

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 2016 - s. 149 - Variation of modern awards to correct minor errors etc.
s. 149(1) - Registrar acting on own initiative

**BUILDING, ENGINEERING AND MAINTENANCE SERVICES EMPLOYEES
(QUEENSLAND GOVERNMENT) AWARD – STATE 2016**

Matter No. MA/2017/8

INDUSTRIAL REGISTRAR

1 March 2017

VARIATION

Pursuant to s 149 of the *Industrial Relations Act 2016* this Award is varied as follows as from 1 March 2017:

1. By deleting clause 2 and inserting the following in lieu thereof:

2. Operation

This Award operates from 26 April 2016.

2. In clause 3:

- (a) By deleting the definition of "Act" and inserting the following in lieu thereof:

Act means the *Industrial Relations Act 2016*

- (b) By deleting the definition of "QES" and inserting the following in lieu thereof:

QES means the Queensland Employment Standards contained in Part 3 of Chapter 2 of the Act

3. By deleting clause 6.1(c) and inserting the following in lieu thereof:

- (c) Any proposed genuine agreement reached between an employer and employees in an enterprise is contingent upon the agreement being submitted to the Commission in accordance with Chapter 4 of the Act and is to have no force or effect until approval is given.

4. By deleting clause 9.1 and inserting the following in lieu thereof:

9.1 Notice of termination by the employer

Notice of termination by the employer is provided for in Division 13 of the QES. Clauses 9.2 to 9.5 supplement the QES provisions.

5. By deleting clause 10.1 and inserting the following in lieu thereof:

10.1 Redundancy pay

Redundancy pay is provided for in Division 13 of the QES. Clauses 10.2 to 10.9 supplement the QES provisions.

Note: Where a directive about redundancy and retrenchment covers an employee, the provisions of the directive apply to the employee to the extent it provides a more generous entitlement.

6. By deleting the heading and first paragraph of clause 19 and inserting the following in lieu thereof:

19. Annual leave

Annual leave is provided for in Division 5 of the QES. Clauses 19.1 to 19.3 supplement the QES.

7. By deleting clauses 20(a) and (b) and inserting the following in lieu thereof:

- (a) Personal leave is provided for in Division 6 of the QES and covers:

- (i) sick leave;
- (ii) carer's leave;
- (iii) bereavement leave; and
- (iv) cultural leave.

- (b) In addition to the provisions of Subdivision 2 of Division 6 of the QES an employee is entitled to use any sick leave to which they have an entitlement for carer's leave purposes.

8. By deleting clauses 21(a), (b), (f) and (i) and inserting the following in lieu thereof:

- (a) Parental leave is provided for in Division 8 of the QES and covers:

- (i) birth-related leave for an employee who is pregnant or whose spouse gives birth;
- (ii) adoption leave; and
- (iii) surrogacy leave.

- (b) Notwithstanding the provisions of Subdivision 2 of Division 8 of the QES, all full-time and part-time employees are entitled to parental leave upon commencement of employment.

- (f) In addition to the provisions of Subdivision 6 of Division 8 of the QES an employee who has returned to work on a part-time basis may seek to return to the position they held prior to commencing parental leave.

- (i) (i) An employee who is the parent of a child may apply, at any time, to the employer to work on a part-time basis in order to be the child's primary caregiver when not at work.
- (ii) The requirements concerning the manner in which the employee may make an application to work part-time under clause 21(i)(i) are the same as those contained in the QES with respect to applications to return to work on a part-time basis for an employee on parental leave (i.e. s 75).
- (iii) The period in relation to which an application under clause 21(i) may be made cannot extend beyond the day the child is required to be enrolled for compulsory schooling under the *Education (General Provisions) Act 2006*.
- (iv) The requirements concerning the manner by which the employer is to assess any application by an employee to work part-time are the same as those contained in the QES

with respect to assessing applications to return to work on a part-time basis for an employee on parental leave (i.e. s 76).

9. By deleting clause 22 and inserting the following in lieu thereof:

22. Long service leave

- (a) Long service leave, including for casual employees, is provided for in Division 9 of the QES. Clause 22(b) supplements the QES.
- (b) In lieu of the provisions of sections 95(2)(a) and (b) of the Act, all employees who complete 10 years' continuous service are entitled to long service leave at the rate of 1.3 weeks on full pay for each year of continuous service and a proportionate amount for an incomplete year of service.

Note: Where a directive about long service leave covers an employee, the provisions of the directive apply to the employee to the extent it provides a more generous entitlement.

10. By deleting the heading and first paragraph of clause 23 and inserting the following in lieu thereof:

23. Public holidays

Public holidays are provided for in Division 10 of the QES. Clauses 23.1 to 23.5 supplement the QES provisions.

11. By deleting clause 24 and inserting the following in lieu thereof:

24. Jury service

Jury service is provided for in Division 12 of the QES.

Note: Where a directive about court attendance or jury service covers an employee, the provisions of the directive apply to the employee to the extent it provides a more generous entitlement.

12. By deleting clause 33(b)(i) and inserting the following in lieu thereof:

- (i) An authorised industrial officer may enter a workplace at which an employer carries on a calling of the officer's organisation, during the employer's business hours, to exercise a power under Chapter 9, Part 1, Division 5, Subdivision 2 of the Act as long as the authorised industrial officer:
- (A) has notified the employer or the employer's representative of the officer's presence; and
- (B) produces their authorisation, if required by the employer or the employer's representative.

13. By deleting clause 33(c)(i) and inserting the following in lieu thereof:

- (i) An authorised industrial officer is entitled to inspect the time and wages record required to be kept under section 339 of the Act.

14. By deleting the Note which appears at the foot of clause 33 and inserting the following in lieu thereof:

Note: Clause 33 - Right of entry, deals with comparable provisions contained within the Act. In order to ensure the currency of existing legal requirements parties are advised to refer to Chapter 9, Part 1, Division 5 of the Act as amended from time to time.

Dated: 1 March 2017

M. Shelley,
Deputy Industrial Registrar.

Variation approved, pursuant to s 149(2) of the Act:

D.L. O'Connor,
Deputy President.

Released: 1 March 2017

Operative Date: 1 March 2017
Variation