

2016 – 2017 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**



INDUSTRIAL COURT OF QUEENSLAND
QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

30 November 2017

The Honourable Grace MP
Minister for Employment and
Industrial Relations, Minister for Racing and
Minister for Multicultural Affairs
GPO Box 611
BRISBANE QLD 4000.

Dear Minister,

I have the honour to furnish to you for presentation to Parliament, as required by section 594 of the *Industrial Relations Act 2016*, 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 2016* for the financial year ended 30 June 2017. Responsibility for the report relating to the Queensland Industrial Relations Commission and Queensland Industrial Registry rests with the President and Industrial Registrar respectively.

A handwritten signature in blue ink that reads 'G.C. Martin'.

G.C. Martin
President
Industrial Court of Queensland

TABLE OF CONTENTS

INDUSTRIAL COURT OF QUEENSLAND	3
QUEENSLAND INDUSTRIAL RELATIONS COMMISSION	4
QUEENSLAND INDUSTRIAL REGISTRY	10
AMENDMENTS TO LEGISLATION	14
TABLES	18

INDUSTRIAL COURT OF QUEENSLAND

The work of the Industrial Court has not changed markedly since the last Annual Report. In the reporting year there has, again, been a slight decrease in the number of appeals filed with a concomitant reduction in the number of days needed for the sittings of the Court. The members of the Court are: the President, the Vice President (Dianne Linnane) and the Deputy President (Courts) (Daniel O'Connor).

The commencement of the *Industrial Relations Act 2016* and, in particular, the introduction of new areas of jurisdiction such as workplace discrimination and anti-bullying, has affected the work of the Commission and, it is expected, will affect the Court in the ensuing years. It is expected that there will be a significant increase in workload in the Commission and the ability of the Commission to deal with the work expeditiously will need to be monitored in the light of the changes.

Both the Court and the Commission are situated in a commercial building and I have concerns about the security and safety of members of the Commission, Registry staff and those who attend the Commission as litigants or practitioners. Unlike the Supreme, District and Magistrates Courts in the Brisbane CBD there are no security personnel on site. The private areas of the Commission need to be protected in a robust way and people attending the Commission are entitled to feel safe. That does not apply now. I have sought improvements in this area and I hope that they will be provided in the next reporting year.

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

The Queensland Industrial Relations Commission (Commission) derives its powers and functions from Chapter 11, Part 2 of the *Industrial Relations Act 2016*. 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 cooperative industrial relations that is fair and balanced and supports the delivery of high quality services, economic prosperity and social justice for Queenslanders.

Structure of the Commission

There are eleven Members of the Commission. The Commission is headed by the President, Justice Glenn Martin AM, who is also President of the Industrial Court of Queensland. In addition to the President, the Commission is comprised of the Vice President, four Deputy Presidents, and five Industrial Commissioners.

The President is responsible for the administration of the Commission and the Industrial Registry. This includes the allocation of all matters, references to Full Benches and the general conduct of Commission business. The President delegated those responsibilities to Deputy President O'Connor on 13 October 2015, under the *Industrial Relations Act 1999*. On 8 February 2017 the President delegated his responsibilities under the *Industrial Relations Act 2016* to Deputy President O'Connor, with effect from 1 March 2017 – the same date as the repeal of the *Industrial Relations Act 1999* and the commencement of the majority of the *Industrial Relations Act 2016*.

Current Members of the Commission are:

Member	Date sworn in
Justice Glenn Martin AM, President	2 December 2013
Dianne Linnane, Vice President	2 August 1999
Daniel O'Connor, Deputy President	13 November 2012
Deirdre Swan, Deputy President	3 February 2003 (Deputy President) 10 September 1990 (Commissioner)
Adrian Bloomfield, Deputy President	3 February 2003 (Deputy President) 15 March 1993 (Commissioner)
The Hon. Leslie Kaufman, Deputy President	6 January 2014
Glenys Fisher, Industrial Commissioner	12 February 1990
John Thompson, Industrial Commissioner	28 September 2000
Gary Black, Industrial Commissioner	13 November 2012
Minna Knight, Industrial Commissioner	12 December 2012
Christine Roney, Acting Industrial Commissioner	4 April 2016

Graeme Neate AM was also a member of the Commission, serving as an Industrial Commissioner from 6 January 2014 to 31 December 2016.

Jurisdiction, Powers and Functions of the Commission

Members of the Commission exercise jurisdiction, powers and functions under the *Industrial Relations Act 2016*, the *Workers' Compensation and Rehabilitation Act 2003*, the *Anti-Discrimination Act 1999*, the *Public Service Act 2008*, and various other legislative enactments. The most significant area of the Commission's workload continues to be appeals against review decisions of the Workers' Compensation Regulator under the *Workers' Compensation and Rehabilitation Act 2003*.

