

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 1999 – s. 288 – application for statement of policy

The Australian Workers' Union of Employees, Queensland AND Queensland Chamber of Commerce and Industry Limited, Industrial Organisation of Employers (B210 of 1998)

PRESIDENT HALL
COMMISSIONERS BLOOMFIELD AND BECHLY

13 January 2000

STATUTORY HOLIDAYS – STATEMENT OF POLICY

In accordance with the Decision of this Commission gazetted 17 September 1999 (162 QGIG 33) the following Statement of Policy is promulgated:–

1. The Queensland Industrial Relations Commission recognises and adopts in principle the reasoning and determination of the Full Bench of the Australian Industrial Relations Commission as detailed in Print L9178 that employees who do not work Monday to Friday or who work a non-standard week should not be disadvantaged in relation to the provision of statutory holidays.
2. Whilst the Queensland Industrial Relations Commission will have regard to the aforementioned decision, parties to an application to vary an award to reflect the following Statement of Principle are at liberty to seek modification of the Statement of Principle where the practice of a particular industry requires such modification. Where an application is made, a party seeking a modification of the Statement of Principle will bear the onus of establishing the necessity of such modification.
3. Where an alternative remedy to that provided for in the following Statement of Principle already exists in an award, that award shall only be varied to include the system of protection described within the Statement of Principle as a Special Case. The Special Case process will apply even if the alternative remedy is less advantageous to employees than the protective scheme envisaged in the Statement of Policy.
4. Parties to an award are free to develop an alternative scheme than that provided for in the following Statement of Principle, provided that such system is no less advantageous to employees than the system of protection described within the Statement of Principle.
5. Any particular employer shall be at liberty to apply for exemption from, and/or phasing in, of an application to vary an award to incorporate the following Statement of Principle on the basis of incapacity to pay of the type described at paragraph 12 of the existing Wage Fixing Principles.

STATEMENT OF PRINCIPLE

1. That full-time workers who do not work on Monday to Friday of each week should be assured of the benefit of prescribed holidays. They should not forfeit that benefit because a prescribed holiday falls on a non-working day;
2. That a full-time employee who works a non-standard week should not enjoy leave in respect of both an "actual" day and a substitute day but should be assured of one of them;
3. That a full-time worker who ordinarily works on a Saturday or Sunday should be paid at the Saturday or Sunday rate for work performed on the "actual" day when substitution is prescribed, save that when the "actual" day is Christmas Day the employee should receive a loading of one-half of an ordinary day's wages;
4. That a part-time non-casual worker whose normal roster includes a prescribed holiday should either be accorded the holiday on pay or receive the appropriate public holiday rate for work on that day;
5. That a part-time non-casual worker whose normal roster includes a Saturday or Sunday which would be a prescribed holiday but for the substitution of an alternative day should not lose a holiday because of the substitution, but should not be accorded holidays (or pay in lieu) in respect of both the "actual" and the substitute days; and
6. That casual workers who are employed on prescribed holidays should be paid at the relevant holiday rate (but exclusive of any augmentation of the casual loading).

D.R. HALL, President.
A.L. BLOOMFIELD, Commissioner.

Ms A. Stubbs for Queensland Chamber of Commerce and Industry Limited, Industrial Organisation of Employers.

R.E. BECHLY, Commissioner.

Appearances:-

Mr B. Swan for The Australian Workers' Union of Employees, Queensland.

Mr J. Spreckley for Queensland Council of Unions.

Released: 17 January 2000

Mr D. Matley for Hardware Association of Queensland, Union of Employers.

Ms S. Haire for Australian Industry Group, Industrial Organisation of Employers (Queensland).

Ms S. Richards for Queensland Hotels Association, Union of Employers.

Mr B. Reedman, with him Ms M. Swindells and Mr J. Redsell for Department of Employment, Training and Industrial Relations.

Mr G. Trost of Queensland Cane Growers' Association Union of Employers.