2010
2011

2010-11 Annual Report

of the President of the Industrial Court of Queensland

in respect of the Industrial Court of Queensland Queensland Industrial Relations Commission and Queensland Industrial Registry

Industrial Court of Queensland

October 2011

The Honourable Cameron Dick, MP
Attorney-General and Minister for Industrial Relations
Level 18, State Law Building
50 Ann Street
BRISBANE Qld 4000

Dear Minister

I have the honour to furnish to you for presentation to Parliament, as required by section 252 of the *Industrial Relations Act 1999*, the Annual Report on the work of the Industrial Court of Queensland, the Queensland Industrial Relations Commission, the Industrial Registry and generally on the operation of the *Industrial Relations Act 1999* for the financial year ended 30 June 2011. The report relating to the Industrial Registry has been prepared by the Industrial Registrar whose assistance is acknowledged.

D.R. Hall, President

Industrial Court of Queensland

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Contents

OVERVIEW

The 2010-2011 reporting year saw the first 12 month period, since 2006, where the work of the Queensland Industrial Relations Commission (QIRC) has not been impacted by the Commonwealth Governments workplace relations agenda.

The Commission still has responsibility for all employment and industrial relations matters affecting Queensland's public sector, local government and many statutory authorities' employees and is now "building for the future" to better serve a more specialised client base.

There are eight Members of the Commission.

In terms of the C'wth *Fair Work Act 2009*, one Queensland Deputy President and one Commissioner, whilst retaining their commission with the State Commission, were also appointed as Members of Fair Work Australia as from 1 January 2010. Four hundred and six matters were dealt with between 1 July 2010 and 30 June 2011.

Commissioner Brown is performing in the role of Queensland Workplace Rights Ombudsman and has been since 1 July 2007. In this role he remains an ongoing Member of the Commission. However, legislatively, up to 31 December 2010, he was prevented from performing the functions of a Member of the Commission whilst performing as Ombudsman. As of 1 January 2011, he now works part-time as the Ombudsman and part-time as a Commissioner.

The Commission continues to provide solutions to employees and others who have suffered wrongs in employment and industrial matters.

It provides a low-cost, independent forum that assists parties to resolve industrial disputes, set benchmark wages and conditions, and provides a forum to test the validity of dismissal decisions.

In addition, the responsibilities of the Commission outside the industrial relations system have increased.

Since 1 November 2010, the Queensland Industrial Relations Commission was given sole jurisdiction to hear certain appeals from decisions of Q-COMP. Three hundred and fifteen matters were filed during the reporting year. Whilst not all of those matters will go to a hearing, the preparation of documents and preliminary procedural steps undertaken for each matter filed, impacted the workload of the Registry and as cases reach fruition the Commission's workload will increase significantly.

The Commission also has significant jurisdiction over workplace health and safety matters, vocational education and training, trading hours, child employment and private employment agents.

During the year there were 1,397 matters filed pursuant to the various Acts within the QIRC 's jurisdiction in the Industrial Registry.

Significant issues dealt with under the *Industrial Relations Act 1999* during the reporting period and dealt with more fully elsewhere in this report include: this year's State Wage Case; the arbitration of two significant certified agreements; the proposed amalgamation of two major Unions (QPSU and AMACS); the continuation of the Award Review 2010; an increased number of allowable trading hours matters; a large number of appeals filed against Q-COMP Review decisions and the low-cost common law jurisdiction avenues for employees.

During the last 12 months the Commission and Registry have been developing a number of initiatives aimed at better serving all Queenslanders, particularly in the areas of industrial relations, Q-COMP appeals and work health and safety matters.

A review of the *Industrial Relations (Tribunals) Rules 2000* rules has been initiated to ensure they are up to date and meet current and emerging business processes, particularly reflecting electronic services now available to the Registry.

With the advent of the QIRC having sole jurisdiction to certain appeals against Q-COMP decisions, following meetings with various stakeholders, the Commission has revised business practices and proceedings to better deal with these types of matters. Further amendments are proposed to the Rules to cater for these changes.

The *Work Health and Safety Act 2011* was assented to on 6 June 2011 and replaces the *Workplace Health and*

Safety Act 1995, amending various other Acts which come under the jurisdiction of the QIRC. Registry staff have been liaising with Departmental staff with a view of introducing new Rules to cater for the legislative changes that are expected to commence on 1 January 2012.

Industrial Registry

On 30 July 2010 the Industrial Registry relocated from level 18 to level 13 of CP2, to jointly occupy the same floor as the QIRC and Industrial Court of Queensland.

During the year, the Industrial Registry transitioned its Corporate and Information Technology services support to the services used by DJAG.

The Registrar completed a reassessment of roles and responsibilities of all Registry staff and implemented a new organisational structure aligned to best support the Commission and the Queensland public. The Registry is now structured into 4 units: Tribunal Services, Information Services, Registered Industrial Organisation Services and Corporate Services.

The Registry continues to progress a number of business initiatives aimed at improving service delivery for all users of the Court and Commission system. In addition to participating in the review of the Industrial Relations [Tribunals] Rules 2000 to develop several electronic business practices the Registry is currently trialling video conferencing facilities to allow remote access to services from Court houses throughout Queensland.

Particular note should be made of the January 2011 Brisbane floods period which resulted in the Court, Commission and Registry being evacuated from the current premises for a period of 2 weeks. During this time Registry contingency business practices and processes were put in place to allow staff to operate remotely resulting in a minimum of disruption to normal QIRC services.

Overall, the Court, Commission and Registry spent the past year "building for the future" - involving stakeholders, consolidating and laying down roots, creating a solid structure to help plan and progress a better business for a positive future.

THE INDUSTRIAL COURT OF QUEENSLAND

THE INDUSTRIAL COURT OF QUEENSLAND

The Court is governed largely by Chapter 8 Part 1 of the *Industrial Relations Act 1999* (Act). The Court's jurisdiction and powers are provided for chiefly by Division 3 of Chapter 8 Part 1. Appeals to the Court and general provisions about appeals are dealt with in Chapter 9, Divisions 2 and 5.

By s. 247 of the Act, the Industrial Court is constituted by the President sitting alone. Section 243(1) of the Act requires the President to have been either a Supreme Court judge, or a lawyer of at least 5 years standing. The current President is Mr David Hall, who was sworn-in in August 1999.

By virtue of s. 257, the President of the Court is also President of the Commission. The President may preside on a Full Bench of the Commission and, for certain matters under the Act, the Full Bench must include the President (see s. 256(2)).

More information about the Full Bench appears later in this report under the Queensland Industrial Relations Commission.

Jurisdiction of the Court

Section 248 of the Act outlines the Court's jurisdiction generally and states that it may exercise all powers prescribed under the *Industrial Relations Act 1999* or another Act. (The Court's jurisdiction under other Acts is largely appellate jurisdiction and will be outlined briefly below.) The original jurisdiction includes hearing and deciding:

- cases stated to it by the Commission (available under s. 282);
- offences against the Act, other than those for which jurisdiction is conferred on the Industrial Magistrates Court (s. 292 gives Industrial Magistrates jurisdiction over offences for which the maximum penalty is 40 penalty units* or less, except where the Act specifically provides for Industrial Magistrates' jurisdiction); and

the section also allows the Court to issue prerogative orders, or other process, to ensure that the Commission and Industrial Magistrates exercise their jurisdictions according to law and do not exceed their jurisdiction.

The Court also has the power, under s. 671, to issue an injunction to restrain a person, found guilty of wilfully contravening an industrial instrument, a permit or the Act, from continuing to do so, or from committing further contraventions.

Appellate Jurisdiction of the Court

Matters filed in the Court are predominantly appeals (see Table 1). Appeals to the Court against decisions of the Commission under the *Industrial Relations Act 1999* are available only on the grounds of error of law, or of excess, or want, of jurisdiction: s. 341. Appeals are by way of re-hearing on the record although fresh evidence may be adduced if the Court considers it appropriate: s. 348.

Appeal decisions are final and conclusive, under s. 349. (Judicial review has been found by the Supreme Court, to be available, but only for decisions that involve jurisdictional error: see *Carey v President of the Industrial Court of Queensland* [2004] 2 Qd.R. 359 at [366] citing *Squires v President of Industrial Court Queensland* [2002] QSC 272. See also *Parker v The President of the Industrial Court of Queensland and Q-COMP* [2010] 1 Qd R. 255)

The Court hears and determines appeals from decisions of a single Member of the Commission, of a Full Bench and of the Industrial Registrar. However, Full Bench decisions may only be appealed to the Court if the President was not a Member of the Bench. Any decision of a Full Bench which included the President may only be appealed to the Queensland Court of Appeal.

A determination by the Commission under s. 149 of the Act is not appealable to the Court. (Section 149 allows the Commission to arbitrate, where a protracted or damaging dispute over negotiations for a Certified Agreement cannot be resolved by conciliation.)

Appeals also lie to the Court from decisions of the Industrial Magistrates Court regarding:

- offences and wage claims under the *Industrial Relations Act 1999* (see s. 341(2));
- prosecutions under the *Electrical Safety Act 2002* (see s. 186(2));
- prosecutions under the *Workplace Health and Safety Act 1995* (see s. 164(3));
- offences and cancellation or suspension of certificate of competency under the *Coal Mining Safety and Health Act 1999* (see ss. 255 and 258);
- offences and cancellation or suspension of certificate of competency under the *Mining and Quarrying Safety and Health Act 1999* (see ss.234 and 237);
- appeals from review decisions, and non-reviewable decisions, on claims for compensation under the *Workers' Compensation and Rehabilitation Act 2003*: see ss. 561 and 562;
- appeals under the *Building and Construction Industry (Portable Long Service Leave) Act 1991* (see. s. 89) and the *Private Employment Agents Act 2005* (see s. 47).

Decisions of the Commission on an apprentice or trainee appeal under the *Vocational Educational, Training and Employment Act 2000* may be appealed to the Court. Such appeals are available on a question of law only: *Vocational Educational, Training and Employment Act 2000* s. 244.

The Court's role under the *Workplace Health and Safety Act 1995* extends to being the avenue of appeal for persons dissatisfied with a decision, on internal review, by the Director, Workplace Health and Safety. Appeals from review decisions of the Director are by way of a hearing *de novo*, that is, unaffected by the decision appealed from. (See WH & S Act Part 11, Div. 2.) Comparable appeals are available under the *Electrical Safety Act 2002*, the *Coal Mining Safety and Health Act 1999*, the *Petroleum and Gas (Production and Safety) Act 2004*, the *Mining and Quarrying Safety and Health Act 1999* and the *Dangerous Goods Safety Management Act 2001*.

Table 2 shows the number of appeals. Table 3 indicates the types of appeal cases filed during the year.

The Court's role also includes enforcing compliance for undertakings under the *Workplace Health and Safety Act 1995* upon application by the Chief Executive Workplace Health and Safety Division. Similar provisions exist in the *Electrical Safety Act 2002*.

Additionally, the Court hears appeals relating to the right of entry of authorised representatives under Part 7A of the *Workplace Health and Safety Act 1995* under the following sections:

- decision of Industrial Commission under s. 90Q, s. 90R, s. 90U; and
- decision of the Full Bench of the Industrial Commission under s. 90X.

Offences under the *Industrial Relations Act 1999*

Under s. 683, proceedings for an offence against the Act must be heard and decided by the Court or a Magistrate according to their respective jurisdictions. The original jurisdiction of the Court includes the power to try offences for which the penalty prescribed is greater than 40 penalty units (other offences are brought before an Industrial Magistrate).

Most of these offences are contained in Chapter 12, Part 7 and Part 8. Part 7 governs the conduct of industrial organisations' elections (the offences are in Div. 4: i.e. ss. 491-497). Part 8 relates to Commission inquiries into organisations' elections (see ss. 510 and 511).

There are other offences which must be tried before the Court. For example, s. 660 states that a person must not disrupt or disturb proceedings in the Commission, in the Industrial Magistrates Court, or before the Registrar; a person must not insult officials of those tribunals, attempt to improperly influence the tribunals or their officials or to bring any of those tribunals into disrepute. To do so is to commit an offence, for which the person may be imprisoned for up to 1 year, or fined 100 penalty units.* The Court also has all necessary powers to protect itself from contempt of its proceedings and may punish contempt of the Court.

Non-payment of an employee's wages under an industrial instrument or permit is also a serious offence, the maximum penalty for which is 200 penalty units: see s. 666. Complaints relating to this offence are brought

before an Industrial Magistrate; and may subsequently come to the Court on appeal.

Under s. 671, the Court may issue an injunction to restrain a person from contravening, or continuing to contravene, an industrial instrument or the Act. If the person disobeys the injunction, a penalty up to 200 penalty units can be imposed.

* [Section 5(1)(c) of the *Penalties and Sentences Act 1992* states a penalty unit for an individual is $100. Under s. 181B(3) of the *Penalties and Sentences Act 1992*, if a corporation is found guilty of the offence, the Court may impose a maximum fine of an amount equal to 5 times the maximum fine for an individual.]

Stay of Decision appealed against

An application can be made under s. 347 of the Act for a Stay of Decision appealed against. The Court may order that the decision being appealed be wholly or partly stayed pending the determination of the appeal or a further order of the industrial tribunal.

Industrial Organisations

The Court has original jurisdiction over certain other matters concerning industrial organisations. For example, an industrial organisation's rules must comply with restrictions on their content which are set out in s. 435 of the Act. On application by a member of the organisation or by a prescribed person, the Court may decide on, and issue a declaration about, the rules' compliance: s. 459. If the Court declares that any provision contravenes s. 435, the Registrar may omit or amend the provision under s. 467. Under s. 459, the Court may also order a person who is obliged to perform or abide by rules of an industrial organisation, to do so.

Membership disputes are also decided by the Court, by virtue of ss. 535 and 536. An organisation, or a person who wishes to become a member, may apply to the Court under s. 535, to decide questions, including: a person's eligibility for, and qualifications for membership; and the reasonableness of a membership subscription or other requirements of membership.

Cases Stated

Under s. 282 of the Act, the Commission may refer a question of law, relevant to proceedings before it, to the Court for the Court's opinion. The Court may determine the matter raised by the case stated and remit it to the Commission. The Commission must then give effect to the Court's opinion.

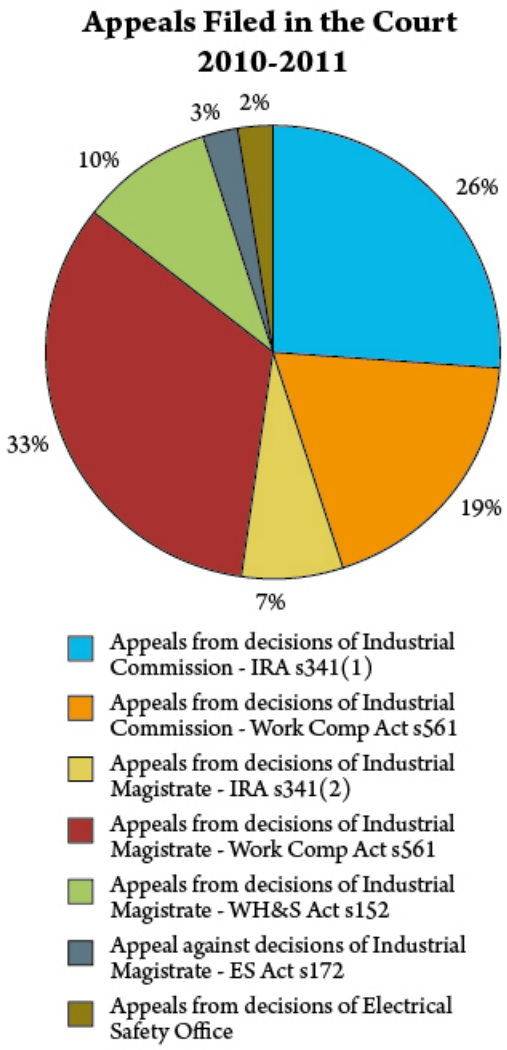
Costs Jurisdiction

The Court may order costs against a party to an application. Under s. 335 of the *Industrial Relations Act 1999* costs may only be ordered against a party if the Court is satisfied that:

- the party's application was vexatious or without grounds; or,
- in a reinstatement application, if the party caused another party to incur additional costs, by doing some unreasonable act or making an unreasonable omission during the course of the matter.

There is a power to award costs of an appeal against a party under s. 563 of the *Workers' Compensation and Rehabilitation Act 2003*, if the Court is satisfied that the party made the application vexatiously or without reasonable cause. However, because of the wording of s. 563, this power has been found not to allow an award of costs to a successful appellant. It will only permit costs to be awarded to a respondent, to an appeal that has failed, in circumstances where the appeal application is found to have been made vexatiously or without reasonable cause.

The question of costs is invariably decided on submissions after a decision is delivered in a matter, rather than on a separate application. These decisions are recorded either as a second decision based on written submissions after the appeal has been determined, or at the end of the substantive decision, based on argument during the appeal hearing.


Appeals Filed in the Court
2010-2011
3%
2%
10%
26%
33%
19%
7%
Appeals from decisions of Industrial Commission - IRA s341(1)
Appeals from decisions of Industrial Commission - Work Comp Act s561
Appeals from decisions of Industrial Magistrate - IRA s341(2)
Appeals from decisions of Industrial Magistrate - Work Comp Act s561
Appeals from decisions of Industrial Magistrate - WH&S Act s152
Appeal against decisions of Industrial Magistrate - ES Act s172
Appeals from decisions of Electrical Safety Office

Notes

THE QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

THE QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

The Queensland Industrial Relations Commission derives its powers and functions from Chapter 8, Part 2 of the *Industrial Relations Act 1999* (Act).

The Commission plays a major role in contributing to the social and economic well-being of Queenslanders through furthering the objects of the Act which are principally to provide a framework for industrial relations that supports economic prosperity and social justice.

There are eight Members of the Commission. The Commission is headed by the President who is also President of the Industrial Court. Other presidential Members are the Vice President and two Deputy Presidents. There were four other Commissioners as at 30 June 2011.

The President is responsible for administration of the Commission and Registry, including allocation of matters, establishing industry panels for disputes, approving references to a Full Bench, and general conduct of Commission business. Provision is made for the President to be assisted by the Vice President and one or more Deputy Presidents.