More specifically, during the reporting period the QIRC dealt with the following broader areas:

Anti-Discrimination Referrals and Applications

The *Industrial Relations Act 2016* conferred on the Commission jurisdiction over all work-related anti-discrimination matters referred to the Commission by the Anti-Discrimination Commission Queensland (ADCQ). That expansion of the Commission's jurisdiction commenced on 1 March 2017. From 1 March 2017 to the end of the reportable period, there were seven (7) complaints referred to the Commission by the ADCQ and two (2) applications for exemptions from the *Anti-Discrimination Act 1991* for work related matters. The small number of the complaints during the reporting period is explained by the late commencement in the reporting period of the new jurisdiction and the transitional provisions which meant that work-related complaints were only referred to this Commission if they were filed with the ADCQ after 1 March 2017. Since the end of the reporting period there has been a substantial increase in the number of referrals from the ADCQ.

Award Modernisation

During this reporting period the QIRC finalised the significant Award Modernisation process. The previous Annual Report outlined the history of the Award Modernisation process.

The awards made during the reporting period are listed below:

- *AMBULANCE SERVICE EMPLOYEES' AWARD - STATE 2016*
operative 1/8/16
- *BRISBANE CITY COUNCIL BUS TRANSPORT EMPLOYEES AWARD - STATE 2016*
operative 7/10/16
- *BRISBANE CITY COUNCIL OPERATIONAL AND TRADE EMPLOYEES AWARD - STATE 2016*
operative 7/10/16
- *BRISBANE CITY COUNCIL SALARIED STAFF AWARD - STATE 2016*
operative 7/10/16
- *CITY PARKLANDS SERVICES AWARD - STATE 2016*
operative 6/9/17
- *PARENTS AND CITIZENS ASSOCIATIONS AWARD - STATE 2016*
operative 1/9/16

- *QUEENSLAND FIRE AND EMERGENCY SERVICE EMPLOYEES AWARD - STATE 2016*
operative 1/9/16
- *QUEENSLAND LOCAL GOVERNMENT INDUSTRY AWARD - STATE 2017*
operative 28/2/17
- *QUEENSLAND LOCAL GOVERNMENT INDUSTRY (STREAM A) AWARD - STATE 2017*
operative 1/7/17
- *QUEENSLAND LOCAL GOVERNMENT INDUSTRY (STREAM B) AWARD - STATE 2017*
operative 1/7/17
- *QUEENSLAND LOCAL GOVERNMENT INDUSTRY (STREAM C) AWARD - STATE 2017*
operative 1/7/17

The commencement of the *Industrial Relations Act 2016* required that the *QUEENSLAND LOCAL GOVERNMENT INDUSTRY AWARD - STATE 2017* be partitioned into three separate awards, respectively identified as the *QUEENSLAND LOCAL GOVERNMENT INDUSTRY AWARD - STATE 2017* Stream A, Stream B, and Stream C.

Industrial Organisations

In the reporting period two industrial organisations were de-registered, the former under Chapter 12 Part 16 of the *Industrial Relations Act 1999* and the latter under Chapter 12 Parts 14 and 16 of the *Industrial Relations Act 2016*. Those organisations de-registered in the reporting year were the:

- Motor Trades Association of Queensland, Industrial Organisation of Employers (MTAQ) deregistered on 6 December 2016; and
- Australian Federated Union of Locomotive Employees, Queensland Union of Employees (AFULE) deregistered on 1 May 2017

The MTAQ was de-registered because it no longer needed registration as industrial organisations in the Queensland jurisdiction. The AFULE was deregistered as a function of its amalgamation with the Electrical Trades Union of Employees, Queensland.

Workers' Compensation Appeals

The Workers' Compensation Regulator (the Regulator) is the statutory body that reviews workers' compensation decisions taken by WorkCover Queensland (WorkCover) and self-insurers. Where workers or employers feel aggrieved by the decisions of either WorkCover or the self-insurer they may seek a review by the Regulator of that decision. The Commission has jurisdiction to hear appeals from review decisions of the Regulator under s 550 of the *Workers' Compensation and Rehabilitation Act 2003*.

In April 2016 the Commission re-established its partnership with the non-profit community legal centre Queensland Public Interest Law Clearing House (QPILCH), now LawRight, in order to provide a service to self-represented litigants who make an application in the workers' compensation jurisdiction. Under the

management of QPILCH, barristers provided advice and representation during the pre-trial stages of an application, in particular, representing the applicant at conferences conducted by a member of the Commission.

Unfortunately, QPILCH was unable to continue its QIRC pilot for self-represented workers' compensation litigants during the entirety of the reporting period. Nevertheless, the QIRC is still interested in engaging with similar pro bono services to assist self-represented workers' compensation litigants with the efficient handling of their matters.

