

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 1999 - s. 130 - review of awards

Commission on its own initiative pursuant to s. 130 of the *Industrial Relations Act 1999* to review awards

AR/2013/3

VICE PRESIDENT LINNANE
DEPUTY PRESIDENT O'CONNOR
COMMISSIONER FISHER

30 July 2013

DECISION

- [1] This matter dealt with awards of the Queensland Industrial Relations Commission (Commission) identified by the 2010 Award Review Full Bench as common rule awards which did not fall into the categories of Corporation Awards, State Government Awards or Local Government Awards (i.e. the non Corporation Awards, non State Government Awards and non Local Government Awards). The list of these awards was made available on the Commission website on 14 May 2013.
- [2] The Full Bench expressed an intention on 10 May 2013 to declare these awards obsolete unless an objection was received by close of business on 1 July 2013.
- [3] In correspondence dated 19 June 2013 Together Queensland, Industrial Union of Employees (Together Queensland) submitted the following:

"Together Queensland, Industrial Union of Employees (Together) has considered the attached listing headed 'Non-Corporation, Non State Government and Non Local Government Awards'. As indicated in earlier correspondence to the Registry, dealing with AR/2013/2, on the surface the proposal to declare the awards on that list obsolete is a practical outcome. However, Together is conscious of the fact that the Queensland government initiated a review in December 2012 through the release of an issues paper entitled '*Should Queensland maintain or terminate the referral of industrial relations jurisdiction for the unincorporated private sector?*' which has a direct impact on the proposal by this full bench of declaring these named awards obsolete.

Submissions dealing with the issues paper were due by the 22 February 2013. Together is unaware of any final report on this issues paper and as such it remains an unresolved matter in regard to the intention of the Queensland state government in regard to the continuing application, and operation, of the *Fair Work (Commonwealth Powers) and Other Provisions Act 2009* (the Referral Act).

As such the appropriateness of declaring awards identified in the associated listing, to the above matter, as obsolete is premature, pending the final report into what this state government may do with their referral of the non-incorporated private sector to the federal jurisdiction. Note that Together would have an interest in a number of awards appearing in the related list."

- [4] The Full Bench also received correspondence from the Public Service Commission dated 15 July 2013 which relevantly provided as follows:

"I refer to the above matter, the statement issued by the Full Bench on 10 May 2013 and related correspondence provided to this Full Bench by the Public Service Commission (PSC) on 1 July 2013.

The PSC has sought confirmation from representatives of various entities across the Queensland State Government, that there are no Awards contained in the attached list, titled 'Non Corporation Awards, Non State Government Awards and non Local Government Awards', which have continuing application and relevance to the employees of those entities.

Based on the feedback provided by those representatives, the PSC can advise the Full Bench that there are no Awards contained in the attached list that have ongoing application to the Queensland State Government.

The PSC has also been advised by both the Queensland Fire and Rescue Service and the Queensland Bulk Water Supply Authority (Seqwater) that the *General Stores, Warehousing and Distribution Award - State 2012*, *Professional Engineers Award - State 2012* and *Professional Scientists' Award - State 2012* similarly do not have any ongoing application to employees of those particular entities.

In light of the above feedback, the PSC supports the Full Bench's proposal to declare obsolete those 'Non Corporation Awards, Non State Government Awards and Non Local Government Awards' identified in the attached list."