In terms of the federal *Fair Work Act 2009*, one Queensland Deputy President and one Commissioner, whilst retaining their commission with the State Commission, are also appointed as Members of Fair Work Australia. Four hundred and six matters were dealt with between 1 July 2010 and 30 June 2011.

Current Members of the Commission are listed below.

Member	Role and date sworn in
Mr DR Hall	President 2.8.1999
Ms DM Linnane	Vice President 2.8.1999
Ms DA Swan * Mr AL Bloomfield	Commissioner 2.8.1999 - appointed Deputy President 3.2.2003
Ms GK Fisher Mr DK Brown#	Commissioner 2.8.1999
Ms IC Asbury * Mr JM Thompson	Commissioner 28.9.2000

*Since 1 January 2010, Deputy President Swan and Commissioner Asbury are appointed to Fair Work Australia but retain their commission with the State Commission.

Commissioner Brown is performing in the role of Queensland Workplace Rights Ombudsman and has been since 1 July 2007. In this role he remains an ongoing Member of the Commission. However legislatively, up to 31 December 2010, he was prevented from performing the functions of a Member of the Commission whilst performing as Ombudsman. As of 1 January 2011, he now works part-time as the Ombudsman and part-time as a Commissioner.

The legislative provisions for this position can be found at Chapter 8A of the *Industrial Relations Act 1999*.

Industry Panel System

Under s. 264(6) of the Act, the President must establish industry panels. The scheme is designed to ensure that, where possible, Members with experience and expertise in the relevant industries are assigned to deal with disputes and the Commission is thereby able to deal with disputes more quickly and effectively. The current arrangement is a two, three or four person panel system, with industries divided between the panels. Each panel is headed by the Vice President or a Deputy President.

The current panels, operative since 27 January 2011, are listed in Appendix 1.

The Full Bench of the Commission

Under s. 256(2) of the Act, a Full Bench is comprised of three Members.

For certain matters, a Full Bench *must* include the President. These are:

- hearings on a "show cause" notice issued by the Registrar in regard to an industrial dispute: this may occur when an organisation has failed to comply with an order of the Commission under s. 233;

- applications to de-register industrial organisations under Chapter 12 Part 16; and
- applications for leave to appeal under s. 342.

Where a matter before a Member is of substantial industrial importance, s. 281 allows the Member hearing the matter to refer it to a Full Bench, with approval of the President. In certain circumstances, a party to a case may apply to have the matter referred.

Appeals to the Full Bench

A Full Bench may (by leave) hear appeals on grounds other than an error of law, or an excess, or want, of jurisdiction (for which an appeal lies to the Court): s. 342. On these grounds, a person may appeal to a Full Bench from decisions of the Commission and from most decisions of the Registrar. For the purpose of hearing appeals, a Full Bench must include the President: s. 256(2). Leave to appeal is only given where a Full Bench considers the matter is of such importance that it is in the public interest to grant leave.

Full Bench Hearings about Industrial Organisations

If an organisation involved in an industrial dispute does not comply with orders of the Commission, a Full Bench, which must include the President, may make further orders against the organisation, including penalties up to 1,000 penalty units (see s. 234). A Full Bench can also make representation orders to settle demarcation disputes (see s. 279).

A Full Bench of the Commission may order the de-registration of an industrial organisation under Chapter 12 Part 16. For this purpose, the Bench must include the President: s 256(2). In certain circumstances, the Commission may review an organisation to determine whether it should be de-registered (see ss. 645 and 646).

On 19 August 2010, a Full Bench of the Commission ordered the de-registration of the Queensland Friendly Societies Pharmacies Association, Industrial Organisation of Employers. The de-registration order was made following an application filed by the organisation, with the consent of all Members, as the organisation was dormant for the past 3 years.

On 1 March 2011, a Full Bench of the Commission ordered the de-registration of the National Meat Association of Australia (Queensland Division) Industrial Organisation of Employers. The de-registration order was made following an application filed by the Industrial Registrar, after consultation with previous officers of the organisation found the organisation was now defunct.

Commission Hearings

The Commission may exercise most of its powers on its own initiative: see s. 325. Importantly, it may start proceedings on its own initiative: s. 317.

Jurisdiction, Powers and Functions of the Commission

Jurisdiction under the *Industrial Relations Act 1999*

Under s. 256 of the Act, the Commission is ordinarily constituted by a single Commissioner sitting alone. The Commission's jurisdiction is set down in s. 265; its functions are outlined in s. 273; and it is given powers to make orders and do other things necessary to enable it to carry out its functions by ss. 274-288.

The jurisdiction under the Act includes regulation of callings, dealing with industrial disputes and resolving questions and issues relating to industrial matters. "Industrial matter" is defined broadly in s. 7, and includes matters affecting or relating to work to be done; privileges, rights or functions of employees and employers; matters which, in the opinion of the Commission, contribute to an industrial dispute or industrial action. Schedule 1 of the Act lists 28 matters which are considered to be industrial matters, for example: wages or remuneration; hours of work; pay equity; occupational superannuation; termination of employment; demarcation disputes; interpretation and enforcement of industrial instruments; what is fair and just in matters concerning relations between employers and employees.

Commission's Powers

The Commission's functions are outlined in Part 2 of Chapter 8 of the Act. In Div. 4 of that Part, s. 274 gives the Commission general powers to do "all things necessary or convenient" in order to carry out its functions. Other sections in that Division give more specific powers, which are listed below. Specific powers are also distributed throughout the Act. For example, provisions in Chapter 3 enable it to order reinstatement or award compensation to workers who have been unfairly dismissed. Various provisions in Chapters 5 and 6 empower the Commission to do what is necessary to make, approve, interpret and enforce industrial instruments (Awards and Agreements). The Commission's exercise of its powers, and the powers necessary for conducting proceedings and exercising its jurisdiction are governed by Chapter 8, Part 6, Div 4.

The Act also states in s. 266 that, in exercising any of its powers, the Commission must not allow any discrimination in employment. In exercising its powers and performing its functions, the Commission must consider the public interest and act in a way that furthers the objects of the Act: see for example ss. 273 and 320.

The powers given by the Act include the power to:

- make general rulings about industrial matters, employment conditions, and a Queensland minimum wage: s. 287; and statements of policy about industrial matters: s. 288;
- resolve industrial disputes by conciliation and, if necessary, by arbitration: s. 230. The Commission's powers in such disputes includes the power to make orders;
- hear and determine applications for reinstatement following termination of employment, including awarding compensation if reinstatement is impracticable, and imposing a penalty on the employer if the dismissal was for an invalid reason: ss. 76 and 78-81;
- certify or refuse certification of agreements, and amend or terminate certified agreements, according to the requirements of the Act: ss. 156, 157, 169-173 or assist parties to negotiate certified agreements (ss. 148 and 149) by conciliation and, if necessary, by arbitration. The Commission's powers includes the power to make orders necessary to ensure negotiations proceed effectively and are conducted in good faith;
- make, amend or repeal Awards, on its own initiative or on application: s. 125. The Commission may also review Awards under s. 130. (The first program of Award review was commenced by the Commission on its own initiative in 1999);
- determine claims for, and order payment of unpaid wages, superannuation contributions, apprentices' tool allowances, and certain other remuneration, where the claim is less than $50,000 (claims above that sum must be heard before an Industrial Magistrate): s. 278;
- make orders fixing minimum wages and conditions, and tool allowance for apprentices and trainees: ss. 137 and 138; and orders fixing wages and conditions for employees on labour market programs, and for students in vocational placement schemes: ss. 140 and 140A;
- make a declaration about an industrial matter: s. 274A;
- grant an injunction to compel compliance with an industrial instrument or permit, or with the Act, or to prevent contraventions of an industrial instrument, permit or the Act: s. 277;
- interpret an industrial instrument: s. 284;
- order repayment of fees, charged in contravention of the Act by a private employment agent, where the total fee paid was not more than $20,000: s. 408F (claims above that sum must be decided by an Industrial Magistrate);
- make orders to resolve demarcation disputes (that is, disputes about what employee organisation has the right to represent particular employees): s. 279. In addition, if an organisation breaches an undertaking it has made about a demarcation dispute, the Commission has the power to amend its eligibility rules to remove any overlap with another organisation's eligibility rules: s. 466;
- order a secret ballot about industrial action, and direct how the secret ballot is to be conducted: ss. 176 and 285;
- the power to determine applications to amend the name, list of callings, or eligibility rules of an industrial organisation: Chapter 12 Part 6;

- the power to conduct an inquiry, under Chapter 12 Part 8, into any alleged irregularity in the election of office-bearers in an industrial organisation. Applications for such inquiries are made by financial Members of the organisation to the Registrar. The Registrar may then refer the application to the Commission if there appear to be grounds for conducting an inquiry and the circumstances justify it: s. 502;
- the power to approve amalgamations of organisations: s. 618; and withdrawals from amalgamations: s. 623.

General Rulings and Statements of Policy

An important tool for regulation of industrial matters and employment conditions by a Full Bench is the jurisdiction to issue *general rulings and statements of policy*.

In making any such determination s. 273(2) of the Act requires that a Full Bench perform its functions in a way that furthers the objects of the Act. Section 320 of the Act requires a Full Bench to consider the public interest. In so doing the Full Bench must consider the objects of the Act and the likely effects of any decision on the "community, local community, economy, industry generally and the particular industry concerned."

Under s. 287, a Full Bench may make General Rulings about industrial matters for employees bound by industrial instruments, and about general employment conditions. The **State Wage Case**, for employees covered by industrial instruments, has been commenced by an application for a general ruling in recent years. Section 287 also requires that a general ruling be made each year about a **Queensland Minimum Wage** for all employees covered by the Queensland State jurisdiction.

Under s. 288 a Full Bench may also issue a Statement of Policy about an industrial matter when it considers such a statement is necessary or appropriate to deal with an issue. The Statement may be made without the need for a related matter to be before the Commission, but can be issued following application.

A Statement of Policy differs from a General Ruling in that, to be given effect, it requires an application by a party to an award to have the stated policy inserted into the award. By contrast, a general ruling applies generally from the stated date, and can cover all employees, or all industrial instruments, or an employment condition generally. It is designed to avoid multiple inquiries into the same matter.

State Wage Case

On 10 August 2010 a Full Bench of the Commission declared by General Ruling a wage adjustment of $20.00 per week increase in award rates of pay. By the same General Ruling as required under s. 287 of the IR Act, the minimum wage for all full-time employees in Queensland was increased to $588.20 per week with a proportionate amount for junior, part-time and casual employees. Work-related allowances were increased by 3%. The effective date for the increased rates was set at 1 September 2010.

On 29 June 2011 and 30 June 2011 respectively, the Queensland Council of Unions (application B/2011/17) and The Australian Workers' Union of Employees, Queensland (B/2011/19) filed with the Industrial Registrar an application seeking -

- General Ruling pursuant to s. 287 of the *Industrial Relations Act 1999* in regard to wage and allowance adjustments for award employees;
- General Ruling in relation to the Queensland Minimum Wage as it applies to all employees;
- Statement of Policy pursuant to s. 288 of the *Industrial Relations Act 1999* in regard to a Statement of Principles that may be generated as a result of the aforementioned General Rulings.

At the time of this report a Full Bench of the Commission had set a date for proceedings.

Overtime Meal Allowance

Applications B/2010/34 and B/2010/38 made by the Queensland Council of Unions and The Australian Workers' Union of Employees, Queensland respectively, to amend the minimum amount prescribed in awards for overtime meal allowance were joined by consent.

On 2 December 2010 a Full Bench of the Commission released a decision and issued a General Ruling effective from 1 January 2011, increasing the minimum overtime meal allowance in all relevant awards for employees from $9.60 to $12.10.

General Rulings and Statements of Policy are available on the Commission's website at: www.qirc.qld.gov.au.

Disputes and the Conferencing role

For disputes notified to the Commission - whether it concerns the terms of a certified agreement being negotiated between a union representing workers and their employer, or a grievance between an individual worker and employer - the first step in resolving the matter is always a conciliation conference. Because of the emphasis placed on conciliated and negotiated outcomes in disputes, a large proportion of the Commission's work is directed at this conference stage. For that reason also, the parties to an application for payment of unpaid wages have traditionally been directed to attend a conference with a Member of the Commission. Where an entity alleging prohibited conduct (in relation to freedom of association under Chapter 4) has applied for a remedy, the Commission must direct the parties involved to a conciliation conference before a hearing. Conciliation is also mandatory on an application for reinstatement.

Certified agreement negotiations may require mediation or conciliation conferences in order to avoid a dispute. Some complex disputes require lengthy and intensive conciliation in order to reach satisfactory outcomes. If a dispute has the potential to have a serious impact, the Commission has the power to intervene in the public interest under s. 230 of the Act, even without the dispute being notified. The Commission must then take steps to settle the matter by conciliation or if necessary by arbitration.

In many cases, a settlement can be agreed upon during the conference, or the parties may be able to resolve their conflict following conciliation. If not, the Commission may order the matter to be arbitrated in a hearing. Parties to an industrial dispute that cannot be resolved by negotiation can also request that the Commission arbitrate the dispute under s. 230.

Parties who request assistance to negotiate a certified agreement, under s. 148, may require several conferences to work through their differences satisfactorily.

Unfair dismissals

While there is a common belief that people come to the Commission seeking compensation for what they see as unfair dismissal or dismissal for an invalid reason, the primary remedy which the Commission can award under the Act is reinstatement to an applicant's former job, or alternatively re-employment in another job with the same employer. This is indicated in s. 78 of the Act. It is only if the Commission determines, because of the circumstances, that reinstatement or re-employment is impracticable, that compensation may be awarded instead. The Commission will decide the amount of any compensation based on the applicant's wages before dismissal, the circumstances surrounding the dismissal, and any amount that has already been paid to the applicant by the former employer. The powers of the Commission in this regard are outlined in s. 79 of the Act.

The path to a remedy for dismissed employees begins by filing an *Application for Reinstatement*.

However, certain provisions of the *Industrial Relations Act 1999* exclude some employees from coverage of the dismissal provisions under the Act.

All applications for reinstatement are dealt with first by conciliation conferences. These are proceedings where a Member of the Commission assists the parties - that is, the former employee and employer - to negotiate an agreement.

This allows each party to tell her or his side of the story. At the same time, the Member can inform the parties of their rights and obligations under the legislation and under any award or agreement that applies to their employment relationship. No record is kept of these conferences, except for the outcome.

In many cases, an agreement can be reached, disputed claims are resolved, or the matter is not pursued further. This is reflected in the figures in Table 7. Of the many applications filed, a limited number proceed to formal hearings.

If the parties cannot reach agreement in the conference, the Member doing the conciliation will issue a certificate to that effect, and will also inform the parties of the merits of the case and the possible consequences of continuing. If the applicant is a person who is excluded from the unfair dismissal provisions in s. 73(1), the Member must state that in the certificate. (Reasons for which an applicant may be excluded include: earning above the amount stipulated in the Regulation; being a short-term casual employee; or having been dismissed during a legitimate probation period.) The Member may also recommend to the parties that the matter be discontinued if it appears the claim has no basis.

The applicant must then decide whether to pursue the matter to a hearing. This is a more formal procedure where the Commission is constituted as a court of record, presided over by a different Member of the Commission.

Parties may be represented by advocates (employees who are union members and employers who are members of employer organisations may be represented by the union/organisation), or in some circumstances by lawyers.

Table 7 shows general outcomes of reinstatement applications during the year.

Industrial instruments

An essential part of the system of employment and industrial relations in Queensland is the use of industrial instruments - Awards and Agreements - to regulate the relationship between employees and employers. Awards and Agreements set out the terms and conditions of employment and have the force of law once made or certified or approved by the Commission.

On 27 March 2011 the Queensland Government introduced legislation to remove Queensland Workplace Agreements from the State industrial system.

The predominant types of instruments are: Awards and Certified Agreements (CAs). Awards and CAs are collective instruments, that is, they cover a range of employees and employers in a particular industry. They will usually be negotiated by employee organisations with employers and/or related employer organisations.

Table 6 indicates the types and number of industrial instruments in force within the Commission's jurisdiction.

Awards

Section 265(2) gives the Commission jurisdiction to regulate a calling by an Award. Awards are regulated by Chapter 5 of the Act. The Commission's powers with regard to Awards are set out in Part 2 of Chapter 5. Awards can be limited to a geographic region or a particular employer. But they may cover all employers who are engaged in a particular calling, along with their employees and any industrial organisations (that is, employer or employee organisations) that are concerned with that calling. Table 6 shows that there are 327 Awards currently in force in Queensland.

Award Review

In 2010, the QIRC decided to review Awards of the Commission, pursuant to s. 130 of the *Industrial Relations Act 1999* (the Act). This review continued throughout the reporting period.

A Full Bench of the Commission is undertaking the review in stages. The first stage involved the identification of Awards which appear to apply to constitutional corporations and employers now covered by the national system (referred to as Corporation Awards).

The second stage involved the identification of those Awards which apply to public sector employment (referred to as State Government Awards) and Local Government sector employment, including those Awards that came into the Commission's jurisdiction pursuant to Chapter 20 Part 7 of the Act, (referred to as Local Government Awards).

The award identification process in stages one and two is now complete.

The Commission is currently examining the State Government Awards and Local Government Awards which have continued relevance and is considering the contents of such Awards regarding any provisions which relate to constitutional corporations or other employers now covered by the national system (see for example Schedule 8 of the *Engineering Award - State 2002*, which only applied to Queensland Cement Limited and Central Queensland Cement Pty Ltd).

A third stage will involve other common rule Awards not identified as continuing to have relevance in stages one and two, with a view to considering the future treatment of such Awards. This stage has not yet commenced.

Certified Agreements

Certified Agreements are regulated by Chapter 6 Part 1 of the Act. A CA will usually cover one employer and, either all of its employees, or a particular category of its employees. It can be negotiated between an employer and a group of employees or between an employer and one or more employee organisations (unions) representing the employees. A CA may stand alone, replacing a relevant Award, or it may operate in conjunction with an Award. The affected employees must have access to the agreement before they approve it, and they must have its terms and its effect on their work and conditions explained to them. A majority of workers must approve it and the Commission must also be satisfied that it passes the "no-disadvantage test". That is, it must not place the affected employees under terms and conditions of employment that are less beneficial, on balance, than terms and conditions in an Award that is relevant to the calling (a "designated Award").

