Public Service Commission (Qld)

Submission to the Senate Education, Employment and Workplace Relations Committee Inquiry: The conditions of employment of state public sector employees and the adequacy of protection of their rights at work as compared with other employees

Summary

Employment in the Queensland public sector provides an opportunity to contribute to the achievement of real service outcomes for Queenslanders, in an employment context of renewal, opportunity and beneficial employment conditions.

As the organisation responsible for workforce policy and industrial relations affecting State employees, the Public Service Commission (PSC) has worked to ensure a legislative and practice framework exists within the Queensland public service, that enables and supports the Government to achieve its policy agenda and implement its election promises.

This process has included implementing reforms that have had impacts on State employees; impacts that have been widely publicised and encouraged considerable discussion and debate about the employment conditions and protections for State employees.

The legislative framework for public sector employment in Queensland provides chief executives with the ability (and responsibility) to manage and support their human resources, their employees, in a way that enables effective and efficient delivery of services. A multi-layered framework provides employees with conditions and protections that are, overall, more beneficial than those provided for in other sectors.

Queensland public sector employees also benefit from the existence of independent review bodies such as the Queensland Industrial Relations Commission (QIRC). The QIRC acts not only as an independent arbiter when parties seek its assistance, but has broader oversight with a number of powers exercisable on its own volition. Through the QIRC, employers and employees (along with their industrial organisations) have certainty that industrial matters will be resolved in a logical, orderly and robust manner. Such benefits are particularly identifiable in areas such as the negotiation of certified agreements, where the QIRC has the ability to conduct conciliation and, if necessary, arbitration, ensuring outcomes are actually achieved.

The following submission addresses the Committee's terms of reference providing information on the industrial framework for State employees in Queensland, compares key entitlements and protections against the National Employment Standards and addresses Queensland's consistency with Australia's commitments under International Labour Organization (ILO) conventions. For the reasons set out below, and without in any way

diminishing the experience of individuals affected by recent reforms, the PSC submits that the Queensland public sector continues to be a desirable and beneficial place to work.

Queensland State Public Sector /Service Framework

The Committee's terms of reference call for it to consider a range of questions in relation to 'state public sector employees'. With each state having its own structure for its public sector/service, an overview of Queensland's structure is provided to contextualise the information contained in this submission.

In Queensland, state employment can be divided into two tiers: Queensland State Government employment, and Local Government employment (with this submission predominantly focused on the former).

As a State, Queensland is responsible for delivering a broad range of services to a geographically widespread population. Queensland operates a model that employs a greater regionalisation of service delivery than other Australian jurisdictions. Government agencies are present in a range of rural and remote locations across Queensland, providing accessible services to Queenslanders. For example, through the public sector, Queensland provides education services through over 1200 schools[1], health services through 17 hospital and health districts[2] and community safety and police services to communities in urban, rural and remote areas. This model of service delivery necessarily brings with it human resource and industrial relations considerations (and challenges) that are not as profound in other Australian jurisdictions.

At the State Government level there are two groups: the public *sector* and the public *service*, the latter being a subset of the former. The public *service* includes a broad range of occupational groups, such as child safety officers, teachers, corrective services officers, researchers, environmental scientists and customer service officers. Occupational groups such as police, health service practitioners (doctors, nurses, allied health professionals) and emergency services fall within the broader public *sector*.

The employment framework (including industrial / workplace relations) differs between these tiers and groups of employees.

The employment framework for the public *service* is established by two key pieces of legislation:

- *Public Service Act 2008* (PSA)
- *Industrial Relations Act (Qld) 1999* (IRA)

[1] Reports and Statistics, Queensland State Schools, August 2012
[2] Queensland Health website: Hospital and Health Services http://www.health.qld.gov.au/services/default.asp (accessed 05/02/2013)

The public *sector* is not covered by the provisions of the PSA, but rather by applicable establishing legislation and the IRA. There are, however, some aspects of the public *sector* that are covered by the provisions of the *Fair Work Act 2009* (FWA), such as Government Owned Corporations (GOCs).

Local government employees are covered by the IRA and applicable establishing legislation.

Employment conditions (including entitlements and protections) at the state and local government level are also established through awards and certified agreements. A number of awards and agreements exist at both levels, such as the *State Government Departments Certified Agreement 2009*, which applies to over 50,000 employees.

Further conditions and entitlements for the public *service* are set out in rulings, issued by the Minister responsible for public sector industrial relations or the Commission Chief Executive of the PSC. The type of ruling determines its degree of authority and its relationship with industrial instruments. Directives (a type of ruling) are binding upon the public *service* (s47 PSA). Directives issued by the Commission Chief Executive prevail over industrial instruments, unless a regulation provides otherwise, whilst an industrial instrument prevails over a directive issued by the Minister responsible for public sector industrial relations, unless the directive provides otherwise (s52 PSA).

Attachment One provides a diagrammatical representation of the state employment structure in Queensland.

Where applicable, the below information differentiates between state and local government employees and /or the public *sector* and the public *service*.

Public Sector Service Delivery

The Queensland Government is committed to ensuring it has a public sector that delivers the services Queenslanders need in an effective and efficient manner. Following the 24 March 2012 general election, the Government established an independent Commission of Audit to review and report on Queensland's finances and make recommendations for improving the state's financial position and enhancing service delivery[3]. In its Interim Report, the Commission of Audit noted the impact of recurrent employee expenses on the state's financial position and made recommendations to cap these as part of the fiscal repair task[4].

The fiscal situation, coupled with the incoming Government's vision and election commitments on service delivery necessitated the implementation of reforms to the public sector.

[3] The Terms of Reference for the Queensland Commission of Audit are available from www.commissionofaudit.qld.gov.au

[4] Queensland Commission of Audit Interim Report June 2012 (pages 7 and 15)

Queensland is not unique in this regard: reform has been a common characteristic of Australian governments over recent years; changes to the respective public services / sectors have been key components of this as governments strive to achieve appropriate, relevant and modern service delivery, within constrained fiscal environments.

As noted by the Australian Public Service (APS) Commissioner in the APS State of the Service Report 2011-12:

> *Even in times of great fiscal constraint, government policy must respond to evolving community needs and expectations. New priorities for government support must be accommodated within the government's overall funding envelope. This reinforced the enduring requirement that the APS always look for new ways to improve the efficiency of its operation, including its 'back office', and support the government with advice that enables it to reprioritise its activities and programs to cull the least effective and make room for emerging and higher priorities…*[5]

Public sector reform is always going to draw attention; the public has (understandably) diverse expectations about what and how governments should deliver services, with these expectations influenced by historical practices, as well as current social and personal circumstances. Public sector reforms that encompass changes to the number of public servants are always controversial; as any review of news and social media would show there are varied (and strong) views about the appropriate size and make-up of the public sector / service.

