

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 2016

Local Government Association of Queensland Ltd

Applicant

and

Queensland Services, Industrial Union of Employees

Queensland Independent Education Union of Employees

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

United Voice, Industrial Union of Employees, Queensland

Respondents

Matter No. MA/2020/1

ORDER

- 1) On the hearing of an amended application made by the Local Government Association of Queensland to vary the *Queensland Local Government Industry (Stream A) Award – State 2017*, **IT IS ORDERED BY CONSENT THAT:**
- (a) The Table of Contents of Division 2, Section 1 of the *Queensland Local Government Industry (Stream A) Award – State 2017* (Award) be varied by adding "Division 2 – Section 1 – Schedule 3 (Award flexibility during the COVID-19 Pandemic)";
 - (b) The Table of Contents of Division 2, Section 3 of the Award be varied by adding "Division 2 – Section 3 – Schedule 2 (Award flexibility during the COVID-19 Pandemic);
 - (c) Division 2, Section 1 of the Award be varied by adding a new Schedule 3; and
 - (d) Division 2, Section 3 of the Award be varied by adding a new Schedule 2.

Both Schedules 2 and 3 as mentioned above will read as follows:

Award flexibility during the COVID-19 Pandemic

- (1) The provisions of this schedule are aimed at preserving the ongoing viability of Councils and preserving jobs during the COVID-19 pandemic and not to set any precedent in relation to award entitlements after its expiry date.
- (2) A reference in this schedule to an employee "working from home" is to be read as a reference to an employee who is working from home because of measures in response to the COVID-19 pandemic.
- (3) This Schedule operates from 29 April 2020 until 30 June 2020 and overrides the respective provisions in the Award. The period of operation can be extended on application.
- (4) For the removal of doubt, this schedule is aimed at assisting councils to maximise retention of their existing workforce, by amending employment conditions to enable easier redeployment of workers who are or may be displaced from their normal roles as a consequence of the COVID - 19 pandemic. Employees, whose work is not affected by the pandemic and work patterns continue as normal, will continue to have their conditions regulated by the existing award provisions, unless mutually agreed otherwise.





- (5) Where a provision of this Schedule is used, the agreement between the employer and employee (who may be represented by an accredited union representative) must:
- (a) be in writing (included by electronic means); and
 - (b) stipulate a duration which is no longer than the life of this Schedule.
- (6) During the operation of this Schedule, the following provisions apply:

Operational Flexibility

- (a) An employee will perform all duties that are within their skill and competency regardless of their classification under an Award, provided that the duties are safe, and the employee is licensed and qualified to perform them, where necessary. Employees will be paid their current level of remuneration and expected to apply their skills and abilities at the level of their existing remuneration. To make it clear, no employee shall have their pay reduced as a result of being directed to perform duties in accordance with this clause.
- (b) Employees placed into vacant established positions and expected to perform the full functionality of the positions at the substantive level of the vacant position will be remunerated at the level of the position. To clarify, the following examples are provided:
 - (i) A library assistant is deployed to assist the HR work area with administrative HR tasks. The assistant will be paid her existing remuneration.
 - (ii) A library technician instructor with a background in human resources is placed in a human resource officer position during the absence of the HR officer on maternity leave and is expected to perform the full function of the role. If the remuneration of the HR position is higher, then the library technician instructor will be remunerated at this higher level. If it is lower, then the library technician will retain their current level of remuneration.
 - (iii) An employee is redeployed (redeployee) into a role left vacant by an earlier resignation of another employee. The redeployee is instructed to assist the remaining employee/s in the work area with any tasks requested by the remaining employee/s that are commensurate with the skills and abilities of the redeployee. The redeployee will remain on their existing remuneration.
- (c) **Part-time employees working from home**

Where a part-time employee is working from home, the employer is required to roster the employee for a minimum of two (2) consecutive hours on any shift. This clause is not intended to reduce the employee's current hours.

- (d) **Casual employees working from home**

Where a casual employee is working from home, the employee is entitled to a minimum payment of two (2) hours' work at the appropriate rate.

- (e) **Ordinary hours of work for employees working from home**

- (i) By mutual agreement between an employee and employer, the spread of ordinary hours of work for day workers is between 4.00am and 11.00pm, Monday to Friday, and between 6.00am and 7.00pm on Saturday.
- (ii) Work may be performed continuously or across a range of hours within this spread, as agreed between the employer and employee, provided they do not exceed the prescribed daily working hours of the employee.



- (iii) Day workers are not shift workers for the purposes of any penalties, loadings or allowances under the award.

(f) Agreed temporary reduction in ordinary hours

- (i) An employer and the full-time or part-time employees in a workplace or section of a workplace, may agree to temporarily reduce ordinary hours of work for the employees in the workplace or section for a specified period while this schedule is in operation.
- (ii) The approval of at least 75% of the affected full-time and part-time employees in the relevant workplace or section shall be required.

NOTE: Prior to advancing the option of reducing hours of work for employees, the employer shall provide opportunity for affected employees to express interest in voluntarily reducing hours or being stood down on either accrued leave or no pay.

