

07 AUG 2024


QUEENSLAND


QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 2016 – s 458

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

Re: STATE WAGE CASE 2022 – Matter Nos B/2024/50, B/2023/51

**Submissions - Together Queensland, Industrial Union of Employees
7 August 2024**



Introduction

1. **The Claim.** Together Queensland, Industrial Union of Employees (Together Qld), is seeking the Queensland Industrial Relations Commission issue the following decisions:

- a. To make a general ruling amending all state awards by a wage adjustment of 3.75%.
- b. To make a general ruling amending all state awards by increasing existing award allowances which relate to work or conditions which have not changed in service increments by 3.75%.
- c. Increase the Queensland Minimum wage as it applies to all employees to \$915.90 per week or \$24.10 per hour.
- d. Determine that the operative date for these amendments be 1 September 2024.

2. These claims are the same as those made by the Queensland Council of Unions.

Legislative Parameters

3. **General Ruling.** Subdivision 1, Division 4, Part 2 of the *Industrial Relations Act 2016* (the Act), relevantly provides:

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 an interested persons an opportunity to be heard.

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.

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.

5. Since 1997, the administrative process for awarding wage and allowance increases has been by way of general ruling.¹

6. As set out in s3 of the Act, the main purpose of the 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.

(a) For the purposes of this matter, s4 relevantly provides that the above purpose is to be achieved by:

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

(b) Further, the Act requires the Commission to:

- a. ensure modern awards provide for "fair and just" wages and employment conditions that are at least as favourable as the Queensland Employment Standards, which includes the QMW (s 141(1)(a));

¹ See *Workplace Relations Act 1997 (Qld)*, s132

- b. ensure that a modern award generally reflects the prevailing employment conditions of employees covered by the award (s 141(1)(b));
- c. establish and maintain minimum wages that are fair and just, having regard to those matters mentioned in s141(2)(a) to (d) and (f); and
- d. ensure a modern award provides fair standards for employees in the context of living standards generally prevailing in the community (s 143(1)(i)).

7. **Operative date.** s459(1) provides that a ruling must state a date on and from which the ruling applies and that the ruling has effect as a decision of the full bench on and from the stated date.

8. s148 applies to an order varying a modern award and provides that the order takes effect of the day stated in the order and that the stated day must not be earlier than the day on which the order is made unless:

- a. the variation removes an ambiguity or uncertainty or corrects an error; and
- b. the Commission is satisfied exceptional circumstances justify stating an earlier day; and
- c. the order does not adversely affect an employee.

9. The operative date for such general rulings has generally been 1 September of that year. Together seeks a continuation of this operative date to ensure employees relying on the State Wage Case outcome receive an annual increase.

Context of the 2024 State Wage Case

10. The 2022 State Wage Case² ruling included the following passage:

“[58] It is a mistake to assume that the FWC’s determination can be a substitute for a proper forensic inquiry into the impact of economic factors upon the wages of workers in Queensland who are not national system employees.

[59] If the forensic exercise is to commence with receipt into evidence of the FWC ruling, then it is necessary to receive evidence identifying relevant differences between the national workforce and Queensland workers who are not national scheme employees. It is also necessary to identify economic and perhaps social conditions which may be peculiar to Queensland and relevant to the Full Bench’s determination of the State Wage Case. Once those things are identified, proper evidence (expert if necessary) should be led as to their impact upon the issues in the State Wage Case.”

11. The 2023 State Wage Case³ conducted precisely the type of forensic exercise foreshadowed in 2022. Expert evidence was tendered jointly, analysing the economic

² Declaration of General Ruling (State Wage Case 2022) [2022] QIRC 340

³ Declaration of General Ruling (State Wage Case 2023) (No 3) [2024] QIRC 111

position in Queensland by reference to the indicators provided to the FWC's Annual Wage Review.

12. That evidence included a Queensland Statistical Report produced for the proceedings by Adept Economics providing data comparable to that presented in the FWC's AWR and a Report to the Commission by Professor David Peetz. That latter report considered, inter alia, the relevance and significance of the economic indicators provided in the AWR Statistical Report (ASR) and the QSR for the SWC.