The changes to Queensland's public sector have been well publicised, both in relation to changed models of service delivery and reductions in staffing numbers. As outlined in the 2012 budgetary process, the Queensland public service will necessarily be reduced by 14,000 full-time equivalent (FTE) positions in 2012-13, with the Queensland government being explicit that this action is being taken to address the State's financial position and to reallocate funding to frontline services (such as the engagement of 1,100 new police officers over a four year period). Reductions are occurring by deciding not to extend temporary engagements, natural attrition and a voluntary redundancy program for 10,600 employees[6].

As stated by the APS Commissioner in the APS State of the Service Report 2011-12 (in the context of the APS, but able to be extrapolated to governments broadly),

> *Contrary to the commentary of some business spokespersons, the optimal size of the APS is difficult to establish a priori. It is best derived from the nature and scale of the*

[5] Page 2, accessed on 7/01/2013 from http://www.apsc.gov.au/__data/assets/pdf_file/0010/10621/1217-State-of-the-Service-2011-12lr-v2.pdf

[6] Hon TJ Nicholls, Treasurer and Minister for Trade reported in the Record of Proceedings for the Fifty-First Session of the Fifty-Fourth Parliament, 11 September 2012, page 1814.

activities the Australian Government undertakes and its preferred delivery model in pursuing them[7] (emphasis added).

A review of the Commonwealth and other states reveals trends similar to Queensland in the management of their public sector / service workforces. For example:

- the Australian Public Service (APS) Statistical Bulletin[8] reports that there have been 5,666 retrenchments in the APS in the three (3) years to 2012. The APS State of the Service Report 2011-12 noted that "the strongest growth in separations was in retrenchments, which increased by 21.3%, from 1,801 to 2,184"[9]
- in a statement issued on 22 June 2012, the Premier and the Treasurer of Victoria provided an update on its 'Sustainable Government Initiative', which included additional reductions in staffing numbers in the public *service*, bringing the total reductions to 4,200 (with approximately 910 of the reductions addressed through attrition and non-renewal of contracts)[10]
- New South Wales has also established a program of redundancies, announcing in 2011 an intent to offer 5000 over a four year period[11]
- in 2011, the Tasmanian government began the process of implementing State Service Reforms with a focus on productivity increases and budget savings. Strategies for reform include a workforce renewal incentive program and targeted voluntary redundancies[12]. The Tasmanian state service reduced by 1,100 positions in 2011-12, with agencies needing to find further savings in the current and future years[13]
- a targeted voluntary separation program has been in place for the South Australian public service since 2010, with 770.8 FTE separations having occurred between 1 November 2010 and 31 March 2012[14]. Further separations under the program are expected with a further $60.4M allocated in the 2012-13 budget for this purpose[15].

In the interim report of the New South Wales Commission of Audit (released in January 2012), it was found that that "*changes made over the past decade greatly reduced public*

---

[7] Page 2, accessed on 7/01/2013 from http://www.apsc.gov.au/__data/assets/pdf_file/0010/10621/1217-State-of-the-Service-2011-12lr-v2.pdf

[8] Accessed on 7/01/2013 from http://www.apsc.gov.au/about-the-apsc/parliamentary/aps-statistical-bulletin/2011-12/section-4/table-49

[9] Page 257, accessed on 7/01/2013 from http://www.apsc.gov.au/__data/assets/pdf_file/0010/10621/1217-State-of-the-Service-2011-12lr-v2.pdf

[10] Accessed on 8/01/2013 from www.premier.vic.gov.au

[11] Annual Report 2011-12, access on 8/01/2013 from www.psc.nsw.gov.au

[12] State Service Reforms, Department of Premier and Cabinet accessed 13 February 2013 from http://www.dpac.tas.gov.au/divisions/ssmo/vacancy_control/faqs

[13] 2012-13 Budget Speech, Premier Lara Giddings, 17 May 2012 accessed from http://www.premier.tas.gov.au/media_room/media_releases/the_2012-13_budget_speech_to_state_parliament

[14] 2012-13 Budget Statement, page 36

[15] 2012-13 Budget Statement, page 27

sector agencies' capacity to manage their people in best-practice ways. These included… informal government directions that make redeployment and redundancy difficult… [and] cumbersome and complicated industrial arrangements"[16].

In August 2012, the *Public Service and Other Legislation Amendment Act 2012* (Qld) (PSOLA) received assent. The PSOLA brought into effect a number of changes that were considered appropriate and necessary to "restore public sector accountability while at the same time streamlining processes to ensure that the Acts are administered as effectively and efficiently as possible"[17]. The changes included negating provisions in industrial instruments that impeded on the ability of the government (and its departments) to make and implement decisions as to how and what services it delivers[18].

Response to the Terms of Reference

The PSC provides the following comments in relation to the particular questions requiring consideration by the Committee.

(a) Whether the current state government industrial relations legislation provides state public sector workers with less protection and entitlements than workers to whom the *Fair Work Act 2009* applies

The PSC notes the breadth of this aspect of the terms of reference and, given the context of this inquiry, will confine our comments to a few key features related to the framework for entitlements, a comparison with the National Employment Standards (NES), management of excess employees, and rights of review about employment decisions. For the reasons outlined below, the PSC submits Queensland state employees enjoy entitlements and protections that are comparable, if not superior to, those provided to employees under the FWA.

Entitlement framework

As noted above, entitlements and protections for Queensland state employees are provided for through a multi-layered system, resulting in conditions that are at least as good as under the FWA.

The IRA is enacted with the principal objective of providing 'a framework for industrial relations that supports economic prosperity and social justice' (s3). The Act's objective is achieved through a number of ways, including:

[16] Page 7, 'How it is', State of the NSW Public Sector Report 2012 citing New South Wales Commission of Audit Interim Report.
[17] Page 1, Public Service and Other Legislation Bill 2012, Explanatory Notes for Amendments to be moved during consideration in detail by the Attorney-General and Minister for Industrial Relations.
[18] See s53(baa) of the PSA and Directive 8/12: Industrial Instruments: Employment Security and Contracting Out Provisions

- ‘providing for rights and responsibilities that ensure economic advancement and social justice for all employees and employers’ (s3(a))
- ‘providing for an effective and efficient economy, with strong economic growth, high employment, employment security, improved living standards, low inflation and national and international competitiveness’ (s3(b))
- ‘ensuring wages and employment conditions provide fair standards in relation to living standards prevailing in the community’ (s3(g))
- ‘providing for effective, responsive and accessible support for negotiations and resolution of industrial disputes’ (s3(m)).

