

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 2016 s 458

Together Queensland, Industrial Union of Employees

Queensland Council of Unions

The Australian Workers' Union of Employees, Queensland
Applicants

and

State of Queensland
Respondent

Matter Nos. B/2022/52, B2022/53, and B/2021/54

**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 ("**AWUEQ**") 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 AWUEQ 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 AWUEQ 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 jurisdiction of the *Industrial Relations Act 2016* (Qld) ("**Act**").
4. The AWUEQ submits that awarding these pay rises 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 AWUEQ application asks the QIRC to:
 - a. make a general ruling ("**general ruling**") to amend all State awards to increase

wages by 4.6 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 4.6 percent.
 - c. increase the Queensland Minimum Wage by 5.2 percent; and
 - d. determine that the pay rises awarded as per (a), (b) and (c) above are to have an operative date of 1 September 2022.
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 Act and the equivalent provisions in its predecessor legislation.
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 AWUEQ seeks a continuation of this operative date.

Legislative Considerations

11. In assessing an application for this year's general ruling, it is submitted section 3 of the Act should assist the QIRC with the correct interpretation of section 458 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 AWUEQ 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 subsections of section 4 are of relevance to the QIRC in determining a general ruling about the Queensland Minimum Wage and award wages and allowances increases:
 - a. supporting a productive, competitive, and inclusive economy, with strong economic growth, high employment, employment security, improved living standards and low inflation;
 - d. providing for a fair and equitable framework of employment standards, awards, determinations, orders, and agreements;
 - g. ensuring wages and employment conditions provide fair standards in relation to living

standards prevailing in the community; and

h. promoting collective bargaining.

15. In particular, section 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 AWUEQ 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. In this respect noted Australian economist Stephen Koukoulas said:

'[h]aving money from economic growth flow to poor people rather than the rich feeds into a lift in the rate of economic growth and lower unemployment. Conversely, as income inequality increases, the potential for economic growth is constrained.'¹

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

19. The AWUEQ 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.

20. The AWUEQ 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 March 2022, the Public Service Commission published their "Queensland public sector workforce profile", which stated that there were 241,768.87 full-time equivalents in the sector.²

23. Additionally, in previous years, the AWUEQ has estimated that the Queensland jurisdiction consists of approximately:

a. 37,000 employees employed by local governments: and

b. 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.

24. The determinant for whether an employee is directly affected by the general ruling is of

¹ 'Economic growth more likely when wealth distributed to poor instead of rich', *The Guardian* (Web page, 4 June 2015) <<https://www.theguardian.com/business/2015/jun/04/better-economic-growth-when-wealth-distributed-to-poor-instead-of-rich>>.

² Public Service Commission, *Queensland public sector workforce profile* <<https://www.forgov.qld.gov.au/human-resources/workforce-planning/workforce-statistics-and-tools/workforce-statistics>>.

course whether the employee's employment is subject to a certified agreement, or whether the employee is solely reliant upon an award.

25. 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.
26. Employees and employers who are covered by awards will be immediately affected.
27. In 2021 the QIRC determined that employees likely to be affected by the decision would fall into two categories:
 - a. Employees covered by an award, but not by a certified agreement; and
 - b. 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.³
28. In 2021 the State submitted that approximately 7,000 employees to be state award reliant.⁴ The AWUEQ 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 AWUEQ 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 241,768 FTEs employed by the State of Queensland and approximately 36,000 employees employed by local governments whose employment is subject to a certified agreement.
30. Employees who are not covered by an agreement 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 AWUEQ that increases to the award safety net may provide better outcomes in bargaining for certified agreements, and as such, every employee in the 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 AWUEQ 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 some uncertainties because of the ongoing COVID-19 pandemic.
34. In the *Annual Wage Review 2021- 2022*, the Full Bench of the Fair Work Commission ("**FWC**") noted some of the key aspects of the Australian economy by reference to the Reserve Bank of Australia May 2022 Statement on Monetary Policy.⁵ The Full Bench said at [168]:

We also note that the Australian Government's submission of 3 June 2022 is less

³ *Declaration of General Ruling (State Wage Case 2021)* [2021] QIRC 293 at [55].

⁴ *Ibid* at [21].

