

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 1999 – s. 58 – review of general employment conditions

**Review of Long Service Leave Entitlements Pursuant to section 58(2) of the
Industrial Relations Act 1999 (No. B1404 of 1999)**

PRESIDENT HALL
COMMISSIONERS BALDWIN AND BROWN

27 April 2000

REPORT ON DECISION (as edited)

In giving their decision from the Bench on 27 April, 2000, the Full Bench stated:-

“We are of the view that it is a consequence of the use of the word ‘must’ which is defined in the *Acts Interpretation Act 1954*, section 33CA, that a review under s. 58(2) may commence without the need for an application by the Minister, an organisation or a State Peak Council. It follows that we are satisfied that the matter which was listed for today is a matter which is properly before us.

We accept the submission of the Crown that the issue whether a general ruling should be made to give effect to the whole or any part of the outcome of the review is a matter for another day and involves potentially another stage in the process.

We accept the submission of Mr Watson and Mr Murdoch that the advertisements currently published would not in any event support the making of a general ruling. We are not in a position to rectify that situation because we are not currently considering making a general ruling to give effect to the outcome of the review process.

We consider that we should be reviewing the entitlements to long service leave. That cannot be done without reviewing the conditions which give rise to the entitlements and the fleshing out of the terms used in the clauses expressing the entitlements. It may well be that in the course of examining the conditions which must be satisfied we would take the view that some alternative condition to take an example which has been used in the course of the debate ‘portability’ would be a more satisfactory scheme.

We’ve been informed that an application is to be filed on behalf of the Minister. No such application has currently been filed. We do not, in those circumstances, propose to discuss how it should be dealt with if it be filed.

In the event that such an application is filed, we will mention that matter and this matter to debate the question, whether the Minister’s application should be processed in the normal way or whether it should be processed expeditiously in order that as far as possible hearings in that matter and in this matter can occur at the same time.

We adjourn the Commission.”.

Dated this twenty-seventh day of April, 2000.

By the Commission,
[L.S.] P. SCOTT-HOLLAND,
Acting Industrial Registrar.

Ms T. Scrine for the Furnishing Industry Association of Australia (Queensland) Limited Union of Employers.

Mr M. Smith for the Retailers’ Association of Queensland Limited, Union of Employers.

Mr G. Siebenhausen for the Queensland Real Estate Industrial Organisation of Employers.

Mr M. Cuthbertson for Australian Mines and Metals Association (Incorporated) Queensland Branch.

Mr G. Muir (of Employer Services) on behalf of the Australian Dental Association (Queensland Branch) Union of Employers; the Queensland Bowls Association; The Child Care Industry Association of Queensland; Private Hospitals’ Association of Queensland; Consulting Surveyors Queensland Industrial Organisation of Employers; Lutheran Schools Department; Chubb Protective Services; St Luke’s Nursing Services; Queensland Community Services Employers Association; Darling Downs Bacon; Warwick Bacon; MQF Pty Ltd.

Appearances:-

Ms K. Ruttiman for The Queensland Council of Unions.

Mr M. Healy for the Queensland Nurses’ Union of Employees.

Mr C. Simpson for The Australian Workers’ Union of Employees, Queensland.

Mr G. Martin for the Crown.

Mr J. Murdoch, instructed by Miss C. Arnold for Queensland Chamber of Commerce and Industry Limited, Industrial Organisation of Employers; the Australian Sugar Milling Association, Queensland, Union of Employers; the Queensland Hotels Association, Union of Employers; the Queensland Cane Growers’ Association Union of Employers; the Australian Building Services Association - Queensland Division, Industrial Organisation of Employers.

Mr K. Watson, instructed by Ms I. Asbury, for Australian Industry Group, Industrial Organisation of Employers (Queensland); Local Government Association of Queensland.

Mr K. Law for The Restaurant and Caterers Employers Association of Queensland Industrial Organisation of Employers.

Mr R. Wotherspoon for the National Meat Association of Australia (Queensland Division) Industrial Organisation of Employers.

Released: 18 May 2000