The IRA provides a range of minimum entitlements (such as leave) and protections for employees (e.g. from unfair dismissal). It also establishes the QIRC as a court of record (s225), with broad powers over industrial matters, many of which are exercisable on its own initiative (s265). The QIRC can conduct inquiries into industrial matters (s265(3)) and issue General Rulings about employment conditions and minimum wages (s287). Such rulings set (or amend) minimum conditions[19].

The minimum employment conditions established under the IRA are built on through industrial instruments such as awards and certified agreements.

Awards may be made on the application of interested parties or by the QIRC acting on its own initiative to provide for ‘fair and just employment conditions’ (s125). The QIRC is responsible for ensuring, in essence, that awards are consistent with the objective of the IRA in that they, for example, ‘provide for secure, relevant and consistent wages and employment conditions’ (s126(d)) and are ‘suited to the efficient performance of work according to the needs of particular enterprises, industries or workplaces’ (s126(g)).

Awards prescribe a range of entitlements, including hours of work, allowances and wages and can increase the minimum conditions provided for under the IRA. For example, the IRA provides a minimum long service leave entitlement of 8.6667 weeks leave after 10 years of service (s43); this is increased by the *Queensland Police Service Award State – 2012*, to 13 weeks of leave for 10 years of service (s7.3).

Certified agreements also provide entitlements and protections to employees, tailored to particular working environments. The QIRC may only certify an agreement that passes the ‘no-disadvantage test’ (s156(h)) – that is, it must not result in a reduction of employees entitlements and conditions (s160). Certified agreements are used as the vehicle for providing above award wage increases.

[19] For example, in 2010 the QIRC issued a General Ruling increasing the minimum overtime meal allowance payable under awards.

The process for negotiating agreements and the QIRC's role in relation to same is discussed in greater detail below, however it important to note that the QIRC has a key role in ensuring outcomes are actually achieved when parties seek to enter into a certified agreement. The QIRC is not reliant upon agreement by the parties to arbitrate outcomes, but rather can act of its volition to ensure outcomes (and hence certainty) are achieved (s149 IRA).

As noted above, public *service* employees are also provided with increased or additional entitlements through rulings issued by the Minister responsible for public sector industrial relations or the Commission Chief Executive of the PSC (ss53-54 PSA). For example, the Minister issued a ruling, Directive 26/10: Paid Parental Leave, that provides a 14 week paid parental leave entitlement[20] that sits above the unpaid parental leave entitlement contained in the IRA (Part 2) and the *Family Leave (Queensland Public Sector) Award – State 2012*.

A review of the entitlements of state employees against the National Employment Standards[21] under the FWA shows greater entitlements apply to public service employees on all but one standard (being the obligation to provide the Fair Work Information Statement, which does not exist under the Queensland system):

- *Maximum weekly hours of work*: the NES prescribes 38 hours plus 'reasonable additional hours'.

  Hours of work for Queensland public sector employees[22] are set out in awards. Full-time hours of work are between 32.25 and 38 hours depending on the nature of the role undertaken. Work performed additional to ordinary hours is compensated through time-off-in-lieu or the payment of overtime (see for example, *Queensland Health Nurses and Midwives Award – State 2012*[23] and Directive 5/05: Hours and Overtime[24]).

- *Requests for flexible working arrangements*: the NES prescribes that parents and carers can ask for a change in working arrangements to care for young children under school age or children under 18 with a disability.

  The IRA provides a legislated entitlement for parents to request part-time work until their child reaches schooling age (s29B). State employees are also provided with carer's leave entitlements under the *Family* Leave *(Queensland Public Sector) Award*

[20] This entitlement pre-dates the Commonwealth's Paid Parental Leave Scheme and continues to be accessible by those who access benefits under the Commonwealth scheme.
[21] Accessed 23/01/2013 from http://www.fairwork.gov.au/employment/national-employment-standards/pages/what-are-the-10-nes-entitlements.aspx
[22] Excluding executive contract employees
[23] Available from the QIRC website (www.qirc.qld.gov.au)
[24] Available from the PSC website (www.psc.qld.gov.au)

– *State 2012*. Further, s25(2)(b) of the PSA provides that public service employment is to be directed towards 'equitable and flexible working arrangements…'

- *Parental leave and related entitlements*: the NES provides for up to 12 months unpaid leave, the right to ask for an extra 12 months unpaid leave and other types of maternity, paternity and adoption leave.

  The entitlements provided for under the NES are matched through Chapter 2 of the IRA. PSC notes again, the additional entitlement to 14 weeks paid parental leave available to public service employees.

- *Annual leave*: the NES provides for 4 weeks paid leave per year, plus an extra week for some shift workers.

  Section 11 of the IRA provides for four (4) weeks paid leave for employees and five (5) for shift-workers. An entitlement to leave loading of 17.5% may also payable to public sector employees under awards (such as through the *Youth Workers' Award – Department of Communities, Child Safety and Disability Services – State 2012*) and Directive 2/11: Recreation Leave.

  Annual leave entitlements are varied for some public sector employees through awards. For example, police officers receive six (6) weeks annual leave, with a further week for officers in the northern and western regions of the state[25]. Police officers also receive up to 12 programmed days off per year as part of the implementation of their rostering arrangements[26].

- *Personal / carer's leave and compassionate leave*: the NES provides 10 days paid personal (sick) / carer's leave, 2 days unpaid carer's leave and 2 days compassionate leave (unpaid for casuals) as needed.

  As noted above public *sector* are also provided with carer's leave entitlements under the *Family Leave (*Queensland *Public Sector) Award – State 2012*. This includes an ability to use any sick leave entitlement (which accrues at 10 days per year) for caring purposes, take unpaid carer's leave as needed and, by agreement use annual leave for carer's purposes (see Part 9).

  Public *service* employees are also provided with access to 'special' leave including on emergent or compassionate grounds under Directive 2/12: Special Leave.

[25] Section 7.1, *Police Service Award – State 2012*
[26] Section 6.2.2, *Police Service Award – State 2012*

- *Community service leave*: the NES provides for up to 10 days paid leave for jury service (after 10 days is unpaid) and unpaid leave for voluntary emergency work.

  The IRA provides for employees to be paid, by their employer, the difference between their ordinary salary and that received as juror remuneration, for the period of jury service (s14A).