Public Service Appeals

Until 1 March 2017, section 88A of the *Public Service Act* 2008 required that members of the QIRC be appointed as Appeals Officers for the purpose of deciding appeals. The following Members of the Commission had been appointed as Appeals Officers to hear and decide appeals under that Act during the relevant period:

Appeals Officer	Date appointed
Senior Appeals Officer Dianne Linnane	20 June 2013 (Appeals Officer 1 July 2009)
Appeals Officer Daniel O'Connor	25 October 2012
Appeals Officer Deirdre Swan	1 July 2012
Appeals Officer Adrian Bloomfield	1 July 2012
Appeals Officer Leslie Kaufman	2 February 2014
Appeals Officer Glenys Fisher	1 July 2012
Appeals Officer John Thompson	1 July 2012
Appeals Officer Gary Black	25 October 2012
Appeals Officer Minna Knight	11 December 2012
Appeals Officer Graeme Neate AM	4 February 2014

Section 88A was amended by the *Industrial Relations Act* 2016. Consequently, all members of the QIRC have functions for the purposes of the *Public Service Act* 2008. There is no longer any need for QIRC members to be appointed as an Appeals Officer. For the purposes of the *Public Service Act* 2008 the President of the QIRC is the Senior IRC member.

Chapter 7 of the *Public Service Act* 2008 stipulates the right to appeal a decision, the types of decisions that may or may not be appealed, who may appeal a decision and the appeals procedures. During the reporting period 73 public service appeals were lodged pursuant to s 194 of the *Public Service Act* 2008.

Other Legislative Enactments

In addition to the above, the Commission has jurisdiction under other legislative enactments such as:

- The *Trading (Allowable Hours) Act* 1990;

- The *Further Education and Training Act 2014*;
- The *Contract Cleaning Industry (Portable Long Service Leave) Act 2005*;
- The *Public Interest Disclosure Act 2010*;
- The *Work Health and Safety Act 2011*;
- The *Child Employment Act 2006*; and
- The *Magistrates Courts Act 1921*.

The details of the Commission's jurisdiction under these legislative enactments has been outlined in previous reporting years.

Resources

The Commission hears matters in locations throughout Queensland and in the reporting period heard matters in Cairns, Charleville, Herberton, Ingham, Mackay, Maroochydore, Pittsworth, Rockhampton, Stanthorpe, Townsville, Toowoomba, and Warwick.

External Engagement

Members of the Commission were actively involved with the training and further education of members of the public and the profession throughout the reporting period. Several members assisted the Industrial Relations Society of Queensland with their annual Advocacy for Workplace Relations Professionals course by judging moots and providing seminars on advocacy and specific areas of the Commission's jurisdiction. Likewise, members presented papers and lectures on topics related to Industrial Relations as a number of conferences in the reporting period.

Professional activities

During the reporting period the following Members utilised their Jurisprudential Allowance and/or Education and Conference Allowance to attend conferences, seminars or courses:

Member	Activity	Location	Date/s
Deputy President O'Connor	International Bar Association Conference	Washington DC, United States	18-23 September 2016
	Writing Better Judgments for Queensland Courts	Brisbane	16-17 May 2017
Deputy President Swan	East West Legal Conference	Dubrovnik, Croatia	18-25 July 2016
	Medical-Dental-Legal Update Conference	Aspen, Colorado, USA	6-10 February 2017
	Europe Asia Legal Conference	Positano, Italy	25 June – 2 July 2017

Deputy President Kaufman	Psychological Mediation and Mediation Advocacy Course	London, England	27-29 October 2016
	Sir Richard Larkin Oration	Melbourne	1 December 2016
	South West Legal Conference	Santiago, Chile	8-15 May 2017
Commissioner Fisher	Europe Asia Legal Conference	Positano, Italy	25 June – 2 July 2017
	Workers' Compensation and Disability Conference & Expo	New Orleans, Louisiana	30 November – 2 December 2016
Commissioner Thompson	National Workers' Compensation and Occupational Medicine Conference	Cape Cod, Massachusetts, USA	19-22 July 2016
	Atlantic Canada Human Rights and Labour Law Conference	Halifax, Canada	17-19 May 2017
Commissioner Black	Commonwealth Law Conference	Melbourne, Australia	20-24 March 2017
Commission Knight	Europe Asia Legal Conference	Positano, Italy	25 June – 2 July 2017
Commissioner Roney	Writing Better Judgments for Queensland Courts	Brisbane	16-17 May 2017

QUEENSLAND INDUSTRIAL REGISTRY

Registry Services

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 514 of the *Industrial Relations Act 2016* and, apart from administering the Registry, has the functions conferred under that Act and other Acts. The Deputy Industrial Registrar provides support to the Registrar and oversees the operations of the Registry.

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 the independence of the Court and the Commission.

