

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *Re: In the matter of the making of Modern Awards - Brisbane City Council Salaried Staff Award - State 2016* [2016] QIRC 109

PARTIES: Brisbane City Council

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

Queensland Services, Industrial Union of Employees

The Association of Professional Engineers, Scientists and Managers, Australia, Queensland Branch, Union of Employees

CASE NO: MAP/2016/12

PROCEEDING: Making of a modern award

DELIVERED ON: 17 October 2016

HEARING DATE: 7 October 2016

HEARD AT: Brisbane

MEMBERS: Deputy President Swan
Industrial Commissioner Fisher
Industrial Commissioner Black

ORDERS:

- 1. That the *Brisbane City Council Salaried Staff Award - State 2016* be made pursuant to section 140CE(1)(a) of the *Industrial Relations Act 1999* (the Act) and operate on and from 7 October 2016, subject to the provisions of section 824 of the Act.**
- 2. That the *Brisbane City Council Salaried Staff Award 2004* be repealed on and from 7 October 2016, subject to the provisions of section 824 of the Act.**

CATCHWORDS: INDUSTRIAL LAW - AWARD MODERNISATION - MAKING OF A MODERN AWARD - Section 140C(1) of the *Industrial Relations Act 1999* - *Brisbane City*

Council Salaried Staff Award - State 2016
Modern Award made.

CASES:

Industrial Relations Act 1999, Chapter 5, Part 8,
Division 2, ss 140BA, 140BB, 140C(1),
140CE(1)(a), 140D, 273, 824

APPEARANCES:

Ms A. Hastie for Brisbane City Council.

Ms K. Allen for Automotive, Metals,
Engineering, Printing and Kindred Industries
Industrial Union of Employees, Queensland.

Mr N. Henderson for Queensland Services,
Industrial Union of Employees.

Mr S. Kelly for The Association of Professional
Engineers, Scientists and Managers, Australia,
Queensland Branch, Union of Employees.

Reasons for Decision

- [1] The Queensland Industrial Relations Commission (the Commission) recommenced the award modernisation process following the passing of amendments to the *Industrial Relations Act 1999* (the Act) and the issuing of a variation to the existing Ministerial Request (the Consolidated Request) on 17 July 2015. A new Consolidated Request was issued by the Honourable Grace Grace, Minister for Employment and Industrial Relations (the Minister) on 6 June 2016.
- [2] Section 140BB of the Act sets out the Commission's Award Modernisation functions, as follows:

"140BB Commission's award modernisation function

- (1) The functions of the commission include carrying out a process (*award modernisation process*) to reform and modernise pre-modernisation awards.
- (2) In performing its functions under this part, the commission must have regard to the following factors -
 - (a) promoting the creation of jobs, high levels of productivity, low inflation, high levels of employment and labour force participation, national and international competitiveness, the development of skills and a fair labour market;
 - (b) the need to help prevent and eliminate discrimination in employment;
 - (c) protecting the position in the labour market of young people, employees engaged as apprentices or trainees and employees with a disability;
 - (d) the needs of low-paid employees;

- (e) the need to promote the principle of equal remuneration for work of equal value;
- (f) the need to help employees balance their work and family responsibilities effectively and to improve retention and participation of employees in the workforce;
- (g) the safety, health and welfare of employees;
- (h) the Queensland minimum wage;
- (i) the desirability of reducing the number of awards operating under this Act; and
- (j) the representation rights of organisations and associations under this Act.

(3) This section does not limit section 140D."

- [3] In accordance with Chapter 5, Part 8, Division 2 of the Act (i.e. the Award Modernisation process provisions of the Act) and the Consolidated Request under s 140C(1) of the Act by the Minister, the Award Modernisation Team of the Commission prepared an Exposure Draft of a proposed *Brisbane City Council Salaried Staff Award - State 2016* (the Proposed Award).
- [4] On 30 September 2016, Deputy President Bloomfield referred a version of the Proposed Award to Deputy President O'Connor for the consideration of the Full Bench. This version of the Proposed Award had the consent of the parties. The Proposed Award was referred to this Full Bench and listed for hearing on 7 October 2016.

Legislative Provisions

- [5] The relevant legislative provisions are:

"140BA Object of modernising awards

The principal object of this part is to provide for the modernisation of awards so they -

...

- (b) together with the Queensland Employment Standards, provide for a fair minimum safety net of enforceable conditions of employment for employees; and

..."

"140D Modern awards objectives

- (1) In exercising its chapter 5A powers, the commission must ensure modern awards, together with the Queensland Employment Standards, provide a minimum safety net of employment conditions that is fair and relevant.

..."

"273 Commission's functions

(1) The commission's functions include the following -

- (a) establishing and maintaining a system of non-discriminatory awards that, together with the Queensland Employment Standards, provide for a fair minimum safety net of enforceable conditions of employment for employees;

..."

Consideration

- [6] The matter was heard on 7 October 2016. Ms Hastie for Brisbane City Council indicated agreement with the contents subject to an amendment to Clause 20.4 (**Rehabilitation**), which was acceptable to all parties. She also referred to clause 18 (**Overtime and penalties**) and said the parties agreed on a way forward by a written exchange of Understanding and no alteration to the Proposed Award was necessary. All other parties confirmed their consent position on the Proposed Award.
- [7] The Full Bench, after considering the Proposed Award, and being satisfied that the Proposed Award complies with the requirements of the Act in relation to modern awards; is consistent with the statutory objects of the award modernisation process; and meets the requirements of the Minister's Consolidated Request, is of the view that the Proposed Award ought to be made in the terms of the award attached to these reasons and operate on and from 7 October 2016.
- [8] Accordingly, the Full Bench makes the following orders:
1. That the *Brisbane City Council Salaried Staff Award - State 2016* be made pursuant to section 140CE(1)(a) of the *Industrial Relations Act 1999* (the Act) and operate on and from 7 October 2016, subject to the provisions of section 824 of the Act.
 2. That the *Brisbane City Council Salaried Staff Award 2004* be repealed on and from 7 October 2016, subject to the provisions of section 824 of the Act.