

**IN THE QUEENSLAND INDUSTRIAL
RELATIONS COMMISSION**

Matter Number: B/2022/53

BETWEEN:

QUEENSLAND COUNCIL OF UNIONS

Applicant

AND

STATE OF QUEENSLAND

Respondent

APPLICATION FOR A DECLARATION OF GENERAL RULING

STATE WAGE CASE

**OUTLINE OF SUBMISSIONS OF THE QUEENSLAND COUNCIL OF
UNIONS**

I - INTRODUCTION

[1] The Queensland Council of Unions (*QCU*) is the peak union body of unions in Queensland representing the interests of twenty-six affiliated unions and 350,000 Queensland workers.

[2] The QCU has applied to the Queensland Industrial Relations Commission (*QIRC*) to seek the following:

- (a) A general ruling to amend all State awards to increase wages by \$40 per week or 4.6 per cent, whichever is the higher, for all occupations;
- (b) A general ruling to amend all State awards to increase existing allowances by 4.6 per cent;

- (c) An increase to the Queensland Minimum Wage (*QMW*) by 5.2 per cent; and
- (d) A determination that the increases apply from 1 September 2022.

[3] The present State Wage Case (*SWC*) is being conducted against a backdrop of:

- (a) Historically lagging wage growth (with a wage price index (*WPI*) of 2.4 per cent in the twelve months to the March Quarter 2022);
- (b) Particularly strong labour market performance (with an unemployment rate of 3.5 per cent for the June Quarter 2022, compared to 4.9 per cent for the June Quarter 2021);
- (c) A sharp rise in the cost of living since the SWC 2021 (with a consumer price index (*CPI*) of 6.1 per cent in the twelve months to June Quarter 2022);
- (d) Wage forbearance in the 2021 SWC as a cautionary approach to the onset of the COVID-19 pandemic¹;
- (e) The Expert Panel of the Fair Work Commission (*FWC*) awarding a \$40 (for classifications of work below the C10 trades rate) or 4.6 per cent increase (for classifications of work at or above the trades rate) to federal Modern Awards and a 5.2 per cent increase to the National Minimum Wage (*NMW*), considering:
 - (i) economic measures across the country overall, including CPI growth, the unemployment rate, and WPI growth;
 - (ii) Social and other considerations; and
 - (iii) Superannuation and Budget Measures, including the 0.5 per cent increase in the Superannuation Guarantee (this being a moderating factor in the Panel's consideration of the adjustment to minimum wages)².

[4] This SWC presents the QIRC with an opportunity to redress the lagging wage growth for some of Queensland's lowest paid and most vulnerable workers, including:

- (a) State award-reliant workers;

¹ At [54].

² At [145].

(b) Workers for whom rates of pay under Certified Agreements may have fallen below rates under State awards; and

(c) Workers whose rates of pay under Certified Agreements are increased at the rate of increases provided for in the SWC.

[5] In 2020, the Queensland State Government estimated that are approximately 7,000 employees reported to be State-award-reliant.³

II - LEGISLATION

IR Act – General Principles

[6] Section 3 of the *Industrial Relations Act 2016* (Qld) (**IR Act**) provides:

3 Main purpose of Act

(1) The main purpose of this Act is to provide for a framework for cooperative industrial relations that -

(a) is fair and balanced; and

(b) supports the delivery of high-quality services, economic prosperity and social justice for Queenslanders.

[7] Section 4 of the IR Act provides:

4 How main purpose is primarily achieved

The main purpose of this Act is to be achieved primarily by –

(a) supporting a productive, competitive and inclusive economy, with strong economic growth, high employment, employment security, improved living standards and low inflation; and

[...]

(d) providing for a fair and equitable framework of employment standards, awards, determinations, orders and agreements; and

[...]

³ Submission of the Queensland Government 2021 filed 29 July 2021, para 19.

- (f) providing for a guaranteed safety net of fair, relevant and enforceable minimum employment conditions through the Queensland Employment Standards; and
- (g) ensuring wages and employment conditions provide fair standards in relation to living standards prevailing in the community; and
- (h) promoting collective bargaining, including by -
 - (i) providing for good faith bargaining; and
 - (ii) establishing the primacy of collective agreements over individual agreements; and

[...]
- (o) being responsive to emerging labour market trends and work patterns; and
- (p) providing for effective, responsive and accessible mechanisms to support negotiations and resolve industrial disputes; and

[...]

