

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *Re: Queensland Chamber of Commerce & Industry Limited, Industrial Organisation of Employers* [2014] QIRC 094

PARTIES: **Queensland Chamber of Commerce & Industry Limited, Industrial Organisation of Employers** (Applicant)

CASE NO: RIO/2014/21

PROCEEDING: Application to amend eligibility rule

DELIVERED ON: 28 May 2014

HEARING DATE: 7 May 2014

MEMBER: Industrial Commissioner Fisher

ORDER: **Eligibility rule amendment approved.**

CATCHWORDS: INDUSTRIAL LAW - APPLICATION FOR AMENDMENT OF ELIGIBILITY RULE - Notice published in courier-mail - Copy served on nominated industrial organisations - No objections - Satisfied provisions of IR Act - Complies with rules and regulation - Amendment of eligibility rule approved.

CASES: *Industrial Relations Act 1999*, s 474
Industrial Relations (Tribunals) Rules 2011, s 198
Industrial Relations Regulation 2011, s 18
Corporations Act 2001 (Cth), s 249C

APPEARANCES: Mr A. Nicholson, Mullins Lawyers and with him Mr A.R. Hogarth for the Applicant.

Decision

- [1] This is an application by Anthony Roy Hogarth and Peter Francis McKeon being Directors and Officers of Queensland Chamber of Commerce & Industry Limited, Industrial Organisation of Employers (QCCI) to amend the eligibility rules of the organisation pursuant to s 474 of the *Industrial Relations Act 1999* (the IR Act).
- [2] The main amendments seeks to broaden the scope of eligible members to include Accredited Local Chamber Members, Affiliate Chamber Members and Student Members. In addition, amendments are sought to be made to the eligibility criteria of Ex Officio Members as well as certain other minor amendments.

[3] Section 474(1) of the IR Act provides:

"Approval for eligibility rule amendment

- (1) The commission may, by order, approve an eligibility rule amendment only if satisfied -
- (a) the amendment has been proposed under the organisation's rules; and
 - (b) there is no organisation to which its members could conveniently belong that would effectively represent them in a way consistent with the objects of this Act."

[4] Mr Nicholson, on behalf of the Applicant, submitted that the amendments had been proposed under the organisation's rules as set out in paragraphs (a) to (c) of the Affidavit of Anthony Roy Hogarth dated 11 March 2014, attached to the application as Schedule 1. The amendments were proposed by way of notice of general meeting which was forwarded to all members on or about 28 January 2014. The amendments were approved by resolution at the general meeting held on 25 February 2014. A copy of the resolution was attached to Mr Hogarth's Affidavit.

[5] Mr Nicholson further submitted there is no organisation to which the members of the QCCI could conveniently belong that would effectively represent them in a way consistent with the objects of the IR Act. In this regard, reference was made to paragraphs (d) and (e) of Mr Hogarth's Affidavit.

[6] A notice of the application in the form decided by the Industrial Registrar for amendment of the eligibility rule was placed in the "Courier-Mail" of 14 March 2014. Within seven days of the publication the notice was served on each industrial organisation nominated by the Industrial Registrar as set out in the Affidavit of Service of Georgina Elizabeth Cleveland filed on 20 March 2014.

[7] No industrial organisation notified an objection to the proposed amendments.

[8] The Commission raised with the Applicant that the notice of the amendments had been made under the s 249C of the *Corporations Act 2001* (Cth) (the Corporations Act) and asked for submissions as to how such notice met the provisions of s 474(1) of the IR Act that the amendments be proposed under the organisation's rules. Mr Nicholson provided written submissions advising of the following. Because the Applicant is a registered company it is bound by the provisions of the Corporations Act, however, the registered rules also provide for the calling of formal meetings. Mr Nicholson compared the relevant registered rules of the QCCI with the corresponding provisions of the Corporations Act and submitted that they are consistent. In addition, reference was made to Mr Hogarth's Affidavit attesting to the conduct of and voting in the meeting being in accordance with the QCCI's registered rules.

[9] An issue the Commission needs to address is whether proposing the amendments under the Corporations Act meets the requirements of the IR Act that the amendments have been proposed under the organisation's rules. The Commission accepts that as the QCCI is a company limited by guarantee, its processes are

governed by the Corporations Act. The information provided in the application, including the Affidavit of Mr Hogarth together with its attachments, and the submissions made by Mr Nicholson establish the consistency of processes between the Corporations Act and the QCCI's registered rules. In the particular circumstances of this case, the Commission is prepared to accept that the process of proposing the amendments adopted meets s 474(1)(a) of the Act.

- [10] The Commission is also satisfied from the evidence and submissions that there is no organisation to which its members could conveniently belong.
- [11] Further, the application complies with the provisions of Rule 198 of the *Industrial Relations (Tribunals) Rules 2011* and s 18 of the *Industrial Relations Regulation 2011*.
- [12] In the circumstances, the Commission, by Order, approves the eligibility rule amendments with effect from 28 May 2014.
- [13] The Commission will notify the Industrial Registrar of this Order approving the amendments so that the particulars of the amendments can be entered in the register.
- [14] Order accordingly.