

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *Re: variation of the Queensland Public Service Officers and Other Employees Award – State 2015 [2023] QIRC 357*

PARTIES: **State of Queensland (Queensland Audit Office)**
(Applicant)

v

Together Queensland, Industrial Union of Employees
(First Respondent)

&

**Australian Maritime Officers Union
Queensland Union of Employees**
(Second Respondent)

&

**The Association of Professional Engineers,
Scientists and Managers, Australia,
Queensland Branch, Union of Employees**
(Third Respondent)

&

**Australian Institute of Marine and Power
Engineers' Union of Employees, Queensland
District**
(Fourth Respondent)

&

**Queensland Nurses and Midwives' Union of
Employees**
(Fifth Respondent)

CASE NO.: MA/2023/25

PROCEEDING: Application to vary a modern award

DELIVERED ON: 12 December 2023

HEARING DATE: On the papers

MEMBER: McLennan IC

ORDER:

1. **Variations are made to the *Queensland Public Service Officers and Other Employees Award – State 2015* being those contained in Schedule 1 to these reasons for decision.**
2. **The variations contained in Schedule 1 will operate on and from 13 December 2023.**

CATCHWORDS: INDUSTRIAL LAW – QUEENSLAND – AWARDS – variation of a modern award – application to make an order varying the *Queensland Public Service Officers and Other Employees Award – State 2015* pursuant to s 147 of the *Industrial Relations Act 2016* (Qld) – application to vary modern award granted

LEGISLATION: *Auditor-General Act 2009* (Qld) s 26

Industrial Relations Act 2016 (Qld) s 147

Integrity and Other Legislation Amendment Act 2022 (Qld) s 2, s 14, s 25

Reasons for Decision

- [1] On 20 November 2023, the State of Queensland (Queensland Audit Office) (the Applicant) filed an application pursuant to s 147 of the *Industrial Relations Act 2016* (Qld) (the IR Act), to vary the *Queensland Public Service Officers and Other Employees Award – State 2015* (the Award).
- [2] The application seeks to vary the Award to ensure it continues to apply to staff employed by the Queensland Audit Office, who will be employed under the *Auditor-General Act*

2009 (the AG Act) rather than the *Public Sector Act 2022* (the PS Act) from 13 December 2023.

[3] The reasons for the variation sought are summarised below:

- Section 26 of the AG Act currently provides that staff of the Queensland Audit Office are employed under the PS Act.
- The Queensland Audit Office staff are covered by the Award in accordance with cl 4.1(a)(i)(A).
- On 30 November 2022, the *Integrity and Other Legislation Amendment Act 2022* (IOLA Act) was passed. The objectives of the IOLA Act include amending the AG Act to better promote the independence and authority of the Queensland Auditor-General.
- Section 14 of the IOLA Act omits the current s 26 of the AG Act and replaces it with a new s 26, providing for employment of Queensland Audit Office staff under the AG Act and not the PS Act.
- The transitional provisions set out in s 25 of the IOLA Act, provide for the employment of Queensland Audit Office staff to continue on the same terms of employment that applied before for the commencement of the new s 26 under the AG Act, subject to subsequent variation of the terms under any relevant law or industrial instruments applying to the persons employment.
- The IOLA Act was assented to on 12 December 2022. Section 2(1) of the IOLA Act states that it will commence on a day to be fixed by proclamation. The Queensland Audit Office required the full twelve months to prepare and consult with staff and unions to ensure employee conditions and entitlement continued.
- As the new s 26 of the AG Act will not commence within 1 year of assent, it will automatically commence the next day, being 13 December 2023.
- Therefore, the variation seeks to ensure the award continues to legally apply to staff and the chief executive upon the commencement of the new s 26 of the AG Act, to enable the continuation of the existing terms and conditions currently applicable to staff covered by the award.

[4] The unions party to the Award are:

- Together Queensland, Industrial Union of Employees;

- Australian Maritime Officers Union Queensland Union of Employees;
- The Association of Professional Engineers, Scientists and Managers, Australia, Queensland Branch, Union of Employees;
- Australian Institute of Marine and Power Engineers' Union of Employees, Queensland District; and
- Queensland Nurses and Midwives' Union of Employees.

[5] On 28 November 2023 the Industrial Registry sent correspondence to all parties requesting that each union party provide confirmation of their consent to the proposed variation.

[6] Each union party provided correspondence to the Industrial Registry in which they expressed either consent or that they do not object to the proposed variation.¹

[7] Section 147 of the Act provides that the Commission may make or vary a modern award on its own initiative or by application to provide for fair and just employment conditions.

[8] Having given consideration to the proposed variations, and the consent position of the parties to the said variations, I grant the application and make the necessary orders to vary the Award.

Orders

[9] I make the following orders:

- 1. Variations are made to the *Queensland Public Service Officers and Other Employees Award – State 2015* being those contained in Schedule 1 to these reasons for decision.**
- 2. The variations contained in Schedule 1 will operate on and from 13 December 2023.**

¹ Correspondence from Mr S. Kelly, The Association of Professional Engineers, Scientists and Managers, Australia, Queensland Branch, Union of Employees dated 28 November 2023; Correspondence from Mr D. Goldman, Together Queensland, Industrial Union of Employees dated 28 November 2023; Correspondence from Ms V. Semple, Queensland Nurses and Midwives' Union of Employees dated 29 November 2023; Correspondence from Mr C. Claydon, Australian Institute of Marine and Power Engineers' Union of Employees, Queensland District dated 30 November 2023; Correspondence from Mr G. Yates, Australian Institute of Marine and Power Engineers' Union of Employees, Queensland District dated 1 December 2023.

SCHEDULE 1

1. By deleting clause 2 and inserting the following in lieu thereof:

This Award, made on 31 October 2015, operates from:

- 12 January 2016 – for employees covered by the *Office of the Information Commissioner – Certified Agreement 2015*;
- 10 March 2016 – for employees covered by the *Maritime Safety Queensland Maritime Operations Certified Agreement 2015*;
- 16 May 2016 – for employees covered by the *QFleet Certified Agreement 2016*;
- 1 June 2016 – for employees covered by the *State Government Entities Certified Agreement 2015*;
- 30 September 2016 – for employees covered by the *State Government Security Certified Agreement 2016*;
- 5 October 2016 – for Nurses employed by the Department of Education covered by the *Nurses and Midwives (Queensland Health and Department of Education and Training) Certified Agreement (EB9) 2016*;
- 9 February 2017 – for employees covered by the *Transport and Main Roads Enterprise Bargaining Certified Agreement 2016*;
- 15 January 2018 – for employees of National Injury Insurance Agency (Queensland);
- 31 August 2018 – for employees of Trade and Investment Queensland;
- 13 October 2020 – for employees appointed pursuant to section 109(1)(a), (b) or (c) of the *Public Guardian Act 2014*; and
- 13 December 2023 – for employees employed pursuant to section 26 of the *Auditor-General Act 2009*.

2. By inserting a new subclause 4.1(a)(iii) as follows:

- (iii) employees whose salaries or rates of pay are fixed by this Award and who are employed pursuant to section 26 of the *Auditor-General Act 2009*.