

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *Re: variation of the Teaching in State Education Award – State 2016 [2022] QIRC 250*

PARTIES: **State of Queensland (Department of Education)**
(Applicant)

v

Queensland Teachers Union of Employees
(First Respondent)

&

Together Queensland, Industrial Union of Employees
(Second Respondent)

CASE NO.: MA/2022/2

PROCEEDING: Application to vary a modern award

DELIVERED ON: 28 June 2022

HEARING DATE: On the papers

MEMBER: Power IC

ORDER:

- 1. Variations are made to the *Teaching in State Education Award – State 2016* being those contained in Schedule 1 to these reasons for decision.**
- 2. The variations referred to in paragraph 1 will operate on and from 28 June 2022.**

CATCHWORDS: INDUSTRIAL LAW – QUEENSLAND – AWARDS – variation of a modern award – application to make an order varying the *Teaching in State Education Award – State 2016* pursuant to s 147 of the *Industrial Relations Act 2016* (Qld) – application to vary modern award granted

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

Public Service Act 2008 (Qld)

CASES: *Department of Education v Queensland Teachers Union of Employees* (1998) 157 QGIG 172

Reasons for Decision

- [1] The State of Queensland (Department of Education) ('Department') has filed an application pursuant to s 147 of the *Industrial Relations Act 2016* (Qld) ('the Act'), to vary the *Teaching in State Education Award – State 2016* ('the Award').
- [2] The affidavit of Ms Marie Creighton, Manager, Employee Relations, Human Resources of the Department, sworn 21 June 2022, confirmed that the application is made with the consent of the Queensland Teachers Union of Employees ('QTU') and that Together Queensland, Industrial Union of Employees ('Together') raised no objections to the proposed variations.
- [3] Both QTU and Together subsequently confirmed their consent to the proposed variations by correspondence to the Industrial Registry dated 24 June 2022 and 27 June 2022 respectively.
- [4] The application sought is to vary the Award for Senior Guidance Officers, Regional School Sports Officers and the position of Queensland School Sport Manager.
- [5] The reasons for the variations sought were provided in the affidavit of Ms Creighton. These reasons are summarised below:
- (a) removing the barrier to permanent employment for teachers with provisional registration to better align with the *Public Service Act 2008* (Qld) and the Government's commitment to maximising employment security in the public sector workforce;
 - (b) update the service requirement for access to Senior Teacher to be consistent with the Award which contains less steps in Bands 1 and 2 and remove the requirement for years of service to be equivalent to full time service to;
 - (i) align the intent of Senior Teacher as reflected in *Department of Education v Queensland Teachers Union of Employees*¹ to replace the previous Advanced Skills Teacher 1 barrier with a Senior Teacher step; and
 - (ii) align with the public service award changes to remove the hours-based barrier to incremental progression for part time employees and to contribute to an improvement in the gender pay gap;
 - (c) simplify and provide greater equity between permanent and temporary employees;

¹ (1998) 157 QGIG 172.

- (d) remove the limitation for senior instrumental music instructors to access Experienced Senior Teacher and removal of the reference to classification for consistency with the Award which provides senior instrumental music instructors with access to Experienced Senior Teacher, to remove ambiguity over the service requirement for access to Experienced Senior Teacher and to align with the public service award changes to remove the hours-based barrier to incremental progression for part time employees;
 - (e) removal of the teacher in charge allowance to reflect that the allowance is no longer required as there are no employees in receipt of the teacher in charge allowance and the allowance has not been paid since the 2014/2015 financial year; and
 - (f) removal of the moderation duties allowance to reflect that the allowance is no longer required as there are no employees in receipt of the moderation duties allowance and the allowance has not been paid since 1999.
- [6] 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.
- [7] Having given consideration to the proposed variations, and the consent position of the parties to the said variations, I grant the application and make the necessary orders to vary the Award.