If the parties have difficulty in negotiating the terms and conditions of the agreement, they may apply to the Commission for assistance with conciliation: s. 148. If conciliation cannot resolve the impasse (which is quite unusual), the Commission has the power to arbitrate, as it would do for an industrial dispute.

During the year there were 8 applications to approve a Certified Agreement. Of these, 2 were new Agreements. The number of Certified Agreements currently in force is indicated in Table 6.

Unpaid Wages

An application can be made pursuant to s. 278 (power to recover unpaid wages and superannuation contribution etc.) for an order for payment of an employee's unpaid wages, an apprentice's unpaid tool allowance, remuneration lost by an apprentice or trainee due to the employer not paying an employee the fixed rate, unpaid contributions of an eligible employee to an approved superannuation fund payable or unpaid remuneration due to a person under an order fixing remuneration and conditions which apply to the vocational placement of a student that is for more than 240 hours a year. An alternative remedy is available in the Industrial Magistrates Court (s. 399).

An application can not be made to the Commission if the total amount being claimed is more than $50,000. Claims over $50,000 may be made in the Industrial Magistrates Court. A person can not make an application under this section if an application has been made to a magistrate for an order for the same matter.

On hearing the application, the Commission must order the employer to pay the employee the amount the Commission finds to be payable and unpaid to the employee within 6 years before the date of the application and in the case of unpaid superannuation an amount considered appropriate, based on the return that would have accrued in relation to the contributions had it been properly paid to the approved superannuation fund.

Pursuant to s. 336 (recovery of amounts under orders) if the amount the Commission ordered is not paid, the Industrial Registrar has the power to issue a certificate, under the seal of the Commission, stating the amount payable, who is to pay the amount, to whom the amount is payable and any conditions about payment. This amount may be recovered in proceedings as for a debt. When the certificate is filed in a court of competent jurisdiction in an action for a debt, the order evidenced by the certificate is enforceable as an order made by the court where the certificate is filed.

Costs

The Commission has discretion to order costs against a party to an application. However the discretion may only be exercised if the Commission is satisfied the "offending" party's application was vexatious or without reasonable cause, or in the case of a party to a reinstatement application, some unreasonable act or omission during the course of the matter, caused another party to incur additional costs. Table 4 indicates how many of these costs matters were dealt with.

Industrial Organisations

Under Chapter 12 of the Act, the Commission has the power to: grant the registration of an Industrial Organisation (s. 413); approve of change of name (s. 473); change to eligibility rules (s. 474); and to make orders about an invalidity (s. 613).

On 22 June 2011, the Commission finalised an application of a proposed amalgamation of the

Queensland Public Sector Union of Employees and Australian Municipal, Administrative, Clerical and Services Union, Central and Southern Queensland Clerical and Administrative Branch, Union of Employees. The name of the amalgamated union was ordered to be Unite Queensland, Industrial Union of Employees*. The amalgamation is to take effect on 1 July 2011, with the Queensland Public Sector Union of Employees ordered to be deregistered as and from 1 July 2011.

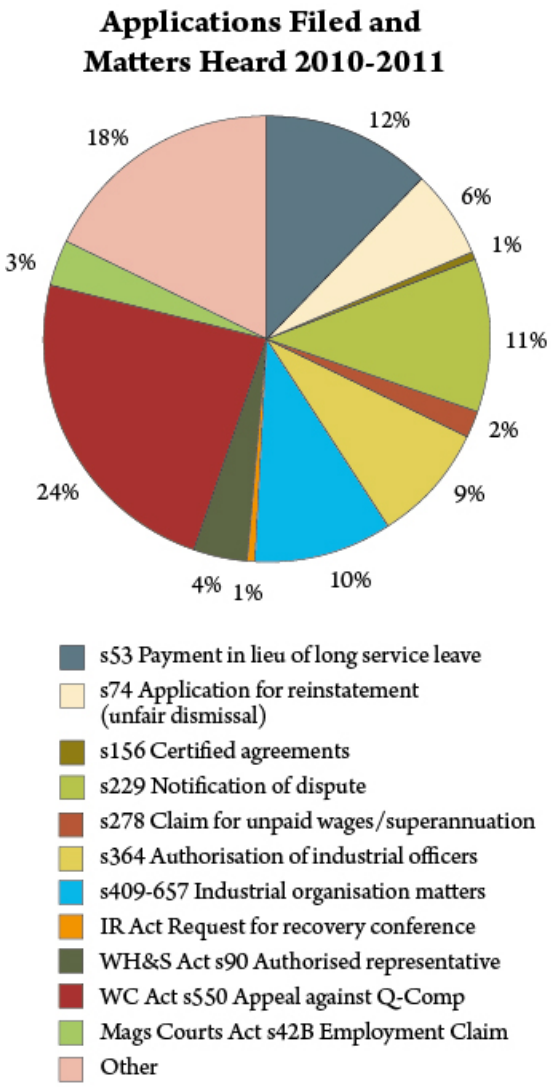
*[Note: By the decision of President Hall dated 11 July 2011, the issue of the name of the amalgamated union was remitted back to the Commission. On 9 August 2011 the Commission granted that the name of the amalgamated union be "Together Queensland, Industrial Union of Employees".]

Table 10 shows the total number of applications dealt with under Chapter 12 of the Act.

Industrial action

Industrial action is protected if engaged in according to the terms of s. 174 of the Act. Under s. 177, industrial action is protected only if it is authorised by the industrial organisation's management committee, is permitted under the organisation's rules, and if the Registrar is notified of the authorisation.

If it appears to the Commission that industrial action may be avoided, or a dispute settled by ascertaining the relevant employees' attitudes to the issues, the Commission may order that a secret ballot be conducted of the employees. In that event, the action is not protected industrial action unless and until the ballot is conducted and a majority vote in favour of it (see s. 176).



Jurisdiction under other Acts

The Commission has jurisdiction under other Acts viz.: the *Vocational Educational, Training and Employment Act 2000*; the *Trading (Allowable Hours) Act 1990*; the *Workers' Compensation and Rehabilitation Act 2003*; the *Contract Cleaning Industry (Portable Long Service Leave) Act 2005*; the *Public Interest Disclosure Act 2010*; the *Workplace Health and Safety Act 1995*; *Child Employment Act 2006*. Members of the Commission also perform functions under the *Magistrates Courts Act 1921*.

Jurisdiction under *Vocational Education, Training and Employment Act 2000*

The Commission has jurisdiction under Chapter 8 Part 2 of the *Vocational Education, Training and Employment Act 2000* to hear and determine appeals from decisions of the Training Recognition Council. These include decisions about registration or cancellation of training contracts, cancellation of completion certificates or qualifications, decisions to stand down an apprentice or trainee, or declaration of a prohibited employer. In addition, a person who was a party to a training contract which has been cancelled by agreement may apply to the Commission, under s. 62, for the contract to be reinstated if the agreement to cancel was obtained by coercion.

The Commission may order the employer or the apprentice/trainee to resume training. It may also make orders about continuity of training and may order the employer to compensate the apprentice/trainee, or the apprentice/trainee to repay any amount paid on cancellation of the contract. If resumption of training would be inappropriate, the Commission may order cancellation of the training contract and, if circumstances warrant it, may order the employer to pay compensation.

Jurisdiction under the *Trading (Allowable Hours) Act 1990*

The Full Bench determines applications by non-exempt shops to vary trading hours under Part 5 of the *Trading (Allowable Hours) Act 1990* (see s. 21). By s. 23 of that Act, the Commission may do so on its own initiative or on application by an organisation.

Full Benches of the Commission continue to hear various applications for extended trading hours in several regions throughout Queensland. These hearings usually involve lengthy hearings with detailed submissions from concerned parties and onsite inspections.

During the reporting period the Commission dealt with applications for extended trading for the following:

- introduction of seven day trading in the Warwick Area
- extension of trading in regional Queensland Christmas 2010
- introduction of seven day trading in the Gladstone Area
- introduction of seven day trading in the Innisfail Area
- introduction of seven day trading in the Emerald Area
- introduction of seven day trading in the Kingaroy Area
- introduction of seven day trading to Mareeba and Atherton (Tablelands Area)
- extension of weekend trading in Cairns CBD
- closure of all non-exempt shops on Boxing Day 2010 and News Years Day 2011
- fixing of commencing and finishing times for the Burpengary Caravan, Marine and Camping Expo
- amendment of the title of the Queensland Truck and Machinery Show to Brisbane Truck Show
- trading hours for Easter-Anzac Day period 2011 for non-exempt shops located in South-East Queensland
- trading hours for Easter-Anzac Day period 2011 in regional Queensland
- amendment of the definition of South-East Queensland Area to include Fernvale, Plainland and Gatton

Trading hours' matters before the Commission as at 30 June 2011 include applications for the following:

- amendment of trading hours in Townsville Area
- expansion of seven day trading within Fraser Coast Regional Council Area to include Maryborough
- introduction of seven day trading in the Bundaberg Area
- trading hours for Christmas-Boxing Day period 2011 in regional Queensland
- introduction of seven day trading in the Ingham Area
- introduction of seven day trading in the Ayr Area
- extension of trading hours in Brisbane CBD
- extension of trading hours in Sunshine Coast Coastal Tourist Area
- extension of trading hours in the area of New Farm of Inner City of Brisbane

Jurisdiction under the *Workers' Compensation and Rehabilitation Act 2003*

Workers and employers can apply to Q-COMP if they disagree with certain decisions made by their workers' compensation insurer. Q-COMP impartially reviews claims decisions. Under s. 550 of the *Workers' Compensation and Rehabilitation Act 2003*, if an employer or employee was aggrieved by the Q-COMP Review decision, either party could appeal to an Industrial Magistrate or to the Queensland Industrial Relations Commission.

As of 1 November 2010, the Industrial Magistrates' jurisdiction for these types of appeals was transferred to the Queensland Industrial Relations Commission which now has sole jurisdiction.

During the year there were 315 appeals filed relating to Q-COMP Review decisions, reflecting the increase in workload since 1 November 2010.

These matters tend to be rather complex. Hearings often involve expert witnesses. Parties are usually represented. The average length of such hearings is approximately 6 days.

Jurisdiction under the *Contract Cleaning Industry (Portable Long Service Leave) Act 2005*

Section 97 of the *Contract Cleaning Industry (Portable Long Service Leave) Act 2005* provides for an appeal to the Queensland Industrial Relations Commission against a decision of the authority regarding retrospective credits.

Jurisdiction under the *Public Interest Disclosure Act 2010*

The *Public Interest Disclosure Act 2010* replaced the *Whistleblowers Protection Act 1994* as at 1 January 2011. Chapter 4 (Protection), Part 3 (Injunctions), section 48 (Right to apply to Industrial Commission) of the *Public Interest Disclosure Act 2010* is the section of relevance to the QIRC which replaced s. 47 of the now repealed *Whistleblowers Protection Act 1994*. This section provides that an application for an injunction about a reprisal may be made to the Queensland Industrial Relations Commission if the reprisal has caused or may cause detriment to an employee.

Jurisdiction under the *Workplace Health and Safety Act 1995*

Under s. 90U, if a dispute exists between an authorised representative for an employee organisation and the occupier of a place about the exercise or purported exercise of a power under the *Workplace Health and Safety Act 1995* and the dispute remains unresolved after the parties have genuinely attempted to settle the dispute and a notice of the dispute is given to the Industrial Registrar, the Industrial Commission may take the steps it considers appropriate for the prompt settlement or resolution of the dispute, by conciliation in the first instance; if the Commission considers conciliation has failed and the parties are unlikely to resolve the dispute, then by arbitration.

Under s. 151 of the *Workplace Health and Safety Act 1995* a person whose interests are affected by an original decision may appeal against the decision to the Queensland Industrial Relations Commission. In deciding an appeal, the Commission may confirm the decision appealed, vary the decision appealed against, set aside the decision appealed against and make a decision in substitution for the decision set aside or set aside the decision appealed against and return the issue to the decision maker with directions the Industrial Commission considers appropriate.

Jurisdiction under the *Child Employment Act 2006*

Under s. 15C of the *Child Employment Act 2006*, on the application of an inspector, or in a proceeding before the Industrial Commission under this part, including an appeal, the Industrial Commission may decide whether an agreement or arrangement reduces a child's employment entitlements or protections.

In addition, under s. 15P of the *Child Employment Act 2006*, a person who alleges that the dismissal of a child from employment is by a constitutional corporation, and the dismissal is of a kind that could be the subject of an application under the *Industrial Relations Act 1999*, chapter 3 if the employer of the child were not a constitutional corporation, may apply to the Industrial

Commission for an order that may be made under the dismissal provisions of the *Industrial Relations Act 1999*.

Magistrates Courts Act 1921

The *Magistrates Courts Act 1921* (Part 6) provides access to employees on low incomes to a low cost procedure in the Magistrates Court for claims relating to breach of the contract of employment. These claims are available to employees earning up to $106,400 per year, consistent with the income threshold relating to unfair dismissal claims under the *Industrial Relations Act 1999*.

Members of the QIRC are appointed to perform the functions of a conciliator prior to the matter being heard by a magistrate.

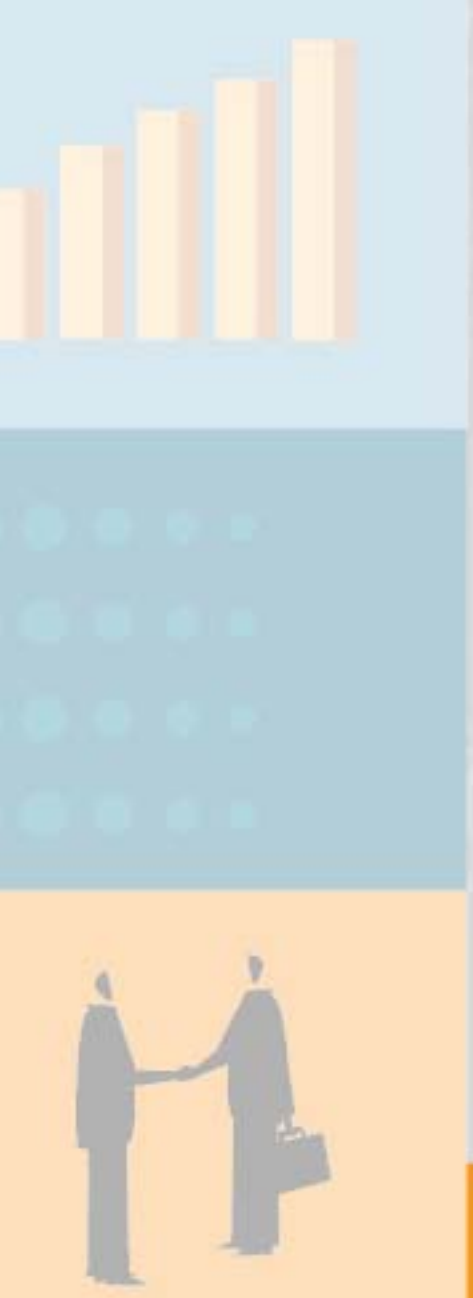
During the year there were 38 conferences held.

Local Government Remuneration and Discipline Tribunal

In June 2010 Deputy President Bloomfield was appointed to be the Chairperson of the Local Government Remuneration and Discipline Tribunal (LGRDT), a position created by the *Local Government Act 2010*. The new appointment runs for four years from 1 July 2010. Prior to this appointment the Deputy President had been the Chair of the Local Government Remuneration Tribunal since 25 October 2007.

The role of the LGRDT is to establish remuneration levels for elected representatives to the 72 Local Governments (excluding Brisbane City Council) in Queensland on an annual basis as well as to consider serious complaints of misconduct and/or conflicts of interest by elected local government representatives. The LGRDT is empowered to determine an appropriate penalty for any proven complaints of misconduct and/or conflict of interest, including making recommendations to the Minister for Local Government that the Minister dismiss an individual Councillor. During the financial year ending on 30 June 2011 the LGRDT considered and decided seven complaints alleging serious misconduct by individual Councillors.

In addition, the LGRDT issued its annual determination of remuneration levels for the following calendar year in early December 2010. In doing so, the LGRDT increased remuneration levels for Mayors, Deputy Mayors and Councillors within the 72 Councils in its jurisdiction by 2.5%.



QUEENSLAND INDUSTRIAL REGISTRY

QUEENSLAND INDUSTRIAL REGISTRY

The Queensland Industrial Registry is the Registry for the Industrial Court of Queensland and Queensland Industrial Relations Commission. The Industrial Registry is an office of the public service. The Industrial Registrar is the head of the Industrial Registry, under the *Public Service Act 2008*.

The Industrial Registrar is appointed under s. 297 of the *Industrial Relations Act 1999* and apart from administering the Registry has the functions conferred under that Act and other Acts.

The Court, Commission and Registrar are independent of government and other interests. Funding for the Court, Commission and Registry is provided through the Department of Justice and Attorney-General (DJAG) with the Department being sensitive to the need to maintain this independence.

The Registry provides administrative support to the Court, Commission and the Registrar and also provides a facilitative service to the general industrial relations community.

Several changes during the reporting period have impacted on the Registry:

(1) As from 1 November 2010 the jurisdiction of industrial magistrates for most types of appeals under the *Workers' Compensation and Rehabilitation Act 2003* was removed and replaced with a sole right of appeal to the QIRC, increasing the number of Q-COMP Appeals to the QIRC significantly, resulting in an increased workload in the Registry.

(2) IRIS (a database providing full text searching on decisions of the QIRC from 1990 to October 2009), which was previously a subscription service managed by Wageline, was transferred to the QIRC website on 1 July 2010, providing free access to all.

(3) On 30 July 2010 the Industrial Registry relocated from level 18 to level 13 of CP2, to jointly occupy the same floor as the QIRC and Industrial Court of Queensland.

(4) During the 2010-2011 year, the Industrial Registry transitioned its Corporate and Information Technology services support to the services used by DJAG.

(5) The Registrar completed a reassessment of roles and responsibilities of all Registry staff and implemented a new organisational structure aligned to best support the Commission and the Queensland public.

The Registry is now structured into 4 units: Tribunal Services, Information Services, Registered Industrial Organisation Services and Corporate Services.

