



INDUSTRIAL COURT OF QUEENSLAND
QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CHAMBERS OF VICE PRESIDENT LINNANE

The Hon. Jarrod Bleijie MP,
Attorney-General and Minister for Justice,
G.P.O Box 149,
BRISBANE. 4000

Dear Attorney-General,

Re: First Award Modernisation Report

I refer to your Request under Section 140C(1) of the *Industrial Relations Act 1999* - Award Modernisation, and the requirement placed on me to provide you with bi-monthly reports outlining certain matters as recorded at paragraph 26 of your Request.

In accordance with this requirement I advise as follows.

Industries and/or occupations undergoing award modernisation

In my reply of 4th February 2014 to your Request, I advised that the priority industries and/or occupations for award modernisation, by 30th June 2014, were as follows:

- Rail;
- Local Government (excluding Brisbane City Council);
- Health; and
- Public Sector.

Rail

The Award Modernisation Team has developed an exposure draft of a modernised Queensland Rail Award - State 2014 and provided this to the relevant parties on 24th February 2014. This followed Conferences of parties interested in that Award, on 4th and 12th March 2014, chaired by Deputy President Bloomfield, during which preliminary drafts were canvassed and modifications made.

A copy of this exposure draft has now been placed on Queensland Industrial Relations Commission's (Commission) "Award Modernisation" webpage so as to inform all persons and organisations interested in award modernisation of the nature of this modernised Award. In particular, the attention of interested parties has been drawn to the way that the relationship between the Queensland Employment Standards (QES) and continuing award provisions has been accommodated by the Award Modernisation Team.

Local Government (excluding Brisbane City Council)

Paragraph 5 of your Request requires "the Commission to create fewer modern awards which may be organised across industry and/or occupational lines as it considers appropriate...".

To that end, the Award Modernisation Team has taken the view that a single award covering local government could be created to replace, either in whole or in part, approximately twenty (20) awards which presently apply to local government employers and employees in Queensland. This position was canvassed with employer and union parties to these awards at a Conference conducted by Deputy President Bloomfield on 7th March 2014.

The position adopted by the Award Modernisation Team was supported by the Local Government Association of Queensland (LGAQ). However, a number of Unions disagreed, suggesting that at least three - possibly up to five - awards were required in the future.

Due to the conflicting positions adopted by the parties, I have referred this matter to a Full Bench of the Commission (Deputy President O'Connor, Deputy President Kaufman and Commissioner Neate) to be heard and determined. The closing date for submissions concerning the number of awards to apply in local government is Friday 28th March 2014, with the Full Bench hearing to take place on Tuesday 1st April 2014.

Once the decision of the Full Bench is announced the Award Modernisation Team will produce an exposure draft (or drafts), of a modern award (or awards), to apply to this sector. Deputy President Bloomfield will then chair Conferences of the parties with a view to agreeing on the terms of a new modern award to apply to local government in Queensland (excluding Brisbane City Council) by 30th June 2014.

Health

The situation in this sector is similar to local government. The Award Modernisation Team has taken the view that four awards should be developed to cover employees in Queensland Health i.e.:

- an award covering nurses and midwives;
- an award covering medical officers;
- an award covering "public service officers", who are appointed pursuant to s. 119 or s. 148 of the *Public Service Act 2008*, under a modernised Queensland Public Service Award; and
- an award covering all other employees employed by Queensland Health or Hospital and Health Services (other than those employees of the Queensland Ambulance Service and employees working in building, engineering and maintenance services).

This position is opposed by Queensland Health, which seeks only three awards, including a single award covering employees described in the third and fourth dot points above. The Award Modernisation Team's view is also opposed by several Unions which seek a separate

award to cover Health Practitioners who are currently covered by the award mentioned in the final dot point above.

The issue of the number of awards to apply to Queensland Health will also be subject to Full Bench (Deputy President O'Connor, Deputy President Kaufman and Commissioner Neate) proceedings on Tuesday 1st April 2014. However, the Full Bench decision will not impact award coverage for nurses and midwives or medical officers. The Award Modernisation Team is presently finalising the terms of exposure drafts in these areas - with the nurses and midwives exposure draft to be issued to parties during the week commencing 31st March 2014. An exposure draft of a single award to cover medical officers will be released later.

Public Sector

In order to inform its thinking the Award Modernisation Team has undertaken a survey of government departments, agencies and statutory authorities, in conjunction with a similar survey undertaken by the Public Service Commission, to identify awards currently utilised by such departments and agencies as well as the number of employees presently covered by such awards. This information has been cross-checked with Certified Agreements filed in the Commission so as to ensure that all Awards currently in use in the public sector have been identified.

As a result of the information obtained by it, the Award Modernisation Team has considered the contents of paragraph 22 of your Request and has decided to establish a single "white-collar" award covering all persons (AO, PO, TO and OO) appointed as "public service officers" under s. 119 and s. 148 of the *Public Service Act 2008* and to extend coverage of that Award to persons employed by the following agencies:

- Crime and Misconduct Commission;
- Queensland Building and Construction Commission (previously the Queensland Building Services Authority);
- Queensland Rural Adjustment Authority;
- Residential Tenancies Authority; and
- Safe Food Production Queensland.