- [5] A submission was also received from the Registered and Licensed Clubs Association of Queensland whose membership are not-for-profit corporations registered under the *Associations Incorporation Act 1981*. The Awards listed that once covered the registered and licensed club industry are as follows:
- *Club Etc. Employees' Award – South East Queensland 2003*;
 - *Club Employees' Award – State (Excluding South-East Queensland) 2003*;
 - *Clerical Award – Registered and Licensed Clubs – State 2003*; and
 - *Greenkeeping Industry Award – State 2012*.
- [6] Employers covered by the abovementioned awards are national system employers under the *Fair Work Act 2009*. Thus it was submitted that these awards were redundant as far as the registered and licensed club industry in Queensland was concerned and could be declared obsolete. The *Greenkeeping Industry Award – State 2012* has not been included in the list of awards in Schedule 1 as there is some application of the award to employment in the State Government and/or in local government.
- [7] The Registered and Licensed Clubs of Queensland has suggested an amendment to the *Greenkeeping Industry Award – State 2012* to reflect its inapplicability to the not-for-profit registered and licensed clubs in Queensland incorporated under the *Associations Incorporation Act 1981* (Qld) or the *Corporations Act 2001* (Cth). This suggestion should be considered by both the Public Service Commission and the Local Government Association of Queensland Ltd with perhaps an agreed amendment to the *Greenkeeping Industry Award – State 2012* being lodged to reflect the current coverage of the award.
- [8] The Full Bench has considered the matter and the submissions of Together Queensland, the Public Service Commission and the Registered and Licensed Clubs Association of Queensland. The Full Bench accepts an outcome from the review being considered by the Queensland Government has not yet issued. Nonetheless, we consider that to keep the awards active requires the allocation of considerable resources from the Registry which cannot be maintained when it is uncertain whether there will be a need to retain the awards at all.
- [9] The decision of the Full Bench is to declare those Awards identified in Schedule 1 to this decision obsolete as and from the date of this decision.
- [10] In so doing we acknowledge the concerns of Together Queensland and indicate to the parties that the Awards identified in Schedule 1 will be kept by the Industrial Registrar, in their current form, on the Commission website at www.qirc.qld.gov.au/agreement_award/awards/a/a_list.htm where all awards, including historical award information remain. Such documents, together with the awards of the Fair Work Commission which currently apply to the Queensland unincorporated private sector would thus be available to the parties should the need arise for employees of Queensland unincorporated private sector employers to once again be covered by awards of the Commission.
- [11] The Awards identified in Schedule 1 to this decision will become obsolete as and from 30 July 2013.
- [12] Order accordingly

D.M. Linnane, Vice President

D.L. O'Connor, Deputy President

G.K. Fisher, Commissioner

Hearing Details:

2013 July 19

Released: 31 July 2013

Appearances:

Ms D. Ralston for Together Queensland, Industrial Union of Employees.

Mr A. Herbert of Counsel, directly instructed by the Chief Executive of the Public Service Commission.

Mr W. Lee for the Registered and Licensed Clubs Association of Queensland.