13. The economic evidence considered in the 2023 State Wage Case indicated that the comparative assessment between the national economic data and available data for Queensland did not produce significant differences, that no large differences emerged between the patterns for Queensland and nationally and, accordingly, no basis arose for considering the assessment does not apply to Queensland.⁴

14. As a result, the full Bench concluded the following:

*“The evidence before the Full Bench does not suggest that there is a basis for considering that the analysis undertaken by the FWC does not have application to Queensland. We accept that the FWC determination encompasses a consideration of the economic impact of a variety of factors upon the national industrial environment. The assessment of those factors as reflected in the FWC determination will generally be relevant to determination of the Queensland state wage case. It follows therefore, that the FWC will be a significant factor considered by the Full Bench in determining the state wage case.”*⁵

Fair Work Commission Annual Wage Review 2023-24 Decision

15. **General conclusions.** The FWC’s Expert Panel concluded that, overall, the Australian economy was ending the 2023–24 period with favourable prospects of achieving a ‘soft landing.’ This meant the economy is likely to avoid a recession while managing to lower inflation and maintain the labour market close to full employment.⁶

16. However, the panel observed that many workers and households had experienced a decline in their disposable incomes over the past few years. The increase in inflation had surpassed wage growth, leading to higher loan repayments for many mortgage holders, along with significant rises in rents and energy costs. Additionally, many workers had faced higher income taxes.⁷

17. Moreover, despite the 5.75 percent increase in modern award minimum wage rates in the AWR 2023 decision, real wages for employees dependent on modern awards remain lower than they were five years ago. This situation had caused financial strain on these employees, who are predominantly casual, part-time, low-paid, and female, making them particularly vulnerable to unfavourable economic changes.⁸

⁴ Declaration of General Ruling (State Wage Case 2023) (No 3) [2024] QIRC 111 [58] to [60]

⁵ Declaration of General Ruling (State Wage Case 2023) (No 3) [2024] QIRC 111 [157]

⁶ AWR 2024 decision [2024] FWCFB 3500 [140]

⁷ Ibid [146]

⁸ Ibid [147]

18. **National minimum wage (NMW).** The National Minimum Wage (NMW) was increased by 3.75 percent to ensure a fair minimum wage safety net. This increase preserved the real value of the enhanced NMW set in the AWR 2023 decision, thereby adequately addressing the living standards and needs of low-paid employees who relied on the NMW.

19. **Award minimum wages.** In considering an appropriate increase to Award minimum wages there was referenced to the observation in the AWR 2023 decision, that:

“Future Reviews, if conducted in a lower inflationary environment, are likely to provide an opportunity to make up the loss of real value in modern award minimum wages rates which has occurred and return to the path of real growth which prevailed prior to the COVID-19 pandemic.”⁹

20. However, the Expert Panel did not believe that the opportunity had yet arisen, given that inflation remained above the RBA’s target range and there were still insufficient grounds for confidence that productivity growth had returned to its pre-pandemic average level. Further, the outlook for inflation and productivity was somewhat uncertain, necessitating a degree of caution. The Panel also considered that, assuming no reduction in real wages for employees reliant on modern awards due to this decision, their real household disposable incomes would increase over the next 12 months because of the Stage 3 tax cuts and the Budget cost-of-living measures.¹⁰

21. On that basis, the Expert Panel decided that all minimum wage rates in modern awards shall be increased by 3.75 per cent., coming into operation on 1 July 2024.¹¹

Comparison of Economic Factors

22. The Full Bench of the QIRC noted in the State Wage Case Decision 2023 that it will be necessary for future Full Benches to:

“...be in receipt of evidence identifying relevant differences between the national workforce and Queensland workers who are not national system employees. It is also necessary to identify economic and perhaps social conditions which may be peculiar to Queensland and relevant to the Full Bench’s determination of the state wage case. Once those things are identified, proper evidence (expert if necessary) should be led as to their impact upon the issues in the state wage case.”

