

29 AUG 2024

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 2016 – s 458



Queensland Council of Unions
Together Queensland, Industrial Union of Employees
Applicants

v

State of Queensland
Respondent

Matter Nos. B/2024/50 and B/2024/51

**APPLICATION FOR A DECLARATION OF GENERAL RULING
STATE WAGE CASE 2024**

QUEENSLAND COUNCIL OF UNIONS – SUBMISSIONS IN REPLY

Introduction

1. The Queensland Council of Unions (**QCU**) makes the following submissions in reply to the submissions filed by the State of Queensland (**State**) on 19 August 2024 and the Local Government Association of Queensland (**LGAQ**) on 23 August 2024.

The State's Submissions

Quantum

2. We note that the State seeks a 'fair and reasonable increase' to modern award minimum wages and the Queensland Minimum Wage (**QMW**),¹ but does not make any submissions in relation to what they consider to be 'fair and reasonable'.
3. Further, we note that the State:

¹ State of Queensland Submissions, 19 August 2024, [2], [35], [49].

- (a) submits that, '[i]n respect to wages and employment conditions, [the] purpose [of the *Industrial Relations Act 2016 (IR Act)*] is achieved by providing for fair standards in relation to living standards prevailing in the community';² and
 - (b) 'does not seek to dispute the economic evidence proffered by the QCU'³ which, in summary, indicates that the economic conditions in Queensland are consistent with the economic conditions nationally;⁴ and
 - (c) 'does not seek that the Full Bench exercise its discretion under either sections 459(2) or 459A [of the IR Act]'.⁵
4. For the reasons set out in our submissions dated 7 August 2024, the 3.75 per cent increase determined by the Fair Work Commission (FWC), which provides for fair standards in relation to living standards prevailing in the community, ought to be considered 'fair and reasonable'.
5. We therefore submit that the State's submissions are generally in support of the increase sought by the QCU.

State and Commonwealth Contexts

6. The QCU objects to the State's contention that the Annual Wage Review (AWR) is heard and determined for private sector workers only.⁶
7. The AWR unquestionably applies to both private and public sector workers. Modern award variation determinations arising from the AWR apply to 'State reference public sector awards',⁷ and the AWR is heard and determined in that context.
8. Further, it was noted in the *State Wage Case 2023 (SWC 2023)* that 'demographically similar groups [to those the subject of the State Wage Case] also exist within the national jurisdiction'.⁸

² Ibid [37].

³ Ibid [44b].

⁴ Submissions of the Queensland Council of Unions, 7 August 2024, [17]–[21]; Affidavit of Ms Jacqueline King filed 7 August 2024, [6]–[14].

⁵ State of Queensland Submissions, 19 August 2024, [40].

⁶ Ibid [19].

⁷ [2024] FWCFB 3500, [176].

⁸ *Declaration of General Ruling (State Wage Case 2023) (No 3)* [2024] QIRC 111, [25].

Legislative Criteria Relevant to the State Wage Case

9. At [43] of their submissions, the State contends that, in determining minimum wages that are fair and just, it is ‘appropriate [for the Commission] to give consideration to each of the range of legislative criteria relevant to the State Wage Case’ (SWC) and appear to submit that the QCU’s submissions suggest otherwise.
10. The QCU seeks to clarify this matter.
11. In our view, in determining minimum wages that are fair and just, it is incumbent on the Commission to make a determination that appropriately balances all of the relevant considerations (including, *inter alia*, those in sections 4, 141 and 142 of the IR Act), and where the evidence on these matters demonstrates, on balance, that a particular increase is required to maintain fair and just minimum wages in modern awards, that increase ought to be awarded by the Commission.
12. The QCU’s submissions filed on 7 August 2024 address the matters which we submit are most pertinent to the Commission’s evaluation of the relevant considerations this year. Namely:
- (a) the current economic conditions and the relevance and significance of the FWC’s economic assessment in the *Annual Wage Review 2023–24 (2023-24 AWR)* to the economic situation in Queensland (section 141(2)(f) of the IR Act); and
 - (b) relative living standards and the needs of low-paid employees (section 141(2)(a) of the IR Act).
13. While we acknowledge there are other relevant considerations, in summary, we submit that:
- (a) an increase is required to ensure that fair and just minimum wages in modern awards are maintained;⁹ and
 - (b) the economic conditions in Queensland are consistent with the economic conditions nationally;¹⁰ and

⁹ *Industrial Relations Act 2016* s 142(1).

¹⁰ Submissions of the Queensland Council of Unions, 7 August 2024, [17]–[21]; Affidavit of Ms Jacqueline King filed 7 August 2024, [6]–[14].

- (c) the FWC’s economic assessment in the 2023-24 AWR is relevant to the economic situation in Queensland and ought to be a significant factor considered by the Commission in determining the SWC;¹¹ and
- (d) the particular increase required to maintain fair and just minimum wages in modern awards is 3.75 per cent, as determined in the 2023-24 AWR;¹² and
- (e) this increase reflects fair standards in relation to living standards prevailing in the community;¹³ and
- (f) this increase will ensure the needs of low-paid employees in the Queensland jurisdiction are reasonably met.¹⁴

Parameters Set for Future Years by the SWC 2023

14. At [44.a.] of their submissions, the State attempts to correct the QCU’s submissions with respect to the views expressed by the Commission in the SWC 2023 in relation to the application of the FWC’s economic assessment to the economic situation in Queensland and contends that those views were confined to the increase awarded in 2023.

