

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *Application for Declaration of General Ruling (State Wage Case 2015) [2015] QIRC 154*

PARTIES: **Queensland Council of Unions**
The Australian Workers' Union of Employees, Queensland
(Applicants)
and
The State of Queensland
Local Government Association of Queensland Ltd
(Respondents)

CASE NOS: B/2015/15
B/2015/16

PROCEEDING: Application for Declaration of General Ruling

DELIVERED ON: 20 August 2015

HEARING DATE: 29 July 2015

HEARD AT: Brisbane

MEMBERS: Deputy President O'Connor
Deputy President Bloomfield
Deputy President Kaufman

CASES: *Annual Wage Review 2014–15 - decision [2015] FWCFB 3500.*
Application for Declaration of General Ruling (State Wage Case 2014) [2014] QIRC 129.
Queensland Council of Unions AND The Crown and Ors (State Wage Case 2006) (B/2005/1197).

APPEARANCES: Mr J. Martin, on behalf of the Queensland Council of Unions for the Applicant.

Mr B. Watson, on behalf of The Australian Workers' Union of Employees, Queensland for the Applicant.

Mr A. James, on behalf of the, State of Queensland..

Mr N. Braid, on behalf of the Local Government Association of Queensland Ltd.

Reasons for Decision

- [1] The Queensland Council of Unions (QCU) lodged an application on 3 June 2015 seeking a general ruling pursuant to s 287 of the *Industrial Relations Act 1999* (Act) in regard to wage and allowance adjustments for award employees as well as a statement of policy pursuant to s 288 of the Act. We observe that s 288 of the Act was repealed on 1 December 2013 with the result that the Commission is not empowered to make statements of policy.
- [2] The QCU's application was for:
- (i) a \$19.20 wage adjustment for workers employed at award classification rates equivalent to or below the *Engineering Award - State 2012 C10* classification;
 - (ii) a 2.5% wage adjustment for workers employed at award classification rates above the *Engineering Award - State 2012 C10* classification;
 - (iii) an increase in existing award allowances which relate to work or conditions which have not changed [and] service increments by 2.5%;
 - (iv) an increase in the Queensland Minimum Wage as it applies to all employees by \$19.20; and
 - (v) an operative date of 1 September 2015.
- [3] On 9 June 2015 The Australian Workers' Union of Employees, Queensland (AWUQ) filed a similar application seeking:
- (i) a \$27.00 wage adjustment for workers employed at award classification rates equivalent to or below the *Engineering Award - State 2012 C10* classification;
 - (ii) a 3.6% wage adjustment for workers employed at award classification rates above the *Engineering Award - State 2012 C10* classification;
 - (iii) an increase in existing award allowances which relate to work or conditions which have not changed [and] service increments by 3.6%;
 - (iv) an increase in the Queensland Minimum Wage as it applies to all employees by \$27.00; and
 - (v) an operative date of 1 September 2015.
- [4] Submissions were received from the following:
- QCU on 26 June 2015;
 - AWU on 26 June 2015;
 - State of Queensland on 20 July 2015;
 - Local Government Association of Queensland Ltd (LGAQ) on 20 July 2015;
 - QCU submissions in reply 23 July 2015; and
 - AWU submissions in reply 24 July 2015.

The positions of the parties

- [5] The Queensland Government submitted that we should award a 2.5% increase for the Queensland minimum wage and all award wages and allowances in the Queensland industrial relations system with an operative date of 1 September 2015.
- [6] The LGAQ endorsed the Queensland government's position and indicated why it opposed a flat increase to award classifications rates equivalent to or below the *Engineering Award - State 2012 C10* classification.
- [7] In its decision in the *State Wage Case 2014*¹ the Commission said:

"[12] This Commission has historically attached considerable weight to the National Wage/Annual Wage Review decisions of its federal counterpart, whilst always having regard to the particular economic conditions of the state of Queensland at the time. A significant reason for having regard to the decisions of the federal tribunal (now called the Fair Work Commission) is because the federal commission has the benefit of considerable material about the economic position of Australia. In the federal Annual Wage Review parties present detailed statistical data in relation to the Australian economy and to the economies of the various states and territories. The decision of the Fair Work Commission affects the majority of award reliant employees throughout Australia, including those in Queensland.

[13] Given that this year the unions' claims essentially mirror the increase awarded by the Fair Work Commission and that none of the parties, other than the LGAQ, sought an outcome greatly at variance with that of the Fair Work Commission, the scope of our inquiry has been significantly narrowed. Indeed, the LGAQ submitted that, unless there are convincing reasons to depart from the Fair Work Commission's ruling, that ruling should be adopted. The other parties' submissions also made significant mention of the decision of the Fair Work Commission. Having regard to the submissions of the parties in these proceedings, we broadly agree that, unless there are cogent reasons for not doing so, we should follow the ruling of the federal tribunal, with any necessary or desirable modifications, having regard to the particular circumstances of Queensland."

- [8] We adopt those observations.
- [9] Unlike the position in 2014, this year both the LGAQ and the Queensland Government supported the quantum sought by the QCU on the basis that it was conformable with that awarded by the Fair Work Commission in its *2014 - 2015 Annual Wage Review Decision*,² and was appropriate having regard to the state of the Queensland economy and the small number of employees directly affected by our decision.

¹ *Application for Declaration of General Ruling (State Wage Case 2014)* [2014] QIRC 129 (B/2014/28).

² *Annual Wage Review 2014–15 - decision* [2015] FWCFB 3500.

