

07 AUG 2024

QUEENSLAND

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 2016 – s 458

Queensland Council of Unions
Together Queensland, Industrial Union of Employees
Applicants

v

State of Queensland
Respondent

Matter Nos. B/2024/50 and B/2024/51

**APPLICATION FOR A DECLARATION OF GENERAL RULING
STATE WAGE CASE 2024**

SUBMISSIONS OF THE QUEENSLAND COUNCIL OF UNIONS

Introduction

1. The Queensland Council of Unions (QCU) is Queensland's peak union body representing 28 affiliated unions and 400,000 union members.
2. On 4 June 2024, the QCU filed an application with the Industrial Registrar seeking a general ruling pursuant to section 458 of the *Industrial Relations Act 2016 (IR Act)* regarding wage and allowance adjustments for award employees, as well as the Queensland minimum wage.
3. These submissions are made in support of that application.

The QCU Position

4. On 3 June 2024, the Fair Work Commission Expert Panel (FWC) handed down its *Annual Wage Review Decision 2023-24 (AWR Decision)* granting a 3.75% increase to all federal

modern award minimum wages, as well as the National Minimum Wage (NMW) increasing it to \$915.90 per week or \$24.10 per hour.¹

5. The QCU consider this outcome to be fair and just in light of the material considered by the FWC in reaching its decision and, in the absence of any evidence to suggest otherwise (which we emphasise in our submissions below), also consider it to be fair and just for the Queensland Industrial Relations Commission (**Commission**) to deliver a comparable outcome for Queensland workers who are not national system employees.
6. Therefore, the QCU application accordingly seeks the following from the Commission:
 - (a) a general ruling amending all state awards by a wage adjustment of 3.75%; and
 - (b) 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 3.75%; and
 - (c) an increase to the Queensland Minimum Wage (**QMW**) of 3.75%; and
 - (d) a determination that the operative date for these amendments be 1 September 2024.

Submissions in Support of the QCU Position

Legislative Framework

7. The legislative framework in which the Commission must determine the State Wage Case (SWC) is set out in the IR Act.²
8. Relevantly, it is a main purpose of the IR Act to provide for a framework for cooperative industrial relations that is fair and balanced,³ which is to be achieved by:
 - (a) providing for a fair and equitable framework of employment standards, awards, determinations, orders and agreements;⁴ and
 - (b) providing for a guaranteed safety net of fair, relevant and enforceable minimum employment conditions through the Queensland Employment Standards;⁵ and

¹ [2024] FWCFB 3500.

² *Industrial Relations Act 2016* ss 3, 4, 141–143, 458–460.

³ *Ibid* s 3(a).

⁴ *Ibid* s 4(d).

⁵ *Ibid* s 4(f).

- (c) ensuring wages and employment conditions provide fair standards in relation to living standards prevailing in the community;⁶ and
 - (d) ensuring equal remuneration for work of equal or comparable value.⁷
9. Further, in exercising its powers in relation to minimum wages in modern awards, the Commission must establish and maintain minimum wages that are fair and just,⁸ and must have regard to the following:
- (a) the prevailing employment conditions of employees;⁹ and
 - (b) relative living standards and the needs of low-paid employees;¹⁰ and
 - (c) the need to promote social inclusion through increased workforce participation;¹¹ and
 - (d) the need to promote flexible modern work practices and the efficient and productive performance of work;¹² and
 - (e) the need to ensure equal remuneration for work of equal or comparable value;¹³ and
 - (f) the efficiency and effectiveness of the economy, including productivity, inflation and the desirability of achieving a high level of employment.¹⁴
10. The Commission must also ensure that modern awards provide fair standards for employees in the context of living standards generally prevailing in the community.¹⁵
11. Sections 458–460 of the IR Act provide the Commission with various powers in relation to making the general ruling sought by the QCU. Specifically, the IR Act confers the power to make:
- (a) a general ruling amending all state awards by a wage adjustment of 3.75% under sections 458(1)(a) and 460; and
 - (b) a general ruling increasing the QMW by 3.75% under section 458(1)(b).

⁶ Ibid s 4(g).

⁷ Ibid s 4(j).

⁸ Ibid s 142(1).

⁹ Ibid s 142(2)(a).

¹⁰ Ibid ss 142(2)(b), 141(2)(a).

¹¹ Ibid ss 142(2)(b), 141(2)(b).

¹² Ibid ss 142(2)(b), 141(2)(c).

¹³ Ibid ss 142(2)(b), 141(2)(d).

¹⁴ Ibid ss 142(2)(b), 141(2)(f).

¹⁵ Ibid s 143(1)(i).

