

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 2016 – s 458

Queensland Council of Unions

Together Queensland, Industrial Union of Employees

The Australian Workers' Union of Employees, Queensland
Applicants

v

State of Queensland
Respondent

Matter No. B/2021/51, B2021/58, and B/2021/59

APPLICATION FOR A DECLARATION OF GENERAL RULING

STATE WAGE CASE

**SUBMISSIONS OF THE AUSTRALIAN WORKERS' UNION OF EMPLOYEES,
QUEENSLAND**

1. It is the submission of The Australian Workers' Union of Employees, Queensland ("AWU") that in accordance with the principles of fairness, economic prosperity and social justice, Queensland's award-reliant employees should receive a fair and reasonable pay rise. Furthermore, award wages and allowances should be increased to improve Queensland's award safety net.
2. The AWU respectfully submits that the Queensland Industrial Relations Commission ("QIRC") should award an increase to the Queensland minimum wage, award wages and award allowances that improves the relative earnings of low-paid workers in accordance with the following submission.

3. In summary, the AWU submits that due to the ongoing COVID-19 pandemic, that there should be a moderate increase to the wages, and in turn, support the employees within the Queensland Jurisdiction.
4. The AWU submits that awarding the claim will support future economic growth in the state of Queensland through the provision of higher wages, which will have a positive effect on the Queensland economy.

The Claim

5. The AWU application asks the QIRC to:
 - a) make a general ruling to amend all State awards to increase wages by 2.5 percent.
 - b) make a general ruling to amend all State awards to increase the existing allowances (which relate to work conditions which have not changed) by 2.5 percent.
 - c) increase the Queensland Minimum Wage by 2.5 percent; and
 - d) determine that points (a), (b) and (c) to have an operative date of 1 September 2021.
6. The orders sought above will herein be referred to as “the claim”.
7. This submission will detail why the QIRC should award the claim as sought.

General Ruling under the *Industrial Relations Act 2016 (Qld)*

8. Since 1997, the Queensland Minimum Wage, and award wage and allowance increases have taken place by way of general ruling, pursuant to s 458 of the *Industrial Relations Act 2016 (Qld)* (“Act”).
9. Section 458 of the Act states that the QIRC Full Bench may make general rulings about a Queensland minimum wage for all employees, and the Full Bench must ensure a general ruling about a Queensland minimum wage for all employees is made at least once each year.
10. The operative date for such increases has generally been 1 September. The AWU seeks a continuation of this operative date.

Legislative Considerations

11. In assessing an application for this year’s general ruling (“general ruling”), it is submitted that the QIRC must consider s 3 of the Act.
12. Section 3 indicates the main purpose of the Act is to provide a framework for cooperative industrial relations that is fair and balanced and supports the delivery of high-quality services, economic prosperity and social justice for Queenslanders.
13. The AWU submits that the claim is consistent with a fair and balanced industrial relations framework.
14. Section 4 of the Act details how the main purpose of the Act is achieved. The following elements of s 4 are of relevance to the QIRC in determining a general ruling about the Queensland Minimum Wage and award wages and allowances increases:

- Supporting a productive, competitive, and inclusive economy, with strong economic growth, high employment, employment security, improved living standards and low inflation;¹
- Providing for a fair and equitable framework of employment standards, awards, determinations, orders, and agreements;²
- Ensuring wages and employment conditions provide fair standards in relation to living standards prevailing in the community;³ and
- Promoting collective bargaining.⁴

15. In particular, s 4(g) of the Act provides that the main purpose of the Act is achieved by ensuring wages and employment conditions provide fair standards with respect to the immediate economic and living standards of the community.

16. The AWU application seeks to provide low-paid workers with a fair increase in wages.

17. Furthermore, the granting of the claim will further develop Queensland's economy through increased consumption as a result of higher wages, maintain and improve on the safety of minimum employment conditions, and assist in the collective bargaining process.

18. The claim will assist in maintaining real wages so that low-paid award-reliant workers are able to acquire fair and reasonable living standards.

19. The AWU submits that the claim for an increase to award rates and to the Queensland Minimum Wage is fair, reasonable and appropriate considering the current and projected state of the Queensland, and more broadly, the Australian economies.

¹ *Industrial Relations Act 2016* (Qld) s 4(a).

² *Ibid* s 4(d).

³ *Industrial Relations Act 2016* (Qld) s 4(g).

⁴ *Ibid* s 4(h).

20. The AWU submits that there will be no adverse effects to unemployment in Queensland as a result of the QIRC awarding the claim.