  Directive 2/12: Special Leave provides public service employees with leave on full salary as required to undertake duties in a declared emergency or disaster situation.

- *Long service leave*: the NES provides for entitlements from State legislation to be carried over.

  Refer above for long service leave entitlement for Queensland state employees.

- *Public holidays*: the NES provides for paid days off on public holidays unless it's reasonable to ask the employee to work.

  Section 15 of the IRA provides an entitlement equivalent to the NES, along with specifying the public holiday rates payable where work is performed.

  The rates payable may be increased under industrial instruments, such as the *Queensland Public Service Award – State 2012* (s7.7).

  Public *service* employees are also provided with a 'concessional' leave day (with no debit to their leave accruals) adjacent to the Christmas / Boxing Day public holidays[27].

- *Notice of termination and redundancy pay* - up to 4 weeks' notice of termination (5 weeks if the employee is over 45 and has been in the job for at least 2 years) and up to 16 weeks redundancy pay.

  The IRA provides termination notice provisions consistent with the NES (refer s84). Severance payments for redundancy are discussed below.

As is evident from the above information, Queensland state employees, through the multi-layered system, are provided with employment conditions that are, overall, more favourable, than those provided for under the FWA.

[27] Circular 1/12: 2012/2013 Christmas / New Year Compulsory Closure (available from www.psc.qld.gov.au)

Excess employees

The current Queensland framework gives an appropriate balance in providing stability to employees with the obligations on chief executives to maximise the efficient use of tax payer's money in achieving service delivery outcomes.

Queensland's recent reforms and corresponding redundancy arrangements are not unique. A *guarantee* of employment security is not something that routinely exists in Australian jurisdictions. A review of the legislative and industrial frameworks in other states and at the Commonwealth level indicates that the majority do not contain provisions on public sector / service employment security, but rather *explicitly* contemplate that public sector/service employees may be terminated / made redundant where they are excess to their agency's / service's requirements. For example, being excess to an Agency's requirements is listed as a ground for termination in the Australian Public Service (APS)[28], where responsibility for 'downsizing exercises' lies with individual APS agencies. Downsizing exercises are based on particular workplace arrangements and budgets[29] including meeting the additional 2.5% efficiency dividend announced as part of the Mid Year Economic and Fiscal Outlook 2012-13[30].

Similar to Queensland, a number of jurisdictions have in place arrangements to seek voluntary acceptance of redundancy packages and/or require efforts to place the employee into alternative roles before termination occurs[31].

Jurisdiction	Redundancy Provisions for Public Sector / Service
Qld	See below
Cth	*Public Service Act 1999* provides for termination of APS employee if they are excess to requirements (s29(3)(a)) *APS Redeployment Policy* provides for the redeployment of excess staff, for 'strategic' offers of voluntary redundancies and for compulsory retrenchments as a 'last resort' (s1.8).
NSW	*Public Sector Management and Employment Act 2002* provides for the Department Head to take 'all practicable steps' to secure the transfer of an excess employee and may, with the approval of the Commissioner, dispense with the services of excess employees who are not transferred (s56)
VIC	*Public Administration Act 2004* provides for termination of a public service employee on the ground of redundancy (s33(1)(a)) *Victorian Public Service Workforce Determination 2012* provides that casual labour and fixed term contracts will not be used to undermine job security for

[28] *Public Service Act 1999* (Cth), s29(3)(a)
[29] Section 2.3.1. 'Terminating APS Employment', Australian Public Service Commission accessed 12 February 2013 from http://www.apsc.gov.au/publications-and-media/current-publications/terminating-aps-employment
[30] Budget Overview, 8 May 2012, Page 34.
[31] See for example, *Public Sector Act 2009* (Cth), s54; Managing Excess Employees Directive, NSW Public Service Commission; Directive 6/12: Employees Requiring Placement (Qld Public Service Commission).

	ongoing employees (ss13.6 and 13.7)
SA	*Public Sector Act 2009* provides for the termination of a public sector employee on the grounds that they are excess to the requirements of the agency (s54(1)(a)) after reasonable endeavours have been made to transfer the employee to another role at the same remuneration level. *South Australia Public Sector Wages Parity Enterprise Agreement: Salaried 2012* provides for no 'forced' redundancies (s9).
WA	*Public Sector Management (Redeployment and Redundancy) Regulations 1994* provides for deployment or voluntary redundancies for surplus employees.
NT	*Public Sector Management and Employment Act* (as in force 1 July 2012) provides that a surplus employee may be terminated with approval from the Commissioner where they have been unable to be transferred to another role (s43). *Northern Territory Public Sector 2010 – 2013 Enterprise Agreement* provides there will be no involuntary redundancies and no job losses "*arising directly from the implementation of [the] Agreement*" (s44).
TAS	*State Service Act 2000* provides for the Minister to terminate the employment of a surplus employee where the employee has been unable to be transferred to an alternative role
ACT	*Public Sector Management Act 1994* provides that an excess employee may be retired from the service if reasonable efforts have been made to transfer / redeploy them. *ACT Public Service Chief Minister and Cabinet Directorate Enterprise Agreement 2011 – 2013* provides for job security to be promoted by minimising the use of temporary or casual employment (A2.2) and contractors / consultants (B11.1) and privatising services to specified circumstances (G9.1). The agreement also provides that when there are excess employees and deployment is not possible, "voluntary redundancy, reduction in classification and involuntary redundancy will be considered in that order" (K1.1).

Section 138 of the PSA requires chief executives to take action in accordance with a directive, where they believe an employee is surplus to their departments' needs. Under a Directive issued by the Commission Chief Executive of the PSC, affected employees in the Queensland public service have a choice between voluntarily accepting a redundancy package or joining a service wide placement pool, where efforts are made to match them with alternative roles within the public sector/service[32]. As at 8 February 2013, 93.58% of employees who received offers had accepted a voluntary redundancy, 4.87% have elected to pursue service wide placement and the remaining 1.55% were considering the offer. Of the 353 employees who elected to pursue placement 227 (64.31%) have been placed into alternative ongoing roles.

[32] It is noted that the ability to offer redundancies or retrench state employees in Queensland, where the possibility for placement or redeployment had been exhausted, is long standing ability that predates the 2012 reforms (see for example Repealed Directive 7/97: Retrenchment). Redundancy and retrenchment provisions have also had a long history in industrial legislation.