Orders

- [8] I make the following orders:
- 1. Variations are made to the *Teaching in State Education Award – State 2016* being those contained in Schedule 1 to these reasons for decision.**
 - 2. The variations referred to in paragraph 1 will operate on and from 28 June 2022.**

SCHEDULE 1

1. By inserting in alphabetical order new definitions in clause 3 Definitions and interpretation as follows:

QSSM means a Queensland School Sports Manager

RSSO means a Regional School Sport Officer (including Representative School Sport Officer and Queensland School Sport Officer)

2. By deleting clause 8.4(c).
3. By deleting clause 12.6.1(c)(i) Access and inserting the following in lieu thereof:
 - (i) Access
 - (A) In the case of a permanent or temporary teacher, a senior teacher is a teacher who from 1 January 2022:
 1. has completed one year's teaching service at Band 3 Step 4, or in the case of a 3 year trained teacher, has completed two years' teaching service at Band 3 Step 1; and
 2. signs an undertaking in accordance with Schedule 2; and
 3. is entitled, subject to clause 12.6.1(c)(vii), to the relevant salary/allowance prescribed in clause 12.6.1(c)(ii) for a senior teacher.
4. By deleting clause 12.6.1(c)(vii)(C) and inserting the following in lieu thereof:
 - (C) Any teacher aggrieved by the decision to remove their senior teacher appointment or to refuse them re-entry to senior teacher may access the grievance and dispute settlement procedure in clause 7.2 of this Award.
5. By deleting clause 12.6.1(e) Experienced senior teacher and inserting the following in lieu thereof:
 - (e) **Experienced senior teacher**
 - (i) Experienced senior teacher will be available to any 4 year trained teacher with four or more years' satisfactory service as a senior teacher or any three-year trained teacher with seven or more years' satisfactory service as a senior teacher.
 - (ii) Experienced senior teacher will be accessed through a merit selection process.
 - (iii) The salary of an experienced senior teacher shall be \$3,929 per fortnight.

6. By deleting the table in clause 12.6.1(f) Head of program (promotional positions) and inserting the following table in lieu thereof:

Heads of Program Stream 2	Award Rate¹ Per Fortnight \$²	Annual Salary³ \$²
Band - ST2-1 (HOC)		
Paypoint 1.1	4,151	108,295
Paypoint 1.2	4,255	111,009
Paypoint 1.3	4,345	113,357
Band - ST2-2 (HOD/HOSES/GO)		
Paypoint 2.1	4,151	108,295
Paypoint 2.2	4,345	113,357
Paypoint 2.3	4,560	118,966
Band - ST 2-3 (HOSES/SGO/RSSO)		
Paypoint 3.1	4,355	113,618
Paypoint 3.2	4,549	118,679
Paypoint 3.3	4,785	124,836
Band - ST2-4 (HOSES/QSSM)		
Paypoint 4.1	4,561	118,992
Paypoint 4.2	4,779	124,679
Paypoint 4.3	5,014	130,810

7. By deleting clause 12.6.1(i) Teacher in charge.
8. By updating the clause numbering by deleting clause 12.6.1(j) Teacher in specified sites and replacing it with clause 12.6.1(i) Teacher in specified sites.
9. By updating the clause numbering by deleting clause 12.6.1(k) Teachers seconded as advisory teachers and replacing it with clause 12.6.1(j) Teachers seconded as advisory teachers.
10. By deleting clause 13.4 Moderation duties allowance – THSL stream.
11. By updating the clause numbering by deleting clause 13.5 Motor vehicle allowance and inserting the following in lieu thereof:

13.4 Motor vehicle allowance

- (a) Subject to clause 13.4(c), where DoE requires an employee to use their own vehicle in or in connection with the performance of their duties, the employee shall be paid an allowance for each kilometre of authorised travel as follows:
- (i) motor vehicle - \$0.82 per kilometre; and
 - (ii) motorcycle - \$0.28 per kilometre.
- (b) DoE may require an employee to record full details of all such official travel requirements in a log book.

- (c) The provisions of clause 13.4 do not apply to a teacher whose terms of engagement require them to use their own vehicle to attend a circuit of schools and drive additional kilometres beyond the distance between home and their base school and return.

Note: Where a directive about motor vehicle allowances covers an employee, the provisions of the directive apply to the employee to the extent it provides a more generous entitlement.