23. Together has read the affidavit of Ms Jacqueline King and submits that the evidence contained within supports a contention that the conclusion formed by the Full Bench in the 2023 SWC that, “*the FWC determination encompasses a consideration of the economic impact of a variety of factors upon*

⁹ AWR 2023 decision [2023] FWCFB 3500, 323 IR 332 [179]

¹⁰ [2024] FWCFB 3500 [157]

¹¹ Ibid [160]

the national industrial environment. The assessment of those factors as reflected in the FWC determination will generally be relevant to determination of the Queensland state wage case.”

24. In particular, the evidence of Ms King shows that the major economic indicators remain largely similar, and a comparison of business outlook predictions contained in the Australian and Queensland Government submissions to the AWR also demonstrate no marked divergence.
25. The Australian Government national outlook submissions¹² include the following points:
- a. Inflation has peaked and is moderating largely as expected. Inflation moderated to a two-year low at the end of last year and is forecast to return to the target band within 2024-25. While global inflationary pressures have eased since the second half of 2022, most advanced economies are not expected to sustainably return to their inflation targets until at least 2025.
 - b. The domestic economy is slowing due to moderating but still high inflation, higher interest rates and global economic uncertainty.
 - c. The labour market is resilient but is showing signs of softening. The unemployment rate is near its historic low at 3.7 per cent in February 2024. However, hours worked has eased and the unemployment rate is forecast to gradually rise over the period ahead.
 - d. Nominal wage growth has picked up to its fastest rate in nearly 15 years. Wages grew 4.2 per cent over the year to December quarter 2023 and are forecast to grow by 4 per cent in 2023-24, before moderating to 3¼ per cent in 2024-25.
 - e. Strong business investment and a recovery in inbound tourism and international education services
 - f. Despite some moderation, recent producer price inflation, high energy costs and higher interest rates are still creating pressures for businesses and affecting business conditions and confidence.
26. This compares favourably with the corresponding submissions from the Queensland Government¹³, in particular:
- a. Modest growth in business investment is still expected in 2023–24
 - b. While construction cost growth has moderated, indicators suggest that business confidence, conditions and capacity utilisation rates have eased over the past year. Higher interest rates and the anticipated continuation of commodity price softening will also moderate the outlook.
 - c. Growth in public final demand is expected to remain robust in 2023–24 and 2024–25.

¹² From Australian Government Submission to AWR 2023/24

¹³ From Queensland Submission to AWR 2023/24

- d. High prices for Queensland's key commodity exports have boosted the nominal value of Queensland's goods and services exports which nearly doubled in 2021–22, before rising a further 11% in 2022–23 to a record high of \$144 billion.

Participation in Collective Bargaining

27. The evidence of Professor Peetz in the 2023 SWC indicated high rates of collective agreement coverage is a feature of the public sector in both the federal and state jurisdictions¹⁴. As Professor Peetz noted, while collective agreement coverage in Queensland is extremely high at 98%, national agreement coverage (including both federal and state jurisdiction agreements) in the public sector in 2021 remained above 90 per cent in every mainland state except New South Wales (where several public sector agreements are classed by the ABS as 'awards').

28. There is no reason to believe that position has changed.

Conclusion

29. While noting the statements by the Commission in the 2023 SWC decision set out above, nevertheless, it is submitted that there is no evidence that would suggest that the considerable weight that the Queensland Industrial Relations Commission has given to the AWR historically should not continue to be applied this year, having regard to the particular economic circumstances of Queensland.

30. Together Qld submits:

- a. The evidence before the Commission discloses there are no particular factors which would indicate the Queensland economic and social are manifestly different from those experienced by equivalent workers in the Federal system.
- b. An increase of the quantum decided by the FWC that maintains some of the value of real wages as well as the living standards for award wage reliant workers is economically responsible and protects the low paid.
- c. A general ruling in the terms requested is fair and appropriate.

Together Queensland, Industrial Union of Employees

¹⁴ Peetz, D. Op Cit at [126]