In addition to providing support to affected employees in seeking new placements, public service employees are provided with access to an enhanced employee assistance program (EEAP). The EEAP operates in addition to existing and ongoing agency support services (counselling / support on matters such as work-related change, finances and career transitioning). The EEAP enables access to additional services and support such as career assessment, planning and coaching and job readiness for the broader employment market.

A decision that an employee's role is redundant gives rise to entitlements for the employee. Under the FWA, a severance payment of between four (4) and 16 weeks' salary is payable depending on the employee's years of service (s119). For Queensland public service employees, awards contain minimum redundancy entitlements, but significantly more beneficial entitlements are prescribed through Directive 11/12: Early Retirement, Redundancy and Retrenchment. Employees who accept a redundancy package are entitled to 12 weeks salary in addition to a severance payment of between four (4) and 52 weeks' salary (depending on period of service) as well as payout of leave accruals. Retrenchments give rise to an entitlement to the severance payment (to the maximum 52 weeks), as well as payout of leave accruals.

As the below table shows, a comparison between the entitlements of an employee under the FWA or an APS arrangement with the Queensland public service indicates greater compensation for the latter.

Years of Service	**Redundancy Packages (weeks' salary)**		
	Queensland Public Service	**Fair Work Act**	**Department of the Prime Minister and Cabinet**[33]
Less than one	**16 weeks'** made up of 4 weeks' severance + 12 weeks' incentive	0 weeks	**10 weeks'** made up of 0 weeks' severance + 10 weeks incentive[34]
Five	**22 weeks'** made up of 10 weeks' severance + 12 weeks' incentive	10 weeks	**20 weeks'** made up of 10 weeks' severance + 10 weeks incentive
Nine	**30 weeks'** made up of 18 weeks' severance + 12 weeks' incentive	16 weeks	**28 weeks'** made up of 18 weeks' severance + 10 weeks incentive
Ten	**32 weeks'** made up of 20 weeks' severance + 12 weeks' incentive	12 weeks	**30 weeks'** made up of 20 weeks' severance + 10 weeks incentive

[33] Australia Public Service departments are responsible for determining individual redundancy arrangements that meet or exceed the minimum requirements under the FWA. See s2.3.3 of 'Terminating APS Employment', Australian Public Service Commission. The Department of the Prime Minister and Cabinet has been used as an example, with arrangements set out in its Enterprise Agreement 2011 - 2014. It is noted that under these arrangements, where an APS employee is involuntarily retrenched, the severance payment is reduced for any period they remain employed seeking deployment across the APS (see s31).

[34] Employees of the Department of the Prime Minister and Cabinet are offered an incentive of 10 weeks' salary under an 'accelerated separation option', where they are terminated within 14 days of offer.

Fifteen	**42 weeks'** made up of 30 weeks' severance + 12 weeks' incentive	12 weeks	**40 weeks'** made up of 30 weeks' severance + 10 weeks incentive
Twenty-Six	**64 weeks'** made up of 52 weeks' severance + 12 weeks incentive	12 weeks	**58 weeks'** made up of 48 weeks' severance + 10 weeks incentive

Review rights

Employees in the Queensland public service are provided with the opportunity to seek review of employment related decisions through a variety of mechanisms. Public service agencies are required to have a complaints management framework in place for their employees, that provides for both local resolution and an internal review process[35]. Complaints can be lodged in relation to perceived adverse administrative decisions or unreasonable or harassing conduct. Complaints must generally be resolved within 21 days and written advice on the outcome provided to the employee. Where employees remain aggrieved, an internal review can be sought, with a 14 day resolution timeframe.

Public service employees can also seek external review of decisions through the independent Appeals Officer[36]. The Appeals Officer can hear appeals in relation to a range of matters, from administrative decisions made under directives (rulings), to decisions about promotions, transfer or discipline. The Appeals Officer has broad authority in how they conduct proceedings and has the power to confirm, revoke or substitute a decision or return a decision with specific orders.

State and local government employees have access to the QIRC through grievance procedures contained in awards and enterprise agreements. The QIRC has the power to seek resolution of a dispute initially through conciliation and, if necessary and appropriate, through arbitration (see s230 IRA). The broad powers of the QIRC are again evident in that it can act to intervene in a dispute where a party to the dispute has given notice, where the Minster for Industrial Relations has given notice or on its own initiative, where it is in the public interest to do so (s230). The QIRC can issue and enforce orders associated with the prevention or resolution of a dispute (s230(4)).

The QIRC is also authorised to deal with complaints of unfair dismissal, where remedies include reinstate to the previous role, re-engagement in an alternative role or compensation[37]. A discussion on the QIRC's powers in conciliating or arbitrating certified agreements is provided below.

State and local government employees also have access to other complaint / review bodies such as the Queensland Ombudsman, the Crime and Misconduct Commission

[35] Directive 8/10: Managing Employee Complaints (Qld Public Service Commission)
[36] PSA, Chapter 7
[37] IRA, Chapter 3

and the Anti-Discrimination Commission of Queensland (ADCQ). The particular issues for which review is sought will determine which entity has jurisdiction.

The nature and breadth of review options available to state employees help ensure adequate protections of their rights and entitlements.

(b) Whether the removal of components of the long-held principles in relation to Termination, Change and Redundancy (TCR) from state legislation is a breach of obligations under the International Labour Organization (ILO) conventions ratified by Australia

As the Committee is aware Australia has ratified a number of conventions of the International Labour Organization (ILO), including C158 - Termination of Employment Convention, 1982 (ratified 26 February 1993). C158 provides a framework for the termination of employment, including reasons and notification / consultation provisions. Article 1 contemplates that the provisions of the convention can be given effect through a number of means, including collective agreements, awards, court decisions or laws and regulations.

Article 13 of C158 deals with consultation of workers' representatives and is given effect in Australia through the *Fair Work Act 2009* (Cth) (FWA)(refer Ch 6, Part 6-4, in particular s784). The FWA does not make explicit the obligation to comply with C158 but provides for Fair Work Australia to make orders in respect of failure to undertake certain actions that are akin to the articles contained in C158 (s786 FWA). Part 6-4 extends the coverage of the FWA from 'national system employees / employers' to employers / employees within their ordinary meaning (including the State of Queensland in its capacity as an employer)[38].