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

The Registry is structured into 4 units: Client Services, Information Services, Registered Industrial Organisation Services and Corporate Services. The Registry establishment is made up of 14.8 full time equivalent positions including the Industrial Registrar.

Client Services

Client Services is managed by the Registry Officer and the Client Service 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.

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

- Responding to public enquiries through:
- A telephone advisory service;
- Across the counter;
- Written correspondence [post, email and fax];
- An advisory role to parties and practitioners who require information on practices and procedures; and

- Receiving and filing applications and related documentation.

During 2016-17, a total of 1,521 applications and notifications were filed in the Registry (see Tables 1 & 4).

Information and Corporate Services

Registry staff within the Information & Corporate Services area provide a diverse range of high quality publication and administrative support that contributes to the effective functioning of the Court, Commission and the Industrial Registry. These services include:

- Posting of all relevant documentation to the QIRC's web site (www.qirc.qld.gov.au);
- Managing the QIRC website to ensure content is relevant and up to date; and
- Managing the internal intranet site updating information and tools required by the QIRC and Registry staff.

Under the provisions of the *Financial Accountability Act 2009*, the Chief Executive Officer (Under Treasurer) of Queensland Treasury was the accountable officer of the Industrial Registry. The Under Treasurer 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 are principally provided through the Senior Executive Officer and include:

- Human resource management;
- Financial management;
- Building & security management;
- Asset management; and
- Administrative policies, practices and procedures.

Registered Industrial Organisations

The Registrar has important functions and powers with regard to industrial organisations (i.e. unions, or organisations, of employers or employees). The Registrar is principally supported by the Senior Registry Officer [Registered Industrial Organisations] and functions include:

- Approving amendments to an industrial organisation's rules;
- Arranging for the Electoral Commission to conduct an election of officers for an industrial organisation; and
- Monitoring compliance with financial and accountability requirements of organisations and their officers.

Many Industrial Organisations have been assisted in their duty to comply with legislative provisions. Additional tools have been developed to assist with the monitoring of compliance by Registered Industrial Organisations in relation to provisions of Chapter 12.

Domestic and Family Violence Prevention Strategy

The Industrial Registry is committed to do all we can to eliminate domestic and family violence in Queensland by promoting a respectful workplace culture and provide support to those whose lives are affected by family and domestic violence. The Registry has joined the Office of Industrial Relations in becoming an accredited white ribbon workplace.

Highlights of the 2016-17 reporting year

The 2016-17 reporting year included a number of highlights that had a significant impact on the business of the Industrial Registry:

- The *Industrial Relations Act 2016* (the Act) was introduced on 1 March 2017 as a result of a review of Queensland's industrial relations framework. The Act also included amendments to Queensland's anti-discrimination regime. The Queensland Industrial Relations Commission (QIRC) obtained exclusive jurisdiction over workplace and employment related anti-discrimination matters. General protections and anti-bullying provisions were also included in the Act. This has provided increased workloads for the registry in the processing of those applications.
- Further amendments to the Act which have had an impact on the workload of the Registry/Registrar include:
 - The establishment of Registrar Guidelines for sections 763 of the Act;
 - The requirement of the Registrar to approve applications made by an employee organisation for protected industrial action under section 235(1) of the Act;
 - The requirement for employee organisations under section 235(2) of the Act to provide its members likely to be engaging in proposed industrial action with a process, approved by the Registrar, to express their democratic views about industrial action; and
 - The requirement to partition modern award for local government under section 995 of the Act.
- A total of 15 applications (see table 1) for protected industrial action were processed and approved in addition to the approval of processes made under section 235(2) since the introduction of the Act.
- The commencement of the Industrial Relations Act 2016 required that the Registrar partition the *Queensland Local Government Industry Award – State 2017* into three separate awards. The partitioning was completed and three new awards established, becoming operative from 1 July 2017.
- Work has commenced on the QIRC retention and disposal initiative including legislative mapping, researching comparative jurisdictions for sentencing of records and the drafting of an appraisal log and retention and disposal schedule. This initiative is scheduled to be finalised in the next financial year.

- The registry has undertaken a review of approved QIRC forms to ensure consistency in the format and content of existing forms. This is the first stage of transitioning QIRC approved forms to enable court users the ability to submit applications and notifications electronically.
- QIRC's website (www.qirc.qld.gov.au) again proved invaluable. It provides thousands of files of relevant information for the general public with over 165,000 visits recorded annually. Important public matters such as the 2016 State Wage Case again see the posting of all relevant documentation to the website immediately when 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.

AMENDMENTS TO LEGISLATION

The following outlines important legislative amendments made during the year which affect the work of the Industrial Court of Queensland, Queensland Industrial Relations Commission and Queensland Industrial Registry.

