

# QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *Re: variation of the Award for Operational Employees in Disability and Forensic Services – State 2016 [2020] QIRC 138*

PARTIES: **State of Queensland (Office of Industrial Relations)**  
(Applicant)

v

**Together Queensland, Industrial Union of Employees**  
(First Respondent)

&

**The Australian Workers' Union of Employees, Queensland**  
(Second Respondent)

CASE NO: MA/2020/3

PROCEEDING: Application

DELIVERED ON: 2 September 2020

HEARING DATE: On the Papers

MEMBER: Knight IC

HEARD AT: Brisbane

ORDER: **1. Application granted. Full Orders as per final pages of decision.**

CATCHWORDS: INDUSTRIAL LAW – VARIATION OF A MODERN AWARD – application to vary a modern award.

LEGISLATION: *Industrial Relations Act 2016 (Qld) s 147*

### Reasons for Decision

- [1] The State of Queensland (Office of Industrial Relations) has filed an application pursuant to s 147 of the *Industrial Relations Act 2016* ("the Act") to vary the *Award for Operational Employees in Disability and Forensic Services – State 2016* ("the Award"). Together Queensland, Industrial Union of Employees indicated consent to the proposed variation, whereas The Australian Workers' Union of Employees, Queensland, raised no objections.
- [2] The proposed variation is purposed to remove hours-based barriers to increment progression in relation to part-time employees to whom the Award applies.
- [3] Clause 12.6 of the Award applies a requirement for a part-time employee to work 1200 hours prior to moving to the next increment within a classification level.
- [4] The Award covers approximately 129 part-time employees (as at June 2019) who are subject to the provision applying an hours-based barrier to increment progression.
- [5] In her affidavit of 12 August 2020, Ms Tara Armstrong, Director of Industrial Relations (Public Sector), deposes that female employees are disproportionately engaged on a part-time basis across the public service generally. This, she says, is a factor contributing to the gender pay gap – something the proposed variation is intended and projected to ameliorate.
- [6] I grant the application and make the necessary orders to vary the Award.

### Orders

**Pursuant to s 147 of the Act, the *Award for Operational Employees in Disability and Forensic Services – State 2016* is varied as follows:**

- 1. By deleting clause 8.2(e) and inserting the following in lieu thereof:**
  - (e) Part-time employees are eligible for payment of salary increments in accordance with the provisions of clause 12.6(a)(i).**
- 2. By deleting clause 8.3(g) and inserting the following in lieu thereof:**
  - (g) Casual employees are eligible for payment of salary increments in accordance with the provisions of clause 12.6(a)(ii).**
- 3. By deleting clause 12.6(a) and inserting the following in lieu thereof:**
  - (a) Except in the case of a promotion or transfer and promotion from one classification level to another, an increase is not to be made to the salary of any employee until:**

- (i) In the case of a full-time or a part-time employee, the employee has received a salary at a particular classification and payment for a period of 12 months.**
- (ii) In the case of a casual employee with 12 months' continuous service:**
  - (A) the employee has received a salary at a particular classification and paypoint for a period of at least 12 months; and**
  - (B) the employee has worked 1,200 ordinary hours in such classification.**

**For the purpose of clause 12.6(a)(ii), continuous service for a casual employee is considered to be broken if more than 3 months, excluding any public holidays, has elapsed between the end of one employment contract and the start of the next employment contract.**

- 4. The variation of the Award will operate on and from 2 September 2020.**