QUEENSLAND INDUSTRIAL RELATIONS COMMISSION QUEENSLAND

Industrial Relations Act 2016 – s 458

APPLICATION FOR A DECLARATION OF GENERAL RULING

STATE WAGE CASE

Re: STATE WAGE CASE 2022 – Matter Nos B/2025/49, B/2025/50

Together Queensland, Industrial Union of Employees- Submissions in Reply

12 August 2025

Introduction

1. These submissions are made in response to the submissions filed by the State of Queensland (the State) on 25 July 2025. 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 the QMW;

   b. A fair and reasonable increase to all State award rates of pay and allowances; and

   c. an operative date of 1 September 2025.

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]

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

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 wages.[2] 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.

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

> *[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.*
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> *[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. The evidence filed by the State is to the effect that 'the outlook for the Queensland and national economies, including the labour market, are broadly similar' and the Queensland economy 'is largely consistent with the national economy in per capita terms'.[3]

9. That being the case, it is submitted that it should be considered that there is no basis for considering that the analysis undertaken by the FWC does not have application to Queensland. Therefore, the Full Bench can be satisfied that the economic analysis conducted by the FWC of the national economy is substantially the same as that of the Queensland economy, and consequently, there is no cogent reason to depart from the FWC decision of a 3.5% increase.

Relevance of the 2025 AWR

10. At [33], the State averts to provisions of the IR Act which allow for the incorporation of certified agreement rates into award rates. So much can be accepted. However, that is of no

[2] Ibid [144].
[3] Affidavit of Dennis Patrick Molloy filed 25 July 2025, [7.9].

moment in the present circumstances. Whilst it is true that certified agreement rates were flowed into the award rates, by consent, in 2011, since that time, there have been 13 State Wage Cases where new rates have been set on the basis that those rates are necessary to achieve wages which are fair and just. Additionally, the Modern Award process in 2015/2016 saw new Awards made with rates set as fair and reasonable at that time.

11. Contrary to the State's submissions at [35], there is no evidence that enterprise bargaining occurs less regularly in the National system. Paragraph 25 of the affidavit of Mr Donovan does not support that contention. All that Mr Donovan's affidavit does at paragraph 25 is note the proportionate Federal workers who are covered by a certified agreement. Whilst it is true that proportionally the percentage of the Federal workforce covered by certified agreements is less, then absolute numbers are substantially more than the number of workers covered by a certified agreement in Queensland. All of that being said, it does not establish the proposition that enterprise bargaining occurs less frequently or regularly at the Federal level.

12. At [39], the State notes that there are few Queensland workers who answer the description adopted by the Fair Work Commission of low paid. So much can be accepted. Once again, that is of limited utility. Whilst the needs of the low-paid were a matter taken into account by the Fair Work Commission, the 2025 AWR did not bifurcate the increases made to Federal awards. That is, it did not increase the lower classifications by a higher amount and the higher classifications by a lower amount. Rather, it found that the increase of 3.5% to all classifications was appropriate in the economic circumstances.

13. The State's submission at [40] mischaracterises the 2025 AWR. The Fair Work Commission said at [6] "The principal consideration which has guided our decision is the fact that, since July 2021, the real value of modern award wages (at the benchmark C10 rate) has declined by 4.5 percentage points relative to inflation as measured by the Consumer Price Index (CPI)." (Emphasis added) The principal consideration was the impact of inflation on all award wages. This point was demonstrated by reference to the C10 rate. However, the C10 rate has not been more significantly impacted by inflation than the other rates. This error is repeated by the State again at [54] of its submissions.

Nature of the Federal Workforce

14. Contrary to the State's submission at [59], TQ does not submit that there is no difference between the State and Federal workforce. At [24], TQ expressly conceded that point. For the reason explained in TQ's primary submissions and below, that is of limited relevance to the Commission's task in this application.

15. The submission at [60] of the State's submissions is, with respect, misconceived. The applicants filed evidence, in the form of the Statement of Agreed Facts, which identified, by reference to the primary economic data, the economic indicators considered by the Fair Work Commission and the equivalent economic indicators for that same period as it applied to Queensland. This was evidence necessary to demonstrate that there was no material difference between the economic conditions that prevailed nationally and those that prevailed in Queensland. The State concedes this to be the case in its submissions. In those circumstances, there is no basis for the criticism levelled against the applicants.