Industrial Relations Act 2016

The *Industrial Relations Act 2016* replaced the *Industrial Relations Act 1999* and implements recommendations of the independent review conducted by the Industrial Relations Legislation Reform Reference Group in 2015. The majority of the *Industrial Relations Act 2016*'s provisions commenced on 1 March 2017 and cover employers and employees to whom the federal *Fair Work Act 2009* (Cth) does not apply. Generally this means employers and employees of the Queensland Government and local governments.

The *Industrial Relations Act 2016* provides a framework for the conduct of industrial relations within the State's industrial relations jurisdiction that is fair and balanced and supports the delivery of high-quality services, economic prosperity and social justice for Queenslanders.

The *Industrial Relations Act 2016* establishes the following defining elements of the State's industrial relations system:

- A set of minimum employment conditions and standards;
- Collective bargaining as the cornerstone for setting wages and conditions;
- A set of individual rights to fair treatment;
- Effective, transparent and accountable governance and reporting obligations for all registered industrial organisations and employer associations, and
- An independent commission and court.

The *Industrial Relations Act 2016* introduces significant new rights and protections for workers, including:

- Paid leave for victims of domestic and family violence and other employment protections including protection against adverse action for those affected by domestic and family violence in response to the recommendations in the *Not Now, Not Ever Report into Domestic and Family Violence*;
- Minimum employment standards aligned with the *Fair Work Act 2009*'s National Employment Standards for parental, carers' and compassionate leave;
- The requirement to provide an information statement to an employee upon the commencement of employment;
- A right to request flexible work arrangements in Part 3, Division 4;
- A right to seek leave for legal representation if it would enable the proceedings to be dealt with more efficiently, having regard to the complexity of the matter or it would be unfair not to allow the party

or person to be represented because they are unable represent themselves. Legal representation is not permitted in enterprise bargaining arbitration matters, and

- Strengthened equal remuneration legislative provisions by ensuring all new awards are subject to an equal remuneration test and requiring parties to certified agreements to provide information on the steps taken to provide for equal remuneration.

The *Industrial Relations Act 2016* also extends the jurisdiction of the Queensland Industrial Relations Commission by creating:

- A new general protections jurisdiction in Chapter 8 to protect workers against action during employment or dismissal from employment by:
 - Protecting workplace rights;
 - Protecting freedom of association;
 - Providing protection from workplace discrimination; and
 - Providing effective relief for persons who have been discriminated against, victimised or otherwise adversely affected as a result of a contravention of a general protection;
- A new workplace bullying jurisdiction in Chapter 7 similar to the *Fair Work Act 2009*'s provisions for private sector employees. Specifically, an employee can apply to the Queensland Industrial Relations Commission for a stop bullying order; and
- An exclusive jurisdiction for all workplace-related anti-discrimination matters in the Queensland Industrial Relations Commission, including those taken under the *Anti-Discrimination Act 1991* (Qld).

Other key elements of the *Industrial Relations Act 2016* include:

- Collective bargaining is promoted as the primary means of establishing wages and conditions of employment, placing the emphasis on the parties to reach agreement through good faith bargaining and for the Queensland Industrial Relations Commission to assist the parties to reach agreement through conciliation. Arbitration is available as a last resort;
- Recognises the rights of parties to take protected industrial action in pursuit of their bargaining claims and ensures that the members of an industrial organisation have their say when it comes to taking that action;
- Recognises mutual obligations of trust and confidence in the employment relationship in promoting productive and cooperative workplace relations;
- Promotes the democratic control of industrial organisations and good governance by ensuring that reporting, training and other obligations are directed at ensuring accountability to members, rather than unnecessary and unproductive red tape;

- Removing the periodic review of modern awards after the fourth anniversary of the making of a award and providing the Queensland Industrial Relations Commission with the power to review a modern award on its own initiative or on the application of a person to whom the awards applies or an employee organisation that represent a person to whom the award applies;
- Expanding the functions of the President to include developing performance measures and a code of conduct for members of the Queensland Industrial Relations Commission; and
- Requiring the Registrar to partition the *Queensland Local Government Industry Award – State 2017* into three separate awards.

The *Industrial Relations Act 2016* also amended other Queensland legislation, including:

- The *Holidays Act 1983* to provide that, from 2017, Easter Sunday will be a public holiday;
- The *Public Service Act 2008* to:
 - Ensure there is no overlap in the directive making powers of the Minister for Industrial Relations and the Public Service Commissioner: and
 - Recognise the transfer of the Public Service Appeals functions to the Queensland Industrial Relations Commission and the role of the members of the Queensland Industrial Relations Commission to hear and decide public service appeals.
- The *Anti-Discrimination Act 1991* to:
 - Transfer the jurisdiction for workplace-related discrimination matters from the Queensland Civil and Administrative Tribunal to the Queensland Industrial Relations Commission.

