

## QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *Re: In the matter of the making of Modern Awards - Civil Construction, Operations and Maintenance General Award - State 2016* [2016] QIRC 054

PARTIES: State of Queensland (Office of Industrial Relations)

The Australian Workers' Union of Employees, Queensland

Construction, Forestry, Mining and Energy, Industrial Union of Employees, Queensland

Together Queensland, Industrial Union of Employees

Transport Workers' Union of Australia, Union of Employees (Queensland Branch)

CASE NO: MAP/2016/2

PROCEEDING: Making of a modern award

DELIVERED ON: 16 May 2016

HEARING DATE: 26 April 2016

HEARD AT: Brisbane

MEMBER: Deputy President O'Connor  
Deputy President Swan  
Industrial Commissioner Thompson

ORDERS:

- 1. That the *Civil Construction, Operations and Maintenance General Award - State 2016* be made pursuant to section 140CE(1)(a) of the *Industrial Relations Act 1999* ("the Act") and operate on and from 26 April 2016, subject to the provisions of section 824 of the Act.**
- 2. that the *Civil Construction, Operations and Maintenance General Award - State 2012* be repealed on and from 26 April 2016, subject to the provisions of section 824 of the Act.**

CATCHWORDS: INDUSTRIAL LAW - AWARD MODERNISATION - MAKING OF A MODERN AWARD - Section 140C(1) of the *Industrial Relations Act 1999* - request from the Treasurer, Minister for Employment and Industrial Relations and Minister for Aboriginal and Torres Strait Islander Partnerships - *Civil Construction, Operations and Maintenance General Award - State 2016* Modern Award made.

CASES: *Industrial Relations Act 1999*, Chapter 5, Part 8, Division 2, ss 140BB, 140C(1), 140CE(1)(a), 824

APPEARANCES: Ms T. Armstrong, Public Sector Industrial Relations (OIR).

Mr A. Borg for the Construction, Forestry, Mining and Energy, Industrial Union of Employees, Queensland.

Mr B. Watson for the Australian Workers' Union of Employees, Queensland.

Mr R. Rule for Together Queensland.

### Reasons for Decision

- [1] The Queensland Industrial Relations Commission ("the Commission") recommenced the award modernisation process following the passing of amendments to the *Industrial Relations Act 1999* ("the Act") and the issuing of a variation to the existing Ministerial Request ("the Consolidated Request") on 17 July 2015.
- [2] Section 140BB of the Act sets out the Commission's Award Modernisation functions, as follows:

#### "140BB Commission's award modernisation function"

- (1) The functions of the commission include carrying out a process (*award modernisation process*) to reform and modernise pre-modernisation awards.
- (2) In performing its functions under this part, the commission must have regard to the following factors -
  - (a) promoting the creation of jobs, high levels of productivity, low inflation, high levels of employment and labour force participation, national and international competitiveness, the development of skills and a fair labour market;

- (b) the need to help prevent and eliminate discrimination in employment;
- (c) protecting the position in the labour market of young people, employees engaged as apprentices or trainees and employees with a disability;
- (d) the needs of low-paid employees;
- (e) the need to promote the principle of equal remuneration for work of equal value;
- (f) the need to help employees balance their work and family responsibilities effectively and to improve retention and participation of employees in the workforce;
- (g) the safety, health and welfare of employees;
- (h) the Queensland minimum wage;
- (i) the desirability of reducing the number of awards operating under this Act; and
- (j) the representation rights of organisations and associations under this Act.

(3) This section does not limit section 140D."

- [3] In accordance with Chapter 5, Part 8, Division 2 of the Act (i.e. the Award Modernisation process provisions of the Act) and the Consolidated Request under s 140C(1) of the Act by the Treasurer, Minister for Employment and Industrial Relations and Minister for Aboriginal and Torres Strait Islander Partnerships, the Minister responsible for the Industrial Relations portfolio ("the Minister"), the Award Modernisation Team of the Commission prepared an Exposure Draft of a proposed *Civil Construction, Operations and Maintenance General Award - State 2016* ("the Proposed Award").
- [4] On 6 April 2016, Deputy President Bloomfield referred a version of the Proposed Award to Deputy President O'Connor for the consideration of the Full Bench. This version of the Proposed Award had the consent of the parties, save for additional proposed wording in relation to clause 13.31 and some other minor drafting amendments. The proposed wording and amendments were provided to the parties for their consideration by the AMOD Team at the time of the referral of the Proposed Award to Deputy President O'Connor. On 8 April 2016, the Proposed Award was referred to this Full Bench and listed for hearing on 26 April 2016.
- [5] The matter was heard on 26 April 2016 and parties confirmed their consent position on the Proposed Award which included the additional wording and amendments.
- [6] The Full Bench, after considering the Proposed Award, and being satisfied that the Proposed Award complies with the requirements of the Act in relation to modern awards; is consistent with the statutory objects of the award modernisation process; and meets the requirements of the Minister's Consolidated Request, is of the view that the Proposed Award ought to be made in the terms of the award attached to these reasons and operate on and from 26 April 2016.
- [7] Accordingly, the Full Bench makes the following orders:
1. That the *Civil Construction, Operations and Maintenance General Award - State 2016* be made pursuant to section 140CE(1)(a) of the *Industrial Relations Act 1999* ("the Act") and operate on and from 26 April 2016, subject to the provisions of section 824 of the Act.

2. that the *Civil Construction, Operations and Maintenance General Award - State 2012* be repealed on and from 26 April 2016, subject to the provisions of section 824 of the Act.