16. The submission at [61] is similarly misplaced. TQ accepts that there are differences between the workforce. TQ's primary position is that it makes no difference. There are cohorts of the Federal workforce that closely resemble the workforce covered by the Queensland State system. The 2025 AWR decision decided to increase the award of pay for the Federal workers, which mirrored the State workforce. In circumstances where the FWC did not consider that there was any material need to differentiate between the groups of workers who are not present in the Queensland system and those that are, there is simply no basis for this Commission to use that difference to depart from the 2025 AWR.

17. At [62] of the State's submissions there is critique of Together's submissions that the national system employees that could be considered fair comparators are state or federal Public Servants in the Federal Jurisdiction. Further, the State submits, that such comparators are not supported by previous SWC decisions. It is submitted that this is because there has never been deliberate consideration of what such appropriate comparators may be.

18. 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. It is undoubtedly the case that the percentage of employees in the Federal System that are Award reliant is somewhat higher. It is also the case that there are some cohorts within the Federal System that earn less than employees in the State System. It is acknowledged that the consideration of the low paid are also more acute in the Federal system.

19. However, there are cohorts in the Federal system that are comparable to State Public Servants, i.e. Victorian Public Servants and Federal Public Servants living in Queensland (Annex A provides more details on those cohorts). There are also cohorts that are highly paid, i.e. pilots. The Award increases determined by the AWR apply to all of those cohorts.

20. It is submitted that the observation of Professor Peetz in the 2023 SWC hearing that high rates of collective agreement coverage are a feature of the public sector in both the federal and state jurisdictions remains valid.

21. Despite the high level of collective agreements, the 2025 AWR still varied the modern awards that applied to that cohort of public servants. That is because the proper setting of Award wages is an integral part of the legislative scheme. It impacts directly and indirectly through the setting of a benchmark for the application of the BOOT. The same observation applies to the SWC and the scheme of the IR Act.

22. Further, unlike the Federal jurisdiction, a substantial number of the collective bargains concerning the Queensland public sector set the rate of pay by reference to the rate contained in the Award. That is another powerful reason in favour of making a general ruling in line with the AWR.

23. 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.[4] 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

24. 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

12 August 2025

[4] s206 of the Fair Work Act 2009.

Annex A to
Together Qld Submissions in Reply
Dated 12 August 2025

1. **Victorian Public Servants**. The Victorian Government referred most of its industrial relations powers to the Commonwealth Government in 1997. As a result, there are several Federal Modern Awards subject to the AWR that cover Victorian Public Servants, including:

a. Victorian Government Schools - Early Childhood - Award 2016 [MA000152]

b. Victorian Government Schools Award 2016 [MA000155]

c. Victorian Public Service Award 2016 [MA000135], and

d. Victorian State Government Agencies Award 2015 [MA000134]

2. According to the Victorian Public Sector Commission approximately 76% of Victorian Public Service Employees are employed under the *VPS Enterprise Agreement 2020* with the remaining 24% are employed under four specific occupational group agreements.[5]

3. **Federal Public Servants working in Queensland**. According to the Australian Public Service Employment Release Tables – 31 December 2024; Table 13[6], there were 25, 573 Federal Public Servants working in Queensland as of 31 December 2024. That table shows that Federal Public Servants in Queensland, like their colleagues in other states, were dispersed across numerous Agencies.

4. The APS Remuneration data as of 31 December 2023, Table 14[7] shows that 76. 7% of Federal Public Servants were employed under Enterprise Agreements, with a further 22.8% employed under PS Act Determinations. Only 0.5% of Federal Public Servants are employed under common law arrangements.

[5] https://www.vpsc.vic.gov.au/workforce-data-state-of-the-public-sector/employee-and-executive-pay-leave-and-work-arrangements/employee-occupations-and-pay-grades/
[6] https://www.apsc.gov.au/employment-data/aps-employment-data-31-december-2024
[7] https://www.apsc.gov.au/remuneration-reports/aps-remuneration-data-31-december-2023/appendix-3-data-tables