Relevance and Significance of the FWC's AWR Decision to the SWC

12. The relevance and significance of the FWC's AWR Decision to the SWC was considered in detail in the evidence of Professor David Peetz (**Professor Peetz**) in the *State Wage Case 2023 (2023 SWC)*.¹⁶

13. Notably, Professor Peetz's evidence identified that:

- (a) The economic considerations relevant to the AWR Decision and the SWC are similar;¹⁷ and
- (b) While there is sectoral difference between the state and federal jurisdictions the needs of the low paid as they relate to public sector employees are already taken into account by the FWC when it makes its AWR Decision as demographically similar groups also exist within the national jurisdiction;¹⁸ and
- (c) It would take quite a large difference between a Queensland estimate and the national estimate on any particular matter for doubts to be raised about the relevance of the FWC's analysis of the economic situation to Queensland;¹⁹ and
- (d) There appears no convincing basis for considering the AWR Decision does not apply to Queensland.²⁰

14. In its consideration of Professor Peetz's evidence, the Full Bench of the 2023 SWC concurred with his view observing that '[t]he conclusion of [Professor Peetz's evidence] was that no large differences emerged between the patterns for Queensland and nationally and, accordingly no basis arose for considering the assessment does not apply to Queensland'.²¹

15. Further, it was observed that 'the FWC determination encompasses a consideration of the economic impact of a variety of factors upon the national industrial environment' and that '[t]he assessment of those factors as reflected in the FWC determination will generally be relevant to determination of the Queensland [SWC]'.²²

¹⁶ *Declaration of General Ruling (State Wage Case 2023) (No 3)* [2024] QIRC 111, [24].

¹⁷ *Ibid* [25].

¹⁸ *Ibid*.

¹⁹ *Ibid* [59].

²⁰ *Ibid* [60].

²¹ *Ibid* [58].

²² *Ibid* [157].

16. Ultimately, the Full Bench of the 2023 SWC concluded that the FWC's AWR Decision 'will be a significant factor considered by the Full Bench in determining the [SWC]'.²³

Economic Conditions in Queensland

17. Analysis of the economic conditions in Queensland demonstrates that they are consistent with the economic conditions nationally, including as reported and considered by the FWC at the time of making their AWR Decision.

18. Relevantly, the evidence of Ms Jacqueline King identifies that:

- (a) 'Forecasts for State Final Demand and Gross State Product are slightly better than national Gross Domestic Product, but broadly follow a similar pattern';²⁴ and
- (b) 'There are minor differences between inflation in Brisbane and nationally, with the national Consumer Price Index (CPI) for the 12 months to the June quarter 2024 reported at 3.8 per cent and Brisbane's CPI reported at 3.4 per cent, and forecasts following a similar pattern';²⁵ and
- (c) Labour market forecasts in Queensland 'follow a broadly similar pattern' to the national forecasts;²⁶ and
- (d) 'National employment growth is forecast to grow by 2 ¼ per cent in 2023-24, similar to Queensland's employment growth forecast of 2 ¾ per cent for the same period';²⁷ and
- (e) '[T]he [labour force] participation rate in Queensland is slightly better than nationally (67.3 per cent for the June quarter 2024 in Queensland compared to 66.8 per cent nationally)';²⁸ and
- (f) '[T]he unemployment rate for the June quarter 2024 was the same in Queensland as nationally (4 per cent)';²⁹ and
- (g) 'The Wage Price Index grew by ½ a per cent more in Queensland in the March quarter 2024 (4.6 per cent in Queensland compared to 4.1 per cent nationally) and is forecast to moderate in 2024-25 consistent with the national forecast';³⁰ and

²³ Ibid.

²⁴ Affidavit of Ms Jacqueline King filed 7 August 2024, [10].

²⁵ Ibid [11].

²⁶ Ibid [12].

²⁷ Ibid.

²⁸ Ibid.

²⁹ Ibid.

³⁰ Ibid [13].

- (h) ‘Business conditions in Queensland are consistent with national conditions, particularly with respect to business investment forecasts, business entries and exits, and business survival rates’;³¹ and
- (i) ‘Business profitability and confidence is also broadly consistent with national conditions’.³²

19. Noting that the evidence of Professor Peetz in the 2023 SWC was that the difference of 0.3% in the inflation rate is not significant,³³ there appears to be no large differences between the economic conditions in Queensland and nationally. The QCU therefore submits that no basis arises for considering the FWC’s assessment in their AWR Decision does not apply to Queensland, and this ought to be a significant factor weighing in favour of the General Ruling sought by the QCU.

20. In the 2023 SWC, the Full Bench also observed that ‘[i]n circumstances where the economic data indicates that the economic analysis conducted by the FWC of the national economy is substantially the same as that of the Queensland economy, there is no cogent reason to depart from the FWC decision’.³⁴ In review of the evidence, the QCU further submits that it is appropriate for the Commission to adopt this approach again in 2024.

21. In the alternative, the QCU submits that any changes in the economic conditions since the FWC made their decision are not sufficient to warrant the Commission deviating from the FWC’s AWR Decision. This accords with the view expressed by the Full Bench in the *State Wage Case 2014*.³⁵

Relative Living Standards and the Needs of Low-Paid Employees

22. The ‘low paid’ benchmark adopted by the FWC is two-thirds of median adult ordinary-time earnings of all full-time employees, and there are two measures for this benchmark derived from Australian Bureau of Statistics (ABS) data for *Characteristics of Employment (COE)* for August 2023 and *Employee Earnings and Hours (EEH)* for May 2023.³⁶

³¹ Ibid [14].

