

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *Re: In the matter of the making of Modern Awards - TAFE Queensland Award - State 2016* [2016] QIRC 64

PARTIES: TAFE Queensland
Queensland Teachers' Union of Employees
United Voice, Industrial Union of Employees, Queensland
Together Queensland, Industrial Union of Employees
The Electrical Trades Union of Employees, Queensland
Construction, Forestry, Mining and Engineering, Industrial Union of Employees, Queensland
Automotive, Metals, Engineering, Printing and Kindred Industries Industrial Union of Employees, Queensland

CASE NO: MAP/2014/103 & MAP/2016/4

PROCEEDING: Making of a modern award

DELIVERED ON: 9 June 2016

HEARING DATES: 27 April 2016, 19 May 2016 and 9 June 2016

HEARD AT: Brisbane

MEMBER: Deputy President Swan
Industrial Commissioner Thompson
Industrial Commissioner Black

ORDERS:

1. **That the *TAFE Queensland Award - State 2016* be made pursuant to section 140CE(1)(a) of the *Industrial Relations Act 1999* ("the Act") and operate on and from 9 June 2016, subject to the provisions of section 824 of the Act.**
2. **In so far as they cover TAFE Queensland the following awards are to be repealed on**

and from 9 June 2016 subject to the provisions of section 824 of the Act:

Building Trades Public Sector Award - State 2012;

Employees of Queensland Government Departments (Other Than Public Servants) Award - State 2012;

Engineering Award - State 2012;

Queensland Public Service Award - State 2012;

Senior College Teachers' Award - State 2012; and

TAFE Teachers' Award - State 2012;

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 - *TAFE Queensland 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:

Mr O. Heather for TAFE Queensland

Ms K. Roy of Queensland Teachers' Union of Employees

Mr D. Peverill of United Voice, Industrial Union of Employees, Queensland

Mr R. Rule of Together Queensland, Industrial Union of Employees

Mr A. Borg of Construction, Forestry, Mining and Engineering, Industrial Union of Employees, Queensland

Ms K. Inglis of The Electrical Trades Union of Employees, Queensland

Ms K. Allen of Automotive, Metals, Engineering, Printing and Kindred Industries Industrial Union of Employees, 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 *TAFE Queensland Award - State 2016* ("the Proposed Award").

[4] On 24 March 2016, Deputy President Bloomfield referred a copy of a proposed *TAFE Queensland Award - State 2016* to Deputy President O'Connor for the consideration of the Full Bench. The terms of the Proposed Award at that time were not fully agreed.

- [5] Deputy President O'Connor referred, the Proposed Award to this Full Bench for hearing and the matter was listed and heard on 27 April 2016, 19 May 2016 and 9 June 2016.
- [6] Prior to the hearing of 27 April 2016, TAFE Queensland and the Queensland Teachers' Union developed consent amendments to the Award. At the time of the hearing, the unions requested an adjournment to seek endorsement and instructions regarding the amendments. A further hearing date of 19 May 2016 was allocated.
- [7] On 19 May 2016 this Full Bench asked the Unions to provide Letters of Support stating that the proposed amendments to the Proposed Award represent a consent position and requested that the parties resolve objections to the Proposed Award as referred by the Award Modernisation Team.
- [8] Letters of support were received from all Unions.
- [9] 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 9 June 2016.
- [10] Accordingly, the Full Bench makes the following orders:
1. That the *TAFE Queensland Award - State 2016* be made pursuant to section 140CE(1)(a) of the *Industrial Relations Act 1999* ("the Act") and operate on and from 9 June 2016, subject to the provisions of section 824 of the Act.
 2. In so far as they cover TAFE Queensland the following Awards are to be repealed on and from 9 June 2016, subject to the provisions of section 824 of the Act:

Building Trades Public Sector Award - State 2012;
Employees of Queensland Government Departments (Other Than Public Servants) Award - State 2012;
Engineering Award - State 2012;
Queensland Public Service Award - State 2012;
Senior College Teachers' Award - State 2012; and
TAFE Teachers' Award - State 2012.