Industrial Relations (Transitional) Regulation 2017

The *Industrial Relations (Transitional) Regulation 2017* commenced on 1 March 2017 and provided for the continued operation of the *Industrial Relations Regulation 2011*, with particular changes necessary to facilitate the transition from the *Industrial Relations Act 1999* to the *Industrial Relations Act 2016*.

The majority of amendments to the *Industrial Relations Regulation 2011* involved minor amendments to replace cross-references to provisions in the *Industrial Relations Act 1999* with the relevant provisions in the *Industrial Relations Act 2016*.

The *Industrial Relations (Transitional) Regulation 2017* will expire in March 2018.

Industrial Relations (Tribunals) Amendment Rule 2017

The *Industrial Relations (Tribunals) Amendment Rule 2017* (the Rules) commenced on 1 March and made amendments to the *Industrial Relations Rules 2011* necessary to give effect to certain provisions of the *Industrial Relations Act 2016*.

The majority of amendments to the Rules involved minor amendment to replace cross-references to provisions in the *Industrial Relations Act 1999* with the relevant provisions in the *Industrial Relations Act 2016*. The Rules also removed the filing fee for applications for reinstatement (unfair dismissal).

Additionally the Rules made amendments for the new provisions introduced in the *Industrial Relations Act 2016*, including for example, the transfer of the industrial jurisdiction for anti-discrimination matters to the Queensland Industrial Relations Commission. These amendments involved the insertion of a new subdivision for applications and proceedings under the *Anti-Discrimination Act 1991 (Qld)*.

Industrial Relations Amendment Regulation (No. 1) 2016

The *Industrial Relations Amendment Regulation (No.1) 2016* was made on 6 October 2016 and amended the *Industrial Relations Regulation 2011* to include a provision which states that the National Injury Insurance Agency, Queensland, established under the *National Injury Insurance Scheme (Queensland) Act 2016*, is declared not to be a national system employer.

TABLES

Table 1: Matters filed in the Court 2015/16 and 2016/2017

Type of Matter	2015/16	2016/17
Appeals filed under the Industrial Relations Act 1999		
Appeals to the Court	32	15
— Magistrate's decisions s 341, s 561WC	3	4
— Commission's decisions s 341, s 561WC	29	11
Application for leave to appeal to Full Bench s342(2)	0	2
Extension of Time s 346, s 561WC	3	0
Stay order s 347, s 174ES, s 151WHS, s 154WHS, s 178CM	3	1
Application for orders – other	1	
Appeals filed under the Industrial Relations Act 2016		
Appeals to the Court		4
— Magistrate's decisions s 556		1
— Commission's decisions s 557(1)		1
— Registrar's decision s560(1)		2
TOTAL	39	22

Table 2: Number of matters filed in the Court 1995/96 - 2016/17

1995/96	89	2002/03	100	2009/10	71	2016/17	22
1996/97	81	2003/04	104	2010/11	63		
1997/98	90	2004/05	92	2011/12	41		
1998/99	95	2005/06	100	2012/13	47		
1999/00	61	2006/07	72	2013/14	58		
2000/01	74	2007/08	53	2014/15	51		
2001/02	102	2008/09	47	2015/16	39		

Table 3: Appeals filed in the Court 2015/16 and 2016/2017

Appeals Filed	2015/16	2016/17
Appeals from decisions of Industrial Commission		
IRA 1999 s 341(1), IRA 2016 s 557(1)	10	5
Work Comp Act s 561	19	7
Appeals from decisions of Industrial Magistrate		
IRA 1999 s 341(2), IRA 2016 s 556	3	4
WH&S Act s 164	0	0
ES Act s 186	0	0
Work Comp Act s 561	0	1
Appeals from decision of industrial registrar		
IRA 2016 s 560(1)	N/A	2
Appeals from Directives and Review Decisions of Chief Inspector		
CM Act s 243	0	0
Appeals from review decisions WH&S		
WH&S Act s 152	0	0
Appeals from decisions of Electrical Safety Office		
ES Act s 172	0	0
TOTAL	32	19