³² Ibid.

³³ *Declaration of General Ruling (State Wage Case 2023) (No 3)* [2024] QIRC 111, [77].

³⁴ Ibid [63].

³⁵ *Declaration of General Ruling (State Wage Case 2014)* [2014] QIRC 129, [29]–[30].

³⁶ [2024] FWCFB 3500, [72]; Affidavit of Ms Jacqueline King filed 7 August 2024, [15].

23. Using this data, the FWC identify the national low paid benchmark as \$1066.67 per week based on COE data and \$1131.33 per week based on EEH data.³⁷
24. It is evident from the relevant ABS data that this benchmark is slightly lower in Queensland being \$1031.32 per week based on COE data and \$1129.32 per week based on EEH data.³⁸
25. In the evidence of Ms Jacqueline King, 'there are a significant number of classifications across multiple modern awards that fall below the Queensland low-paid benchmark'.³⁹
26. For example:
- (a) The current award rate per week for the C13 classification in the *Brisbane City Council Operational and Trade Employees Award – State 2016* is \$918.50 and would require an increase of 12.28% to meet the Queensland low-paid benchmark (the award rate for the C13 classification would also require the same increase in other awards such as the *Building, Engineering and Maintenance Services Employees (Queensland Government) Award – State 2016*); and
 - (b) The current award rates per week for all Health, Sports and Fitness Services classifications under the *Queensland Local Government Industry (Stream B) Award – State 2017*, except for the Fitness therapist, level 6 classification, are below the Queensland low-paid benchmark with more than half (10 out of 18) of the relevant classifications receiving a current award rate per week of \$933 (this rate would require a 10.54% increase to meet the Queensland low-paid benchmark); and
 - (c) The current award rate per fortnight for the C11 classification in the *Building, Engineering and Maintenance Services Employees (Queensland Government) Award – State 2016*, the CW3 classification in the *Civil Construction, Operations and Maintenance General Award – State 2016*, the Hospitality stream Wage Level 3 classification in the *General Employees (Queensland Government Departments) and Other Employees Award – State 2015*, and the BW 1 classification in the *Stadiums Queensland Employees Award – State 2016* is \$1,947 and would require an increase of 5.94% to meet the Queensland low-paid benchmark.⁴⁰

³⁷ [2024] FWCFB 3500, [72]; Affidavit of Ms Jacqueline King filed 7 August 2024, [15].

³⁸ ABS, *Characteristics of Employment, Australia* (Cat No. 6337.0 – Table 2); ABS, *Employee Earnings and Hours, Australia* (Data cube 8 – Table 14); Affidavit of Ms Jacqueline King filed 7 August 2024, [15].

³⁹ Affidavit of Ms Jacqueline King filed 7 August 2024, [18].

⁴⁰ Exhibit JK-2 of the Affidavit of Ms Jacqueline King filed 7 August 2024.

27. The current award rate for various trade qualified classifications such as the C10 classification in the *Building, Engineering and Maintenance Services Employees (Queensland Government) Award – State 2016*, the CW5 classification in the *Civil Construction, Operations and Maintenance General Award – State 2016* and the BT 1 classification in the *Stadiums Queensland Employees Award – State 2016* are also currently below the Queensland low-paid benchmark.⁴¹ However, an increase of 3.75% to these rates will lift them above the low-paid benchmark.⁴²
28. The QCU therefore submits that a wage adjustment of 3.75% to modern award minimum wages is fair and just as it will ensure the needs of low-paid employees in the Queensland jurisdiction are reasonably met and that the minimum wages for trade qualified employees and employees performing work of comparable value reflect a wage that is in excess of the Queensland low-paid benchmark.
29. Further, the Queensland Government recognises declining real wage growth as a significant problem,⁴³ and, as affirmed by the FWC, it is desirable that modern award minimum wages maintain their real value.⁴⁴ The QCU therefore implore the Commission to ensure that the real wages of Queensland’s low paid employees do not go backwards.

Operative Date

30. Historically, the operative date for SWC general rulings has been 1 September of the relevant year.⁴⁵
31. The QCU seeks a continuation of this approach as it provides all interested parties with certainty with respect to the timing of the operation of the SWC decision.⁴⁶

⁴¹ Ibid.

⁴² Ibid.

⁴³ *Queensland Government Submission to the Fair Work Commission Annual Wage Review 2023-24* (March 2024) 16.

⁴⁴ [2024] FWCFB 3500, [154].

⁴⁵ See, e.g., *Declaration of General Ruling (State Wage Case 2017)* [2017] QIRC 081, [34]; *Declaration of General Ruling (State Wage Case 2022)* [2022] QIRC 340, [9].

⁴⁶ *Declaration of General Ruling (State Wage Case 2023) (No 3)* [2024] QIRC 111, [73].

Conclusion

32. For the reasons set out above, the QCU considers it fair and just for the Commission to adopt the FWC's AWR Decision.

Dated: 7 August 2024