

## QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *Re: In the matter of an Application to vary the Nurses and Midwives (Queensland Health) Award - State 2015 QIRC 113*

PARTIES: Queensland Nurses' Union of Employees  
State of Queensland (Department of Health)  
The Australian Workers' Union of Employees, Queensland.

CASE NO: MA/2016/36

PROCEEDING: Variation of a modern award

DELIVERED ON: 26 October 2016

HEARING DATE: 5 October 2016

HEARD AT: Brisbane

MEMBER: Deputy President Bloomfield

ORDER: **1. The Nurses and Midwives (Queensland Health) Award - State 2015 be varied in the terms set out in the attached Determination; and**  
**2. The Determination operate on and from 5 October 2016.**

CATCHWORDS: INDUSTRIAL LAW - AWARD MODERNISATION - VARIATION OF A MODERN AWARD - Application for Determination varying a modern award - Section 140GA(2) and 140GC(2) of the *Industrial Relations Act 1999 - Nurses and Midwives (Queensland Health) Award - State 2015* varied.

CASES: *Industrial Relations Act 1999*, Chapter 5A, Part 3, Division 2, ss 140GA(2), 140GC(2)

APPEARANCES: Ms L. Booth and Ms K. Veach for Queensland Nurses' Union of Employees.  
Ms J. Gardner and Ms E. Culleton for the State of Queensland (Department of Health).

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

### Reasons for Decision

- [1] Queensland Nurses Union of Employees (QNU) has made Application for the making of a Determination varying the *Nurses and Midwives (Queensland Health) Award - State 2015* (the Modern Award) in accordance with sections 140GA(2)(a) and 140GC(2)(b)(i) of the *Industrial Relations Act 1999* (the Act) for the following purposes:
  - (i) to create a minimum safety net of employment conditions, in keeping with the modern award objectives at section 140D of the Act, that is fair and relevant in accordance with sections 140G(2)(a) and 140D of the Act; and
  - (ii) to remove ambiguity and uncertainty and/or correct an error, in accordance with section 140GC(1) of the Act.
- [2] The Application for the making of a Determination to vary the Modern Award is supported by the State of Queensland (Department of Health) and The Australian Workers' Union of Employees, Queensland.
- [3] The proposed Determination incorporates a number of minimum conditions of employment which were inadvertently overlooked at the time of the making of the Modern Award in late 2015 as well as a new classification structure which the parties had not finalised at the time the Modern Award was made in accordance with the timetable set out in the Ministerial Request issued in July 2015 pursuant to the provisions of Part 8, Chapter 5, Division 2 of the Act.
- [4] The Commission as presently constituted, which has a full understanding of the background to and rationale for the Application, is satisfied that it is appropriate for the Application for the making of the Determination to be approved on the basis that:
  - (i) the Commission's powers at section 140G(2)(a) have been enlivened; and
  - (ii) the proposed variation removes ambiguities or uncertainties and corrects errors in the Modern Award.
- [5] The Determination varying the Modern Award will operate on and from 5 October 2016.
- [6] Given the above, the Commission issues the following Orders:
  - 1. the *Nurses and Midwives (Queensland Health) Award - State 2015* be varied in the terms set out in the attached Determination; and
  - 2. the Determination operate on and from 5 October 2016.