The Queensland Jurisdiction

21. It is difficult to accurately estimate the number of employees who will be affected by the application, but these employees can be split into two groups – those who will be directly affected, and those who will be indirectly affected.

22. In previous years, the AWU has estimated that the Queensland jurisdiction consists of approximately:

- a) 250,000 employees employed by the State of Queensland.
- b) 37,000 employees employed by local governments: and
- c) 3,000 to 4,000 employees employed by the 1250 Parents and Citizens' Associations who are covered by the State jurisdiction and are award reliant.

23. The determinant for whether an employee is directly affected by the general ruling is of course whether the employee's employment is subject to a certified agreement, or whether the employee is solely reliant upon an award.

24. Those employees who are covered by awards will be directly affected by the general ruling as their wages are bound by the wages contained in the award which covers them.

25. Employees and employers who are covered by awards will be immediately affected,

26. The QIRC in 2020 determined that Employees likely to be affected by the decision would fall into two categories:

- (i) Employees covered by an award, but not by a certified agreement; and

(ii) Employees who are covered by a certified agreement and whose rate of pay prescribed in the agreement may fall below the relevant award rate of pay.⁵

27. In 2020 the QIRC determined that approximately 7,000 employees reported to be state award reliant.⁶ In particular, the government submitted to the following estimates for the number of employees who would be directly affected by the State Wage Case.

- a) Approximately 3,000 to 4,000 employees of Parents and Citizens' Associations.
- b) 2,000 Auxiliary Firefighters.
- c) 1,000 employees of local governments; and
- d) 15 employees of the Darling Downs Moreton Rabbit Board.

28. The AWU makes no submission as to the whether these numbers remain accurate. There does not appear to be any reason to suggest that these figures have changed dramatically, and as such the AWU estimates that approximately 7,000 employees will be directly affected by the general ruling.

29. While there may be only 7,000 employees directly affected by the general ruling, the QIRC should not discount the flow-on effects for the other 250,000 employees employed by the State of Queensland and 36,000 employees employed by local governments whose employment is subject to a certified agreement.

30. Employees who are not covered by an award most certainly do receive a benefit from an increase to award wages and allowances, but the benefit is not immediate.

31. It is the submission of the AWU that increases to the award safety net may provide better outcomes in bargaining for certified agreements, and as such, every employee in the

⁵ *Declaration of General Ruling* (Annual Wage review 2019-20 [2020] FWCFB 3500 at [76].

⁶ *Ibid* at [45].

Queensland jurisdiction will receive some benefit at some point from the QIRC awarding the claim as sought.

32. Furthermore, it is the experience of the AWU that employers are heavily influenced by the decision of each year's State Wage Case, and generally seek to rely upon the decision to determine the quantum of wage increases offered through bargaining

Economic Conditions and Outlook

33. It is incontrovertible that the Australian and Queensland economies continue to face uncertain times because of the ongoing COVID-19 pandemic.

34. The Full Bench of the Fair Work Commission in the Annual Wage Review⁷ of July 2021 helpfully noted some of the key changes to the Australian economy, referencing the Reserve Bank of Australia [RBA] May 2021 Statement on Monetary Policy which include:

- a) gross domestic product (GDP) growth revised up from 8 per cent to 9 ¼ per cent over the June quarter 2021 and from 3 ½ per cent to 4 ¾ per cent over the year to the December quarter 2021.
- b) Household consumption revised up from 14 per cent to 15 ½ per cent over the year to the June quarter 2021 and from 4 per cent to 5 ½ per cent over the year to the December quarter 2021.
- c) The unemployment rate revised down from 6 ½ per cent to 5 ¼ per cent for June 2021 and from 6 per cent to 5 per cent for December 2021.

⁷ [2021] FWCFB 3501.

- d) The Consumer Price Index increased (CPI) revised up from 3 per cent to 3 1/3 per cent for the June quarter 2021 and from 1 1/2 per cent to 1 3/4 per cent for December 2021. The increase was largely caused by the unwinding of government support measures, such as free childcare. Trimmed mean inflation was also revised up from 1 1/4 per cent to 1 1/2 per cent for both the June and December quarters 2021.
 - e) Growth in Wage Price Index (WPI) revised up from 1 per cent to 1 1/2 per cent for the June quarter 2021 and from 1 1/2 per cent to 1 3/4 per cent for the December quarter 2021.
35. In addition to the Federal Government's 2021-22 budget, the Mid- Year Economic and Fiscal Outlook (MYEFO) made several revisions to its forecast of key economic indicators outlining improved assessment of the Australian economy during the 2021-22 fiscal period. Specifically, the improved forecasts were:
- a) Real GDP growth, revised up from 3/4 per cent to 1 1/4 per cent.
 - b) Household consumption, revised up from 1/2 per cent to 1 1/4 per cent:
 - c) non-mining business investment, revised from 11 per cent to 6 1/2 per cent and
 - d) the unemployment rate, revised down from 7 1/4 per cent to 5 1/2 per cent.

