

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 1999 – s. 288 – application for statement of policy

The Queensland Council of Unions and Others AND Queensland Chamber of Commerce and Industry Limited, Industrial Organisation of Employers and Others (No. B450 of 2002)

EQUAL REMUNERATION PRINCIPLE

VICE PRESIDENT LINNANE
COMMISSIONER SWAN
COMMISSIONER BROWN

29 April 2002

STATEMENT OF POLICY

This matter coming on for hearing before the Full Bench of the Commission on 22 March, 16 April and 24 April 2002, the Commission declares by consent as follows:-

EQUAL REMUNERATION PRINCIPLE

1. This principle applies when the Commission:
 - (a) makes, amends or reviews awards;
 - (b) makes orders under Chapter 2 Part 5 of the *Industrial Relations Act 1999*;
 - (c) arbitrates industrial disputes about equal remuneration; or
 - (d) values or assesses the work of employees in “female” industries, occupations or callings.
2. In assessing the value of work, the Commission is required to examine the nature of work, skill and responsibility required and the conditions under which work is performed as well as other relevant work features. The expression “conditions under which work is performed” has the same meaning as in Principle 7 “Work Value Changes” in the Statement of Policy regarding Making and Amending Awards.
3. The assessment is to be transparent, objective, non-discriminatory and free of assumptions based on gender.
4. The purpose of the assessment is to ascertain the current value of work. Changes in work value do not have to be demonstrated.
5. Prior work value assessments or the application of previous wage principles cannot be assumed to have been free of assumptions based on gender.
6. In assessing the value of the work, the Commission is to have regard to the history of the award including whether there have been any assessments of the work in the past and whether remuneration has been affected by the gender of the workers. Relevant matters to consider may include:
 - (a) whether there has been some characterisation or labelling of the work as “female”;
 - (b) whether there has been some underrating or undervaluation of the skills of female employees;
 - (c) whether remuneration in an industry or occupation has been undervalued as a result of occupational segregation or segmentation;
 - (d) whether there are features of the industry or occupation that may have influenced the value of the work such as the degree of occupational segregation, the disproportionate representation of women in part-time or casual work, low rates of unionisation, limited representation by unions in workplaces covered by formal or informal work agreements, the incidence of consent awards or agreements and other considerations of that type; or
 - (e) Whether sufficient and adequate weight has been placed on the typical work performed and the skills and responsibilities exercised by women as well as the conditions under which the work is performed and other relevant work features.

7. Gender discrimination is not required to be shown to establish undervaluation of work.
8. Comparisons within and between occupations and industries are not required in order to establish undervaluation of work on a gender basis.
9. Such comparisons may be used for guidance in ascertaining appropriate remuneration. The proper basis for comparison is not restricted to similar work.
10. Where the principle has been satisfied, an assessment will be made as to how equal remuneration is to be achieved. Outcomes may include but are not limited to the reclassification of work, the establishment of new career paths, changes to incremental scales, wage increases, the establishment of new allowances and the reassessment of definitions and descriptions of work to properly reflect the value of the work.
11. There will be no wage leapfrogging as a result of any changes in wage relativities arising from any adjustments under this principle.
12. The Commission will guard against contrived classifications and over classification of jobs.
13. The Commission may determine in each case whether any increases in wages will be absorbed into overaward payments.
14. Equal remuneration will not be achieved by reducing current wage rates or other conditions of employment.
15. The Commission may decide to phase in any decision arising from this principle. Any affected employer may apply to have any decision phased in. The merit of such application will be determined in the light of the particular circumstances of each case and any material relating thereto will be rigorously tested.
16. Claims brought under this principle will be considered on a case by case basis.
17. This Statement of Policy will operate from 1 May 2002.

Dated 29 April 2002.

D.M. LINNANE, Vice President.

D.A. SWAN, Commissioner.

D.K. BROWN, Commissioner.

Appearances:-

Ms S. Herbert for the Queensland Council of Unions.

Ms Y. D'Ath for The Australian Workers' Union of Employees, Queensland.

Ms V. Semple for the Australian Liquor, Hospitality and Miscellaneous Workers Union, Queensland Branch, Union of Employees.

Ms F. Bucknall for the Department of Industrial Relations.

Mr M. Smith and Mr P. Ryan for the Queensland Chamber of Commerce and Industry Limited, Industrial Organisation of Employers.

Ms S. Davis and J. McDonald for the Australian Industry Group, Industrial Organisation of Employers (Queensland).

Ms L. Vanderstoep for the Retailers' Association of Queensland Limited, Union of Employers.

Mr K. Law for The Restaurant and Caterers Employers Association of Queensland Industrial Organisation of Employers.

Mr R. Beer for the Local Government Association of Queensland (Incorporated).

Mr C. Lentini for the Queensland Hotels Association, Union of Employers.

Ms V. Lincoln for the Queensland Country Press Association – Union of Employers.

Mr G. Muir and Mr M. Patti of Employer Services Pty Ltd for the Private Hospitals Association of Queensland Incorporated, the Royal Queensland Bowls Association, the Australian Dental Association (Queensland Branch) Union of Employers, the Child Care Industry Association of Queensland Incorporated and the Queensland Master Hairdressers' Industrial Union of Employers.

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