Registry Services

Tribunal Services

Tribunal staff provide support to Members (and Associates) through:

- assisting in administrative activities of each application (e.g. tracking matters, notifications to applicants and respondents);
- organising conferences and hearings; and
- examining, evaluating and processing all applications and other documentation received from applicants, respondents and other parties.

Tribunal staff also assist all users of the Court and Commission through:

- responding to public enquiries through:
  - a telephone advisory service
  - across the counter and
  - written correspondence [post, fax and email];
- an advisory role to parties and practitioners who require information on practices and procedures; and

- receiving and filing applications and related documentation.

During 2010-11, a total of 1,397 applications and notifications were filed in the Registry (see Tables 1 & 4).

In addition to registering these applications, the tribunal staff processed and tracked thousands of related documents, such as directions orders, statements, submissions and general correspondence. Further, at the request of Members, staff set down over 2,000 listings [e.g. conferences and hearings].

As an example of the work involved by Registry staff with some applications, in the matter of a Full Bench of the Commission helping to make a certified agreement for the Queensland Ambulance Service and a separate matter for the Queensland Police Service, Registry records revealed 341 individual events being recorded (including 72 listings involving programming, conferences, hearings and inspections and over 269 documents being filed or issued).

Tribunal Services staff assist the Registrar in making certain preliminary decisions about applications and other documents lodged to ensure that they comply with the Act and the *Industrial Relations (Tribunals) Rules 2000*.

The Registrar may determine that a reinstatement application under s. 74 should be rejected because the applicant is excluded by s. 72 of the Act. The majority of applicants excluded are generally those found to be short-term casual employees as defined in s. 72(8) or employees still within the probationary period (unless the dismissals are claimed to be for an invalid reason, as stated in s. 73(2)).

Under s. 72 of the Act, only 1 of the 83 reinstatement applications lodged were rejected by the Registrar (see Table 7).

The Industrial Registrar issues permits to an officer or employee of an organisation under s. 364 of the Act, to enter a workplace of which an employer carries on a calling of the officer's organisation to exercise a power under s. 373. Such authorised industrial officer can, for example, inspect time and wages records and discuss matters under the Act with an employer or a member employee.

The Industrial Registrar also issues permits that authorise a representative of a registered industrial organisation to enter a workplace where there is a reasonable suspicion that a contravention of the Act involving workplace health and safety has happened or is happening. Authorised representatives are required to undertake approved occupational health and safety training to be issued with a permit (s. 90 WH&S Act).

The Registrar's powers also include the granting of an exemption from membership of an organisation because of the person's conscientious beliefs (s. 113 of the Act).

Hearings before the Court and Commission are recorded and a transcript is typed by the **State Reporting Bureau** which is part of DJAG.

One of the functions of the tribunal area is liaising with the State Court Reporting Bureau for recording of transcripts. There is a strong level of demand for transcripts among regular participants in the IR system, such as industrial organisations, industrial agents and legal firms. Registry provide a free electronic copy of transcripts (e.g. by email) to a party to a proceeding or their representative (subject to any restrictions of the release of the transcript by the Member for the proceeding).

Information Services

The Information Services Unit (ISU) provides a diverse range of high quality publication and administrative support that contributes to the effective functioning of the Court, Commission and the Industrial Registry and dissemination of decisions to the industrial relations practitioners and the general Queensland public.

The ISU manages 4,884 Industrial Instruments (see table 6).

During the reporting period the QIRC's web site (www.qirc.qld.gov.au) again proved invaluable with interest and usage increasing significantly. It provides over 12,000 files of relevant information for the general public with up to 800 visits recorded daily.

In addition, the historical decisions database (IRIS) holds over 35,500 files of historical information and is accessed on an average of 120 times daily.

Important public matters such as the 2010 State Wage Case, and Award Review 2010 see the posting of all relevant documentation to the website as soon as it is lodged with the Registry, including original applications, directions of the Court, Commission and Registry, submissions and responses of all parties, transcripts of proceedings and decisions. This allows timely and cost effective information to be disseminated to all parties without the need of many parties appearing in the QIRC or serving documents on each other.

The internet website for the QIRC contains a range of information including:

- all decisions officially published on the website since October 2009;
- historical decisions in the IRIS database from 1990 up to October 2009;
- all volumes of the QGIG from 2000;
- all extracts of the QGIG back to 2005;
- all Industrial Instruments (Awards, Certified Agreements and Orders) of the Commission;
- all amendments to Awards of the Commission since the State Wage Case 2007;
- information about the Industrial Court of Queensland, Queensland Industrial Relations Commission and the Industrial Registry (including forms, practices and procedures, and links to legislation); and
- information in accordance with the Right to Information Act 2009.

The process of publishing QIRC documents changed from 26 October 2009. However, ISU continue to proofread and release all decisions of the various tribunals prior to publishing on the QIRC website.

The process of publishing QIRC documents directly on the QIRC website includes:

- adding Citations (in place of Extract details at the top of all published documents);
- new style of citing Decisions/official articles etc. when citing within a Decision i.e. *Party v Party* only (using Footnotes on each page for full citation details);
- paragraph numbering (within square brackets [1], [2] etc.); and
- linking citations within Decisions to electronic Decisions of the QIRC where possible for easy access for clients and Members (being phased in).

The preparation and publishing of Award Reprints effected by the 2010 State Wage Case involved updating the Awards before being prepared for posting directly to the QIRC website, including converting to PDF, adding metadata and linking documents to newly created HTML pages – all done within the ISU.

The ISU monitors articles of interest regarding Industrial Relations matters from newspapers daily, via a password e-mail distribution list set up by the Communications Services Branch within DJAG. ISU selects the articles and builds its own report then emails the report onto Members of the QIRC, helping to eliminate time-consuming hard copy searching, enabling the Members to easily stay informed of current IR news Australia-wide (including AIRC and other States Tribunals' rulings on current matters).

ISU monitors the Office of the Queensland Parliamentary Counsel's website (OQPC), forwarding electronic copies of any new Acts, Amendment Acts and subordinate legislation with supporting documentation directly to the Members of the Commission. Electronic copies of the major Acts, Bills, Explanatory Notes and Second Reading Speeches are also kept and maintained by the ISU to provide easy access to such documents by the QIRC.

The Registry provides information and research services for the Court and Commission through the library. The library has a good collection of industrial law materials (texts, law reports, journals) as well as some more general law resources. It holds copies of State awards and their amendments, including rescinded awards and historical material.

The library continues to review all resource material in relation to hard copy versus availability of electronic copy as subscriptions become due, to ensure cost effectiveness and efficiency of services to the Court and Commission.

Registered Industrial Organisations

The Registrar has important functions and powers with regard to industrial organisations (i.e. unions, or organisations, of employers or employees). These are outlined below:

Register of Organisations

Under s. 426 of the *Industrial Relations Act 1999*, the Registrar is responsible for maintaining the register of industrial organisations, along with copies of each organisation's rules.

Rules

The Industrial Registrar may amend an industrial organisation's rules under s. 467 for several reasons, including on the registrar's own initiative if the registrar considers the rules do not make a provision required by s. 435, and to correct a formal or clerical error.

If an organisation proposes to amend its rules, other than by amending its name or eligibility rules the registrar may approve a proposed amendment only if satisfied it does not contravene s. 435 or another law; and has been proposed under the organisation's rules.

Amendments to organisation's name or its eligibility rules must be approved by the Commission.

Elections

Under s. 482, the Registrar must arrange for the Electoral Commission to conduct an election of officers for an industrial organisation, when its rules require one and the organisation has filed the prescribed information in the Registry.

Industrial organisations must also file in the Registry each year, copies of their registers of officers (s. 547).

Financial accountability

Organisations must also file copies of their audit reports and financial accounts, along with records of certain loans, grants or donations (ss. 570, 578).

The Registrar also has an investigative role in relation to organisations' financial records when irregularities or other reasonable grounds for investigation are apparent (s. 571).

Exemptions

Industrial organisations may apply to the Registrar for exemptions from holding elections, or from the requirement to file audit reports and financial accounts, or from certain other obligations under Chapter 12. Such exemptions may be granted, when appropriate, to organisations with counterpart federal bodies, and for organisations which are corporations.

The review of Registry records of Registered Industrial Organisations in relation to provisions of Chapter 12 of the *Industrial Relations Act 1999* continued into 2010/11. Many Industrial Organisations have been assisted in their duty to comply with legislative provisions, and their access to Registry information and services has been improved. Many of the applications filed under Chapter 12 provisions are a direct result of the Registry's proactive involvement in this area.

Corporate Services

By virtue of s. 21 of the *Public Service Act 2008*, the Industrial Registry is an office of the public service, an independent agency. Section 22 of the Act confers upon the Industrial Registrar, who is the head of the Agency, all the functions and powers of the Chief Executive of a department in relation to the agency's public service employees.

Under the provisions of the *Financial Accountability Act 2009*, the Chief Executive Officer (Director General) of the Department of Justice and Attorney-General is the accountable officer of the Industrial Registry. The Director General has delegated certain powers to the Industrial Registrar under that Act.

A comprehensive range of corporate services is provided to the Court, Commission and Registry employees. These services, principally provided through the Senior Executive Officer, include:

- human resource management;
- financial management;
- asset management, and
- administrative policies, practices and procedures.

These services also include a number of mandatory reporting requirements (e.g. Financial Statements, Service Delivery Statements, budget documentation, Estimates Hearings documentation etc.) and budget managing to ensure effective financial performance and the achievement of organisational objectives and outcomes.

New Initiatives

Review of the *Industrial Relations (Tribunals) Rules 2000*

The purpose of these rules is to provide for the just and expeditious disposition of the business of the Court, Commission, Registrar and Industrial Magistrate at a minimum expense.

The last review of the *Industrial Relations (Tribunals) Rules 2000* occurred in 2003. The President of the Industrial Court of Queensland has initiated a review of the rules to ensure they are up to date and meet current and emerging business processes, particularly reflecting electronic services now available to the Registry.

Stage 1 of the review, covering immediate business requirements including revised Forms, is anticipated to be finalised so as to operate by 1 January 2012. Other business improvements will be part of a Stage 2 review.

Electronic service delivery is a key focus of the Queensland Government to enable users to access information, conduct business, or otherwise interact with Government agencies on-line. Adoption of electronic service delivery will improve the availability, accessibility, consistency, efficiency and effectiveness of Registry services and all users of the Court and Commission.

In conjunction with the review of the Rules, the Registry will be exploring further enhancing it's electronic service delivery systems.

Performance

Key performance goals of the Registry are measured by quantitative performance indicators and an annual client satisfaction survey is undertaken to assess the Registry's level of service from a client perspective. The result of the survey undertaken in May 2011 showed that 86% of clients were satisfied with the performance of the Registry staff.

The key performance goals measured quantitatively during 2010/11 in respect of the Registry's performance include the following:

- the percentage of matters lodged that are processed and available to Members within one working day was 97%;
- the percentage of decisions released to the parties within one working day was 100% matching last year's statistics; and
- the percentage of decisions that are published and available to the community within 13 working days was also 100%.

In addition to the Registry's key performance goals, quantitative performance indicators are in place to measure the percentage of matters completed by the Members of the Court and Commission within three months and the percentage of matters resolved at conference. The percentages for these performance indicators are 69% and 68% respectively.

Performance measures are also detailed in Table 8.

Industrial Registry contact details

The Queensland Industrial Registry location:

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Central Plaza 2,
66 Eagle Street, (Corner Elizabeth and Creek Streets),
Brisbane, Queensland, 4000.

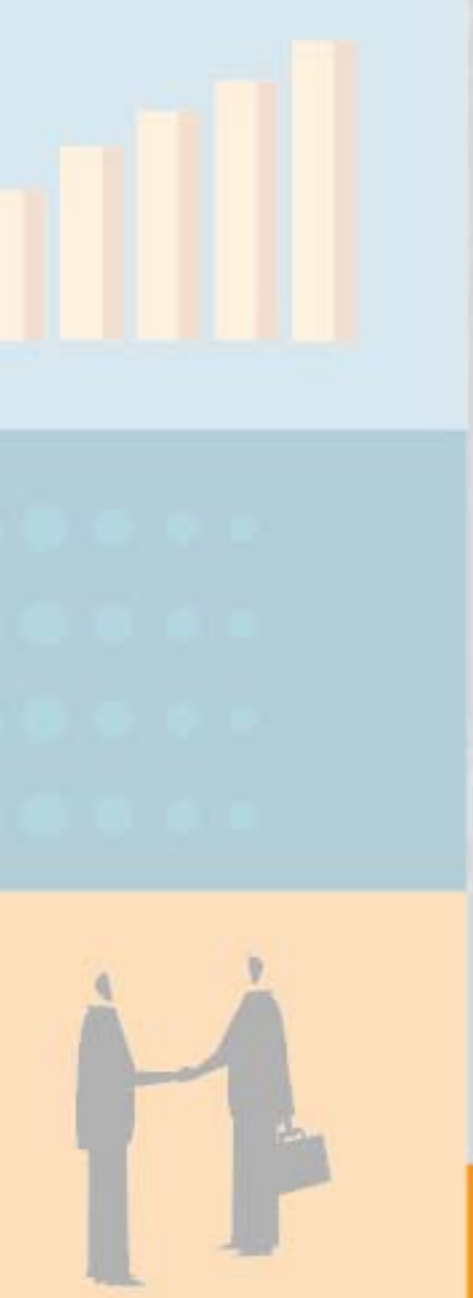
Postal address:
GPO Box 373,
Brisbane, QLD. 4001.

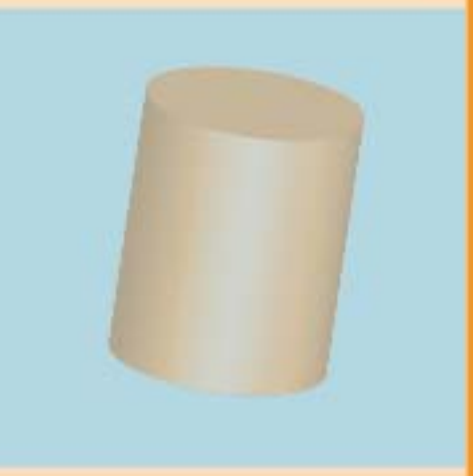
General enquiries:
(07) 3227 8060

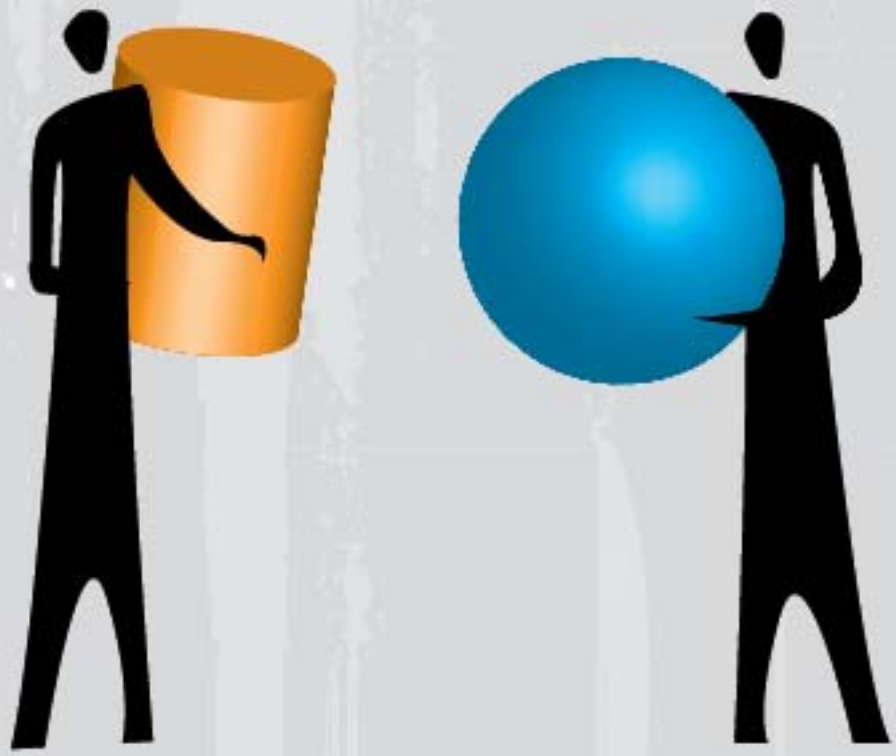
Facsimile:
(07) 3221 6074

Email address: qirc.registry@justice.qld.gov.au

Web address: www.qirc.qld.gov.au







INDUSTRIAL ORGANISATIONS

INDUSTRIAL ORGANISATIONS

Industrial organisations - that is, unions - are either employer organisations or employee organisations. The requirements for registration, rules on membership, structure and control, election of office-bearers, and financial accountability of industrial organisations are governed by Chapter 12 of the Act. The following is an overview of the common matters arising in the Registry.

Applications for registration of organisations

Applications for registration of organisations, or amalgamation of two or more organisations, may only be made to the Commission. Amalgamations (and withdrawals from amalgamations) are approved under Chapter 12 Part 15. Under s. 618, the Commission may approve an amalgamation only if the process has complied with the *Industrial Relations Regulations 2000*, and the rules of the amalgamated organisation will comply with the Act's requirements about rules (which are in Parts 3 and 4 of the Chapter).

Part 16 of the Chapter provides for an organisation to be de-registered, on certain grounds, by a Full Bench of the Commission. For this purpose, the Bench must include the President (see s. 256(2)). The grounds for de-registration are set out in s. 638; and s. 639 states who may apply. In certain circumstances, the Full Bench can act of its own initiative to bring proceedings to de-register an organisation. The Registrar can also apply to have an organisation de-registered on one of the grounds in s. 638, or on the ground that the organisation is defunct.

Under s. 426 of the Act, the Registrar must keep a register of industrial organisations, along with copies of their rules. Each organisation must also file a copy of its register of officers every year (s. 547). The rules and the register of officers are open for inspection on payment of the fee prescribed (see ss. 426 and 549). Any industrial organisation with a counterpart federal organisation may apply to the Registrar, under s. 582, for exemption from the requirement to keep registers of officers or members.

