

29 AUG 2024



QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 2016 – s 458

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

Re: STATE WAGE CASE 2022 – Matter Nos B/2024/50, B/2023/51

Submissions in Reply

**Together Queensland, Industrial Union of Employees
29 August 2024**



Introduction

1. These submissions are made in response to the submissions filed by the State of Queensland (the State) on 19 August 2024. Together has no coverage within the local government sector and leaves the response to the Local Government Association of Qld's submissions to the Queensland Council of Unions (QCU). Together has also had the benefit of reviewing the QCU submissions and agrees and supports those submissions as they relate to Together's coverage areas.
2. The position advanced by the State is that it supports:
 - a. a fair and reasonable increase to all State award rates of pay;
 - b. a fair and reasonable increase to modern award allowances which relate to work or conditions which have not changed in service increments;
 - c. a fair and reasonable increase in the QMW; and
 - d. an operative date of 1 September 2024.

Fair and Reasonable

3. The State supports a "fair and reasonable" increase to all State award rates of pay, relevant modern award allowances and the Queensland Minimum Wage (QMW) without proffering a view on what such an increase would be.
4. As noted in the 2023 State Wage Case, the Full Bench has an "overarching responsibility to ensure, amongst other things, that employees are covered by fair and reasonable wages that allow them to participate in society and that those who do not benefit from bargaining are not left behind."¹
5. The scheme of the Act is one in which the primary mechanism for achieving increases is through enterprise bargaining, and there is primacy of collective bargaining as the means for determining wages². Such bargaining is not done in isolation, however. It is done in the context of bargaining above an award framework that has been established by the Commission exercising its statutory powers under ss 141 and 142 of the Act.
6. The modern awards objective contained in s134 of the *Fair Work Act 2009* is similar, though not identical in its terms, to the requirements set out in ss 141 and 142 of the Act. In exercising its obligations under that Act, the Fair Work Commission undertakes a significant forensic process taking several months, with detailed expert evidence and submissions from Federal and State Government, peak bodies and unions.

¹ Declaration of General Ruling (State Wage Case 2023) (No 3) [2024] QIRC 111, [141].

² *Ibid* [144]

7. As part of the forensic comparative exercise undertaken in the 2023 SWC, the Full Bench noted the following:

[156] In undertaking the forensic task associated with the 2023 SWC, it has become apparent to the Full Bench that there is no significant difference in the economic patterns for Queensland and nationally. Indeed, the evidence of Professor Peetz observes that:

... [I]t would take quite a large difference between a Queensland estimate and the national estimate on any particular matter for me to conclude that there was potentially something specific about Queensland that raised doubts about the relevance of the FWC's analysis of the economic situation to Queensland.

[157] The evidence before the Full Bench does not suggest that there is a basis for considering that the analysis undertaken by the FWC does not have application to Queensland. We accept that the FWC determination encompasses a consideration of the economic impact of a variety of factors upon the national industrial environment. The assessment of those factors as reflected in the FWC determination will generally be relevant to determination of the Queensland state wage case. It follows therefore, that the FWC will be a significant factor considered by the Full Bench in determining the state wage case.

[158] Whilst future state wage cases will not be attended by the same level of detail it will nevertheless be necessary for the Full Bench to undertake an evaluative function having regard to the matters in ss 141 and 142 of the IR Act and assessing the qualities of the safety net by reference to the statutory criteria to ensure that the Commission establishes and maintains wages that are fair and just.

8. Together submits that it is clear, considering that passage in its entirety, view expressed by the Full Bench that the forensic analysis undertaken by the FWC in the annual review will generally be relevant was not an observation confined to the particular 5.75% increase in 2023 but was a more enduring statement.

9. It follows that the evidence required to justify disregarding the FWC analysis with respect to what is “fair and reasonable” will need to demonstrate, “*quite a large difference between a Queensland estimate and the national estimate on any particular matter*”, minor deviations will not suffice.

Economic Evidence

10. The evidence before the Commission in 2024 does not reveal such a ‘large difference’.

11. Further, it does not support the State’s submissions at [44.b.]. The State submits that there is an apparent trend of Brisbane’s CPI being higher than the national figure. Putting aside the danger in trying to identify a ‘trend’ based on two figures, the fact is the State has either misread or misrepresented the data. In 2023 the June Quarter CPI Brisbane figure was 0.3% *higher* than the Brisbane figure, this year it is 0.4% *lower*.

Jurisdictional Comparators

12. At [42. c.] and [47] of the State’s submissions there is apparent critique of Together’s submissions of comparable collective agreement coverage of Public Servants in the Federal Jurisdiction

contained at [27-28] of Together's primary submissions. Any suggestion that the whole of the workforce covered by the AWR is a fair comparator with the whole of the workforce covered by the State Wage Case is unsustainable.

13. As per the State's submissions at [13] there are two groups of employees affected by the State decision, those employees who are covered by an award, but are not covered by a certified agreement; and employees who are covered by a certified agreement where the rate of pay prescribed in the agreement may be subject to adjustment by the State Wage Case outcome, or where the relevant award rate of pay may exceed the agreement rate and the award rate is to apply.

14. Yet the group of employees with the characteristics set out in [46] of the State's submissions are specifically those Award reliant employees under the Federal system, not those on collective agreements that are underpinned by the Award.

15. Employees under collective agreements under the *Fair Work Act 2009* are also in the situation that should the Award rates become higher than the Agreement rates, the Award rates would prevail.³ Therefore the proper comparator in the Fair Work system is Public Sector employees, who also enjoy the benefit of higher rates of pay and collective agreement coverage but whose Awards will increase by 3.75%.

Conclusion

16. Together Qld submits:

- a. The evidence before the Commission discloses there are no particular factors which would indicate the Queensland economic and social are manifestly different from those experienced by equivalent workers in the Federal system.
- b. An increase of the quantum decided by the FWC that maintains some of the value of real wages as well as the living standards for award wage reliant workers is economically responsible and protects the low paid.
- c. A general ruling in the terms requested is fair and appropriate.

Together Queensland, Industrial Union of Employees

³ s206 of the Fair Work Act 2009