Table 4: Matters filed (other than in the Court) 2015/16 and 2016/2017

Section	Type of Application/Matter	2015/16	2016/17
Matters filed under the Industrial Relations Act 1999			
s 53	Long Service Leave - payment in lieu of	256	179
s 74	Application for Reinstatement (Unfair dismissal)	127	80
s 74(2)B	Extension of time	1	0
s 117	Prohibited conduct - breach	6	0
s 125	Amend an award	2	1
s 140CC	Procedure for carrying out modernisation process	6	0
s 140CE1	Making of Modern Awards (MAP's)	33	0
s 140G	Powers may be exercised to achieve modern award	0	11
s 140GA	Application to vary, revoke or make modern award	0	1
s 140GC	Application to remove ambiguity or uncertainty or to correct error	0	1
s 156	Certified Agreements: - Approval of new CA - Replacing existing CA	1 9	0 0
s 175, s177	Notice of industrial action	1	0
s 229	Notification of dispute	93	76
s 231	Mediation by Commission	2	0
s 232E	Reinstatement of Injured Worker	2	0
s 274G	General powers	7	0
s 274A	Power to make declarations	3	3
s 274D	Directions	2	0
s 274DA	Dismissal of Application	1	0
s 277	Power to grant injunctions	6	3
s 278	Claim for unpaid wages/superannuation/pro rata LSL	19	10
s 280	Re-open a proceeding	1	1
s 287, s 288	General ruling	2	0
s 319	Requested representation	1	0
s 320	Application to be heard or to intervene	5	0
s 326	Interlocutory orders	1	0
s 331	Application to dismiss application	3	0
s 335, r117	Costs	1	0
s 342(1)	Appeal to full bench against decision of the Commission	1	0
s 342(2)	Leave to appeal to a full bench	1	0
s 364	Authorisation of industrial officers	163	73
IRA Act 1999 s 409-657 IRA Act 2016 s 666-802	Industrial Organisation matters (Table 5)	89	102
r 64E	Objection to production	6	0
r 64G	Industrial tribunal's decision about objection	1	0
r 220	Request for statistical information (Table 7)	47	41
IR Act, SCH 4, PT 2	Protected action ballot orders	16	0
IR Act	Request for recovery conference	10	5
Matters filed under the Industrial Relations Act 2016			

Section	Type of Application/Matter	2015/16	2016/17
s 110	Long Service Leave – payment in lieu of	N/A	96
s 317(1)	Application for Reinstatement (Unfair dismissal)	N/A	45
s 147(1b)	Application to vary a modern award	N/A	11
S149(1)	Variation correction of minor errors	N/A	2
S 175(1b)	Request to help in negotiations for bargaining	N/A	2
S 184(1)	Application for scope order	N/A	5
S 189(1)	Application for certification of agreement	N/A	7
S 228(1)	Application for termination after expiry date	N/A	6
S 235(1)	Application for approval to engage in industrial action	N/A	15
S 261	Notice of industrial dispute	N/A	32
S 273	Application for a commission order to stop bullying	N/A	2
S 309(2)	Application to deal with a dispute	N/A	5
S 337	Authorisation of industrial officers	N/A	56
S 458/462	General ruling and statement of policy	N/A	2
S 463(1)	Application for declaration	N/A	1
S 473(1)	Application for injunction	N/A	1
S 475(1)	Recovery of pro rata long service leave	N/A	9
S 475(1a)	Recovery of unpaid wages	N/A	4
S 484(1)	Application to re-open proceedings	N/A	1
Applications to Commission under other Acts			
Mags Courts Act s 42B	Employment claim	77	88
PID Act s 48	Application for an injunction about a reprisal	0	2
PS Act s 194(1A)	Appeal against a decision under a directive	10	9
PS Act s 194(1B)	Appeal against a disciplinary decision	56	35
PS Act s 194 (1C)	Appeal against a promotion decision	21	18
PS Act s 194 (1D)	Appeal against a transfer decision	2	3
PS Act s 194 (1E)	Appeal against decision under another Act	1	1
PS Act s 194 (1F)	Appeal against a decision under another Act	6	1
PS Act s 194 (eb)	Appeal against a fair treatment decision	0	6
PS Act s 199	Stay of operation of decisions	0	0
T(AH) Act	Trading hours order	13	7
T(AH) Act	Special exhibits	0	6
T(AH) Act s 25	Application for leave to appear and be heard	6	0
FET Act s 168(1A)	Apprentice/trainee appeals	0	1
WC Act s232E	Reinstatement of injured worker	0	2
WC Act s 549	Application to be a party to appeal	0	0
WC Act s 550(4)	Appeal against decision of Workers' Compensation Regulator	232	255
WC Act s 555	Application for Adjournment	0	0
WC Act s 556	Order for medical examination	1	0
RG113WC	Costs	2	0
WH&S Act s 65	Disqualification of health and safety representative	0	0
WH&S Act s 131	WHS entry permit	104	165
WH&S Act s 138	Application to revoke WHS entry permit	0	0

Section	Type of Application/Matter	2015/16	2016/17
WH&S Act s 142	Dispute about right of entry	2	2
New Jurisdiction under other Acts from 1 March 2017			
AD Act s 113	Application for exemption from certain provisions	N/A	2
AD Act s 155(4)	Referral of matter for offences against the Act	N/A	2
AD Act s 164A(2)	Referral of complaint not resolved	N/A	3
AD Act s166(1)	Referral of complaint unconciliated	N/A	2
TOTAL APPLICATIONS/MATTERS		1,456	1,499