Rules

Industrial organisations must have rules on certain matters which are outlined in Parts 3 and 4 of Chapter 12. Part 3 covers general content of the rules, including restrictions on content (see ss. 435 and 436). Part 4 sets out requirements for rules governing election of officers in the organisation (this Part does not apply to organisations that are corporations). Elections are discussed briefly below. A copy of the rules of each organisation must be lodged along with registration details in the Registry (s. 426). These are open for inspection on payment of the fee indicated in the Schedule of the Tribunal Rules.

Under Part 5 of Chapter 12, a person who is a member of an organisation can make an application to the Industrial Court, if he or she believes the organisation's rules do not comply with restrictions set down in s. 435. A member can also apply to the Court for a direction that an office-bearer, or some person who is obliged to do certain things under the organisation's rules, perform those things, or observe the organisation's rules. If a person does not comply with the Court's direction to perform or observe the rules, he or she can be penalised up to 40 penalty units. If necessary, financial assistance can be made available for applications under Part 5. This is an important avenue for members to ensure that their organisations are accountable.

The rules of an organisation can be amended, on approval by the Commission or the Registrar. If the Court has declared, following an application under s. 459, that a rule does not comply with s. 435, the organisation must amend it within 3 months - if this is not done, the Commission or the Registrar may amend the rule to enforce compliance (s. 468). The Commission must determine an application to amend the eligibility rules (s. 474) and the list of callings represented by an organisation (s. 427). The Registrar can initiate the amendment of rules (see s. 467). Applications by organisations to amend rules may only be approved by the Registrar if they are proposed in accordance with the organisation's rules and will not contravene the restrictions set down in s. 435 (see s. 478).

If an organisation wishes to change its name, this may be done only if the amendment is proposed according to the organisation's rules and approved under the Act. Section 472 enables the Registrar to approve a simple change of the word "union" to the word "organisation". However more substantial name changes must be approved by the Commission (s. 473).

Elections

The Act requires all industrial organisations to make rules governing elections to office (see Chapter 12 Part 4). Section 440 also states a general requirement of transparency: that is, rules should ensure that election processes are transparent and irregularities are avoided. If a member of an organisation believes there has been irregularity in the conduct of its election, the member can apply to the Industrial Registrar under Chapter 12 Part 8 to conduct an election inquiry. If the Registrar is satisfied there are reasonable grounds and the circumstances justify an inquiry, the application may be referred to the Commission.

The rules must provide for elections to be either by a direct voting system (Div 3 of Part 4) or by a collegiate electoral system (Div 4 of Part 4). A direct vote must be conducted by a secret postal ballot, or by some alternative form of secret ballot approved by the Registrar. Schedule 3 of the *Industrial Relations Regulation 2000* sets out "Model Election Rules" which must be taken to be an organisation's election rules if their election rules do not comply with Part 4 of Chapter 12 of the Act.

Industrial organisations' elections are conducted by the Electoral Commission of Queensland in accordance with each organisation's rules (Chapter 12, Part 7). This is arranged by the Registrar when the organisation notifies the Registry that it is seeking to hold an election. The Registrar must be satisfied that the election is required under the rules. The cost is borne by the State. An industrial organisation may apply to the Registrar for an exemption from having the Electoral Commission conduct an election on its behalf (see Part 13 Div 3).

Any industrial organisation with a counterpart federal organisation may apply to the Registrar for exemption from certain requirements of the Act, including the stipulations about holding elections on the ground that their federal counterparts held elections under the federal *Fair Work (Registered Organisations) Act 2009*.

Financial Accountability

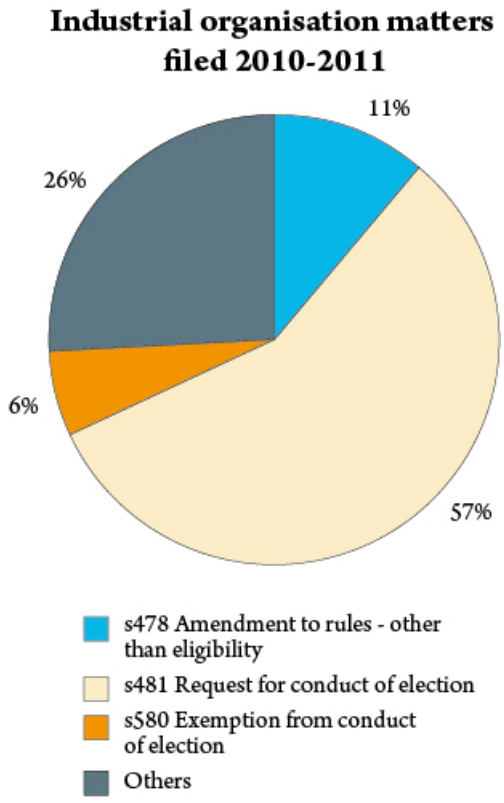
The Industrial Registrar is responsible for monitoring the financial accountability of industrial organisations. Chapter 12 Part 12 of the Act sets out accounting and audit obligations of organisations. Copies of audit reports and accounts must be filed in the Registry in accordance with s. 570. Under Division 5 of Part 12, the Registrar must investigate any irregularity or accounting deficiency found by an organisation's auditor, and may engage another auditor to examine an organisation's accounting records. Other records to be filed include statements of any loans, grants or payments totalling more than $1,000 to any one person during the financial year. These must be available for inspection to members of the organisation (ss. 578 and 579).

Any industrial organisation with a counterpart federal organisation may apply to the Registrar for exemption from accounting and audit provisions, under s. 586. If the application is approved, the organisation must file with the Registrar a certified copy of the documents filed under the federal *Fair Work (Registered Organisations) Act 2009*. (Similar provisions apply where an employer organisation is a corporation subject to other statutory requirements to file accounts and audit reports: see s. 590).

Orders for Invalidity

The Act makes provision for the Commission to validate a matter or event about the management or administration of an organisation's affairs, the election or appointment of an officer of an organisation or the making, amending or repealing of a rule of an organisation. An application about an invalidity may be made by an organisation, a member of the organisation or another person the Commission considers has a sufficient interest in whether an invalidity has occurred. In deciding the application, the Commission may declare whether or not an invalidity has occurred. If, on the hearing of the application, the Commission declares an invalidity, the Commission may make an order it considers appropriate to remedy the invalidity or to cause it to be remedied, change or prevent the effects of the invalidity or validate an act, matter or thing made invalid by or because of the invalidity.

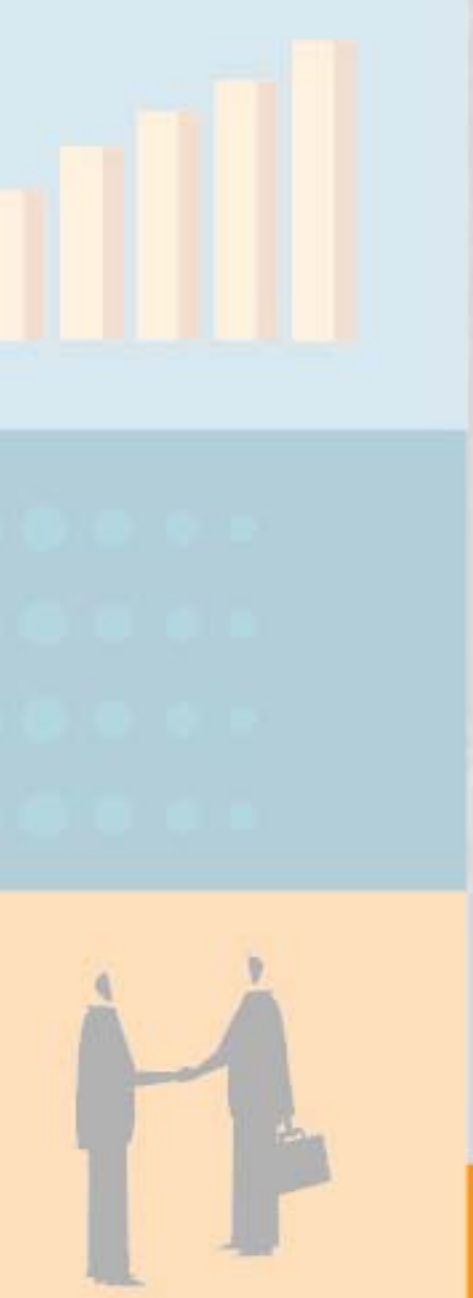
Table 10 lists industrial organisation matters filed in the Registry.



Membership of Industrial Organisations

Eligibility for and admission to membership of industrial organisations are governed by Part 10 of Chapter 12. At 30 June 2011, there were 43 employee organisations registered in Queensland, with a total membership of 404,262 compared to 396,124 at 30 June 2010. The employee organisations are listed according to membership numbers in Table 11. Equivalent figures for employer organisations are: 36 organisations registered at 30 June 2011, with a total membership of 32,787 compared to 38,395 at 30 June 2010. Table 12 lists the employer organisations according to membership.

The Court decides questions or resolves disputes about membership of an industrial organisation (see ss. 535 and 536). Under s. 535, a person or organisation may ask the Court to decide a question or dispute about: a person's eligibility for membership; when a person became a member; whether a membership subscription, fine or levy, or some other requirement of the rules is reasonable; and the qualifications for membership of a membership applicant.



AMENDMENTS TO LEGISLATION

AMENDMENTS TO LEGISLATION

The following outlines important legislative amendments made during the year which affect the work of the Tribunals.

Amendments to *Industrial Relations Act 1999*

The ***Justice and Other Legislation Amendment Bill 2010*** was introduced to Parliament on 16 April 2010 by the Industrial Relations Minister (the Honourable Cameron Dick) to amend certain legislation in Queensland including the *Industrial Relations Act 1999*.

One of the amendments to the *Industrial Relations Act 1999* now allows, subject to Ministerial approval, the Queensland Workplace Rights Ombudsman to concurrently work as the Ombudsman and as part-time Commissioner *with the flexibility to revert back to being a Commissioner on a full-time basis* when the appointment as Ombudsman ends. It also amends the Ombudsman's reporting frequency to the Minister from quarterly to annually.

The Act amendment simplifies the leave approval process for Commission Members and the appointment of Associates to the Commission and clarifies the administrative powers of the Vice President of the Commission.

The Act was passed in Parliament on 6 October 2010.

The ***Electrical Safety and Other Legislation Amendment Bill 2011*** was introduced into Parliament on 8 March 2011.

Its purpose was to amend legislation including the *Industrial Relations Act 1999*, the *Industrial Relations Regulation 2000*, and the *Industrial Relations (Tribunals) Rules 2000*.

Some important objectives of the Act **relevant to industrial relations** are to:

- ensure that local government employees are not disadvantaged by the termination of federal transitional instruments on 27 March 2011;
- remove QWAs from the State industrial relations system as part of Queensland's referral of its private sector industrial relations powers; and
- amend the arrangements for the Queensland Workplace Rights Ombudsman by providing the Ombudsman to conduct industry reviews but only at the request of the Minister in order to save duplication of functions with the QIRC.

The Act was assented to on 4 April 2011 with varying commencement dates for the various Parts by proclamation.

Amendments to the *Workers' Compensation and Rehabilitation Act 2003*

The ***Civil and Criminal Jurisdiction Reform and Modernisation Amendment Bill 2009*** was introduced by Mr Cameron Dick, Minister for Justice and Attorney-General, on 13 April 2010 (introduced and partially mentioned in last year's Annual Report).

One of the purposes of the Act was to amend s. 546 of the *Workers' Compensation and Rehabilitation Act 2003* by deleting the reference to an Industrial Magistrate and transferring the jurisdiction for appeals under the *Workers' Compensation and Rehabilitation Act 2003* from Industrial Magistrates to the Queensland Industrial Relations Commission, removing the dual jurisdiction of Industrial Magistrates for most types of appeals as of 1 November 2010.

The ***Work Health and Safety Bill 2011*** was introduced into Parliament by the Honourable Cameron Dick, Minister for Education and Industrial Relations on 10 May 2011 and was passed on 26 May 2011.

One of the purposes of the Act is to amend Chapter 3, Part 2 of the *Workers' Compensation and Rehabilitation Act 2003* by inserting a new Division 5 entitling workers to take or accrue annual leave, sick leave and long service leave under an Industrial Act or industrial instrument during the period to which any workers' compensation relates.

Public Interest Disclosure Act 2010

The *Public Interest Disclosure Bill 2010* was introduced to Parliament by the Premier Anna Bligh on 3 August 2010.

This Act, along with the *Ministerial and Other Officer Holder Staff Act 2010* and the *Integrity Reform (Miscellaneous Amendments) Act 2009* **replaced the *Whistleblowers Protection Act 1994*** as stage 2 of the integrity reforms announced in the *Response to Integrity and Accountability* in Queensland last year.

Chapter 4 (Protection, Part 3 (Injunctions), section 48 (Right to apply to Industrial Commission) of the *Public Interest Disclosure Act 2010* is the section of relevance to the QIRC which replaced s. 47 of the now repealed *Whistleblowers Protection Act 1994*.

The Act gives a person a right to bring proceedings for damages for a reprisal and provides that a reprisal may also be dealt with as if it were an alleged contravention of the *Anti-Discrimination Act 1991*. However, a person can bring a claim for damages or an action under the *Anti-Discrimination Act 1991*, but not both. A person may not seek an injunction from the Supreme Court or the QIRC in relation to a reprisal, if the person has made a complaint under the *Anti-Discrimination Act 1991*.

The Act was assented to on 20 September 2010 with relevant parts of the QIRC commencing on 1 January 2011.

Work Health and Safety Act 2011

The *Work Health and Safety Act 2011* mentioned earlier was assented to on 6 June 2011, with parts commencing by proclamation on various dates.

The **Act replaces the *Workplace Health and Safety Act 1995*** and amends various other Acts which come under the jurisdiction of the QIRC.

The Act provides legislation that forms part of a system of nationally consistent work health and safety laws.

As at 1 January 2012, some changes to the existing system will be:

- appeals from decisions of Industrial Magistrates regarding prosecutions under the *Work Health and Safety Act 2011* and the *Electrical Safety Act 2002* will no longer be heard in the Industrial Court;
- the Queensland Civil Administrative Tribunal (QCAT) will review decisions of the regulator and decisions of an administrative nature (e.g. issuing of an improvement notice). The QIRC will review decisions of an industrial nature (e.g. training of health and safety representatives);
- all external reviews in the WHS Act will be heard by QCAT, except for three decisions made by inspectors as follows that will go to the Commission (refer to Schedule 2A of the Act);
  - decision of an inspector relating to a health and safety committee decision of an inspector relating to failure to commence negotiations on work groups
  - decision of an inspector relating to training of health and safety representatives;
- all external reviews in the *Electrical Safety Act 2001* will be heard by QCAT;
- WHS entry permit holders will be required to hold an entry permit under the *Fair Work Act 2009* or authorised to enter a workplace under the *Industrial Relations Act 1999* prior to entering the workplace; and
- the Registrar will be required to maintain an up-to-date, publicly accessible register of all WHS entry permit holders. The regulations may provide for the particulars of the register.

Amendment to Regulations and Tribunal Rules

Industrial Relations Amendment Regulation (No.1) 2010

The purpose of this Amendment Regulation was to increase the level of salary above which applicants for certain remedies are excluded from a remedy in the Commission. That is, under s. 72(1)(e) of the Act, workers who are not covered by an industrial instrument and who are not public service employees are excluded from the unfair dismissal provisions if they earn above the prescribed limit (set down in s. 4 of the Regulations). Workers under a contract of service or a contract for services are excluded from the unfair contract jurisdiction in s. 276 on a similar basis. The prescribed wage limit was

raised by this Amendment Regulation from $106,400 to $113,800 per annum. The amendment took effect from 30 September 2010.

Industrial Relations (Tribunals) Amendment Rule (No.1) 2010

This Amendment Rule affected an increase to the fees charged by the Registry for filing, searching and photocopying documents. The fees are set out in Schedule 1 of the Rules. *The Financial Management Practice Manual* provides for annual increases in regulatory fees, in line with rises in the Consumer Price Index assessed on the basis of the Brisbane (All Groups) CPI movement for the December quarter. The increase took effect from 1 July 2010. A similar increase for 2010/11 was published in the Government Gazette on 24 June 2011 to take effect for the year commencing 1 July 2011.

SUMMARIES OF DECISIONS

SUMMARIES OF DECISIONS

Decisions of the Industrial Court of Queensland

The decisions summarised below are summarised only on issues of general application not previously settled by authority. It is recognised that all Appeals and Applications to the Court are of great moment to the litigants.

Re: Application to Appeal by Bryan Jackson (C/2010/15)

The factual background to the matter and the issues posed for decision were summarised by the Court as follows (references to earlier decisions omitted):

"[1] The Queensland Real Estate Industrial Organisation of Employers (the Organisation) is an organisation of employers under the *Industrial Relations Act 1999* (the Act). It was initially registered under the *Industrial Conciliation and Arbitration Act 1961*. The regime about the registration of organisations established by the *Industrial Conciliation and Arbitration Act 1961* was quite different to that established by the present Act.

[2] By late 2009, the Committee of Management of the Organisation was aware that the Secretary/Treasurer of the Organisation was ineligible to be a member and ineligible to recontest an election for the position. In those circumstances the committee of Management set about the exercise of amending the rules of the Organisation to ensure that the Secretary/Treasurer was eligible to be a member and eligible to contest the next election.

[3] To overcome the difficulty about eligibility for membership, the eligibility rule was amended to provide:

'If the Secretary/Treasurer is not already a member of the association then upon election the Secretary/Treasurer will be deemed to be a member of the association while holding that office.'.

Consistently with s. 474 of the Act, that amendment came before the Queensland Industrial Relations Commission constituted by the Vice President. Approval was granted. The operative date of the amendment was 4 March 2010. There has been no appeal against that decision. It is necessary to note only that implicit in the amendment which was allowed is the assumption that a person who is not a member of the Organisation might be elected to the position of Secretary/Treasurer.

[4] To overcome the problem about eligibility to be a candidate, the Committee of Management sought to amend the rule about the conduct of elections so that, whilst in ordinary circumstances a candidate is required to be an 'eligible member', an exception is created 'where the nominee has nominated to be elected to the office of Secretary/Treasurer only in which case the nominee need not be an eligible member.'. Consistently with ss. 477 to 479 of the Act, the question whether that amendment should be approved was dealt with by the Industrial Registrar. The Industrial Registrar declined to grant approval. This is an appeal against the decision of the Industrial Registrar. Because the Industrial Registrar abides the decision of the Court and an intervention by the Attorney-General, Minister for Justice and Industrial Relations has been withdrawn, it is an Appeal without a contravenor.