IR Act - General Rulings

[8] Section 458 of the IR Act sets out the power of the Full Bench to make general rulings:

458 Power to make general rulings

- (1) The full bench may make general rulings about –
 - (a) an industrial matter for employees bound by an industrial instrument if multiple inquiries into the same matter are likely; or
 - (b) a Queensland minimum wage for all employees.
- (2) The full bench must ensure a general ruling about a Queensland minimum wage for all employees is made at least once each year.
- (3) Before conducting a hearing about the ruling, the full bench must –
 - (a) give reasonable notice, in the way it considers appropriate, of its intention to conduct the hearing; and
 - (b) give all interested persons an opportunity to be heard.

[9] Section 459 of the IR Act identifies the requirements for a general ruling:

459 Requirements for general rulings

- (1) A ruling -
 - (a) must state a date (the *stated date*) on and from which it has effect; and
 - (b) has effect as a decision of the full bench on and from the stated date.
- (2) A ruling may exclude from the operation of any of its provisions -
 - (a) a class of employers or employees; or
 - (b) employers or employees in a particular locality; or
 - (c) an industrial instrument or part of an industrial instrument.
- (3) As soon as practicable after making a ruling, the registrar must publish a notice of the ruling and the stated date on the QIRC website.
- (4) The notice, on and from the stated date, replaces a notice of a ruling on the same subject matter previously published.
- (5) The ruling continues in force until the end of the day immediately before the stated date for a subsequent ruling on the same subject matter.

[10] Section 460 of the IR Act provides as follows:

460 Relationship with industrial instruments

- (1) If a ruling takes effect while an industrial instrument, other than an industrial instrument or part of an industrial instrument excluded under section 459(2), is in force –
 - (a) the industrial instrument is taken to be amended so it is consistent with the ruling on and from the stated date; and
 - (b) the amendment has effect as an industrial instrument on and from the stated date.
- (2) The registrar may amend an industrial instrument taken to be amended under subsection (1) as the registrar considers appropriate –
 - (a) on an application made under the rules; or
 - (b) on the registrar’s own initiative.
- (3) This section applies despite chapter 3.

III - TEST

[11] In discharging its legislative function in determining General Rulings in SWCs, it has been a consistent approach adopted by the QIRC to have regard to the Fair Work Commission (FWC) Annual Wage Review decision and the matters the FWC considered in its reasons.

[12] The general approach to be taken by the QIRC in respect of the SWC was set out in the SWC 2014⁴ where the Full Bench said:

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.

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' 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.** (Emphasis added)

⁴ *Declaration of General Ruling (State Wage Case 2014)* [2014] QIRC 129, at [12] and [13].

[13] The above considerations in the SWC 2014 were most recently followed in the SWC 2021.⁵

[14] The QIRC is to be mindful of its overarching responsibility to ensure, amongst other things, that employees are covered by fair and reasonable wages that allow them to participate in society and that those who do not benefit from bargaining are not left behind.⁶

IV - ISSUES

[15] The issue in the present application is whether the QIRC should follow the FWC AWR or whether there are cogent reasons why the QIRC should depart from that ruling.

V - THE QIRC SHOULD AWARD \$40 PER WEEK OR 4.6 PER CENT INCREASES TO MODERN AWARD RATES AND ALLOWANCES AND 5.2 PER CENT TO THE

QMW

Economic parameters

[16] Lagging wage growth has been a feature of the Australian and Queensland economies that has remained largely unaddressed, notwithstanding sharp increases in the cost of living experienced by Award-reliant workers and the currently tightening labour market.

[17] In his *Opening Statement to the House of Representatives Standing Committee on Economics*, Governor of the Reserve Bank of Australia (**RBA**), Phillip Lowe, on 11 February 2022 stated:

Wages growth has picked up recently, but only to the low rate prevailing before the pandemic. The vast bulk of Australians are still experiencing wages increase of no more than 2 point something per cent, although there are some areas where the increase s are much larger than this and non-wage benefits are also increasing.

⁵ *Declaration of General Ruling (State Wage Case 2021) [2021] QIRC 293*, at [50].

⁶ *Declaration of General Ruling (State Wage Case 2020) [2020] QIRC 131*, at [77].

