



**UNITED FIREFIGHTERS UNION OF AUSTRALIA
UNION OF EMPLOYEES QUEENSLAND**

15 April 2014

Mr Adrian L Bloomfield
Deputy President Bloomfield
Queensland Industrial Relations Commission
GPO Box 373
BRISBANE QLD 4001

Dear Deputy President Bloomfield,

**Re: Section 140CE –making of modern awards and repeal of pre-modernisation awards
QIRC conference - 16th April 2014**

The United Firefighters' Union of Australia, Union of Employees, Queensland (UFUQ) is in receipt of your correspondence dated 8th April 2014, in relation to a conference to be held on 16th April 2014.

UFUQ will arrange to be represented at the conference and now provide our views in advance.

Standard clauses

UFUQ have been emailed a document created by the QIRC containing proposed 'standard clauses'.

[The clauses deal with annual leave, personal leave, parental leave, long service leave, public holidays, jury service, termination of employment and redundancy].

UFUQ have an interest in discussions about proposed 'standard clauses' as any settling of such provisions may form a precedent, or at least a preconception that affects the modernisation and repeal of awards covering our members, and which are not being immediately dealt with by the tribunal.

The relevant awards are:

Queensland Fire and Rescue Service Award – State 2012

S T R E N G T H P R I D E C O U R A G E

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Queensland Fire and Rescue Service Communications Centres Award – State 2012

UFUQ disagrees with the proposition that the award modernisation process requires the production of 'standard clauses' as suggested by the document emailed to our office.

There are existing provisions currently operating in our awards, which are worded differently from those in the document emailed to us.

As part of a modernisation process, those existing provisions should be examined as to whether they comply with the Act, and if the existing provisions comply with the Act, [e.g the Queensland Employment Standards (QES)], and do not offend the Act, [e.g they are not 'less favourable'], then there is no need to draft entirely new provisions.

If the existing award provisions are 'less favourable' than the QES, then some minor redrafting of the existing clauses would be able to rectify any shortfall.

Similarly, any non-allowable, or otherwise non compliant existing award content, can be edited and modified without a need to commence a process of drafting entirely new provisions.

Further, if awards do not clearly set out the relevant provisions, for example, for annual leave, and require the reader to find a separate document containing the "QES", then the award will be more difficult to read.

On that basis, the UFUQ believes that the entitlements clauses ought to be set out clearly in the body of the awards and not have some sections set out in a separate document, as suggested by the proposed 'standard clauses'.

Training Wage Award and Supported Wage Award

UFUQ do not believe that any Training Wage Award-State 2012 or Supported Wage Award-State 2012 provisions need to be incorporated into either the *Queensland Fire and Rescue Service Award – State 2012*, or the *Queensland Fire and Rescue Service Communications Centres Award – State 2012*, as neither of those generic instruments are currently used within the service .

UFUQ also submit that those generic awards could continue as "stand alone" modern awards and do not need to be repealed, or used as a basis to insert related schedules into other modern awards. That approach may cause unnecessary overlap and repetition between a number of state awards.

In the event that, employees of QFES might potentially be covered by provisions such as apply in the existing Training Wage Award-State 2012 or the Supported Wage Award-State 2012, then they could be covered by modernised versions of those awards.

We submit that the QIRC's consideration of those awards should result in modernised versions of those awards continuing as stand alone awards.

Order – Apprentices and Trainees’ Wages and Conditions (Queensland Government Departments and Certain Government Entities)

We note that the QIRC is considering repealing the “Order-Apprentices and Trainees’ Wages and Conditions (Queensland Government Departments and Certain Government Entities)” as part of the ‘award modernisation process’. The Order is not currently used within QFES, but should any employees potentially be employed under that Order, or a subsequent Order made under section 137 of the Act, then the Orders should continue to apply and not be affected by the ‘award modernisation process’. The Act expressly provides for such Orders to be made under distinct sections of the Act and for them to apply in conjunction with awards if necessary. The ‘award modernisation process’ provisions in the Act, do not encompass the repeal of Orders made under section 137.

Family Leave (Queensland Public Sector) Award -2012

UFUQ have an interest in the Family Leave (Queensland Public Sector) Award -2012.

We believe that the Family Leave (Public Sector) Award-2012 should be examined as to whether it can be retained as a separate award.

In the Minister’s request, at paragraph 23, the QIRC is to consider identifying matters contained in the Family Leave (Queensland Public Sector) Award-2012, which are ‘*safety net terms and conditions*’.

UFUQ have an interest in any identification by the QIRC of what constitutes ‘*safety net terms and conditions*’ as any findings or views of the tribunal as to what constitutes ‘*safety net terms and conditions*’ could provide significant precedent, or at least a preconception, in relation to subsequent matters affecting the union and the awards covering our members.

In the event that the tribunal intends to decide which existing provisions of the Family Leave (Queensland Public Sector) Award-2012 are ‘*safety net terms and conditions*’ and which existing provisions are not ‘*safety net terms and conditions*’, then UFUQ wishes to be heard before any decisions are made.

“Safety Net”

As mentioned above, UFUQ notes that the Minister’s request, refers to ‘*safety net terms and conditions*’.

The Act has recently been amended to introduce the concept of a ‘*safety net*’, although the Act does not appear to expressly define the ‘*safety net*’, or what is, or is not a ‘*safety net term and condition*’.

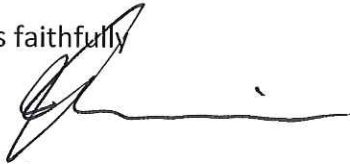
Section 140D (2) assists in a limited way to understand how modern award provisions might be determined, so as to form part of a ‘*safety net*’ in conjunction with the QES.

Provisions in existing pre-modernisation awards may be carried over into new modern awards which become part of the new concept of a ‘*safety net*’.

The concept of a ‘*safety net term and condition*’ is problematic and there has been no ruling or decisions under the *IR Act 1999* to guide any of the parties as to what it means.

If the tribunal intends to make any findings, or form any preliminary views, as to what a '*safety net term and condition*' is, or which existing provisions of the Queensland Fire and Rescue Service Award – State 2012, or the Queensland Fire and Rescue Service Communications Centres Award – State 2012, are, or are not, '*safety net terms and conditions*', then the union wishes to be heard.

Yours faithfully

A handwritten signature in black ink, appearing to be 'John Oliver', with a long horizontal stroke extending to the right.

John Oliver
State Secretary