[10] The AWUQ noted that Brisbane's CPI increase was 1.4% for the year March 2014 to March 2015 but sought to justify its application for a 3.6% adjustment noting that council rates have risen well above CPI levels across most councils in the 2015 – 2016 year and transport costs have also continued to rise for workers and their families, impacting upon discretionary spending and workers' ability to stimulate local economies. It submitted that these rising cost pressures will have a disproportionately higher impact on lower paid workers. It referred to the economic outlook for Australia and Queensland and submitted that both the Australian and the Queensland economies are more than capable of accommodating its claim, further submitting that the economic outlook for the Australian economy is positive, particularly when considering the expected increase in the export of Queensland's natural resources. Although noting that Queensland has a trend unemployment rate of 6.5% or a seasonally adjusted unemployment rate of 6.2% AWUQ submitted that Queensland's employment prospects remain positive for the next financial year. It made the rather novel submission that it can be argued that higher wages are needed in order to attract higher participation rates.

Percentage increase or flat rate increase?

[11] The AWUQ seeks a flat rate increase and a percentage increase similar to the outcomes awarded by the Commission in the *2011, 2012, 2013 and 2014 State Wage Case* decisions. We note that in those decisions of the Commission awarded a flat rate increase for employees at award classification rates **below** the C 10 classification. The AWUQ seeks a flat rate increase for employees employed at award classification rates **equivalent to** or below the C10 rate.

[12] The LGAQ submitted that we should adopt a percentage only increase in order to maintain the integrity of differences in work value classifications. It submitted that a further flat dollar increase may have the opposite effect on employees' ability to participate in society.

[13] In relation to this topic, the Commission in the *2014 State Wage Case* decision said:

"[20] The QCU sought a flat-dollar increase to workers employed at rates of pay equivalent to, or lower than, the C10 rate in the *Engineering Award - State 2012*. The resulting effect was said to benefit the lower paid workers with a proportionally higher increase than other employees: See the decision of the Full Bench in *Queensland Council of Unions AND The Crown and Ors* (State Wage Case 2006).³

[21] The AWU's reasoning was that "Flat rate increases erode the relative gap between the classification levels contained in awards. The decision to award both a flat and relative increase in the 2011, 2012 and 2013 State Wage Cases has assisted in closing this relativities gap. Awarding both the flat and percentage increase on the grounds laid out in this claim will further reduce this relativities gap."

[22] The LGAQ opposed the awarding of a flat dollar increase submitting that given the increasing trend of awarding such increases the beneficial

³ *Queensland Council of Unions AND The Crown and Ors (State Wage Case 2006)* (B/2005/1197) Decision <<http://www.qirc.qld.gov.au/>>.

outcome of decreasing the gap between the Queensland weekly ordinary time earnings and the Queensland minimum wage, thus assisting low paid workers to participate in society, would no longer be the case. It also noted the long term distortion to wage relativities by awarding flat rate increases. We do not understand the first part of this submission.

...
 [33] We have decided to award the flat increase sought by the unions up to but not including the C10 level and 3% beyond that. Although the unions sought the flat rate increase to apply to the C10 rate, this is a departure from the past and, in our view, ought not be granted. The C10 rate is generally regarded as a benchmark. In our view wage rates at that level ought to be increased conformably with the decision of the Fair Work Commission, especially as no submissions were made in relation to this issue. The table discloses that the difference between 3% and the flat rate increase is fairly minimal, as is the further compression in relativities. In his oral submissions Mr Watson, who appeared for the AWU, explained the history of and rationale for the recent applications for flat rate increases up to C10 and percentage increases thereafter. We see no reason, at this stage, not to accede to the unions' submissions in this regard."

- [14] During the hearing we again raised with the parties the issue of the desirability of awarding flat rate increases up to the C10 level. We noted that the parties had not supplied us with statistical evidence of the effect of having awarded such flat rate increases in recent years. At our request the QCU provided us with a table showing the differences between a flat \$19.20 increase and a 2.5% increases for classification levels 1 to 5 in the *Local Government Employees' (Excluding Brisbane City Council) Award – State 2003*. This demonstrates that the differences which range between \$1.80 and \$.40 per week are not great. The parties agreed that in the event that a differential increase is sought in 2016 more detailed statistical evidence will be provided.
- [15] Conformably with the decision of the Commission in 2014 we have decided to award the flat increase sought by the QCU, however up to but not including, the C10 level and 2.5% beyond that. We are not persuaded that the 3.6% increase sought by the AWUQ, which was based on the submissions of the ACTU to the Fair Work Commission, is warranted in the present economic and employment conditions. We adhere to the view expressed by the full bench of this Commission in the 2014 decision that unless there are cogent reasons for not doing so, we should follow the ruling of the federal tribunal, with any necessary or desirable modifications, having regard to the particular circumstances of Queensland.

Decision

[16] Our formal decision is that there will be:

- (i) a \$19.20 per week wage increase in award rates for workers employed at award classification rates below the C10 classification in the *Engineering Award - State 2012*;
- (ii) a 2.5% wage adjustment for workers employed at award classification rates equivalent to or above the C10 classification in the *Engineering Award - State 2012*;
- (iii) an increase of 2.5% in existing award allowances, which relate to work or conditions which have not changed, and service increments;
- (iv) an increase of \$19.20 per week to the Queensland Minimum Wage as it applies to all employees; and
- (v) an operative date of 1 September 2015.

[17] A declaration of General Ruling giving effect to this decision will issue concurrently with this decision.