In 2012, the *Industrial Relations Act 1999* (Qld) (IRA) was amended[39] as to the obligations of the State[40] (in its capacity as an employer) associated with termination, change and redundancy (TCR) provisions. The IRA relevantly provides (at s691D):

1) *This section applies if a relevant industrial instrument includes a TCR provision about notifying an entity of a decision or consulting with an entity about a decision.*
2) *The following principles apply—*
   a) *the employer is not required to notify the entity of the decision until the time the employer considers appropriate;*

[38] The extension of coverage relies upon the Commonwealth's external affairs power in s51(xxix) of the *Commonwealth of Australia Constitution Act*. Refer paragraph 2770 of the Explanatory Memorandum to the Fair Work Bill 2008.
[39] By the *Public Service and Other Legislation Amendment Act 2012*
[40] Section 691B of the IRA provides the application of Part is to industrial instruments of a government entity

b) *the employer is not required to consult with the entity about the decision until the employer notifies the entity of the decision;*
c) *the employer is not required to consult with the entity about the decision other than in relation to implementation of the decision.*

As the Committee is aware, the *Commonwealth of Australia Constitution Act* provides that "when a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid" (s109). In their recent judgement in the matter of *The Australian Workers' Union of Employees, Queensland v State of Queensland; State of Queensland v Together Queensland, Industrial Union of Employees & Anor* [2012] QCA 353 ('AWU v Qld'), Holmes, Muir and White JJA considered whether s691D of the IRA and Part 6-4 of the FWA could coexist.

Their Honours considered whether a direct or indirect inconsistency existed, which would have the result that s109 of the Constitution rendered s691D of the IRA invalid[41]. Their Honours noted that s786 of the FWA could be viewed as giving rise to an obligation consistent with the provisions of C158, however found that s691D 'does not absolve employers of that obligation; it merely removes the industrial instrument as an additional source of such an obligation' and consequently there is no direct inconsistency (paragraphs 130 – 133).

Their Honours also accepted the argument put forward by the State that Chapter 6-4 was not intended to 'cover the field', noting that s722 of the FWA contemplates the possibility of State legislation of a similar kind (paragraphs 136 – 137), with the result that there is no indirect inconsistency between s691D of the IRA and Chapter 6-4 of the FWA.

The findings in this matter logically lead to a conclusion that the amendments to the IRA do not constitute a breach of the ILO obligations contained in C158, as reflected through the FWA[42].

(c) Whether the rendering unenforceable of elements of existing collective agreements relating to employment security is a breach of the obligations under the ILO conventions ratified by Australia relating to collective bargaining

The ILO has two conventions that deal with collective bargaining; C098 – Right to Organise and Collective Bargaining Convention, 1949, and C154 – Collective Bargaining

[41] Refer paragraphs 117 – 138 of the judgement.
[42] As at the date of writing, the Australian Workers Union has lodged an application with the High Court seeking leave to appeal the decision in AWU v Qld.

Convention, 1981. Australia has only ratified the former (C098)[43], however Article 6 of that convention provides:

> *This Convention does not deal with the position of public servants engaged in the administration of the State, nor shall it be construed as prejudicing their rights or status in any way.*

Notwithstanding the above, the PSC makes the observation that in their decision in AWU v Qld (cited above), Holmes, Muir and White JJA considered the validity of amendments made to the IRA by the PSOLA, which had the effect of nullifying certain provisions contained in industrial instruments for which the State of Queensland is the employer. The affected provisions are those which relate to contracting (out of services), employment security and organisational change (s691C IRA). The amendments also amended provisions of industrial instruments relating to the giving of personal employee information, limiting disclosure to situations where there is written authorisation from the employee (s691E). As part of their decision, their Honours confirmed the authority of the Queensland Parliament to establish a legal framework for the making of decisions by the QIRC as the body responsible for certification of awards and collective agreements (paragraph 102). Their Honours made the observation that the QIRC (or the Industrial Court of Queensland) would be required to make decisions about compliance with the provisions of industrial instruments by '[applying] the law as it existed at the date of their respective determinations' (paragraph 107). Further, it was noted that:

> *The new provisions must be read with the old "as one connected and combined statement of the will of Parliament". Moreover, in construing the [IRA] it cannot be thought that the quite specific, and later, provisions inserted by the [PSOLA] would not prevail over the more general, and earlier, provisions…*(original citations omitted) (paragraph 108).

The decision of the Court confirms the right of the Queensland Parliament, as the law making body, to enact laws that have the effect of amending or rendering null provisions of existing industrial instruments.

(d) Whether the current state government industrial relations frameworks provide protections to workers as required under the ILO conventions ratified by Australia

Australia has ratified 58 ILO conventions[44], a number of which deal with industry specific conventions[45], whilst others have a broader application that is not directly relevant to

[43] List of ratified instruments taken on 4 January 2013 from http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102544
[44] List of ratified instruments taken on 4 January 2013 from http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102544

the scope of this review[46]. The following observations are made in relation to relevant ILO conventions ratified by Australia.

C087 – Freedom of Association and Protection of the Right to Organise Convention, 1948
This convention deals with the right to form workers' and employers' organisations and associated activities (such as the drawing up of an organisation's constitution).

Chapter 12 of the IRA deals with the establishment of industrial organisations in Queensland. Employees of the State are free to determine their membership of same and protected from any adverse action as a result, e.g. through the ADA (see s7). In the event of a demarcation dispute, the QIRC is authorised to determine the rights of representation of an employee organisation for a particular group of employees (s279 IRA).

Section 110 of the IRA provides that union encouragement provisions are permitted in industrial instruments, with the QIRC issuing a Statement of Policy in December 2000 that provides guidance on an appropriate union encouragement provision[47]. Such provisions are common in industrial instruments for the public service, emphasising the right of each employee to make a choice about union membership and providing access to information about this choice[48].

C098 – *Right to Organise and Collective Bargaining Convention, 1949*
Notwithstanding the lack of application of this convention to State employees as noted above, the committee is referred again to the IRA.

As noted above, the principal objective of the IRA is to provide a framework for industrial relations that supports economic prosperity and social justice. A number of strategies for implementing the objective are relevant to C098:

- promoting participation in industrial relations by employees and employers (s3(h))
- encouraging responsible representation of employees and employers by democratically run organisations and associations (s3(i))
- promoting and facilitating the regulation of employment by awards and agreements (s3(j))
- providing for effective, responsive and accessible support for negotiations and resolution of industrial disputes (s3(m)).

[45] E.g. C007- Minimum Age (Sea) Convention, 1920
[46] E.g. C029 - Forced Labour Convention, 1930
[47] 2000 Statement of Policy: Union Encouragement Provisions
[48] See for example, s11.4 *Queensland Public Service Award – State 2012*

Chapter 4 of the IRA deals with Freedom of Association, with s101 providing the main purposes of the chapter as being to ensure that:

- a person who is eligible to become a member of an industrial association may become or remain a member of the association without fear of discrimination; and

- a person who does not wish to become or remain a member of an industrial association may refrain from doing so without fear of discrimination.