[5] The starting point must be that the Industrial Registrar has no general authority to supervise the content of the rules of industrial organisations to ensure that the rules comply with what might be seen as 'preferable, desirable or ideal'. The Industrial Registrar is confined to the issues raised by s. 478 of the Act. The issue raised by s. 478(2)(b) appears not to be an issue in this case. In that circumstance, regularity should be presumed. The critical issue is whether the proposed amendment flouted s. 478(2)(a) of the Act in that it contravened s. 435 of the Act or another law.".

The Court overturned the decision of the Industrial Registrar for the following reasons:

> "[6] The essential point taken by the Industrial Registrar, was that the proposed amendment was contrary to the objects of the Act. Whilst I accept that contravention of the Act may be brought about by an omission in the rules as well as by an express provision of the rules, it would seem to me to be involved in the word 'contravene' that breach of, or disobedience to a substantive provision is the target of s. 435(1)(a) of the Act. Inconsistency with the objects clauses of the Act or with a judicial assessment of the Acts 'objects' derived on a reading the Act as a whole, would seem to me to be insufficient. The history of s. 435 is instructive. Section 337 of the *Industrial Relations Act 1990* dealt with rules which were 'contrary' to the Act. That expression may well have picked up a rule which conflicted with the objects of the Act without breaching a substantive provision. Section 22 of the *Industrial Organisations Act 1997* abandoned 'contrary' in favour of 'contravene' but spoke of contravention of 'this Act or its objects'. That formulation may well have justified the Industrial Registrar's decision not to approve the amendment. However, as noted, s. 435 of the Act is in starkly different terms. (It is useful to know also that Chapter 12 Part 4 of the Act, which deals with election rules, distinguishes between 'eligible members', who may vote, and 'persons' who may nominate and become a candidate.) In my view, the Industrial Registrar misunderstood the test in which he was to apply to the proposed amendment and in so doing, fell into jurisdictional error.".

Jason Clifford Gibbons AND Michael David McNish (C/2010/40)

This Appeal demonstrates the importance of reading court documents and complying with the two month time limit which is imposed by the *Justices Act 1886* on applications for re-hearing. The facts were summarised by the Court as follows (references omitted):

> "[1] On 31 August 2009, Jason Clifford Gibbons, a Public Officer within the meaning of the *Justices Act 1886* and an Inspector duly appointed under the provisions of the *Industrial Relations Act 1999* (the Act), made five separate complaints relating to Michael David McNish to a Justice of the Peace. In all, Mr McNish was charged with seven separate offences against the Act. Mr McNish's residential address was obtained on an Australian business name search, conducted on 11 March 2009. All complaints and summons were posted to that residential address by registered post on 31 August 2009. Subsequently, a Ms Hinds, who had forwarded the documents by registered post, swore an affidavit of service for each complaint and summons. Those affidavits were filed with the Industrial Magistrate's Court at Brisbane.
>
> [2] Mr McNish did not appear on the return date. Ms Roney, the Industrial Magistrate into whose hands the matter had fallen, proceeded to hear the matters in the absence of Mr McNish pursuant to the provisions of s. 142A of the *Justices Act 1886*. Mr McNish was convicted of all seven offences. All convictions were recorded. A fine was imposed in respect of each offence. In the case of those offences which involve non-payment of wages due under an industrial instrument, or failure to make superannuation contributions, orders were made requiring payment by Mr McNish of those wages and superannuation contributions. All fines and moneys payable were to be paid by 29 October 2009. Orders were made about what was to happen if there was default in payment of any of the fines, or default in payment of the money amounts in respect of wages and superannuation contributions.
>
> [3] Subsequently, Mr McNish received each of five notices of 'Advice of Conviction or Order'. In the case of each notice the issue date was 25 November 2009, i.e. each of the notices was issued after the due date of 29 October 2009. Each of the notices informed Mr McNish that he had been dealt with by the Magistrates Court at Brisbane on 1 October 2009. Mr McNish has told me from the bar table that he did not

notice that date and was distracted by the very prominent date of issue. I can understand that an unrepresented defendant, untutored as to the law, might have made such an error. [Mr McNish appears not to have noticed that each of the notices was erroneous. Each of the notices asserted that the balance due on the due date was nil.]

[4] Proceeding on the view that the relevant date was 25 November 2009, Mr McNish applied to have the matters reheard. The application was dated 6 December 2009. The time limit set by s. 142A(12) of the *Justices Act 1886* is, of course, two months. Mr McNish's application was out of time.

[5] What happened after Mr McNish filed his Application for Rehearing is not apparent on the files of the Industrial Magistrate's Court. On one view, Ms Roney granted some of the Applications for Rehearing on 27 May 2010. On another view, all or some of the Applications for Rehearing were granted by another Industrial Magistrate, Mr Herlihy, on 29 June 2010. In any event, subject to the difficulty that the order made on 29 June 2010 was not signed, it is apparent that by the close of business on 29 June 2010, provision had been made for the rehearing of all complaints. In fact, all matters for rehearing were listed for 21 July 2010.

[6] It is clear that the rehearings may not be permitted to proceed. Apart from a non-compliance with s. 142A of the *Justices Act 1886* and the failure to sign the order of 29 June 2010, Mr Gibbons was not given notice of the Applications for Rehearing. It was for that reason that Mr Gibbons did not appear on the hearing of the Applications. I do not assert that no attempt was made to give notice to the complainant. However, the notices were not sent to Mr Gibbons by name, nor were they sent to his host Department, viz., Department of Industrial Relations. The notices were sent to Queensland Transport and the Department of Fair Trading.

[7] Given the uncertainty as to that which has occurred, it seems to me not to be appropriate to deal with the matter as an Appeal under s. 341(2) of the *Industrial Relations Act 1999*. Rather, it seems to me to be a case in which the power to make orders in the nature of prerogative relief at s. 248(1)(e) of the Act should be exercised.".

In all the circumstances the Court made prerogative orders under s. 248(1)(c) of the *Industrial Relations Act 1999* granting all orders for rehearing.

SPE Pty Ltd AND Q-COMP and Gary Clifford Fuller (C/2010/19)

In this case the Court was called upon to consider whether the onus of proof is carried by the appellant or the worker where an appeal against a Review Decision of Q-COMP is taken to the Industrial Magistrates Court or to the Queensland Industrial Relations Commission. The Court concluded:

"[1] It is necessary to say something about the onus of proof. Though the appeal to an 'appeal body' under the Act is by way of a hearing *de novo*, it is an appeal against a review decision. The appellant, in this case SPE Pty Ltd, seeks to disturb the existing review decision. There is no provision analogous to s. 226(2) of the *Mining and Quarrying Safety and Health Act 1999* to require that the appeal body approach its task 'unaffected by the existing review decision'. If the Appellant is successful, the appeal body is required to make orders varying the decision, or setting aside the decision and substituting another decision, or setting aside the decision and returning the matter to Q-COMP with appropriate directions, see s. 558(1) of the Act. Additionally, whilst (as here) the worker may elect to become a party to an appeal by his employer against Q-COMP, see s. 549(3) of the Act, the worker is not a necessary party to any such appeal. I can see no foundation for the Appellant's submission that the onus of proof was not carried by SPE Pty Ltd.".

Kevin John Hansen AND Q-COMP (C/2010/16) (No. 2),
Q-COMP AND Aqueen Teng Deng (C/2010/56)

Each of the above decisions dealt with the circumstances in which Q-COMP may (and should) depart from the three month time limit imposed by s. 542(1) of the *Workers' Compensation and Rehabilitation Act 2003* upon Applications for Review of an insurer's decision. In both cases it was accepted that there was power to depart from the time limit where there was substantial compliance or special circumstances. In *Steven Pearce AND Q-COMP (C/2010/64)*, the same rule was applied to the time limit of 20 working days imposed on appeals from a Review to the Industrial Magistrates Court or the Queensland Industrial Relations Commission.

Q-COMP AND Australian Language Schools Pty Ltd (C/2010/5) (No. 2)

This matter dealt with the power of the Court to deal with the matter of costs in the Queensland Industrial Relations Commission where an appeal is allowed. In a brief decision the Court observed:

> "[1] By a decision dated 17 June 2010 and released the same day, this Court allowed an Appeal against a decision of a Member of the Queensland Industrial Relations Commission, given under the *Workers' Compensation and Rehabilitation Act 2003*. Consequential orders were made. The question of costs in the Commission was reserved. Q-COMP now seeks its costs of the Commission proceedings.
>
> [2] I accept the Respondent's submission that the source of the Commission's power to award costs is to be found, not in s. 335 of the *Industrial Relations Act 1999* but in s. 558(3) of the *Workers' Compensation and Rehabilitation Act 2003*. I do not accept that this Court may not make a s. 558(3) order about costs. The scheme of s. 562 of the *Workers' Compensation and Rehabilitation Act 2003* is that, where an appeal is allowed, the orders made by the Appeal Tribunal are to be brought into accord with the decision which the Appeal Tribunal should have made. That may be done only by the Court exercising the powers vested in the Appeal Tribunal. There is, one should note, no explicit power to remit.
>
> [3] As to the quantum of costs recoverable, I accept the Respondent's submission that Rule 66 of the *Industrial Relations (Tribunals) Rules 2000*, has no application. Rule 66 applies to the grant of costs under s. 335 of the *Industrial Relations Act 1999*. The applicable statutory instrument is s. 113 of the *Workers' Compensation* and *Rehabilitation Regulation 2003* (the Regulation), which establishes a prima facie rule that the quantum is to be derived from Schedule 3, Scale E of the *Uniform Civil Procedure Rules 2003*. Here, the Appellant has calculated costs in accordance with that scale.
>
> [4] Each of s. 558(3) of the *Workers' Compensation and Rehabilitation Act 2003* and s. 113 of the Regulation emphasise that the award of costs involves the exercise of discretion. However, in the ordinary case, costs have traditionally followed the event. This is a very ordinary case.
>
> [5] Assessing quantum under s. 113 of the Regulation, I order that the Respondent pay to the Appellant the sum of $6,626 within 28 days of the date of release of this decision.".

Q-COMP AND Jennifer Jones (C/2010/51)

This was an appeal under the *Workers' Compensation and Rehabilitation Act 2003*. In a context in which there was no suggestion that the worker's psychological condition was related to pharmacological or other medical issues, the case concerned whether the evidence of a treating psychologist might be preferred to that of a psychiatrist called upon to prepare a medico-legal report. Whilst paying due deference to the harm which giving such evidence might cause to the doctor-patient relationship, the Court affirmed that the psychologist's evidence might be preferred.

Decisions of the Queensland Industrial Relations Commission

The decisions summarised below are significant decisions released and published by the Queensland Industrial Relations Commission during the year:

Decisions of the Full Bench

Queensland Council of Unions AND Local Government Association of Queensland Ltd and

Others (B/2010/20)

The Australian Workers' Union of Employees, Queensland AND Local Government Association of Queensland Ltd and Others (B/2010/21)

Industrial Relations Act 1999 - s. 287 - application for declaration of a general ruling s. 288 - application for statement of policy

STATE WAGE CASE 2010

Background:

On 23 June 2010 the Queensland Council of Unions (QCU) filed an application (B/2010/20) seeking a general ruling pursuant to s. 287 of the *Industrial Relations Act 1999* (the Act) and a statement of policy pursuant to s. 288 of the Act in regard to the principles of wage fixation. In doing so, QCU sought the following decision:

- a $26 per week increase in Award wage rates;
- an increase in existing Award allowances which relate to work or conditions which have not changed and service increments by the equivalent percentage increase to that which the $26 wage adjustment bears to the C10 wage rate as it appears in the *Engineering Award - State 2002* (i.e. 3.93%);
- an increase of $26 per week in the level of the Queensland Minimum Wage (QMW) as it applies to all employees;
- an operative date for the respective increases from 1 September 2010; and
- a statement of policy in regard to a statement of principles that may be generated as a result of the aforementioned general rulings.

On 25 June 2010 The Australian Workers' Union of Employees, Queensland (AWU) filed a similar application (B/2010/21). By consent of all of the parties the two applications were joined in preliminary proceedings conducted on 5 July 2010.

Held:

In summary, the respective parties proposed the following increases to the QMW and Award wage rates:

- QCU and AWU - $26.00 per week;
- LGAQ - $17.05 per week;
- ACSEA - 2.9%, said to represent "*the consensus projections for underlying aggregate inflation for 2010-11*"; and
- Queensland Government - "*(a) moderate increase to maintain the real value of Award wages*", to be ascertained by reference to the projected Brisbane Consumer Price Index.

After considering all of the submissions of the parties, especially:

- the obligations on the Commission imposed by s. 3 and s. 126, respectively, of the Act;
- the current state of the Queensland and national economies;
- the social considerations; and
- the nature and extent of the increases proposed by the various parties,

the Full Bench decided to maintain the Commission's practice of recent years of awarding a flat-dollar increase in the Queensland Minimum Wage and in Award rates of pay in the amount of $20.00 per week.

Based upon the economic material provided such level of increase represents an appropriate balance between affordability and assisting to keep the wages of lower paid Award-reliant workers in touch with the community standard. Further, the awarding of a flat-dollar increase will, as the Commission has previously recognised, have "*... the benefit of targeting lower paid workers with proportionately higher increases.*". It will also go some way to addressing the gender-pay gap.

Existing Award allowances which relate to work or conditions which were not changed and service increments were increased by 3.0%, being the percentage which an increase of $20.00 per week bears to the C10 wage rate as it appears in the *Engineering Award - State 2002*.

In keeping with the past practice of the Commission the operative date for wage increases and allowance adjustments granted by the Decision was 1 September 2010.

A formal declaration of General Ruling was issued at the same time as the release of the Full Bench's reasons for Decision, thereby giving effect to the Decision.

The parties were in agreement that the current statement of principles, through a Statement of Policy, should continue with the necessary amendments to reflect changes to the operative date, the quantum of wage and allowance adjustments awarded in the Decision, and other consequential amendments. A new Statement of Policy with respect to wage fixing principles was issued concurrently with the Decision.

Queensland Council of Unions AND Department of Justice and Attorney-General and Others (B/2010/34) and The Australian Workers' Union of Employees, Queensland AND Department of Justice and Attorney-General and Others (B/2010/38)

Industrial Relations Act 1999 - s. 287 - application for declaration of a general ruling

OVERTIME MEAL ALLOWANCE

Background:

Applications B/2010/34 and B/2010/38 (as amended) were made by the Queensland Council of Unions and The Australian Workers' Union of Employees, Queensland respectively. With consent of all parties, these applications were joined.

In accordance with s. 287 of the *Industrial Relations Act 1999* (the Act), the Queensland Industrial Relations Commission (Commission) gave notice of their intention to conduct the hearing. All parties were given the opportunity to make submissions.

Both applications sought a General Ruling for the Overtime Meal Allowance to all Awards pursuant to s. 287 of the Act.

The decision sought was:

> The minimum amount prescribed in awards which make provision for the payment of an amount of $9.60 as an overtime meal allowance to employees required to work overtime be amended by the deletion in the Award of such an amount and by the insertion in lieu into the Award the amount of $12.07.

The parties requested that the application be heard "on the papers".

The Shop, Distributive and Allied Employees Association (Queensland Branch) Union of Employees advised the Commission that whilst not able to attend the proceedings, they requested to have their support for the application recorded.

Held:

The Full Bench accepted the submissions made by the applicants and those in support of the Application.

It was determined that the increase in the overtime meal allowance in all awards for employees be $12.07 rounded to $12.10. This payment was effective from 1 January 2011.

Liquor Hospitality and Miscellaneous Union, Queensland Branch, Union of Employees AND Department of Community Safety (formerly the Department of Emergency Services) and Another (CA/2008/317)

Industrial Relations Act 1999 - s. 149 - arbitration if conciliation unsuccessful

QUEENSLAND AMBULANCE SERVICE - DETERMINATION 2010

Background:

Section 149 of the *Industrial Relations Act 1999* (the Act) (arbitration if conciliation unsuccessful), is applicable if the Commission determines that conciliation between two parties, pursuant to s. 148 of the Act (assistance in negotiating by conciliation), has been unsuccessful on stated grounds. In this instance, the (then) Department of Emergency Services (now the Department of Community Safety) requested help from the Commission (on behalf of the Queensland Ambulance Service [QAS]) pursuant to s. 148(1)(a) of the Act to make a certified agreement with the Liquor Hospitality and Miscellaneous Union, Queensland Branch, Union of Employees (LHMU). This request was made on 27 October 2008 after the peace obligation period had expired on 8 October 2008.

Pursuant to s. 148(1)(a) of the Act, two conciliation conferences (31 October 2008 and 4 November 2008) were held before the Commission without resolution. The matter was then referred to a Full Bench of the Commission on 5 November 2008 for Determination.

Directions hearings before the Full Bench commenced

on 6 November 2008 and then proceeded by way of programming reports up until 5 August 2009.

The programming reports considered matters which included the identification of the issues in contention between the parties, the order of proceedings, inspections by the Full Bench of various workplaces, filing and responses of witness evidence, nomination of locations at which evidence would be taken, amongst other issues and, on 4 June 2009, the proposed format of the Determination to be made by the Commission.

At the commencement of proceedings on 25 November 2008 the Full Bench (as then constituted) noted the Government's offer of a 4% interim wage increase to LHMU. This offer was accepted by LHMU operative from 1 October 2008. On 18 December 2009 the Full Bench awarded a further interim increase of 4% or $34 per week, whichever is the greater, operative from 1 December 2009.

The constitution of the Full Bench altered on 9 March 2009 to the Full Bench as presently constituted.

At the commencement of the hearing, two paramedics employed by QAS, Messrs Collier and Evans, sought to put submissions to the Commission on behalf of a number of ambulance officers. Messrs Collier and Evans did not seek to be involved during the course of the proceedings, but rather to make written submissions at the finalisation of the hearing.

Both QAS and LHMU opposed leave being granted. However, in a separate decision, the Commission determined to grant limited rights to Messrs Collier and Evans.