36. In consideration of the economic outlook outlined, there has been a shift to economic recovery, however there is still some uncertainty in the future due to the COVID-19, and thus, the recovery could be reversed should another outbreak occur in Queensland.

Rationale

37. The AWU makes the submission that the decision sought is fair and reasonable considering the current economic circumstances.

38. Should the employer parties seek lesser amounts, the AWU submits that this could have a detrimental impact upon the pay packets of many Queensland workers.

39. For there to be an increase of less than 2.5 percent to the minimum award wages would be detrimental to the Queensland economy, by in effect decreasing the spending power of working people.

Other Matters

40. The AWU submits that the claim sought should be applied to all awards that fall within the Queensland jurisdiction.

41. Section 459(2) of the Act does allow for the exclusion of certain industrial instruments from the operation of a general ruling.

42. The AWU is seeking for the general ruling to be applied to all awards made pursuant to the Act. As such, the AWU is not seeking for any class of employers or employees, or for any industrial instruments to be excluded from the operation of the general ruling.

Fair Work Commission Annual Wage Review

43. The claim seeks the same outcome that was awarded by the Fair Work Commission (“FWC”) in the Annual Wage Review this year.⁸

44. In the decision, the FWC made the point that the 2.5 percent increase was appropriate and would not lead to any adverse inflationary outcome or have any negative impact on those employed, but that it would mean an improvement in real wages for employees who are award reliant.⁹

⁸ [2021] FWCFB 3501.

⁹ Ibid [27].

45. These comments are persuasive and should be considered by the QIRC.
46. Furthermore, given that Queensland is one of the better placed state economies, as stated by the treasurer when delivering the Queensland State Budget on 15 June 2021, that “Queensland economic recovery from COVID-19 is well underway, reflecting our success in containing the virus and the strength of our government’s Economic Recovery Plan”. The treasurer further states “Our domestic economy has grown faster than the rest of Australia. Queensland has recovered more jobs than any other state or territory. And we were outperforming the nation on a range of household and business indicators. It is no surprise that more Australians are flocking to Queensland. Our state received 30,000 net interstate migrants in 2020, and we are expecting another 85,000 Australians- the equivalent of a city the size of Rockhampton-to call Queensland home over the next 4 years. Meaning our growing state will need more and better roads, schools, hospitals and support programs.” He also stated “The 2021-22 Budget continues to deliver the high-quality frontline services and infrastructure that all Queenslanders, new and old, have come to expect. The budget also delivers on our government’s election commitments. Queensland’s nation-leading economic recovery has strengthened the government’s fiscal position, with revenues higher and borrowings lower than previously forecast. Our judicious management of expenses means that the government is projected to record an operating surplus in 2024-25”.

Conclusion

47. The AWU application seeks a 2.5 percent increase to award wages and allowances, and a 2.5 percent increase to the Queensland Minimum Wage.
48. The AWU is seeking for these increases to be operative by 1 September 2021.

49. The increases sought will provide an increase for low-paid workers who rely on the awards system.
50. A decision to award the claim to Queensland's lowest paid, award-reliant employees is wholly justified and reasonable in the circumstances.
51. The increase is sought to ensure an increase in the real value of the Queensland minimum wage so that award-reliant employees do not fall further behind employees who are covered by certified agreements which generally provide for better conditions and higher wages.
52. The decision will have a minimal immediate impact on Queensland's employers, given the limited size and the low degree of award dependency within the jurisdiction.
53. For other employers who are bound by certified agreements, there will be no immediate impact as a result of the claim being awarded, and by the very nature of the collective bargaining process, there is no guarantee that these employers will be required to pay wage increases of the quantum awarded in the general ruling (save for the instance where a certified agreement provides rates of pay equivalent or very close to the award rates of pay).
54. The Queensland economy can accommodate the increase sought given its position as one of the better performing State economies in Australia. The claim is economically appropriate, sustainable, and affordable and will increase the living standards of low-paid workers.

The Australian Workers' Union of Employees, Queensland