

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *Application for Declaration of General Ruling (State Wage Case 2016)* [2016] QIRC 088

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/2016/10
B/2016/11

PROCEEDING: Application for Declaration of General Ruling

DELIVERED ON: 19 August 2016

HEARING DATE: 15 August 2016

HEARD AT: Brisbane

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

CASES: *Application for Declaration of General Ruling (State Wage Case 2014)* [2014] QIRC 129.
Annual Wage Review 2015-16 - decision [2016] FWCFB 3500.
Queensland Council of Unions AND The Crown and Ors (State Wage Case 2006).

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 S. Blaney, on behalf of the Local Government Association of Queensland Ltd.

Reasons for Decision

- [1] The Queensland Council of Unions (QCU) lodged an application on 1 June 2016 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 We observe, as did the Commission in 2015, that s 288 of the Act was repealed on 1 December 2013 with the result that the Commission is not empowered to make statements of policy.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) an \$18.90 wage adjustment for workers employed at award classification rates equivalent to or below the *Engineering Award - State 2012 C10* classification;
 - (ii) a 2.4% 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 \$18.90; and
 - (v) an operative date of 1 September 2016.
- [3] On 3 June 2016 The Australian Workers' Union of Employees, Queensland (AWUQ) filed a similar application seeking:
- (i) a \$30.00 wage adjustment for workers employed at award classification rates equivalent to or below the *Engineering Award - State 2012 C10* classification;
 - (ii) a 3.9% 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 3.9%;
 - (iv) an increase in the Queensland Minimum Wage as it applies to all employees by \$30.00; and
 - (v) an operative date of 1 September 2016.
- [4] Submissions were received from the following:
- QCU on 15 July 2016;
 - AWU on 15 July 2016;
 - State of Queensland on 22 July 2016;
 - Local Government Association of Queensland Ltd (LGAQ) on 29 July 2016;
 - QCU submissions in reply 5 August 2016; and
 - AWU submissions in reply 5 August 2016.

The positions of the parties

- [5] The Queensland Government supported an increase in minimum award wages that was consistent with the outcome of the Fair Work Commission (FWC) Annual Wage Review

(AWR), and a flat rate increase for classification levels below the C10 level that is equal to the percentage increase at the C10 level.

- [6] The LGAQ supported a 2.4% increase to minimum award wages, as well as a 2.4% increase to existing award allowances in pre-modernisation awards, which relate to work or work conditions which have not changed, and, a 2.4% increase to the Queensland Minimum Wage.
- [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] As was the case in 2015, we again adopt those observations.
- [9] The LGAQ and the Queensland Government supported the quantum sought by the QCU, essentially, on the basis that it was conformable with the decision of this Commission in 2014 in that it reflected that awarded by the Fair Work Commission in its *2015 - 2016 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.
- [10] The AWUQ, as was the case in 2015, adopted the application made by the Australian Council of Trade Unions to the FWC. It submitted that the Commission should be concerned about combating the fall in real wages, as award-reliant employees depend on a wage increase to maintain the real value of wages to offset cost of living pressures.

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

² *Annual Wage Review 2015-16 - decision* [2016] FWCFB 3500.

- [11] Given that Headline Consumer Price index inflation is forecast to be 1.25% through the year to the June quarter 2016 and 2% to the June quarter 2017, the 2.4% increase awarded by the FWC is likely to ensure there will be no fall in real wages of award dependent employees³.
- [12] The AWUQ also relies on growth forecasts for the Queensland economy, which the AWUQ suggests will catapult the state from the second worst performing Australian economy to the best in the 2015-2016 financial year. We do not believe that reliance on forecasts provides a cogent reason to depart from the ruling of the federal tribunal.

Percentage increase or flat rate increase?

- [13] The QCU, Queensland Government and the AWUQ seek a flat rate increase and a percentage increase similar to the outcomes awarded by the Commission in the *2011, 2012, 2013, 2014* and *2015 State Wage Case* decisions. As was the case in 2015, we again note that in those decisions the Commission awarded a flat rate increase for employees at award classification rates **below** the C10 classification. The QCU and AWUQ seek a flat rate increase for employees employed at award classification rates **equivalent to** or below the C10 rate. The Queensland Government supports a flat rate increase for classification levels below the C10 level.
- [14] The LGAQ, as was the case in 2015, submitted that we should adopt a percentage only increase in order to maintain the integrity of differences in work value classifications.
- [15] 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).⁴

[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 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.

³ Queensland Government Submissions, para. 28

⁴ *Queensland Council of Unions AND The Crown and Ors (State Wage Case 2006)* (B/2005/1197) Decision <<http://www.qirc.qld.gov.au/>>.

...

- [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."
- [16] During the 2015 hearing the Commission again raised with the parties the issue of the desirability of awarding flat rate increases up to the C10 level. The full bench noted that the parties had not supplied the Commission with statistical evidence of the effect of having awarded such flat rate increases in recent years. At the Commission's request the QCU provided 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 demonstrated that the differences, which range between \$1.80 and \$0.40 per week, were not great. The parties agreed that in the event that a differential increase was to be sought in 2016 more detailed statistical evidence would be provided.
- [17] The QSU replicated that information in an updated form in these proceedings and provided a table indicating that the differences between applying a flat as opposed to a percentage increase ranged from 40 cents at level 5 to \$1.40 at Level 1 (first six months).
- [18] The LGAQ provided detailed submissions opposing the flat increase. Whilst accepting that, viewed in isolation, the difference between the two methodologies was not great, it submitted that the cumulative effect of awarding flat rate increases over several years was to distort properly fixed relativities between classifications. It submitted that such changes should occur only in the context of established work value changes.
- [19] The LGAQ provided tables demonstrating that in 2010, in the *Engineering Award - State 2002*, the C14 level wage rate was 86.2% of the C10 level whereas by 2015 it had increased to 87.5% of the C10 level. It also demonstrated that for the same period the difference in the wage rates between the C10 and C2 levels had remained constant at 73.6%.
- [20] We observe that in 1989, when the exercise of establishing properly fixed relativities in the award was conducted, the notional relativity between the C14 and C10 rate was 79%.
- [21] Although the difference in the amount of the increase between the two methods contended for is again relatively small, we are concerned that continuing to award a flat rate increase is beginning to unacceptably distort properly fixed relativities. At a time of low inflation we do not consider that affected employees will be adversely affected by the awarding of a 2.4% increase for classification levels below C10.

[22] We have decided to award an increase to minimum award wages of 2.4%, a 2.4% increase to award monetary allowances (other than expense related allowances) and a 2.4% increase to the Queensland Minimum Wage.

[23] We are not persuaded that the 3.9% increase sought by the AWUQ, which, as we said, 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 and 2015 decisions 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

[24] Our formal decision is that:

- the wages or salaries for full-time adult employees shall be increased by 2.4%;
- monetary allowances (other than expense related allowances) in all awards that relate to work or to conditions, which have not changed, and service increments are to be increased by 2.4%;
- expense related allowances in all awards are to be increased in the manner specified in applicable awards;
- the minimum rate per week for all full-time employees in Queensland is \$704.50 per week; and
- the above increases operate on and from 1 September 2016.

[25] A Declaration of General Ruling giving effect to this decision will issue concurrently with this Decision.