- (iii) For the purposes of subclause (f), ordinary hours of work may be temporarily reduced:
 - (A) For a full-time employee, to not fewer than 75% of the full-time ordinary hours applicable to an employee immediately prior to the implementation of the temporary reduction in ordinary hours.
 - (B) For a part-time employee, to not fewer than 75% of the part-time employee's ordinary hours immediately prior to the implementation of the temporary reduction in ordinary hours.

NOTE: This arrangement does not inhibit an employee, by mutual agreement with the employer, reducing their hours to 50%. The employee may then opt to take the remaining 50% on annual leave on half pay as prescribed elsewhere in this schedule.

- (iv) Where a reduction in hours takes effect under subclause (f), the employee's ordinary hourly rate will be maintained but the weekly wage will be reduced by the same proportion of the reduced hours.
- (v) Nothing in this schedule prevents an employer and an individual employee agreeing in writing (including by electronic means) to reduce hours or to have an employee move temporarily from full-time to part-time hours of work, with a commensurate reduction in the minimum weekly wage.
- (vi) For an employee whose hours have been reduced in accordance with subclause (f):
 - (A) the employer must not unreasonably refuse an employee request to engage in reasonable secondary employment; and
 - (B) the employer must consider all reasonable employee requests for training, professional development and/or study leave.
 - (C) For the purposes of subclause (f), where there is any reduction in the ordinary hours of work for full-time or part-time employees in a workplace or section during the period this schedule is in operation, all relevant accruals and all entitlements on termination of employment will continue to be based on each employee's weekly ordinary hours of work prior to the commencement of this schedule.



(g) **Split Shifts**

An employer may request a redeployed employee and the employee may agree to work a split shift where the nature of the work requires the employee to do so, provided the total hours worked each day does not exceed eight hours.

(h) **Pandemic Leave**

Paid pandemic leave of at least two (2) weeks is available as follows:

- (i) Subject to sub clauses (h)(ii), (iii) and (iv), any employee is entitled to take up to two (2) weeks' paid leave if the employee is required, by government or medical authorities or acting on the advice of a medical practitioner, to self-isolate and is consequently prevented from working, or is otherwise prevented from working by measures taken by government or medical authorities in response to the COVID-19 pandemic, in circumstances where the employee is required to work at premises operated by an employer.
- (ii) The employee must give their employer notice of the taking of leave under sub clause (h)(i) and of the reason the employee requires the leave, as soon as practicable (which may be a time after the leave has started).
- (iii) An employee who has given their employer notice of taking leave under sub clause (h)(i) must, if required by the employer, give the employer evidence that would satisfy a reasonable person that the leave is taken for a reason given in sub clause (h)(i).
- (iv) Leave taken under sub clause (h)(i) does not affect any other paid or unpaid leave entitlement of the employee and counts as service for the purposes of entitlements under this Award.

NOTE: The entitlement for paid pandemic leave does not require Councils to reduce similar leave provisions already paid administratively by Council as a result of COVID-19.

(i) **Stand Down**

- (i) An employer may:
 - (A) require an employee to be stood down giving at least two (2) weeks' notice or any shorter period of notice that may be agreed, provided that where a shorter period of notice is agreed, the employee will be entitled to receive a payment for the period of notice forgone; and
 - (B) a stood down employee may take any accrued leave for the period while stood down.

(j) **Annual Leave and Long Service Leave**

- (i) Where the need to stand down employees within a particular work area has been identified, the employer may call for expressions of interest from employees who are prepared to take annual or long service leave to mitigate against the need to stand down employees. Where there are insufficient expressions of interest, the employer may direct affected employee/s to take annual or long service leave in accordance with the conditions prescribed in sub clause (j).
- (ii) A stood down employee may elect to take annual leave at half pay.

- (iii) An employee who has been stood down may elect to access up to two (2) weeks of annual leave in advance.
 - (iv) An employer may direct an employee to take up to four (4) weeks annual leave on full pay, provided the employee is provided two (2) weeks' notice prior to the taking of the leave and where the employee will have a minimum balance of five (5) weeks annual leave remaining in their balance at the time of the commencement of this directed leave.
 - (v) A stood down employee may elect to take long service leave at half pay.
 - (vi) An employee who has been stood down will be entitled to access long service leave on a pro rata basis if they have completed at least seven (7) years of service.
 - (vii) An employer may direct an employee to take up to six (6) weeks long service leave on full pay, provided the employee is provided two (2) weeks' notice prior to the taking of the leave and where the employee will have a minimum of 13 weeks long service leave remaining in their balance at the time of the commencement of this directed leave.
 - (viii) The employer and employee may agree that the employee may take more than two (2) weeks' unpaid pandemic leave.
 - (ix) Any period of stand down of an employee during the term of the period of operation of this Schedule will be recognised as service with council.
- 2) This variation is operative as and from 29 April 2020 and remains in effect until 30 June 2020 unless otherwise varied by order of the Commission.

29 April 2020



D. L. O'CONNOR
Vice President