Held:

Exhibit 5 in these proceedings recorded those matters discussed by the parties in the course of their (failed) negotiations for a new enterprise bargaining agreement. In particular, the Exhibit recorded the matters the parties agreed, those matters which were agreed in principle and those matters where the parties failed to agree.

The Full Bench directed the parties to confer to finalise the terms of the Determination to be issued which was to reflect the outcome of their earlier discussions as well as the various decisions the Full Bench made in relation to the contested issues.

The parties reported back to the Full Bench on 3 August 2010 about the results of their discussion(s).

At such report back the parties were directed to be in a position to present arguments in relation to any matters they might have been unable to agree to during the course of their discussions.

The Full Bench reserved the right to settle any such matters without the need to hear any further submissions from the parties based upon what the parties will present at the report back proceedings.

For clarity, the Full Bench summarised those matters which will commence operation from a different operative date:

From 1 December 2009

- 4% or $34 per week, whichever is the greater, as a result of this Full Bench's interim decision on 18 December 2009 (*Liquor Hospitality and Miscellaneous Union, Queensland Branch, Union of Employees AND Department of Community Safety (formerly the Department of Emergency Services) and Another (CA/2008/317) - Report on Decision http://www.qirc.qld.gov.au*).

From 1 July 2010

- General increases (except for Non Managerial Scale employees) ranging between 1.07% and 2.64% with Advanced Care Paramedics and Intensive Care Paramedics with more than eight years' service as at that date being entitled to be classified at Pay Point 3, which includes an additional 2.5% and 3.5%, respectively.
- Educators receiving access to the wage increase specified above plus an additional 2.5% (approximately).
- Isolated Practice Area Paramedics receiving access to the general wage increases specified above plus an additional all purpose payment of 2.5%.

From 1 November 2010

- A general wage increase of 4.0% payable to all classifications.
- ACPs and ICPs with in excess of seven years' service as at that date being able to access the new Pay Point 3.

As at 1 October 2011

- A general wage increase of 3.0% payable to all classifications.
- ACPs and ICPs with in excess of six years' service as at that date being able to access the new Pay Point 3.

After 1 October 2011

- ACPs and ICPs will be able to access the new Pay Point 3 as they reach six years' service.

Sick Leave

As at 1 July 2010

- All employees are to have a pro-rata adjustment to their sick leave credit to reflect an increase from 80 hours to 96 hours annual entitlement. By way of example: an employee whose next anniversary for sick leave purpose is on 1 October 2010 will receive an additional credit of four hours on 1 July 2010 and 96 hours on 1 October 2010; an employee whose next anniversary for sick leave purpose is on 1 April 2011 will receive an additional credit of 12 hours on 1 July 2010 and 96 hours on 1 April 2011.

After 1 July 2010

- All employees are to receive an annual sick leave entitlement of 96 hours.

The Queensland Industrial Relations Commission, after a hearing of the Full Bench at Brisbane on 23 August 2010, issued a Determination operative from 1 July 2010.

The Queensland Public Service Union of Employees AND Queensland Fire and Rescue - Senior Officers Union of Employees (B/2009/17)

Industrial Relations Act 1999 - s. 274A - power to make declarations

Background:

By way of amended application (B/2009/17), The Queensland Public Sector Union of Employees sought the following:

(a) a declaration that the Queensland Fire and Rescue - Senior Officers Union of Employees cannot enrol into its membership and represent under the *Industrial Relations Act 1999* the industrial interests of those persons who are employed in the Rural Fire Division of the Queensland Fire and Rescue Service;

(b) a direction that the Queensland Fire and Rescue - Senior Officers Union of Employees, its officers, members, servants or agents refrain from enrolling into the membership of the Queensland Fire and Rescue - Senior Officers Union of Employees, those persons who are employed in the Rural Fire Division of the Queensland Fire and Rescue Service; and

(c) a direction that the Queensland Fire and Rescue - Senior Officers Union of Employees remove from its membership any person who is employed in the Rural Fire Division of the Queensland Fire and Rescue Service.

The application was opposed by the Queensland Fire and Rescue - Senior Officers Union of Employees.

Held:

Having considered that evidence, the Full Bench was of the view that there were discrete differences between the rural and urban brigades. Notwithstanding the various policy and administrative processes to which adherence must be given, the real differences in the work performed are those cited in the evidence. In their view, the two groupings were discretely different.

Added to that, there was a clear distinction in that one group of employees was engaged in rural services and the other group of employees was engaged in urban work (this encompasses the work formerly done by the Fire Brigade Boards which were the subject of coverage by the two predecessor organisations of the Respondent).

It followed that at the date of its registration, the Respondent was unable to enrol any person engaged as a senior officer, employed by the Rural Fires Board constituted under the *Rural Fires Act 1946 to 1984*.

The Respondent had limited its rules to the ambit of the application of the rules of the two amalgamating bodies, neither of which were entitled to represent senior officers employed under the *Rural Fires Act 1946 to 1984*.

The operative provisions of the *Fire Service Act 1989* were of no consequence because that Act was never proclaimed. However, while reference was made to the

Fire Brigade Act 1964 and the *Fire Safety Act 1974*, there was no mention of the *Rural Fires Act 1946 to 1984* in the eligibility rules.

The Bench accepted the Applicant's submissions that references in those rules to persons employed under particular named Acts, or "*under any Act amending any of these Acts or under any Act in substitution for any of these Acts*" could not be read as permitting an open ended "blank cheque" enlargement of the eligibility of the Respondent, merely by reference to any changes whatsoever to the scope of coverage of the legislation there named.

It was accepted that the Respondent has chosen this path - i.e. to confine the coverage of the organisation to urban fire officers to the exclusion of rural fire officers.

By way of example, the Applicant posed the proposition that if the *Fire Services Act 1990* was to be replaced by an Act which created a single legislative structure regulating the Police Service, the Fire Service and the Ambulance Service, and created generic officer rank structures within such legislation, the Respondent's submission must be that it could enrol as members police officers and ambulance officers higher than the presently described rank of a Station Officer first class who might fall within a wide range of callings.

It was the Full Bench's view that the Respondent was not entitled to any expansion of its eligibility rules which may arise (either intentionally or coincidentally) from an enlargement of legislative instruments which might apply (at any time) in the place of the legislation specifically named by the Respondent as demarking its area of eligibility.

In their view, where reference was made in the Respondent's rules to employment under or in accordance with legislation which may be made subsequent to the creation of the Respondent, it is a reference to persons employed in the same areas of work were the subject of the original nominated legislation.

There was no entitlement in the Respondent's rules to permit "coincidental enlargement" of the eligibility rules of the Respondent by granting coverage over areas of work which were never contemplated by the rules of the organisation at the time of its creation.

The Orders so sought by the Applicant in its amended application were granted.

Trading Hours Matters before the Queensland Industrial Relations Commission

The 2010/2011 reporting period saw a large number of Trading Hours matters determined by a Full Bench.

A Full Bench in making any determination considers all matters relevant to a s. 21 Order as outlined in s. 26 of the *Trading (Allowable Hours) Act 1990* (Trading Act):

(a) the locality, or part thereof, in which the non-exempt shop or class of non-exempt shop is situated;

(b) the needs of the tourist industry or other industry in such locality or part;

(c) the needs of an expanding tourist industry;

(d) the needs of an expanding population;

(e) the public interest, consumers' interest, and business interest (whether small, medium or large);

(f) the alleviation of traffic congestion;

(g) the likely impact of the order on employment;

(h) the view of any local government in whose area the order is likely to have an impact;

(i) such other matters as the industrial commission considers relevant.

Matters determined were:

MISSION BEACH AREA AND BARGARA AREA (TH/2008/4)

The application sought the extension of trading hours of non-exempt retail shops in the Mission Beach and Bargara areas to allow non-exempt retail shops trading on Sundays.

In reaching its conclusion as to whether the application should be granted, the Full Bench expressed the view that reliable relevant data could have been presented by the applicant witnesses but was either unavailable or was withdrawn by the witnesses before hearing. In conclusion, it was the view of the Full Bench that little evidence was presented in most of the criteria to support the application together with strong local views against it and the application was refused.

GOLD COAST COASTAL TOURIST AREA (TH/2008/3)

The application sought the extension of trading hours of non-exempt retail shops in the Gold Coast Coastal Tourist area to allow extended trading hours Monday to Saturday 7:00 a.m. to 10:00 p.m. and Sunday and public holidays as defined 8:00 a.m. to 8:00 p.m.

The Full Bench was satisfied that the area of the Gold Coast which this application related to was continuing to experience significant tourism development and it was acknowledged that domestic and international visitation was high. The Full bench also expressed the view that from the evidence presented that the volume of customer transactions were particularly high at closing times at coastal stores and tourists could be confused about opening times.

Having considered all the evidence the Full Bench was satisfied that the application should be granted in light of the locality in which the changed trading hours are sought; the needs of the tourist industry; the needs of an expanding tourist industry; the interest of consumers, in this case represented by tourists; large business interest; the increased number of working hours to be generated; and the lack of any evidence opposing the application.

The application was granted operative from 29 August 2010.

CHRISTMAS TRADING HOURS 2010 (TH/2010/5), (TH/2010/12), (TH/2010/14)

There were three applications before the Commission regarding Christmas Trading for 2010. It was determined by the Full Bench, with the consent of the parties, to hear all applications concurrently.

The first application by the National Retail Association Limited, Union of Employers, sought to amend the Trading Hours Order by inserting a new proviso to allow non-exempt retail trading on Monday 27 December 2010, Tuesday 28 December 2010 and Monday 3 January 2010 from 8:00 a.m. to 5:00 p.m. on each day.

The second and third applications by the Shop, Distributive and Allied Employees Association (Queensland Branch) Union of Employees and The Australian Workers' Union of Employees, Queensland respectively, identically sought to insert a new clause ordering that all non-exempt shops were to be kept closed on Sunday 26 December 2010 and Saturday 1 January 2011.

During the course of the hearing, the Queensland Government passed legislation to the effect that 1 January 2011 (New Year's Day) would retain its public holiday status and 3 January 2011 would be the substituted public holiday.

After considering all of the matters put before the Commission and the mandatory provisions contained in s. 26 of the Trading Act, the Full Bench believed that the evidence and submissions largely supported the granting of TH/2010/5 and, in part, applications TH/2010/12 and TH/2010/14 (trading was to be allowed on Sunday 26 December 2010 [Boxing Day] and on Saturday 1 January 2011 granted in part).

The rationale and further elaboration of the Full Bench's reasons can be read in the "Consideration of Evidence" in full in the published decision.

WARWICK AREA (TH/2010/3)

The application sought the extension of trading hours of non-exempt retail shops in the Warwick area to allow non-exempt retail shops trading on Sundays.

In making their decision the Full Bench relied on the evidence and submissions made during the hearing of the application.

In reaching a conclusion as to whether the application should be granted, the Full Bench was struck by the fact the local community did not show support for seven day trading. Both of the consumer surveys did not show majority support for Sunday trading. The local business community was ambivalent about the application and the Shop, Distributive and Allied Employees Association (Queensland Branch) Union of Employees had reached a clear position of opposing the application. In the Full Bench's view this lack of local support was significant in their decision to refuse the application and was sufficient to outweigh the positive employment impact a favourable decision would have had and the other criteria weighing in favour of the grant of the application.

The application was refused.

GLADSTONE (TH/2010/6)

The application sought the extension of trading hours of non-exempt retail shops in a newly defined area, "the Gladstone Area", to allow non-exempt retail shops trading on Sundays.

The Full Bench noted that five of the criteria were in favour of the application. Whilst the legislation doesn't rate any particular criteria, the Full Bench found that those in favour were not without substance and included the needs of other industries; the needs of an expanding population; public, consumer and business interest; and likely impact on employment.

In granting the application the Full Bench considered all of the evidence, material and submissions before it and for reasons of ensuring consistency with comparable locations the Commission is not prepared to accede to the request by the Shop, Distributive and Allied Employees Association (Queensland Branch) Union of Employees that Easter Sunday be excluded from the Order.

The Full Bench ordered the amendment to be operative from 19 June 2011.

INNISFAIL AREA (TH/2010/7)

The application sought the extension of trading hours of non-exempt retail shops in a newly defined area "the Innisfail Area" to allow non-exempt retail shops trading on Sundays.

In reaching its conclusion as to whether the application should be granted, the Full Bench weighed and balanced evidence and submissions concerning s. 26 of the *Trading (Allowable Hours) Act 1990* (Trading Act) and concluded in favour of the application. In the particular circumstances of this case the absence of any evidence from small traders, the evidence concerning employment benefits and consumer support outweighed other relevant factors.

The application was granted operative from 27 March 2011.

EMERALD AREA (TH/2010/8)

The application sought the extension of trading hours of non-exempt retail shops in a newly defined area "the Emerald Area" to allow non-exempt retail shops trading on Sundays.

In reaching its conclusion as to whether the application should be granted, the Full Bench weighed and balanced evidence and submissions concerning s. 26 of the Trading Act and concluded in favour of the application.

The Full Bench made particular reference to Emerald's location at the junction of the Capricorn and Gregory Highways, being the largest town in the Central Highlands and regarded as a regional hub. The Full Bench also noted the high number of shift workers in the area within the mining industry who would benefit from Sunday trading. It also considered the opposition expressed by the Regional Council, however, at the end of the day, the Council's views were far outweighed by evidence tendered in support of the application.

The application was granted operative from 8 May 2011.

KINGAROY (TH/2010/9)

This application sought to introduce seven day trading to the Kingaroy area by allowing non-exempt retail shops to trade on Sundays.

The Full Bench assessed that only two of the criteria they were required to consider could be seen to favour the granting of the application. This was compared to one neutral assessment and three other criteria which had been assessed as not supporting the granting of the application. In the circumstances where only two of the eight criteria they considered, pursuant to s. 26 of the Trading Act, support the granting of the application, the application was rejected.

It was the decision of the Full Bench that the application to amend the Order to include the Kingaroy Area be refused.

THE TABLELANDS AREA (TH/2010/10)

The application sought the extension of trading hours of non-exempt retail shops in a newly defined area "Tablelands Area" to allow non-exempt retail shops trading on Sundays.

In reaching its conclusion as to whether the application should be granted, the Full Bench weighed and balanced evidence and submissions concerning s. 26 of the Trading Act and concluded in favour of the application.

The Full Bench considered the opposition to the application from the Tablelands Regional Council, Mr Griffiths and by Mr Katter. In support of the application the Full Bench noted strong results of the Compass Research survey showing that local consumers were largely supportive of extended Sunday trade coupled with the views of small and middle sized local traders. Others in support of the application were the non-exempt stores in the area seeking to trade on a Sunday. The Full Bench concluded that there was more support for the application at a local level than opposition to it.

The application was granted operative from 19 June 2011.

CAIRNS CBD AREA (TH/2010/11)

The application sought to amend weekend trading hours in the Cairns CBD area for Supermarkets by extending the closing time on Saturdays from 5:30 p.m. to 9:00 p.m. and on Sundays from 6:00 p.m. to 9:00 p.m.

The thrust of the submissions was that increased trading hours would meet the requirements of the rapidly growing tourist industry.

The Commission, having been satisfied that the relevant criteria which must be considered had been addressed, granted the application operative from 4 April 2011.

TUESDAY 26 APRIL 2011 (TH/2011/2)

This Decision relates to an application made by the National Retail Association Limited, Union of Employers (NRA) to amend the *Trading Hours - Non-Exempt Shops Trading by Retail - State* Order by inserting a new proviso in clause 3.2(1):

> "Provided further that notwithstanding the provisions of clause 3.1, the following trading hours shall apply on Tuesday, 26 April 2011:

	Opening Time	Closing Time
Tuesday, 26 April 2011	8:00 a.m.	5:00 p.m. ".

After considering the provisions of s. 26 of the Trading Act the Full Bench granted the application subject to several qualifications to allow non-exempt shops throughout Queensland to trade on Tuesday 26 April 2011. The conditions were as follows:

"We make it very clear that it is a condition of our approval of NRA's application that:

- any work to be performed by any worker on Tuesday 26 April 2011 is to be on a purely voluntary basis;
- any employee who has previously applied for, and been granted, annual leave covering 26 April 2011 is to have that approval honoured;
- no employee is to be disadvantaged in his or her employment because they choose not to volunteer to work on Tuesday 26 April 2011; and
- the variation to the Order is to include the words 'By order of the Queensland Industrial Relations Commission, pursuant to s. 21(2) of the *Trading (Allowable Hours) Act 1990*, any work performed on this day is to be purely voluntary in nature.' ".

In making its decision the Full Bench noted that the closure of non-exempt retail shops for three successive days between Sunday 24 and Tuesday 26 April 2011 would not be in the public interest nor the interests of tourists, consumers or business. The Full Bench was also concerned about the impact the closure would have on families preparing to return to school following the school holidays on 27 April 2011.

The Full Bench also made a special footnote to its decision in relation to the lateness of the application considering when the public holiday was gazetted.

Application was granted subject to special conditions.

Decisions of the Commission

Dr Inderjit Singh Virdi AND Queensland Health (TD/2008/158)

Industrial Relations Act 1999 - s. 74 - application for reinstatement

This matter concerned an application for reinstatement filed by Dr Inderjit Singh Virdi in which he sought reinstatement to his former position as Cardio-thoracic Surgeon at the Townsville Hospital.

Following a number of preliminary proceedings in the Commission during 2009 and 2010, the Commission issued a Decision on the substantive application on 21 March 2011. A feature of the case was the concession by Queensland Health, Dr Virdi's former employer, that his

dismissal in September 2008 was unjust. As such the only matter to be determined by the Commission was the issue of remedy.

The Commission found that it was impracticable to order Dr Virdi's reinstatement or re-employment to his former position. In doing so, the Commission found that reinstating Dr Virdi into his former position at the Cardiac Surgical Unit at the Townsville Hospital would create more than just "ripples on the surface of the employment relationship" (see Perkins v Grace Worldwide (Aust) Pty Ltd [1997] 72 IR 186).

However, the Commission decided to award Dr Virdi the maximum compensation provided in s. 79(2)(a) of the ***Industrial Relations Act 1999***, namely six months' wages. This was in recognition of the period during which Dr Virdi remained unemployed following his termination as well as his continuing loss as result of having found employment (overseas) at a lower rate of wage than he was previously receiving with Queensland Health.