Schedule 1

ACCOMMODATION INDUSTRY (OTHER THAN HOTELS) AWARD - SOUTH-EASTERN DIVISION 2003
ADVERTISING SALES REPRESENTATIVES' AWARD - STATE 2002
AERATED WATER FACTORIES INDUSTRY AWARD - STATE 2003
AGRICULTURAL PRODUCE, FRUIT AND GRAIN STORES' AWARD - SOUTHERN DIVISION (EASTERN DISTRICT) 2002
BAG-MAKING AWARD - SOUTH-EASTERN DIVISION 2003
BAKING INDUSTRY CARTERS' AWARD - SOUTHERN DIVISION 2003
BAKING AND PASTRYCOOKING (RETAIL STORES) AWARD - NORTHERN DIVISION 2003
BAKING AND PASTRYCOOKING (RETAIL STORES) AWARD - SOUTHERN AND MACKAY DIVISIONS 2002
BAKING INDUSTRY AWARD - SOUTHERN AND MACKAY DIVISIONS 2003
BAKING, PROCESSING, DISTRIBUTION AND MANUFACTURING INDUSTRY AWARD - NORTHERN DIVISION 2003
BEAUTY THERAPY INDUSTRY AWARD - STATE 2003
BISCUIT MANUFACTURING INDUSTRY AWARD - STATE 2003
BLASTCOATERS OFFSITE AWARD - STATE 2002
BOARDING HOUSE EMPLOYEES AWARD - STATE (EXCLUDING SOUTH-EAST QUEENSLAND) 2003
BOARDING SCHOOLS, RESIDENTIAL COLLEGES AND OTHER NON-COMMERCIAL ESTABLISHMENTS
ACCOMMODATION AWARD - SOUTH-EASTERN DIVISION 2003
BREWING INDUSTRY AWARD - STATE 2003
BRICK MANUFACTURING EMPLOYEES' AWARD - SAND-LIME BRICK MANUFACTURING - SOUTHERN DIVISION (EASTERN DISTRICT) 2003
BRISBANE MARKETS AWARD – 2003
BUILDING CONSTRUCTION INDUSTRY AWARD - STATE 2003
BUILDING PRODUCTS, MANUFACTURE AND MINOR MAINTENANCE AWARD - STATE 2001
BUTTER AND CHEESE FACTORIES AWARD - SOUTHERN DIVISION 2003
BUTTER AND CHEESE MANUFACTURING AWARD - NORTHERN AND MACKAY DIVISIONS 2003
CAR PARK ATTENDANTS AWARD - SOUTH EASTERN DIVISION 2005
CEMENT INDUSTRY AWARD - STATE 2003
CEMETERY AND CREMATORIUM EMPLOYEES' AWARD - STATE – 2005
CLAY PRODUCTS INDUSTRY AWARD - STATE 2003
CLERICAL AND ADMINISTRATIVE AWARD - SUGAR MILLS - STATE 2002
CLERICAL AWARD - HOTELS, RESORTS AND CERTAIN OTHER LICENSED PREMISES - STATE (SOUTH EAST QUEENSLAND) 2002
CLERICAL AWARD - PRIVATE HOSPITALS - STATE 2003
CLERICAL AWARD - REGISTERED AND LICENSED CLUBS - STATE 2003
CLERICAL EMPLOYEES' AWARD - PERMANENT BUILDING SOCIETIES - STATE 2003
CLOTHING TRADES AWARD - SOUTHERN AND CENTRAL DIVISIONS 2003