Table 5: Industrial organisation matters filed 2016/17

Industrial Organisation matters		2016/2017
Matters filed under the Industrial Relations Act 1999		
Reg 54	Community of interest declaration	1
Reg 64	Ballot exemption number of members	1
Reg 135	Application for start date	1
s 467	Registrar Amendment of rules	1
s 473	Name Amendment	1
s 474	Part Amendment - eligibility rule	1
s 478	Amendment to rules - other than eligibility	10
s 481	Request for conduct of election	40
s 580	Exemption from conduct of election	13
s 613	Orders about Invalidity	1
s 618	Amalgamation	1
s 638	Order - deregistration	1
Matters filed under the Industrial Relations Act 2016		
s 666	Amendment to rules - other than eligibility	3
s 669	Prescribed election information	21
s 786	Exemption from Ch12 Part 11 of particular reporting units	1
s 802	Election exemption – counterpart federal body	5
TOTAL		102

Table 6: Industrial Organisations of Employees Membership

Industrial Organisation	Members As at 30/06/16	Members As at 30/06/17
Australasian Meat Industry Union of Employees (Queensland Branch)	5,584	5112
Australian Federated Union of Locomotive Employees, Queensland Union of Employees	1,222	Deregistered upon amalgamation 1/5/17
Australian Institute of Marine and Power Engineers' Union of Employees, Queensland District	598	464
Australian Maritime Officers Union Queensland Union of Employees	25	17
Australian Rail, Tram and Bus Industry Union of Employees, Queensland Branch	6,307	6261

Industrial Organisation	Members As at 30/06/16	Members As at 30/06/17
Australian Salaried Medical Officers' Federation Queensland, Industrial Organisation of Employees	2,178	2376
Automotive, Metals, Engineering, Printing and Kindred Industries Industrial Union of Employees, Queensland	14,874	13,508
Construction, Forestry, Mining & Energy, Industrial Union of Employees, Queensland	24,222	23,949
Finance Sector Union of Australia, Queensland Branch, Industrial Union of Employees	4,641	4,466
Plumbers & Gasfitters Employees' Union Queensland, Union of Employees	3,650	3,482
Queensland Fire and Rescue – Senior Officers Union of Employees	110	115
Queensland Independent Education Union of Employees	16,945	16,898
Queensland Nurses' Union of Employees	56,109	57,923
Queensland Police Union of Employees	11,615	11,532
Queensland Services, Industrial Union of Employees	11,967	11,896
Queensland Teachers Union of Employees	43,224	44,410
Shop, Distributive and Allied Employees Association (Queensland Branch) Union of Employees	32,020	31,002
The Association of Professional Engineers, Scientists and Managers, Australia, Queensland Branch, Union of Employees	2,571	2,053
The Australian Workers' Union of Employees, Queensland	38,545	34,941
The Bacon Factories' Union of Employees, Queensland	606	607
The Electrical Trades Union of Employees Queensland	12,693	12,179
The Queensland Police Commissioned Officers' Union of Employees	305	309
The Seamen's Union of Australasia, Queensland Branch, Union of Employees	878	765
Together Queensland, Industrial Union of Employees	26,959	26,761
Transport Workers' Union of Australia, Union of Employees (Queensland Branch)	9,223	9,247
United Firefighters' Union of Australia, Union of Employees, Queensland	2,383	2,472
United Voice, Industrial Union of Employees, Queensland	27,406	27,234
Total Membership	356,860	349,979
Number Employee Organisations	27	26

Table 7: Industrial Organisations of Employers Membership

Industrial Organisation	Members As at 30/06/16	Members As at 30/06/17
Agforce Queensland Industrial Union of Employers	4,600	4958
Australian Dental Association (Queensland Branch) Union of Employers	923	896
The Baking Industry Association of Queensland - Union of Employers	159	106
Local Government Association of Queensland Ltd	77	1813
Master Electricians Association, Queensland Industrial Organisation of Employers - formerly Electrical and Communications Association, Queensland Industrial Organisation of Employers	1,680	77
Master Painters, Decorators and Signwriters' Association of Queensland, Union of Employers	307	283
Master Plumbers' Association of Queensland (Union of Employers)	1,096	1109
Motor Trades Association of Queensland Industrial Organisation of Employers	1,217	Deregistered 6/12/16
National Retail Association Limited, Union of Employers	1,025	5241
Queensland Cane Growers' Association Union of Employers	21	17
Queensland Chamber of Commerce and Industry Limited ACN 009 662 060	4,135	3469
Queensland Hotels Association, Union of Employers	775	859
Queensland Master Builders Association, Industrial Organisation of Employers	8,247	6934
The Registered and Licensed Clubs Association of Queensland, Union of Employers	460	429
UNiTAB Agents Association, Union of Employers Queensland	69	64
Total Membership	24,791	26,255
Number of Employer Organisations	15	14