UWU') informed the Commission and other parties about ongoing correspondence between the union and the Applicant regarding certain classifications. He confirmed that the Commission could, notwithstanding that correspondence, form the requisite satisfaction for the purposes of section 196(2) of the Act.

[17] Having heard from UWU and the Applicant in that regard at hearing, I was satisfied that that correspondence between them was not inconsistent with a finding that all of the parties had reached the requisite agreement for the purposes of section 196 of the Act.

[18] Having regard to all parties' submissions and the affidavits referred to above, I was satisfied that all parties had agreed on the terms of the agreement, and that the agreement was approved by a valid majority of the relevant employees at the time in a properly conducted ballot.

Further consideration

[19] Having regard to the submissions made by the parties who appeared at the hearing on 22 March 2024, to the affidavit of Ms Sinead McCarthy, Deputy Chief Executive, Queensland Police Service of 13 March 2024, to the affidavit of Mr Gary Patterson, Director, Employee Relations, Queensland Police Service, of 13 March 2024:

1. I was satisfied of each relevant requirement in Chapter 4, Part 5, Division 2, Sub-division 2 of the Act; and
2. there is nothing in the agreement which would have required me to refuse to grant the application pursuant to Chapter 4, Part 5, Division 2, Sub-division 3 of the Act.

[20] The application for certification was made within a reasonable time after the proposed agreement was approved.

Certification

[21] The *Queensland Police Service Staff Members Certified Agreement 2023* is certified.

[22] The *Queensland Police Service Staff Members Certified Agreement 2023* operates from the day it was certified, namely 22 March 2024.

[23] Although the nominal expiry date of the *Queensland Police Service Staff Members Certified Agreement 2023* is 30 June 2026, it continues to operate until it is terminated under s 227 or s 228 of the Act.

Order

[24] At hearing on 22 March 2024, I made the following order:

The Queensland Police Service Staff Members Certified Agreement 2023 is certified.