However, notwithstanding your Request that the Commission should give consideration to creating a "white-collar" award with coverage beyond that described above, the Award Modernisation Team has decided not to incorporate the terms of the following awards into the proposed new Public Service Officers' Award:

- Legal Aid Employees' Award;
- Parliamentary Service Award;
- Tourism Queensland Employees' Award; and
- Workers' Compensation Queensland Award.

As a result of the above considerations and decisions, the Award Modernisation Team is currently preparing exposure drafts for a new, modernised, Queensland Public Service Officers' Award as well as modernised awards for the four agencies mentioned immediately above. The Award Modernisation Team plans to release exposure drafts of these five awards during the week commencing 31st March 2014.

The Award Modernisation Team is also preparing an exposure draft of an award to replace the existing *Employees of Queensland Government Departments (Other than Public Servants) Award - State 2012* (the OPS Award) which will also cover employees presently covered by the:

- *Conservation, Parks and Wildlife Employees' Award - State 2012*; and
- *Forestry Employees' Award - Department of Agriculture, Fisheries and Forestry 2012*.

In addition, the Award Modernisation Team is giving consideration to whether public sector employees presently covered by the following awards can also be included in this proposed new OPS award:

- *Building Trades Public Sector Award - State 2012*;
- *Civil Construction, Operations and Maintenance General Award - State 2012*; and
- *Engineering Award - State 2012*.

An exposure draft of a modernised, and expanded, OPS Award is scheduled to be released in the week commencing 7th April 2014.

Progress of Award Modernisation

At the time he assumed responsibility for the modernisation of all Queensland Awards, Deputy President Bloomfield determined that the nature of the end products of the Award Modernisation Team's work would be very dependent on the quality and nature of the information available to him and the team. As such, he arranged for surveys to be undertaken, in conjunction with the Public Service Commission and the Local Government Association of Queensland, to identify existing award usage and coverage - most especially the numbers of employees covered by each award.

The information obtained by the Award Modernisation Team as a result of this initiative is quite extensive and has informed Deputy President Bloomfield's thinking about the most appropriate way to undertake the award modernisation project. For example, it has enabled him to identify that less than 2,000 (of the 50,000) persons presently covered by the *Public Service Award - State 2012* are classified as "Operational" (OO) employees. He has also identified that each of these employees is a "public service officer" appointed pursuant to s. 119 or s. 148 of the *Public Service Act 2008*. Such employees usually (but not always) work a 36.25 hour week.

This is to be contrasted with the position of OO employees engaged under the OPS Award, who are all "general employees" appointed pursuant to s. 147 of the *Public Service Act 2008* and who almost exclusively work a 38 hour week - along with other employees covered by that Award. Accordingly, he has decided not to try to decide award coverage of OO

employees based upon (just) their award classification as apparently contemplated at paragraph 22(b) of your Request. Rather, he has decided that all "public service officers" should continue to be covered by one Award.

While the time taken to build the Award Modernisation Team's data base has, to some extent, slowed the pace at which the Team might otherwise have developed and issued exposure drafts of modernised awards, Deputy President Bloomfield is firmly of the view that the "quality" of the exposure drafts, and eventual awards, produced by the Award Modernisation Team will be significantly improved because of the nature of the information gathered. The data is also helping to identify superfluous and/or out-of-date provisions which can now be removed from Awards.

The Award Modernisation Team has also identified that at least eight awards which the Commission previously believed were utilised by the public sector and/or local government appear to be obsolete. These awards are:

- *Cold Storage and Ice Making Award - State 2012;*
- *Fishery Employees Award - State 2012;*
- *GoPrint Award - State 2012;*
- *Metropolitan Race Clubs Maintenance Employees' Award - Brisbane and Ipswich 2002;*
- *Outdoor Leaders Award - State 2012;*
- *Prawn and Other Seafood Processing Award - State 2012;*
- *Sugar Milling Industry award - State 2012;* and
- *Torres Strait Islander Communities - Community Development Employment Projects (Torres Strait) Award - State 2012.*

Once the Award Modernisation Team confirms that these Awards are obsolete I shall convene a Full Bench to make the necessary declarations.

In addition to data collection and preparation of exposure drafts, the Award Modernisation Team has also undertaken an education program designed to inform affected parties of the Award Modernisation Team's approach to award modernisation and the likely timetable for its completion. Mr Brian Bond, Manager of the Award Modernisation Team, has presented at information sessions arranged by the Public Service Commission and the Local Government Association of Queensland. He has also accompanied Deputy President Bloomfield to briefings of industrial officers and elected officials of unions affiliated with the Queensland Council of Unions, as well as a separate briefing of staff employed by the Australian Workers' Union of Employees, Queensland.