15. The QCU objects to this correction.

16. The ‘focused and forensic approach’ adopted by the Commission in the SWC 2023 led to parameters being set for the proper conduct of the SWC in future years.¹⁵ With respect to the economic considerations,¹⁶ some of those parameters, established by the expert evidence, included that:

- (a) ‘it would take quite a large difference between a Queensland estimate and the national estimate on any particular matter’ to raise doubts about the relevance of the FWC’s analysis of the economic situation to Queensland,¹⁷ and
- (b) the FWC’s economic assessment will generally be relevant to the determination of the SWC.¹⁸

¹¹ *Declaration of General Ruling (State Wage Case 2023) (No 3)* [2024] QIRC 111, [157].

¹² [2024] FWCFB 3500.

¹³ *Industrial Relations Act 2016* ss 4(g) and 143(1)(i).

¹⁴ *Industrial Relations Act 2016* s 141(2)(a); Submissions of the Queensland Council of Unions, 7 August 2024, [22]–[29]; Affidavit of Ms Jacqueline King filed 7 August 2024, [15]–[18].

¹⁵ *Declaration of General Ruling (State Wage Case 2023) (No 3)* [2024] QIRC 111, [18].

¹⁶ *Industrial Relations Act 2016* s 141(2)(f).

¹⁷ *Declaration of General Ruling (State Wage Case 2023) (No 3)* [2024] QIRC 111, [156].

¹⁸ *Ibid* [157].

17. It was in the context of these parameters, that the Commission expressed the view that there was ‘no cogent reason to depart from the FWC decision’.¹⁹ The purpose of the QCU’s initial submission was to emphasise that it is appropriate for the same approach to be adopted in future years when the evidence suggests that there are no large differences and ‘the national economy is substantially the same as that of the Queensland economy’,²⁰ as it is this year.

Trends in the Economic Data

18. The State contends that there is a continuing trend in relation to Brisbane’s Consumer Price Index (CPI) being lower than CPI nationally.²¹

19. However, the relevant data from the Australian Bureau of Statistics clearly indicates that the genuine trend in recent years has been for Brisbane’s CPI to be slightly higher than CPI nationally.²² As demonstrated in the table below, the CPI figure for the year to June 2024 is an outlier across the last four years.

Comparison of CPI in Brisbane and Nationally for Corresponding June Quarter of the Previous Year

Period	CPI Brisbane (%)	CPI Nationally (%)
June 2024	3.4	<u>3.8</u>
June 2023	<u>6.3</u>	6
June 2022	<u>7.3</u>	6.1
June 2021	<u>4.9</u>	3.8

Fair and Just Minimum Wages Must be Maintained in Modern Awards

20. With respect to the modern award classifications identified by the QCU that fall below the Queensland low-paid benchmark, at [45] of their submissions, the State submits that the relevant certified agreement rate remains payable. This is not disputed by the QCU.

¹⁹ Ibid [63].

²⁰ Ibid.

²¹ State of Queensland Submissions, 19 August 2024, [44.b.i].

²² Australian Bureau of Statistics, *Consumer Price Index, Australia*, June Quarter 2024.

<https://www.abs.gov.au/statistics/economy/price-indexes-and-inflation/consumer-price-index-australia/latest-release#selected-tables-capital-cities>.

21. However, irrespective of whether a relevant certified agreement rate applies to employees employed in the relevant classifications identified by the QCU, the Commission must maintain minimum wages in modern awards that are fair and just.²³
22. Further, irrespective of how unlikely the Commission may view the circumstances to be, there is the prospect that employees who currently benefit from bargaining may not in the future. It is therefore fundamental to a fair and equitable framework of employment standards, awards, determinations, orders and agreements that fair and just minimum wages continue to be maintained in underpinning awards.²⁴ It is also consistent with the Commission's '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'.²⁵

The State's Comparison of the Characteristics of Employees Affected by the SWC and AWR

23. At [45]–[46] of their submissions, the State attempts to compare the characteristics of employees affected by the SWC and AWR.
24. However, the state system and national system employee cohorts referenced by the State are not analogous. The State has not, for example, compared the characteristics of public sector employees within each jurisdiction or the relevant characteristics of award-reliant employees within each jurisdiction.
25. The QCU therefore submits that the State's comparison is misleading and provides no assistance to the Commission.

The LGAQ's Submissions

26. We note that the LGAQ seeks an increase to modern award minimum wages and the QMW of '3.75 per cent, but not greater than'.²⁶

²³ *Industrial Relations Act 2016* s 142(1).

²⁴ *Ibid* s 4(d).

²⁵ *Declaration of General Ruling (State Wage Case 2020)* [2020] QIRC 131, [77].

²⁶ Submission of the Local Government Association Queensland, 23 August 2024, [13].

27. Consequently, with respect to local government sector employees, the relevant parties agree on the quantum necessary to provide fair and just minimum wages.

28. The QCU therefore submits that these circumstances ought to relevantly guide the decision of the Commission pursuant to section 531(3) of the IR Act. With respect to local government sector employees, the interests of the persons immediately concerned are all represented by the parties to this proceeding and there are no objections to the increase sought by the QCU.

Conclusion

29. For the reasons set out above, and in our submissions dated 7 August 2024, we submit that it is fair and just for the Commission to award the increase sought by the QCU.

Dated: 29 August 2024