- 12. By updating the clause numbering by deleting clause 13.6 Overtime meal allowance – CEC stream and inserting the following in lieu thereof:

13.5 Overtime meal allowance - CEC stream

- (a) A counsellor required to work overtime for more than one hour before the ordinary starting time or more than one hour after ordinary ceasing time shall be provided with an adequate meal at DoE's expense or paid a meal allowance of \$14.10 in lieu of the provision of such meal.
- (b) Additionally, the counsellor must be allowed 30 minutes at the ordinary mealtime for such meal where work is performed after 1800.
- (c) Where DoE requires the counsellor to continue working for a further 4 hours of continuous overtime work in a situation mentioned in clause 13.5(a), the counsellor will be entitled to a 30 minute meal break and either provided with an adequate meal at DoE's expense or paid an additional meal allowance of \$14.10.
- (d) A counsellor required to work overtime on an accrued day off or a rostered day off is entitled to \$14.10 meal allowance after each period of 4 hours continuous overtime, in addition to any payment for overtime to which the employee is entitled, unless a meal of reasonable quality and quantity is provided by DoE.

Note: Where a directive about overtime allowance covers an employee, the provisions of the directive apply to the employee to the extent it provides a more generous entitlement.

- 13. By updating the clause numbering by deleting clause 13.7 Adjustment of monetary allowances and inserting the following in lieu thereof:

13.6 Adjustment of monetary allowances

- (a) Other than the expense related allowances at clauses 13.4 (motor vehicle allowance), 13.5 (overtime meal allowance - CEC stream), Divisional and District allowances at clause 13.1 and locality allowances at clause 13.3, respectively, all other monetary allowances specified in clause 13 shall be automatically adjusted from the same date and in the same manner as monetary allowances are adjusted in any State Wage Case decision or other decision of the Commission adjusting minimum wage rates in this Award.
- (b) In addition to the monetary allowances specified in clause 13, the monetary allowances/payments in clauses 12.3.7(a)(i) (education officers (special duties), 12.6.1(i) (teachers in specified sites), 12.6.2(b) (Aboriginal and Torres Strait Islander community schools allowance), 12.6.2(c) (head teacher - CTAT stream) and 12.6.2(d) (community teachers and assistant teachers in charge), respectively,

shall also be adjusted in the same manner and at the same time as prescribed in clause 13.6(a).

- (c) At the time of any adjustment to the wage rates in this Award the expense related allowances at clauses 13.4 (motor vehicle allowance) and 13.5 (overtime meal allowance - CEC stream), respectively, shall be automatically adjusted by the relevant adjustment factor. The relevant adjustment factor for this purpose is the percentage movement in the applicable index figure most recently published by the Australian Bureau of Statistics since the allowance was last adjusted.
- (d) The applicable index figure is the index figure published by the Australian Bureau of Statistics for the Eight Capitals Consumer Price Index, as follows:

<u>Allowance</u>	<u>Eight Capitals Consumer Price Index (ABS Cat No. 6401.0 - Table 7)</u>
Motor vehicle allowance <i>(last adjusted 1 September 2021)</i>	Private motoring sub-group
Overtime meal allowance <i>(last adjusted 1 September 2021)</i>	Take-away and fast foods sub-group

14. By inserting a new subclauses (15.5 and 15.6) in clause 15 Hours of Duty as follows:

15.5 SGOs

- (a) The rostered duty time of an SGO will be 25 hours per week.
- (b) Rostered duty time will be continuous except for the meal break.
- (c) Rostered duty time will commence no earlier than 0700 and conclude no later than 1700.
- (d) An SGO's daily maximum rostered duty time will not exceed 7 hours while the minimum will not be less than 3 hours.
- (e) The weekly rostered duty time may be worked over five days or less, Monday to Friday.

15.6 RSSOs and QSSMs

- (a) The rostered duty time of RSSOs and QSSMs will be 25 hours per week.
- (b) Rostered duty time will be continuous except for the meal break.
- (c) Rostered duty time will commence no earlier than 0700 and conclude no later than 1700.
- (d) A RSSO's and QSSM's daily maximum rostered duty time will not exceed 7 hours while the minimum will not be less than 3 hours.
- (e) The weekly rostered duty time may be worked over five days or less, Monday to Friday.