Further, Deputy President Bloomfield conducted a specially convened briefing session, attended by just over 100 persons, of representatives of government departments, agencies, statutory authorities, local governments and industrial organisations on Tuesday 18th March

2014. At this briefing, attendees were given a detailed overview of progress to date on the Award Modernisation project as well as the Award Modernisation Team's intention concerning the content of modernised awards and their coverage.

One of the matters canvassed was the Award Modernisation Team's intention to create new awards to cover all employees employed in the following industries or by the following employers:

- Parents and Citizens Associations;
- Southbank Employing Authority/City Parklands Transition Services Pty Ltd;
- Stadiums Queensland;
- Water distribution entities; and
- a single "Cultural Centres" Award to apply to:
 - Gallery of Modern Art;
 - Queensland Art Gallery;
 - Queensland Museum; and
 - State Library.

The creation of new awards in these areas will further reduce the number of awards currently in operation. This is because a number of awards currently in operation cover only a small number of employees. A number of these awards also only concern a single employer. For example, the creation of a single award for Stadiums Queensland will obviate the need for five or six current awards.

Developments scheduled for the next two months

In response to the matters contained in paragraph 23 of your Request, the Award Modernisation Team has developed "generic" award provisions to be included in modernised awards which will both accommodate matters raised in the QES and replace the current *Family Leave Award - State 2012* as well as the *Family Leave (Queensland Public Sector Award) Award - State 2012*. The Team has also developed a generic Schedule, to be included in all modernised awards, which will replace the *Supported Wage Award - State 2012*.

The contents of these proposed provisions were drawn to the attention of the 100 or so participants at the briefing conducted on 18th March 2014. The draft provisions are also included in the exposure draft of the modernised Queensland Rail Award - State 2014 which has been posted on the Commission's "Award Modernisation" webpage.

A generic Schedule covering relevant wages and conditions for apprentices and trainees, and designed to be included in all modernised awards, is close to finalisation. This Schedule is proposed to replace the:

- *Training Wage Award - State 2012*;

- *Order - Apprentices' and Trainees' Wages and Conditions (Excluding Certain Queensland Government Entities) 2003*; and
- *Order - Apprentices' and Trainees' Wages and Conditions (Queensland Government Departments and Certain Government Entities)*.

When finalised, this Schedule - as well as the "generic" award provisions and Schedules mentioned above - will be circulated to all parties identified by the Award Modernisation Team as being interested in the Award Modernisation process for their consideration and comment. In addition, Deputy President Bloomfield will convene and chair a conference of the major employer parties and all interested unions to finalise the provisions. It is planned to circulate the generic Schedules and award provisions late in the week commencing 31st March 2014 with a view to holding the first conference approximately 10 days later.

Deputy President Bloomfield will also re-convene parties interested in the proposed Queensland Rail Award - State 2014 in the beginning of the week commencing 7th April 2014 with a view to finalising all of the terms of that "modernised" Award. Once finalised, I will convene a Full Bench of the Commission to create that new award, as contemplated at paragraph 16 of your Request.

After releasing exposure drafts of proposed new awards, as mentioned above, Deputy President Bloomfield will convene a succession of conferences of parties to those awards with a view to finalising their terms. To this end, Deputy President Bloomfield anticipates the need to conduct a number of such conferences of parties interested in each of the proposed awards. If the provisions of the proposed award are agreed he will inform me of that fact and I will proceed to convene a Full Bench to create a new modern Award.

However, if Deputy President Bloomfield identifies that particular provisions in a proposed modernised award(s) cannot be agreed between the interested parties he will advise me of that fact and I will convene further Full Benches as required to hear from the parties and decide the matters where no agreement has been reached. The intention of both Deputy President Bloomfield and myself is that any areas of disagreement are to be identified by (approximately) mid-May so as to allow for unresolved issues to be decided and included in new modern awards to be issued by 30th June 2014. Where possible it is my intention to have the same Full Bench deal with all arbitrations of modern award issues.

On the topic of the scheduled date for the completion of the award modernisation process, the Award Modernisation Team will also start to develop exposure drafts for "non-priority" sectors during late May - early June, 2014 with a view to progressively releasing them over the subsequent months. However, the Team is cognisant of the fact that no such exposure drafts should be issued until the conclusion of any Full Bench proceedings about disputed provisions, at which time the decision(s) of the Full Bench can be incorporated into the exposure drafts.

As you would appreciate, this being my first report to you about the progress of Award Modernisation, I have been particularly fulsome in describing the activities of the Award Modernisation Team to date, as well as its plans over the next several months.

I wish to express my thanks to Deputy President Bloomfield and the Award Modernisation Team for their efforts to date. I am aware that Deputy President Bloomfield and his Team

have had to work through a number of difficulties in reaching the outcomes outlined in this report.

I trust that the information contained in this Report meets the requirements of paragraph 26 of your Request. I will provide my next report to you by the due date of 31st May 2014.

Yours sincerely,

DIANNE LINNANE
Vice President

28th March 2014

cc: Simon Blackwood, Acting Deputy Director-General, Department of Justice and Attorney-General