CLOTHING TRADES AWARD - STATE (EXCLUDING SOUTH-EAST QUEENSLAND) 2003
CLUB EMPLOYEES' AWARD - STATE (EXCLUDING SOUTH-EAST QUEENSLAND) 2003
CLUBS ETC. EMPLOYEES' AWARD - SOUTH EAST QUEENSLAND 2003
COMMERCIAL TRAVELLERS' AWARD - STATE 2003
CONFECTIONERS' AWARD - SOUTH-EASTERN DIVISION 2003
CONTRACT CATERING AND INDUSTRIAL SERVICES AWARD - SOUTH-EASTERN DIVISION 2004
CONTRACT CLEANING INDUSTRY AWARD - STATE 2003
COTTON GINNERIES, COTTON OIL AND OTHER SEED OIL MANUFACTURING EMPLOYEES' AWARD - STATE 2003
COTTON HARVESTING AWARD - STATE 2003
CREDIT UNIONS' ADMINISTRATIVE AND CLERICAL OFFICERS' AWARD - STATE 2002
DENTAL ASSISTANTS (PRIVATE PRACTICE) AWARD - STATE 2006
DENTAL TECHNICIANS' AWARD - STATE 2002
DISABILITY SUPPORT WORKERS AWARD - STATE 2003
DIVERSIONAL THERAPISTS AWARD - STATE 2003
THE DRAFTPERSONS, PRODUCTIGN PLANNERS AND ENGINEERING ASSISTANTS AWARD - STATE 2002
DRY CLEANING AND DYEING INDUSTRY AWARD - SOUTHERN AND CENTRAL DIVISIONS 2004
DRY CLEANING AND DYEING INDUSTRY AWARD - STATE (EXCLUDING SOUTH-EAST QUEENSLAND) 2002
EDIBLE NUT PROCESSING AWARD - STATE 2003
EDWARD RIVER CROCODILE FARM PTY LTD ENTERPRISE AWARD - STATE 2005
ELECTRICAL CONTRACTING INDUSTRY AWARD - STATE 2003
ELECTRICITY GENERATION, TRANSMISSION AND SUPPLY AWARD - STATE 2002
ENTERTAINERS AWARD - STATE 2002
FARM HANDS, &c. AWARD – QUEENSLAND AGRICULTURAL COLLEGE – 2003
FEEDLOT INDUSTRY AWARD - STATE 2006
FERTILIZER INDUSTRY AWARD - STATE 2003
FLORAL BOUQUETS, NOVELTIES ETC. MAKING AWARD - STATE 2003
FOOD AND DRUG STORE EMPLOYEES' AWARD - SOUTHERN DIVISION (EASTERN DISTRICT) 2003
FOOTWEAR MANUFACTURING AWARD - STATE 2005
FOREST RESOURCES INDUSTRY AWARD - STATE 2003
FRUIT AND VEGETABLE GROWING INDUSTRY AWARD - STATE 2002
FUNERAL SERVICES AWARD - STATE 2002
GAS INDUSTRY AWARD - STATE 2003
GENERAL STORES, WAREHOUSING AND DISTRIBUTION AWARD - STATE 2002
GRAIN AND ASSOCIATED PRODUCTS MILLING AWARD - SOUTHERN DIVISION 2003
GROUND STAFF - DEFENCE FORCE CONTRACTORS AWARD - SOUTHERN DIVISION 2004
GROUP TRAINING ORGANISATIONS AWARD - STATE 2003

