

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *Re: variation of the Queensland Fire and Emergency Service Employees Award – State 2016 [2021] QIRC 180*

PARTIES: **State of Queensland (Queensland Fire and Emergency Services)**
(Applicant)

v

**United Firefighters' Union of Australia,
Union of Employees, Queensland**
(First Respondent)

&

**Queensland Fire and Rescue – Senior
Officer Union of Employees**
(Second Respondent)

&

**Together Queensland, Industrial Union
of Employees**
(Third Respondent)

CASE NO.: MA/2021/1

PROCEEDING: Application to vary a modern award

DELIVERED ON: 28 May 2021

HEARING DATE: On the papers

MEMBER: Power IC

ORDER: **1. Application granted.**
2. Orders are made in the terms of the final page of these reasons.

CATCHWORDS: INDUSTRIAL LAW – VARIATION OF A MODERN AWARD – application to vary a modern award.

LEGISLATION: *Industrial Relations Act 2016* (Qld), s 147

Industrial Relations (Tribunals) Rules 2011 (Qld), r 95

Reasons for Decision

- [1] The State of Queensland (Queensland Fire and Emergency Services) ('QFES') has filed an application pursuant to s 147 of the *Industrial Relations Act 2016* (Qld) ('the Act'), to vary the *Queensland Fire and Emergency Service Employees Award – State 2016* ('the Award').
- [2] The affidavit of Gregory James Leach, Commissioner of QFES, dated 12 May 2021, confirmed that the application is made with the consent of the Respondents, being:
- United Firefighters' Union of Australia, Union of Employees, Queensland ('UFUQ');
 - Queensland Fire and Rescue – Senior Officer Union of Employees; and
 - Together Queensland, Industrial Union of Employees.
- [3] The variations sought to address two errors arising from the consent variation made in the decision in *Re: variation of the Queensland Fire and Emergency Service Employees Award – State 2016* [2020] QIRC 174.
- [4] The reasons for the variations sought were provided by Mr Nate Tosh, on behalf of UFUQ with the endorsement of QFES. These reasons are summarised below:
- the proposed deletion and replacement of clause 18.10(c) is a result of the wording of the clause following the September 2020 variation which does not accurately reflect the agreed variation the parties intended to make to the Award. The parties described this as a drafting error made by the parties in the previous application, with the erroneous wording not aligning with the agreed application of fatigue leave after overtime; and
 - the proposed deletion of clause 20.6 is due to the presence of two clauses in the Award following the September 2020 variation that relate to medical examination and

termination on medical grounds.¹ Clause 30 represents the agreed content for inclusion in the variation and clause 20.6 should have been removed. The parties erred in the previous application by not requesting the removal of clause 20.6.

- [5] Section 147 of the Act provides that the Commission may make or vary a modern award on its own initiative or by application to provide for fair and just employment conditions.
- [6] I am satisfied that the variations sought by the parties are merely a correction, pursuant to r 95 of the *Industrial Relations (Tribunals) Rules 2011* (Qld), ensuring the Award continues to provide fair and just employment conditions.
- [7] Having given consideration to the proposed variation, and the consent position of the parties to the said variation, I grant the application and make the necessary orders to vary the Award.

Orders

Pursuant to s 147 of the *Industrial Relations Act 2016* (Qld) application is made for the *Queensland Fire and Emergency Service Employees Award – State 2016* to be varied as follows from the date it is to be ordered:

- 1. By deleting clause 18.10(c) and inserting the following in lieu thereof:**
 - (c) Clause 18.10 does not apply where the employee is recalled or retained to work overtime and actually works not more than 2 hours overtime.**
- 2. By deleting clause 20.6.**
- 3. Renumbering clauses 20.7, 20.8 and 20.9 as clauses 20.6, 20.7 and 20.8 respectively.**
- 4. The variation of the Award will operate on and from 28 May 2021.**

¹ Clause 20.6 and clause 30.