

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 1999 - s. 473 - approval for other name amendment

Liquor Hospitality and Miscellaneous Union, Queensland Branch, Union of Employees
(RIO/2010/218)

COMMISSIONER FISHER

22 February 2011

DECISION

- [1] This is an application by the Liquor Hospitality and Miscellaneous Union, Queensland Branch, Union of Employees, (LHMU) to amend the name of the organisation to "United Voice, Industrial Union of Employees, Queensland" and consequential rule amendments. The application is made pursuant to s. 473 of the *Industrial Relations Act 1999* (the Act). The LHMU complied with a direction of the Industrial Registrar and published a Notice of its application in the Courier-Mail of 23 December 2010. There is no objection to the application.
- [2] Section 471 of the Act provides as follows:
- "471 Requirements for amendment**
- The proposed amendment may be made only if it has been -
- (a) proposed under the organisation's rules; and
- (b) approved under this subdivision."
- [3] Further s. 473(2) of the Act provides:
- "473 Approval for other name amendment**
- ...
- (2) The commission may, by order, approve the name amendment only if satisfied the amended name -
- (a) has been proposed under the organisation's rules; and
- (b) is not -
- (i) the same as another organisation's name; or
- (ii) so similar to another organisation's name as to be likely to cause confusion."
- [4] The Applicant relied on the Affidavit of Gary John Bullock, Branch Secretary and Neville Swan, Branch President, LHMU included in the Application. A copy of the resolution passed in accordance with the Rules of the LHMU at a Special Council Meeting held on 21 December 2010 supporting the name amendment was attached thereto.
- [5] The Affidavit relevantly sets out the following explanation for the proposed name amendment:
- "a. The name amendment was proposed by way of motion to the Liquor Hospitality and Miscellaneous Union, Queensland Branch, Union of Employees Council.
- b. Sufficient notice of a special meeting was given in accordance with Rule 44 by the Secretary, Mr Gary John Bullock, by way of e-mail and oral summons on Friday December 17th 2010.
- c. The notice of special meeting provided a copy of the proposed name change and a resolution to propose a name amendment and an application to the Queensland Industrial Relations Commission.
- d. The special meeting of Council was quorate and held on Tuesday December 21st 2010.
- e. The special meeting approved the name change and approved application being made to the Queensland Industrial Relations Commission to amend the name and the rules accordingly.
- f. Rule 39(a)(ii) provides Council with the power to alter the Union's rules.
- g. The name amendment has been proposed and approved in accordance with the organisation's rules.
- h. The nature and effect of the amendment is that the Union's name will be changed and consequential changes to the Union's rules to reflect the name change.

- i. The effect of the name change will be to reflect the incorporation of the name "United Voice" as has been adopted by the National Council of the Liquor, Hospitality & Miscellaneous Union as a name change for the Federal counterpart Union.
 - j. The new name is not the same as another organisation's name and is not so similar to the name of another organisation so as to be likely to cause confusion.
 - k. No union registered under the Act incorporates the word "Voice" in its name. One union incorporates the word "United" in its name.
 - l. The United Firefighters' Union of Australia, Union of Employees, Queensland includes the word "United" in its name. The applicant's proposed new name United Voice, Union of Employees is dissimilar and is unlikely to cause confusion with the Firefighters' Union name.
 - m. A copy of the resolution passed in accordance with the organisation's rules agreeing to the name amendment is attached to this application.
 - n. The proposed new name complies with s. 424(1)(a) and s. 424(2) of the Act.
 - o. The application complies with s. 474 of the Act."
- [6] An Affidavit of Avalon Kent, Industrial Officer, LHMU was filed on 23 December 2010 and a Supplementary Affidavit was filed on 18 February 2011. A further Affidavit of Morgan Pretswell, Industrial Support Staff, LHMU was filed on 18 February 2011. These Affidavits attest to the procedures adhered to by the LHMU in compliance with s. 20 of the *Industrial Relations Regulation 2000* (the Regulations).
- [7] Mr Spreckley on behalf of the LHMU indicated that the Federal Liquor, Hospitality and Miscellaneous Union had filed an application on 5 November 2010 with Fair Work Australia under s. 158(1) of the *Fair Work (Registered Organisations) Act 2009* for consent to change its name to "United Voice". A decision by Vice President Watson on 15 February 2011 consented to the change of name effective as from 1 March 2011: see *Liquor, Hospitality and Miscellaneous Union*.¹
- [8] Having read the application and the affidavit of Mr Bullock and Mr Swan the Commission is satisfied the name was proposed under the organisation's rules; and is not the same as another organisation's name; or so similar to another organisation's name as to be likely to cause confusion. Accordingly, the provisions of s. 473 have been met. The Commission is also satisfied that the provisions of s. 424 of the Act have been met regarding the registered name of the organisation.
- [9] Section 162 of the *Industrial Relations (Tribunals) Rules 2000* sets out the procedural requirements for an application to amend an organisation's name. Having read the application and the affidavit of Mr Bullock and Mr Swan the Commission is satisfied that these requirements have been met.
- [10] The Commission is also satisfied that there has been compliance with the notification requirements as provided by s. 20 of the Regulations.
- [11] As advised at the hearing on 18 February 2011, approval is granted to amend the name of the organisation to United Voice, Industrial Union of Employees, Queensland.

Date of effect

- [12] The date of approval of the name amendment and the eligibility rule amendment is 1 March 2011.
- [13] The Industrial Registrar is duly advised of this approval so that he can take the necessary action pursuant to s. 476 of the Act. The consequential rule amendments are referred to the Industrial Registrar.
- [14] Order accordingly.

G.K. FISHER, Commissioner.

Hearing Details:

2011 18 February

Released: 22 February 2011

Appearances:

Mr J. Spreckley, Liquor Hospitality and Miscellaneous Union, Queensland Branch, Union of Employees.

¹ *Liquor, Hospitality and Miscellaneous Union* [2011] FWA 766.