HAIRDRESSERS' INDUSTRY AWARD - STATE 2003
 HAM, BACON, SMALLGOODS AND MEAT PRODUCTS (MANUFACTURING AND PRESERVING) AWARD – 2003
 HOSPITAL NURSES' AWARD - STATE 2003
 HOTELS, MOTELS, RESORTS AND ACCOMMODATION AWARD - STATE (EXCLUDING SOUTH-EAST QUEENSLAND) 2005
 HOTELS, RESORTS AND ACCOMMODATION INDUSTRY AWARD - SOUTH-EASTERN DIVISION 2002
 HOTELS, RESORTS AND CERTAIN OTHER LICENSED PREMISES AWARD - STATE (EXCLUDING SOUTH-EAST QUEENSLAND) 2003
 ICE CREAM AND FROZEN CONFECTIONERY MANUFACTURING AWARD - STATE 2003
 INDIGENOUS AUSTRALIAN COMMUNITY HOUSING AWARD - STATE 2005
 JAM, PRESERVED FRUIT AND VEGETABLE PROCESSING AWARD - SOUTHERN DIVISION (EASTERN DISTRICT) – 2002
 JEWELLERS AND WATCHMAKERS AWARD - STATE 2003
 LAUNDRY WORKERS AWARD - BRISBANE 2003
 LAUNDRY WORKERS AWARD - STATE (EXCLUDING BRISBANE) - 2003
 MALTHOUSE EMPLOYEES' AWARD - SOUTH-EASTERN DIVISION 2003
 MARGARINE MANUFACTURING AWARD - SOUTHERN DIVISION 2003
 MARINE STORES AND BOTTLE-WASHING ESTABLISHMENTS AWARD - SOUTH-EASTERN DISTRICT 2003
 MARINE VESSELS BUILDER AND REPAIRER AWARD - STATE 2003
 MARITIME AWARD - BRISBANE RIVER AND MORETON BAY 2003
 MASTERS AND ENGINEERS' AWARD - PORT OF BRISBANE 2003
 MASTERS, MATES AND ENGINEERS' AWARD, MOTOR VESSELS 2500 B.H.P./1866 kW.B.P. AND UNDER - STATE (EXCLUDING THE PORT OF BRISBANE) 2003
 MEAT INDUSTRY (OTHER THAN EXPORT) AWARD - STATE 2002
 MEAT INDUSTRY (PRIVATE EXPORT COMPANIES) MECHANICAL ETC. AWARD - STATE 2002
 MEDICAL IMAGING AND RADIATION THERAPY EMPLOYEES (PRIVATE SECTOR) AWARD - STATE 2002
 METER READING EMPLOYEES' AWARD - STATE 2005
 MILK AND CREAM DISTRIBUTORS AND VENDORS' AWARD - NORTHERN AND MACKAY DIVISIONS 2003
 MILK INDUSTRY TRANSPORT AWARD - SOUTHERN DIVISION 2003
 MILK TREATMENT, MILK PRODUCTS MANUFACTURE AND MILK ETC., DISTRIBUTION AWARD - NORTHERN AND MACKAY DIVISIONS 2003
 MILK TREATMENT, MILK PRODUCTS MANUFACTURE AND MILK ETC., DISTRIBUTION AWARD - SOUTH-EASTERN DISTRICT 2003
 MINERAL SANDS INDUSTRY AWARD - STATE 2002
 MINING (NON-COAL) AWARD - STATE 2003
 MODELS AND MANNEQUINS AWARD - STATE 2002
 MOTOR DRIVERS, ETC., AWARD - SOUTHERN DIVISION 2003
 MOTOR VEHICLE SALESPERSONS AWARD - STATE 2003
 MOUNT ISA MINES LIMITED CONTRACTORS' AND SUB-CONTRACTORS' EMPLOYEES AWARD 2002
 MUSICIANS' AWARD - STATE 2002
 NORTH QUEENSLAND BOATING OPERATORS EMPLOYEES AWARD - STATE 2003
 NURSERY AWARD - STATE 2003
 OIL STORES EMPLOYEES' AWARD - SOUTHERN DIVISION (EASTERN DISTRICT) 2003
 OPTICAL MANUFACTURING INDUSTRY EMPLOYEES' AWARD - STATE 2003
 PAINT INDUSTRY AWARD - STATE 2003
 PASSENGER VEHICLE DRIVERS ETC. AWARD - NORTHERN AND MACKAY DIVISIONS – 2003
 PATHOLOGY (PRIVATE PRACTICES) AWARD - STATE 2003
 PEARL CULTURE (NORTH QUEENSLAND) AWARD 2003
 PEST CONTROL INDUSTRY AWARD - STATE 2003
 PHARMACEUTICAL EMPLOYEES' AWARD - STATE (EXCLUSIVE OF PUBLIC HOSPITALS) 2003
 PHARMACY ASSISTANTS' AWARD - STATE 2003
 PHOTOGRAPHIC EMPLOYEES' AWARD - STATE 2003
 PHYSIOTHERAPISTS' AWARD - STATE 2003
 PIG BREEDING AND RAISING AWARD - STATE 2003
 PORT AUTHORITIES AWARD - STATE 2003
 POULTRY FARM AND HATCHERY EMPLOYEES' AWARD - STATE 2002
 POULTRY PROCESSING AWARD - STATE 2003
 PRINCIPALS' AWARD - NON-GOVERNMENTAL SCHOOLS - STATE 2002
 PRINTING INDUSTRY AWARD - STATE 2003
 PRIVATE HOSPITAL NURSES' AWARD - STATE 2003
 PRIVATE HOSPITALS AND NURSING HOMES INDUSTRY AWARD - STATE 2003
 PRIVATE HOSPITALS EMPLOYEES' AWARD - STATE 2003
 PROFESSIONAL AND ADMINISTRATIVE - QUEENSLAND PERFORMING ARTS CENTRE AWARD - STATE 2003
 PROFESSIONAL ENGINEERS' AWARD - STATE 2002
 PROFESSIONAL SCIENTISTS' AWARD - STATE 2002
 PROPERTY MANAGEMENT AWARD QUEENSLAND - STATE 2005
 PROPERTY SALES AWARD QUEENSLAND - STATE 2005
 PUBLIC SECTOR EMPLOYEES - GRIEVANCE PROCEDURES AWARD – STATE
 QUARRY, CRUSHED STONE, SAND AND GRAVEL INDUSTRY AWARD - STATE 2003
 QUEENSLAND ACCOMMODATION CLERICAL AWARD 2005