[18] For its part, the Queensland economy has recovered from the effects of the pandemic to a greater extent, and more quickly, than anticipated. Features of the State's economic performance and outlook include:

- (a) the rollout of the COVID-19 vaccine and substantial monetary stimulus supporting a rapid recovery from the economic effects of the pandemic;
- (b) elevated consumer demand, combined with severe global supply-chain disruptions;
- (c) surges in COVID-19 variants, major flooding in Southeast Queensland and the Ukraine conflict impacting the supply side of the economy and exacerbating inflationary pressures;
- (d) overall population growth.⁹

[19] In terms of Queensland's key economic performance indicators:

- (a) Gross State Product (*GSP*) – GSP growth is forecast to average 2¾ per cent per annum over the rest of the forward estimates.¹⁰
- (b) Household consumption – spending increased by 6.8 per cent above pre-pandemic levels by the end of 2021 per cent above the pre-pandemic level.¹¹
- (c) Unemployment Rate – unemployment has fallen to 4.0 per cent in May 2022.¹²
- (d) Consumer Price Index (*CPI*) – 7.3 per cent in the twelve months to the June Quarter.¹⁴

[20] These performance measures are reflected in the overall picture of the Australian economy, as relied upon by the FWC Expert Panel in the 2022 AWR:

- (a) GDP growth being 3.6 per cent over the year to the June quarter 2022, rising to 4.2 per cent over the year to the December quarter 2022;

⁹ *Budget Strategy and Outlook (Budget Paper No 2.)*, 2022-23, p. 32.

¹⁰ *Idem.*

¹¹ *Budget Strategy and Outlook (Budget Paper No 2.)*, 2022-23, p. 49.

¹² ABS Labour Force Survey. All data are seasonally adjusted.

¹⁴ ABS, Consumer Price Index (June Quarter), released 27/07/2022.

- (b) Household consumption expected to peak at 5.8 per cent over the year to the December quarter 2022;
- (c) The unemployment rate forecast to decline further to 3.6 per cent in 2023; and
- (d) The CPI being the most significant difference since the previous AWR, with an increase of 2.1 per cent in the March quarter for 2022 to be 5.1 per cent higher over the year, “the highest annual increase since the introduction of the Goods and Services Tax (GST)”¹⁵.

[21] In terms of wage growth, the Expert Panel observed that the WPI is expected to increase over the forecast period and be 3.0 per cent over the year to the December quarter 2022. For its part, Queensland’s annual Wage Price Index has reached 2.5 per cent over the year to March quarter 2022, up from an average of 1.6 per cent in 2020-21 and expected to strengthen to 2½ per cent in 2021-22 and further to 3½ per cent over the remainder of the forecast period .¹⁶

[22] For Queensland to experience sustainable economic growth, wage settings need to be adjusted upwards.

VI – CONCLUSION

The Adjustment

[23] The markedly better economic environment and the significant increase to the CPI weigh in favour of a higher increase than was awarded in 2021.

[24] Indeed, it is appropriate for the QIRC to harness the opportunities presented by the current economic circumstances to place economic growth on a more sustainable footing by addressing the historically low wage growth by increasing the QMW and Modern Award minimum wages.

[25] Awarding an increase which is less than increases in prices and living costs would amount to a real wage cut and would result in some of Queensland’s lowest-paid workers being

¹⁵ AWR 2022-23, at [42]

¹⁶ *Budget Strategy and Outlook (Budget Paper No 2.)*, 2022-23, p. 53.

less able to meet their needs and lead to further disadvantage and greater risk of them moving into poverty.

[26] A failure to pass on adequate wage increases to low-paid workers across the State would hamper its recovery efforts as government stimulus is withdrawn, elevated consumer spending levels out and the housing activity cycle expires.

[27] Notwithstanding, the QIRC should increase Modern Award rates and allowances by \$40 per week or 4.6% (whichever the higher) and the QMW by 5.2 per cent, consistently with the AWR.

[28] In handing down its decision in the AWR, the Expert Panel acknowledged that "...the increases we have determined will mean a real wage cut for some award reliant employees. This is an issue that can be addressed in subsequent Reviews." ¹⁷ Similarly, should circumstances change, and CPI increases exceed Modern Award and QMW increases, the Commission may make any further general rulings as may be necessary.

The Timing of the Adjustments

[29] As in the 2021 AWR, the Expert Panel in the 2022 AWR determined that in industries more severely impacted by the pandemic, a later operative date of 1 October 2022 would apply to increases for a number of modern awards and enterprise awards.

[30] The later operative date did not apply to public sector or local government modern awards.

[31] Consistently with the 2021 SWC, the QIRC should award 2022 SWC increases to be operative from 1 September 2022.

VII – ORDERS SOUGHT

[32] The QCU seeks the following orders of the QIRC:

¹⁷ [2022] FWCFCB 3500, at [196]

- (a) The wages or salaries for full-time adult employees in all state awards shall be increased by \$40 per week or 4.6 per cent, whichever the higher, from 1 September 2022.
- (b) Monetary allowances (other than expense related allowances) in all state awards that relate to work or to conditions which have not changed, and service increments, are to be increased by 4.6 per cent.
- (c) The minimum wage rate per week for all full-time employees in Queensland is \$850.78. The above increases operate on and from 1 September 2022.

Dated: 28 July 2022

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