The remainder of Chapter 4 gives effect to these purposes, providing protections against adverse action because of an employee's decisions about union membership and any subsequent actions as a union member.

Chapter 12 of the IRA sets out the requirements for industrial organisations. Such organisations are subject to the democratic control of members and are responsible to members through, for example, elections and audits, with such arrangements supervised by the QIRC. Failure to comply with the IRA requirements can result in de-registration.

The Committee is also referred to Chapter 6 of the IRA. Certified agreements may be made between the employer and employee organisations or employees (s142), with negotiations for agreements to take place in good faith (s146). Where agreement is reached on the terms of the certified agreement, the QIRC will be asked to certify the agreement if it is satisfied relevant conditions are met, including ensuring a 'no-disadvantage' test is met (s156). Where agreement cannot be reached between the parties, the QIRC has the power to conciliate and if necessary, arbitrate (ss148 and 149).

The ability to enter into individual workplace agreements was removed in 2011, consistent with Queensland's commitment under a multilateral agreement for a national industrial relations system which prohibits such agreements[49].

C100 – Equal Remuneration Convention, 1951
As indicated by its title, this convention deals with ensuring male and female workers are remunerated equally for work of the same value.

The QIRC is bound to issue a General Ruling on minimum wages for employees (s287). Industrial instruments cannot provide conditions less beneficial than the general ruling, whether they are in existence at the time of ruling or entered into at a future date. In setting the minimum wage the QIRC must have consideration to the objective of the Act, balancing economic factors with social justice considerations. Wage outcomes need to align with economic performance and whilst social justice requires consideration that

[49] Electrical Safety and Other Legislation Amendment Bill 2011 Explanatory Notes, Page 3

wage arrangements facilitate living arrangements of a standard prevailing in the community (see s3).

Section 265 of the IRA authorises the QIRC to undertake inquiries into industrial matters, including on its own volition. The QIRC has undertaken inquiries into pay equity, including one in 2000/01, that subsequently led to the issuing of a Statement of Policy: 2002 Equal Remuneration Principle[50] . This Statement of Policy provides for an objective assessment of work values to determine applicable remuneration. Work is to be assessed on its current value, not historical practices or the characterisation of a particular type of work as 'female'. Consideration must also be given as to whether there has been historical underrating or under-evaluation of the skills of female employees. This approach is consistent with the ILO convention.

Section 130 of the IRA authorises the QIRC to undertake award reviews (including of its own volition). A required feature of awards is that they provide 'for equal remuneration for men and women employees for work of an equal or comparable value' (s126(e)) and 'secure, relevant and consistent wages and employment conditions (s126(d)). The award review process also enables the QIRC to include in awards contents that are 'flowed on' from certified agreements, provided they are consistent with the QIRC's principles for deciding wages and conditions (s129).

Wages in the Queensland public *service* are based on the classification level of the employee (determined by their job value). Job values are determined against established criteria (e.g. the Job Evaluation Management System). Public service wage rates (excluding executives) are set through collective bargaining processes, with agreements certified by the QIRC.

Equality of Employment Opportunity (EEO) also applies within the Queensland public sector. Chapter 2 of the *Public Service Act 2008* provides an obligation for public sector entities to act to promote EEO in employment matters (including recruitment, training and promotion) of target groups, which includes women.

C111 – Discrimination (Employment and Occupation) Convention, 1958
This convention deals with the protection of employees from discrimination (including termination) on the basis of various attributes including age, gender, impairment, parental status and trade union activity.

Queensland provides broad protections against discrimination through a single instrument: the *Anti-Discrimination Act 1991* (ADA). The ADA prohibits discrimination on

[50] Accessed 23/01/2013 from http://www.qirc.qld.gov.au/resources/pdf/rulings/equalremunprincip.pdf

the basis of 15 distinct attributes, as well as prohibiting discrimination against someone because of their association with a person with a relevant attribute (s7).

The IRA further strengthens the anti-discrimination provisions that apply to Queensland state employees. Section 3 of the IRA sets out ways in which the Act's principle objective (a framework for industrial relations that supports economic prosperity and social justice) is to be achieved, that contribute to the implementation of C111:

- providing for rights and responsibilities that ensure economic advancement and social justice for all employees and employers (s3(a))
- preventing and eliminating discrimination in employment (s3(c))
- ensuring equal remuneration for men and women employees for work of equal or comparable value (s3(d))
- helping balance work and family life (s3(e))
- assisting in giving effect to Australia's international obligations in relation to labour standards (s3(n)).

A further example can be found in s266 of the IRA, which requires that in exercising a power, the QIRC "must not allow discrimination in employment". Employees can also bring proceedings for unfair dismissal on the basis of an invalid reason including discrimination (s73). Terminations for invalid reasons can attract a monetary penalty (of up to 135 penalty units), separate and additional to orders for reinstatement or compensation (s80).

C081 – Labour Inspection Convention, 1947
This convention provides for the establishment / maintenance of a 'system of labour inspection in industrial workplaces'.

Chapter 10 of the IRA provides for the appointment and functions of industrial inspectors. Inspectors have a broad responsibility to ensure compliance with industrial instruments, with associated powers of access (to premises, document and information) and inspection. Obstruction of an inspector without reasonable excuse attracts a monetary penalty of up to 40 penalty units (s360).

Workplace Health and Safety Queensland (WHSQ) employs specialist health and safety inspectors throughout the State. Inspectors are appointed primarily to assist employers develop and improve systems of work, and to prevent people from being injured or becoming ill as a result of their daily work activities. WHS Inspectors operate across Queensland in all regions and across industries.

The Queensland Government also employs specialist electrical safety and mine inspectors.

C047 – Forty-Hour Week Convention, 1935
This convention commits members to the principle of a 40 hour working week.

Sections 9 and 10 of the IRA provide a maximum 40 or 38 hour week respectively for employees, depending on the date of the industrial instrument applying to them.

Hours of work for Queensland public sector employees[51] are set out in awards. Full-time hours of work are between 32.25 and 38 hours depending on the nature of the role undertaken. Work performed additional to ordinary hours is compensated through the time-off-in-lieu or the payment of overtime (see for example, *Queensland Health Nurses and Midwives Award – State 2012*[52] and Directive 5/05: Hours and Overtime[53]).

As is outlined above, Queensland has incorporated terms and conditions into its legislation that are consistent with, or more beneficial than, Australia has committed to through various ILO conventions.