(see the QIRC website www.qirc.qld.gov.au for the complete decisions)

TABLES & APPENDIX

TABLES

Table 1: Matters filed in the Court 2009/10 and 2010/2011

Type of Matter	2009/10	2010/11
Appeals to the Court	59	42
— Magistrate's decisions	37	22
— Commission's decisions	15	19
— Registrar's decisions	2	0
— Director, WH&S decisions	4	0
— Electrical Safety Office decisions	1	1
Extension of Time	5	3
Prerogative order	0	3
Stay order	0	12
Direction to observe/perform Industrial Org rules	3	0
Case stated by Commission	3	2
Application for orders - other	1	1
TOTAL	**71**	**63**

Table 2: Number of matters filed in the Court 1994/95 - 2010/11

1994/95	60	2000/01	74	2006/07	72
1995/96	89	2001/02	102	2007/08	53
1996/97	81	2002/03	100	2008/09	47
1997/98	90	2003/04	104	2009/10	71
1998/99	95	2004/05	92	2010/11	63
1999/00	61	2005/06	100		

Table 3: Appeals filed in the Court 2009/10 and 2010/2011

Appeals Filed	2009/10	2010/11
Appeals from decisions of Industrial Commission		
IRA s 341(1)	9	11
Work Comp Act s 561	6	8
Appeals from decisions of Industrial Magistrate		
IRA s 341(2)	16	3

Appeals Filed	2009/10	2010/11
WH&S Act s 164	0	4
ES Act s 172	0	1
Work Comp Act s 561	21	14
Appeals from decisions of Industrial Registrar		
IRA s 341	2	0
Appeals from review decisions by Director WH&S	4	0
Appeals from decisions of Electrical Safety Office	1	1
TOTAL	**59**	**42**

Table 4: Applications filed and Matters heard 2009/10 and 2010/2011

Section	Type of Application/Matter	2009/10	2010/11
s 53	Long Service Leave - payment in lieu of	153	166
s 74	Application for Reinstatement (Unfair dismissal)	159	83
s 87	Severance allowance	1	0
s 117	Prohibited conduct - breach	1	0
s 125	Awards:		
	- New award	1	0
	- Repeal and new award	1	2
	- Amend award	3	34
s 130	Review of Award	164	0
s 148	Assistance to negotiate a CA	5	7
s 149	Arbitration of CA	2	0
s 156	Certified Agreements:		
	- Approval of new CA	135	2
	- Replacing existing CA	63	6
s168	Extending a CA	0	1
s 169	Amending a CA	2	1
s 172, s173	Terminate a CA	2	0
s 175, s177	Notice of industrial action	12	17
s 192	Approve a QWA	1	0
s 229	Notification of dispute	163	149
s 248	Prerogative orders	1	0
s 274	General powers	1	3

Section	Type of Application/Matter	2009/10	2010/11
s 274A	Power to make declarations	3	2
s 274DA	Dismissal of Application	7	2
s 278	Claim for unpaid wages/superannuation	39	24
s 280	Re-open a proceeding	1	4
s 281	Reference to a Full Bench	1	0
s 284	Interpretation of industrial instrument	3	0
s 287, 288	General ruling/statement of policy	2	4
s320	Application to be heard or to intervene	0	32
s 326	Interlocutory orders	1	0
s 335, r117	Costs	3	3
s 342	Appeal to Full Bench	1	0
s 364	Authorisation of industrial officers	127	117
s 408F	Repayment of private employment agent's fee	1	0
s 409-657	Industrial Organisation matters [Table 10]	125	132
s 695	Student work permit	26	0
s 696	Aged and/or infirm permit	11	0
r 38	Application for directions order	0	5
r 57	Setting aside of attendance notice	0	2
r 190	Request for statistical information [Table 10]	80	81
IR Act	Private conference	6	1
IR Act	Request for recovery conference	48	9
Clothing Trades Award c 4.6	Clothing trades registration	8	0
W H&S Act s 90	Authorised representative	139	53
WC Act s 232E	Reinstatement of injured worker	0	1
WC Act s 549	Application to be a party to appeal	0	6
WC Act s 550	Appeal against Q-Comp	129	315
WC Act s 556	Order for medical examination	0	1
T(AH) Act	Trading hours order	12	14
T&E Act s 62	Reinstatement of training contract	4	1
T&E Act s230, s 231	Apprentice/trainee appeals	3	12
Mags Courts Act s 42B	Employment claim	55	42
TOTAL APPLICATIONS/MATTERS		**1,705**	**1,334**

Table 5: Agreements filed 2009/10 and 2010/2011

Agreements	2009/10	2010/11
Certified agreements	198	8
Application to amend a CA	2	1
Application to terminate a CA	2	0
Queensland Workplace Agreements	1	0

Table 6: Industrial Instruments in force 30 June 2011

Type of Instrument	
Awards	327
Industrial agreements	6
Certified agreements	4,550
Superannuation industrial agreements	1
TOTAL	**4,884**

Table 7: Reinstatement Applications 2010/11 - Breakdown of outcomes

Rejected by Registrar*	1
No jurisdiction found by Commission	0
Application refused following hearing	1
Application dismissed following hearing	0
Application withdrawn**	33
Lapsed***	5
Inactive****	22
Completed	1
Still in progress	18
Adjourned to Registry	2
TOTAL number of Applications	**83**

*The Registrar may, under s. 72(1) of the Act, reject a reinstatement application on the grounds of exclusion from coverage of the dismissal provisions.

**A large number of applications are withdrawn due to settlement between the parties following a conference but prior to a hearing.

***Under s. 75(4) the application for reinstatement will lapse if the applicant hasn't taken any action after 6 months from the initial conciliation conference. For all other matters the application lapses after 12 months.

****An application is recorded as inactive during the period after a Conciliation Conference has been held but is pending further action by the applicant prior to the matter lapsing.

Table 8: Registry Performance Indicators 2009/10 and 2010/2011

Criterion	Target	2009/10	2010/11
% of matters completed within three months	>75%	80%	69%
% of matters lodged that are processed and available to members within one working day	>90%	97%	97%
% of decisions released to the parties within one working day	>95%	100%	100%
% of decisions are published and available to the community within 13 working days	>95%	100%	100%
% of matters resolved at conference	70%	74%	68%

Table 9: Documents published under sections of the IR Act and other Acts 2010/11

Matter Type of Document published	Section	2010/11
Amalgamation ballot approval	s 83	2
Appeal against the cancellation of a training contract	s 230 (VETE Act)	2
Appeal against decision of Industrial Commission	s 341 s 550 s 561,	17
Appeal against decision of Industrial Magistrate	s 341 s 186 (WC Act) s 164(WH&S Act) s 172 (Elec. Act)	7
Appeal against decision of Industrial Registrar	s 341(1)	2
Appeal to Commission	s 550 (WC Act) s 561 (WC Act)	19
Appeal from Industrial Magistrate to Industrial Court	s 561 (WC Act)	19
Appeal for arbitration	s 149	3
Application for costs	s 335	1
Application for declaratory relief	s 248	5
Application for general ruling	s 287	4
Application for new award	s 125	1
Application for reinstatement	s 74	9
Application for statement of policy	s 288	1
Application for unpaid wages	s 278	9
Application to stay	s 347 s 562 (WC Act) s 151 (WH&S Act) s 231 (VETE Act) s 158 (Coal Act) s 174 (Elec Act)	8
Application to strike out or dismiss proceedings	s 331	1

Matter Type of Document published	Section	2010/11
Application of other name amendment	s 473	2
Arbitration of an industrial dispute	s 229	3
Application for payment instead of long service leave	s 53	1
Award amendment	s 125	9
Award amendment (corrections of error)	s 125	2
Basis of decision of the Commission and Magistrates	s 320	1
Callings Alteration	s 427	4
Case stated to Court	s 282	2
CA Notices	r 87 (IR Rules)	6
Community of interest declaration for amalgamation	s 56	1
Decisions generally	s 331	2
Deregistration application by Registrar	s 639	1
Eligibility rule amendment	s 474	6
Extension of time	s 346(2)	4
General deregistration grounds	s 638	1
Name Amendment	s 473	3
New Award	s 125	1
Orders about invalidity	s 613	2
Orders generally from Court	s 347	1
Power to Make Declarations	s 274	1
Powers of Appeal Body	s 558	1
Procedures for reopening	s 280	3
Repeal and New Award	S 125	1
Reprinted Awards	s 698	568
RIO notices	s 138, s 618, s 639	4
Stay of operation of decisions	s 173	3
Trading Hours Order (decisions)	s 21 (T(AH) Act)	13
Trading Hours Order (amendments)	s 21 s 22 (T(AH) Act)	10
TOTAL		**766**

Table 10: Industrial organisation matters filed 2010/11

Industrial Organisation matters		2010/2011
s 427	Change of callings	2
s 467	Registrar amendment of rules	9
s 473	Name amendment	2
s 474	Part Amendment - eligibility rule	2
s 478	Amendment to rules - other than eligibility	15
s 481	Request for conduct of election	75
s 580	Exemption from conduct of election	8
s 582	Exemption - members' register	2
s 582	Exemption - officers' register	1
s 586	Exemption - branch financial return	4
s 613	Orders about Invalidity	2
s 618	Amalgamation	2
s 638	Order - deregistration	1
s 639	Order – deregistration (Registrar's application)	2
r 56	Community of interest declaration	2
r 66	Ballot exemption number of members	1
r 67	Ballot exemption federal ballot	1
r 137	Application for start date	1
r 190	Request for statistical information	81
TOTAL		**132**

Table 11: Industrial Organisations of Employees Membership

Industrial Organisation	Members As at 30/06/10	Members As at 30/06/11
The Australian Workers' Union of Employees, Queensland	59,430	58,689
Queensland Nurses' Union of Employees	41,539	44,543
Queensland Teachers Union of Employees	43,594	43,771
Shop, Distributive and Allied Employees Association (Queensland Branch) Union of Employees	34,843	35,043
The Queensland Public Sector Union of Employees	32,043	32,609
United Voice, Industrial Union of Employees, Queensland	29,439	28,464

Industrial Organisation	Members As at 30/06/10	Members As at 30/06/11
Automotive, Metals, Engineering, Printing and Kindred Industries Industrial Union of Employees, Queensland	16,668	17,124
Transport Workers' Union of Australia, Union of Employees (Queensland Branch)	15,720	15,818
Queensland Independent Education Union of Employees	15,476	15,712
Queensland Services, Industrial Union of Employees	14,028	15,070
The Electrical Trades Union of Employees Queensland	13,606	14,067
Queensland Police Union of Employees	10,390	10,552
Federated Ironworkers Association of Australia (Queensland Branch) Union of Employees	7,960	10,386
Australian Municipal, Administrative, Clerical and Services Union, Central and Southern Queensland Clerical and Administrative Branch, Union of Employees	8,409	8,753
Queensland Colliery Employees Union of Employees	7,467	8,318
Australian Rail, Tram and Bus Industry Union of Employees, Queensland Branch	8,073	8,147
The Construction, Forestry, Mining & Energy, Industrial Union of Employees, Queensland	6,900	7,095
Australasian Meat Industry Union of Employees (Queensland Branch)	6,785	6,536
Finance Sector Union of Australia, Queensland Branch, Industrial Union of Employees	6,293	6,098
Australian Building Construction Employees and Builders' Labourers' Federation (Queensland Branch) Union of Employees	2,431	5,819
The Plumbers and Gasfitters Employees Union of Australia, Queensland Branch, Union of Employees	2,686	2,689
United Firefighters' Union of Australia, Union of Employees, Queensland	2,424	2,558
Australian Federated Union of Locomotive Employees, Queensland Union of Employees	1,616	1,598
The Seamen's Union of Australasia, Queensland Branch, Union of Employees	656	901
The Bacon Factories' Union of Employees, Queensland	773	776
Federated Engine Drivers' and Firemen's Association Queensland, Union of Employees	557	639
Australian Institute of Marine and Power Engineers' Union of Employees, Queensland District.	570	595
Salaried Doctors Queensland Industrial Organisation of Employees,	Not Provided	394
Textile, Clothing and Footwear Union of Australia, Queensland, Union of Employees	487	373
The Queensland Police Commissioned Officers Union of Employees	374	366

Industrial Organisation	Members As at 30/06/10	Members As at 30/06/11
James Cook University Staff Association (Union of Employees)	333	347
Property Sales Association of Queensland, Union of Employees	290	270
Australian Maritime Officers Union Queensland Union of Employees	238	229
Queensland Fire and Rescue – Senior Officers Union of Employees	129	130
Musicians' Union of Australia (Brisbane Branch) Union of Employees	111	107
Griffith University Faculty Staff Association (Union of Employees)	75	70
The Association of Professional Engineers, Scientists and Managers, Australia, Queensland Branch, Union of Employees	2,036	Not Provided
The National Union of Workers Industrial Union of Employees Queensland	1,280	Not Provided
Queensland Association of Academic Staff in Colleges of Advanced Education (Union of Employees)	395	Not Provided
Australian Journalists' Association (Queensland District) "Union of Employees"	Not Provided	Not Provided
Actors, Entertainers and Announcers Equity Association, Queensland, Union of Employees	Not Provided	Not Provided
The University of Queensland Academic Staff Association (Union of Employees)	Not Provided	Not Provided
Federated Clerks' Union of Australia, North Queensland Branch, Union of Employees	Not Provided	Not Provided
TOTAL MEMBERSHIP	**396,124**	**404,656**
NUMBER EMPLOYEE ORGANISATIONS	**43**	**43**

Table 12: Industrial Organisations of Employers Membership

Industrial Organisation	Members As at 30/06/10	Members As at 30/06/11
Queensland Master Builders Association, Industrial Organisation of Employers	10,368	9,743
Agforce Queensland Industrial Union of Employers	6,118	5,702
Queensland Chamber of Commerce and Industry Limited, Industrial Organisation of Employers	3,318	2,941
Electrical and Communications Association Queensland, Industrial Organisation of Employers	2,005	1,962
Motor Trades Association of Queensland Industrial Organisation of Employers	1,664	1,676

Industrial Organisation	Members As at 30/06/10	Members As at 30/06/11
Master Plumbers' Association of Queensland (Union of Employers)	969	1,142
Australian Industry Group, Industrial Organisation of Employers (Queensland)	1,187	1,138
Queensland Retail Traders and Shopkeepers Association (Industrial Organisation of Employers)	2,180	989
Australian Dental Association (Queensland Branch) Union of Employers	881	893
Australian Community Services Employers Association Queensland Union of Employers	902	876
Queensland Hotels Association, Union of Employers	713	790
National Retail Association Limited, Union of Employers	1,737	772
The Registered and Licensed Clubs Association of Queensland, Union of Employers	Not Provided	549
Queensland Fruit and Vegetable Growers, Union of Employers	712	524
Master Painters, Decorators and Signwriters' Association of Queensland, Union of Employers	489	448
Queensland Real Estate Industrial Organisation of Employers	460	441
The Baking Industry Association of Queensland - Union of Employers.	265	323
The Queensland Road Transport Association Industrial Organisation of Employers	326	315
Nursery and Garden Industry Queensland Industrial Union of Employers	331	313
Hardware Association of Queensland, Union of Employers	302	238
Queensland Private Childcare Centres Employers Organisation of Queensland Industrial Organisation of Employers	517	221
Building Service Contractors' Association of Australia - Queensland Division, Industrial Organisation of Employers	196	202
Association of Wall and Ceiling Industries Queensland - Union of Employers	257	174
UNiTAB Agents' Association Union of Employers Queensland	91	90
Consulting Surveyors Queensland Industrial Organisation of Employers	90	80
Local Government Association of Queensland (Incorporated)	71	72
Furnishing Industry Association of Australia (Queensland) Limited Union of Employers	72	65
Queensland Master Hairdressers' Industrial Union of Employers	60	52
Queensland Country Press Association - Union of Employers	25	27
Queensland Major Contractors Association, Industrial Organisation of Employers	17	19
Australian Sugar Milling Association, Queensland, Union of Employers	10	10

Industrial Organisation	Members As at 30/06/10	Members As at 30/06/11
Queensland Friendly Societies Pharmacies Association, Industrial Organisation of Employers	10	Deregistered 19.8.10
National Meat Association of Australia (Queensland Division) Industrial Organisation of Employers	489	Deregistered 1.3.11
The Restaurant and Caterers Employers Association of Queensland Industrial Organisation of Employers	921	Not Provided
Queensland Motel Employers Association, Industrial Organisation of Employers	395	Not Provided
The Hairdressing Federation of Queensland - Union of Employers	226	Not Provided
Queensland Cane Growers' Association Union of Employers	21	Not Provided
Queensland Mechanical Cane Harvesters Association, Union of Employers	Not Provided	Not Provided
TOTAL MEMBERSHIP	**38,395**	**32,787**
NUMBER OF EMPLOYER ORGANISATIONS	**38**	**36**

APPENDIX 1

Appendix 1: Current Industry Panels operative 27 January 2011

INDUSTRY	MEMBER	MEMBER	MEMBER	MEMBER
Aged Care	VP Linnane	C Fisher		
Ambulance	DP Bloomfield	C Fisher		
Arts and Entertainment	VP Linnane	C Thompson		
Cemeteries and Funerals	VP Linnane	C Fisher		
Child Care	VP Linnane	C Thompson		
Disability Services	DP Swan	C Fisher		
Education	DP Bloomfield	C Brown	C Thompson	
Fire Services	DP Bloomfield	C Fisher		
Forestry Products	VP Linnane	C Fisher		
Transport / Main Roads	DP Bloomfield	C Brown	C Thompson	
Hospitals / Health	DP Swan	C Fisher	C Brown	C Thompson
Local Government Authorities (Excluding BCC)	DP Swan	C Brown	C Thompson	
Brisbane City Council	DP Swan	C Brown	C Thompson	
Maritime	VP Linnane	C Thompson		
Nursing	VP Linnane	C Fisher		
Police	DP Bloomfield	C Fisher		
Prisons	VP Linnane	C Fisher	C Brown	C Thompson
Public Sector	DP Swan	C Fisher	C Thompson	
Racing	DP Bloomfield	C Thompson		
Miscellaneous	DP Bloomfield	C Fisher		

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