⁵ *Annual Wage Review 2021- 2022* [2022] FWCFB 3500 at [168].

sanguine about the economic outlook. While supporting an outcome that ‘ensures that the real wages of Australia’s low paid workers do not go backwards’, the Australian Government referred to the ‘highly unusual and challenging economic conditions’ and submitted:

‘Economic conditions are particularly challenging given inflation is at a 21 year high of 5.1 per cent and is expected to increase further in the near-term due to persistent and compounding supply shocks. The current inflation rate is 2.7 percentage points higher than wages growth as measured by the Wage Price Index (WPI), which means on average, Australians are experiencing the sharpest decline in real wages in 21 years.’ (citation omitted)

35. The FWC summarised the state of the Australian economy:⁶

It seems to us that the Australian economy is recovering strongly from the impact of the COVID-19 pandemic, with the recovery forecast to continue and drive further employment growth, as encapsulated in the Australian Government’s submission of 1 April 2022:

‘The Australian economy has proved remarkably resilient to the ongoing impacts of the pandemic, consistently outperforming expectations and all major advanced economies. Forecasts for economic activity in the 2022–23 Budget have been revised up significantly, reflecting stronger-than-expected momentum in the labour market and consumer spending. This expansion is forecast to see the unemployment rate fall to 3¾ per cent by the September quarter of 2022 and remain there until 2024–25.

The ongoing pandemic, Russian invasion of Ukraine, strained supply chains and rising inflationary pressures all present risks to the global and domestic outlooks. Nonetheless, the resilience of the Australian economy throughout the pandemic demonstrates that the economy is well placed to adapt to these new developments.’ (citation omitted)

36. Further, as noted by the Queensland Government in the most-recent Budget 2022-23, the Queensland economy and labour market continue to perform well:⁷

Queensland’s economy grew by 2 per cent in 2020–21, faster than the national average. Growth is expected to strengthen to 3 per cent in 2021–22, and then average 2¾ per cent per annum over the remainder of the forward estimates, driven mainly by growth in the domestic economy.

Consistent with this robust growth, employment is forecast to grow by 4¾ per cent in 2021–22, the fastest jobs growth in 15 years.

The state’s unemployment rate is forecast to remain low across the 4 years to 2025–26, between 4 and 4¼ per cent, as sustained employment growth and a pick-up in wages growth keep the participation rate elevated.

Rationale

37. The AWUEQ submits that the decision sought is fair and reasonable considering the current economic circumstances as summarised above.

⁶ *Annual Wage Review 2021- 2022* [2022] FWCFB 3500 at [71].

⁷ Queensland Government, *Budget Highlights* <<https://budget.qld.gov.au/highlights/economic-overview/>>.

38. Should the employer parties seek lesser amounts, the AWUEQ submits that this could have a detrimental impact upon the pay packets of many lower-paid Queensland workers. This is consistent with the decision of the Fair Work Commission decision in the *Annual Wage Review 2021-2022*,⁸ where the FWC noted at [174] that:

The level of minimum wage increases proposed by ACCI, Ai Group and ABI (2.5 to 3.0 per cent) would result in real wage reductions for award-reliant workers, many of whom are low paid. Further, if we were to accept the submissions of some of the employer bodies, such as the MGA and R&CA, and award no increase, then the real wage reduction would be even more severe.

Other Matters

39. The AWUEQ submits that the Claim sought should be applied to all awards that fall within the Queensland jurisdiction.

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

41. The AWUEQ is seeking for the general ruling to be applied to all awards made pursuant to the Act. As such, the AWUEQ 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

42. The Claim seeks the same outcome as that awarded by the FWC in the Annual Wage Review this year.

43. In the decision, the FWC Expert Panel determined that a 5.2 percent increase to the national minimum wages and a 4.6 percent increase to minimum award wages was justified by 'an approach which affords a greater level of support to the low paid while seeking to constrain inflationary pressures.'⁹

44. The AWUEQ submits that the domestic financial circumstances facing Queensland workers are not materially better than the circumstances envisaged by the Fair Work Commission for Australian workers generally in this year's Annual Wage Review.

45. Further, given that Queensland is one of the better-performing state economies,¹⁰ it is submitted that the need to provide protection for workers against inflationary pressures is self-evident.

Conclusion

46. In the basis of the preceding submissions, the AWUEQ's application seeks a 4.6 percent increase to award wages and allowances, and a 5.2 percent increase to the Queensland Minimum Wage.

⁸ *Annual Wage Review 2021–22* [2022] FWCFB 3500.

⁹ *Ibid* [191].

¹⁰ Queensland Government, *Budget Highlights* <<https://budget.qld.gov.au/highlights/economic-overview/>>.

47. The AWUEQ is seeking for these increases to be operative by 1 September 2022.
48. The increases sought will provide an increase for low-paid workers who rely on the awards system.
49. A decision to award the Claim to Queensland's lowest paid, award-reliant employees is wholly justified and reasonable in the circumstances.
50. 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.
51. 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.
52. 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).
53. 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, affordable, and will increase the living standards of low-paid workers.

The Australian Workers' Union of Employees, Queensland