

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *In the termination of the Transport and Main Roads Operational Employees' Certified Agreement 2019 [2023] QIRC 300*

PARTIES: **State of Queensland (Department of Transport and Main Roads)**

AND

Automotive, Metals, Engineering, Printing and Kindred Industries Industrial Union of Employees, Queensland

Construction, Forestry, Mining & Energy, Industrial Union of Employees, Queensland

The Australian Workers' Union of Employees, Queensland

The Electrical Trades Union of Employees Queensland

Transport Workers' Union of Australia, Union of Employees (Queensland Branch)

Together Queensland, Industrial Union of Employees

CASE NO: CB/2023/105

PROCEEDING: Application for approval to terminate certified agreement after nominal expiry date

DELIVERED ON: 19 October 2023

HEARING DATE: 18 October 2023

HEARD AT: Brisbane

MEMBER: McLennan IC

- ORDER: ***The Transport and Main Roads Operational Employees' Certified Agreement 2019 is terminated.***
- CATCHWORDS: INDUSTRIAL LAW – COLLECTIVE BARGAINING – application for termination after nominal expiry date – requirements for termination – agreement terminated
- LEGISLATION: *Industrial Relations Act 2016* (Qld) ss 189, 228
- APPEARANCES: Mr R. Dayal with Mr G. Wallace and Mr W. Staier for the Department of Transport and Main Roads
- Mr P. Dunbar for the Construction, Forestry, Mining & Energy, Industrial Union of Employees, Queensland
- Ms C. Taylor for The Australian Workers' Union of Employees, Queensland
- Mr K. McKay for Together Queensland, Industrial Union of Employees

Reasons for Decision

- [1] On 28 September 2023, the State of Queensland (Department of Transport and Main Roads) ('the Department') applied to terminate *Transport and Main Roads Operational Employees' Certified Agreement 2019* ('the agreement') pursuant to s 228(1) of the *Industrial Relations Act 2016* (Qld) ('the IR Act').
- [2] The agreement has a nominal expiry date of 31 August 2022.
- [3] Section 228(3) of the IR Act provides:
- (3) The commission must approve the termination if, and must refuse to approve the termination unless, satisfied subsection (2) has been complied with and—
 - (a) for an agreement or determination that provides that it may be terminated if particular conditions are met—the conditions have been met; or
 - (b) for an agreement or determination that does not provide for the way it may be terminated—
 - (i) the other parties to the agreement or determination agree to it being terminated; and
 - (ii) termination of the agreement or determination is not contrary to the public interest.

- [4] In making my decision I have had regard to s 228(3), the submissions made by the parties who appeared at the hearing today and the affidavit of Ms Sally Stannard, A/Director-General of the Department filed on 28 September 2023.
- [5] The agreement does not provide that particular conditions need to be met before it may be terminated.
- [6] On 7 September 2023, the Department notified the other parties to the agreement of its intention to terminate the agreement. Those parties are:
- Automotive, Metals, Engineering, Printing and Kindred Industries Industrial Union of Employees, Queensland
 - Construction, Forestry, Mining & Energy, Industrial Union of Employees, Queensland
 - The Australian Workers' Union of Employees, Queensland
 - The Electrical Trades Union of Employees Queensland
 - Transport Workers' Union of Australia, Union of Employees (Queensland Branch); and
 - Together Queensland, Industrial Union of Employees.
- [7] I am satisfied that the Department has provided the requisite notice of its intention to apply to terminate the agreement.
- [8] Along with the Department, the Construction, Forestry, Mining & Energy, Industrial Union of Employees, Queensland, The Australian Workers' Union of Employees, Queensland, and Together Queensland, Industrial Union of Employees also appeared today and consented to the present application. No other person appeared or sought to make submissions.
- [9] The Electrical Trades Union of Employees Queensland, wrote to the Commission and advised that they agree to the termination of the agreement, despite being unable to appear.¹
- [10] No other person appeared or sought to make submissions. Having regard to the materials before me, I am satisfied that all parties to the agreement agree to it being terminated, and the termination of the agreement is not contrary to the public interest.
- [11] On 28 September 2023, the Department made an application under s 189 of the IR Act to certify the *Transport and Main Roads Operational Employees' Certified Agreement 2022*.

¹ Correspondence received on 9 October 2023.

[12] The Department and the employee organisations listed below have agreed to the terms of the *Transport and Main Roads Operational Employees' Certified Agreement 2022* which will replace the agreement:

- Automotive, Metals, Engineering, Printing and Kindred Industries Industrial Union of Employees, Queensland
- Construction, Forestry, Mining & Energy, Industrial Union of Employees, Queensland
- The Australian Workers' Union of Employees, Queensland
- The Electrical Trades Union of Employees Queensland
- Transport Workers' Union of Australia, Union of Employees (Queensland Branch); and
- Together Queensland, Industrial Union of Employees.

[13] Section 228(4) of the IR Act provides that termination takes effect when the Commission's approval takes effect.

[14] I approve the termination of the agreement with effect from 18 October 2023.

[15] I make the following order:

The Transport and Main Roads Operational Employees' Certified Agreement 2019 is terminated.