QUEENSLAND COMMUNITY SERVICES AND CRISIS ASSISTANCE AWARD - STATE 2008
 QUEENSLAND NURSING COUNCIL EMPLOYEES' AWARD - STATE 2002
 RACECOURSE EMPLOYEES AWARD - SOUTHERN DIVISION (EASTERN DISTRICT) – 2003
 RACING INDUSTRY EMPLOYEES' OCCUPATIONAL SUPERANNUATION AWARD - STATE 2003
 RESIDENTIAL COLLEGES (UNIVERSITY OF QUEENSLAND ST. LUCIA CAMPUS) AWARD – 2002
 RETAIL INDUSTRY AWARD - STATE 2004
 RETAIL TAKE-AWAY FOOD AWARD - SOUTH-EASTERN DIVISION 2003
 RUBBER AND PLASTIC INDUSTRY AWARD - STATE 2003
 SADDLERY, LEATHER, CANVAS AND PLASTIC MATERIAL WORKERS' AWARD - STATE 2003
 SALT INDUSTRY AWARD - STATE 2002
 SCHOOL OFFICERS' AWARD - NON-GOVERNMENTAL SCHOOLS 2003
 SECURITY INDUSTRY (CONTRACTORS) AWARD - STATE 2004
 SHEARING INDUSTRY AWARD - STATE 2003
 SILO EMPLOYEES' AWARD - NORTHERN DIVISION – 2003
 SOAP AND WASHING SODA CRYSTAL MANUFACTURERS' AWARD - SOUTHERN DIVISION (EASTERN DISTRICT) 2003
 STATION HANDS' AWARD - STATE 2003
 STOREWORKERS AND PACKERS' AWARD - NORTHERN AND MACKAY DIVISION 2003
 STOREWORKERS AND PACKERS' AWARD (SCRAP METAL, ETC.) - NORTHERN AND MACKAY DIVISIONS 2003
 SUGAR CANE TESTERS AWARD - STATE 2003
 SUGAR FIELD SECTOR AWARD - STATE 2005
 SURGICAL BOOTMAKING, BESPOKE BOOTMAKING AND BOOT REPAIRING AWARD - STATE 2003
 SURVEYING (PRIVATE PRACTICE) AWARD - STATE 2006
 SURVEYORS' LABOURERS AND COOKS AWARD - STATE 2003
 TANNING INDUSTRY AWARD - STATE 2004
 TAXI INDUSTRY - CALL CENTRE OPERATORS AND CLERICAL EMPLOYEES AWARD - STATE 2004
 TEA INDUSTRY AWARD - STATE 2003
 TEACHERS' AWARD - NON-GOVERNMENTAL SCHOOLS 2003
 TOLL COLLECTORS ETC., EMPLOYEES AWARD - STATE 2003
 TOURISM INDUSTRY - ZOOLOGICAL GARDENS AWARD - SOUTH-EASTERN DIVISION 2004
 TRAINING WAGE AWARD - STATE 2003
 TRANSPORT DISTRIBUTION AND COURIER INDUSTRY AWARD - NORTHERN AND MACKAY DIVISIONS 2004
 TRANSPORT, DISTRIBUTION AND COURIER INDUSTRY AWARD - SOUTHERN DIVISION 2003
 TROTTERING CLUB EMPLOYEES' AWARD - STATE 2002
 VAN SALES PERSONS AWARD - NORTHERN AND MACKAY DIVISIONS 2002
 VAN SALES PERSONS' AWARD - SOUTHERN DIVISION 2003
 VETERINARY PRACTICE EMPLOYEES' AWARD – STATE
 VOLUNTARY WORK - EXTENDED TRADING HOURS - NON-EXEMPT SHOPS - AWARD – STATE
 WHITSUNDAY CHARTER BOAT INDUSTRY AWARD - STATE 2005
 WINE AND SPIRIT STORES AWARD - SOUTH-EASTERN DISTRICT 2002
 WOOLCLASSERS AND SHEEP SHEARING MACHINE EXPERTS AND GRINDERS' AWARD - STATE 2003
 WOOL CLASSERS AND WOOL SORTERS (OTHER THAN WOOL CLASSERS AND WOOL SORTERS EMPLOYED IN SHEARING SHEDS) AWARD - SOUTH-EASTERN DIVISION 2003