(e) Whether State public sector workers face particular difficulties in bargaining under state or federal legislation

Bargaining in the Queensland public sector / service occurs in accordance with the provisions of the IRA, which the PSC submits, provides a process comparable to that provided for under the FWA.

The Queensland Government supports collective industrial relations, with employees being represented in bargaining processes by relevant unions and the Government represented by the relevant employing entity and a central bargaining unit from the PSC.

Minimum process requirements are set out in the IRA to support the parties in negotiating (and where possible) reaching consensus on a proposed agreement, including:

- minimum 14 days notice that negotiations are proposed to commence (s143);
- negotiations must be conducted in good faith (s146) (examples of good faith conduct are provided);
- employees are to be provided with ready access to the proposed agreement at least 14 days before they are balloted (s144(2)(a));

[51] Excluding executive contract employees
[52] Available from the QIRC website (www.qirc.qld.gov.au)
[53] Available from the PSC website (www.psc.qld.gov.au)

- the employer must take reasonable steps to explain the terms and their implications to employees (s144(2)(b)).

Following negotiations, employees proposed to be covered by the agreement are balloted, and an agreement is considered approved where a valid majority is achieved. A "valid majority" means a majority of the relevant employees who cast a valid vote to give an approval, after the employer has given the employees a reasonable opportunity to decide whether they want to give the approval" (Sch 5).

Where approval is given, an application is then made to the QIRC to certify the agreement. Section 156 provides that the QIRC must be satisfied in relation to a number of matters before certification can occur, including:

- compliance with process obligations (e.g. notice and explanation – see ss143- 145)
- no coercion
- the existence of a provision in the agreement for preventing and settling disputes
- that the agreement passes the no-disadvantage test (see s160).

As noted above, the QIRC has the capacity to conciliate (s148) or arbitrate (s149) where the negotiating parties have not been able to reach agreement on a proposed certified agreement. The QIRC's authority in this regard is particularly important as it ensures that an outcome is actually reached for the parties, as the QIRC can, on its own initiative determine that arbitration is to occur because the parties have been unable to reach resolution through negotiation or conciliation (s149(1)). This contrasts with the Fair Work Commission, which can only commence arbitration where the parties agree to this occurring (s240 FWA).

Section 149(5) of the IRA provides a range of matters the QIRC must consider in the event of arbitration, including the merits of the case, the likely impact of the determination (both on the parties and the community), (where the State is the employer) the State's financial position and fiscal strategy and the financial position of the public sector entity and the extent to which the parties have negotiated in good faith. The obligation to consider the financial position of the State and the relevant public sector entity helps to ensure longer term job stability for employees by considering whether different entitlements (including wage increases) will result in the State incurring (further) debt and potential consequential actions to address same.

Industrial action during negotiations

To facilitate the bargaining process, the IRA also provides for a peace obligation period. This prevents parties taking industrial action to advance their claims for the proposed agreement (s147). The peace obligation period starts 21 days after notice of intent to commence negotiations and ends no earlier than 7 days before the nominal expiry date of an existing agreement.

Other than as precluded by s147, industrial action can be taken by parties to a bargaining process. When industrial action is proposed, a formal ballot is conducted, ensuring that members' views determine whether and what action is taken. For industrial action to be protected 50% of those eligible to vote must do so and more than 50% of those who vote must approve the taking of the proposed industrial action (s176).

In 2012, a new provision was included in the IRA[54], which gives the Attorney-General the power to terminate industrial action because of significant adverse impacts on the economy or danger to health, safety and welfare (s818B). At the time of introducing this provision it was noted similar powers exist under Federal law and that the power will only be utilised where there are strong public interest reasons to do so[55].

In consideration of the above, the PSC submits that public sector / service employees in Queensland have a fair and appropriate opportunity for participation in collective bargaining that again, is comparable to that afforded to employees covered by the provisions of the FWA.

(f) Whether the *Fair Work Act* provides the same protections to state public sector workers as it does to other workers to the extent possible, within the scope of the Commonwealth's legislative powers

As the Committee is aware, the *Commonwealth of Australia Constitution Act* specifies the matters about which the Commonwealth government may legislate. Explicit authority on industrial relations matters is limited to "conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State" (s51(xxxv)). To legislate on industrial matters that occur within the boundaries of a State, the Commonwealth must rely on the referral of powers by the relevant State (s51(xxxvi)) or the existence of a sufficient nexus with another head of power (e.g. the external affairs power – s51(xxix)).

Through the *Fair Work Act 2009 (Qld)*, the Queensland Government referred power for workplace relations matters to the Commonwealth government (s5), however explicitly excluded from the referral matters relating to public sector employers or employees (s6).

As such, Queensland public sector employees do not fall within the scope of the FWA, but, for the reasons outlined in this submission, the PSC contends that overall, Queensland state employees enjoy protections better than those provided for persons under federal legislation.

[54] Inserted by *Industrial Relations (Fair Work Harmonisation) and Other Legislation Amendment Act 2012*
[55] Hon. JP Bleijie, Record of Proceedings, First Session of the Fifty-Fourth Parliament, Thursday, 17 May 2012, Page 92

(g) Noting the scope of the states' referrals of power to support the Fair Work Act, what legislative or regulatory options are available to the Commonwealth the ensure that all Australian workers, including those in state public sectors, have adequate and equal protections of their rights at work.

As detailed throughout this submission, notwithstanding reforms that occurred in 2012, state employees in Queensland continue to enjoy beneficial terms and conditions of employment. The current legislative framework provides an appropriate balance in protecting the interests of employees with achieving service outcomes for Queenslanders.

State employees in Queensland continue to enjoy entitlements superior to those provided under the FWA. Increased leave entitlements, access to paid parental leave and above award wage increases are just some examples of the beneficial conditions provided to public sector employees.

An active and robust industrial umpire in the QIRC also continues to ensure that the interests of all parties are taken into account and, with its ability to act on its own initiative, the QIRC has and continues to ensure that entitlements and protections available under State legislation are contemporary and reflect prevailing community conditions, as well as being consistent with Australia's commitments under ILO Conventions.

The Queensland Government strives to be an employer of choice[56]. In supporting the Government's priorities, the PSC's focus is on supporting the public sector to deliver efficient and effective services with a culture of strong leadership, high performance and accountability. The PSC submits that the entitlements and protections afforded to state employees in Queensland are, overall, better than those enjoyed by employees under the FWA or in the APS.

[56] Section 25(1)(f) of the PSA