15. By updating the clause numbering by deleting clause 15.5 CTAT stream and replacing it with clause 15.7 CTAT stream.
16. By updating the clause numbering by deleting clause 15.6 CEC stream and replacing it with clause 15.8 CEC stream.
17. By updating the clause numbering by deleting clause 15.7 Education Officer (Special Duties) and replacing it with clause 15.9 Education Officer (Special Duties).
18. By updating the clause numbering by deleting clause 15.8 Variations to the standard hours of instruction and replacing it with clause 15.10 Variations to the standard hours of instruction.
19. By updating the clause numbering by deleting clause 15.9 Student free days - THSL and CTAT streams and replacing it with clause 15.11 Student free days - THSL and CTAT streams.
20. By deleting clause 16.1(b) and inserting the following in lieu thereof:
 - (b) Other times during which the meal break may occur will be arranged in accordance with the facilitative provisions of this Award or rostering arrangements can be entered into in accordance with workplace reform initiatives as provided for in clauses 6.2(c) and 15.10.
21. By deleting THSL stream descriptor in Schedule 1 Classification Descriptors and inserting the following in lieu thereof:

THSL stream

Three year trained teacher means a person appointed as a teacher who holds an approved three year full-time equivalent degree from a recognised tertiary education institution or such other qualifications as may be recognised by DoE for this purpose. Types of teachers may include a classroom teacher, instrumental music teacher/instructor, specialist teacher, advisory visiting teacher, teacher-librarian, teachers seconded for special duties to another part of DoE or related statutory authorities, and teachers seconded as Education Officer (Special Duties).

Four year trained teacher means a person appointed as a teacher who holds:

- an approved four year full-time equivalent degree from a recognised tertiary education institution that includes at least one year of teacher education; or
- an approved three year full-time equivalent tertiary qualification plus:
 - at least one year of teacher education; or
 - such other qualifications recognised by DoE as equivalent to one year of teacher education.

Types of teachers may include a classroom teacher, instrumental music teacher/instructor, specialist teacher, advisory visiting teacher, teacher-librarian, Assistant Regional School Sport Officer, teachers seconded for special duties to another part of DoE or related statutory authorities, and teachers seconded as Education Officer (Special Duties).

Head of Program means the positions of Head of Curriculum, Head of Department, Head of Special Education Services, Senior Guidance Officer, Regional School Sport Officer, Queensland School Sport Manager, Guidance Officer and literacy and/or numeracy coach or as otherwise determined by agreement between the parties.

School Leader means the positions of Deputy Principal, Principal or Executive Principal.

22. By deleting Schedule 3 Specified Schools Serving Aboriginal and Torres Strait Islander Communities and inserting the following in lieu thereof:

Schedule 3 - Specified Schools Serving Aboriginal and Torres Strait Islander Communities

The schools serving Aboriginal and Torres Strait Islander communities referred to in clause 12.6.1(i) of this Award, as those schools to which a Specified sites allowance shall be paid, are:

Aurukun Campus of Cape York Academy (CYA)	Tagai State College – Horn Island Campus
Birdsville State School	Tagai State College – Kubin Campus
Bloomfield River State School	Tagai State College – Mabuig Island Campus
Burketown State School	Tagai State College – Malu Kiwai Campus
Bwngcolman Community School	Tagai State College – Mer Campus
Camooweal State School	Tagai State College – Poruma Campus
Cherbourg State School	Tagai State College – Saibai Island Campus
Coen Campus of CYA	Tagai State College – St Pauls Campus
Croydon State School	Tagai State College – Stephen Island Campus
Dajarra State School	Tagai State College
Doomadgee State School	Tagai State College – Thursday Island Primary Campus
Hopevale Campus of CYA	Tagai State College – Thursday Island Secondary
Kowanyama State School	Tagai State College – Warraber Island Campus
Laura State School	Tagai State College – Yam Island Campus
Lockhart State School	Tagai State College – Yorke Island Campus
Mornington Island State School	Urandangi State School
Normanton State School	Western Cape College
Northern Peninsula Area College – Injinoo Junior	Woorabinda State School
Northern Peninsula Area State College	Yarrabah State School
Pormpuraaw State School	
Tagai State College – Badu Island Campus	
Tagai State College – Darnley Island Campus	Other schools may be approved by DoE from time to time and added to the above list.
Tagai State College – Dauan Island Campus	