

**QUEENSLAND INDUSTRIAL RELATIONS COMMISSION**

CITATION: *Re Application filed by Queensland Nurses and Midwives' Union of Employees* [2020] QIRC 103

PARTIES: **Queensland Nurses and Midwives' Union of Employees**  
(Applicant)

CASE NO: RIO/2020/112

PROCEEDING: Application

DELIVERED ON: 10 July 2020

HEARING DATE: 10 July 2020

MEMBER: Hartigan IC

HEARD AT: Brisbane

ORDER:

- 1. The Commission approves, pursuant to s 662 of the *Industrial Relations Act 2016*, an amendment to the eligibility rules of the Queensland Nurses and Midwives' Union of Employees.**
- 2. The amendment is to take the form as described in the Application filed in the Industrial Registry on 6 May 2020.**
- 3. The operative date of the amendment will be the date of this order.**

CATCHWORDS: INDUSTRIAL LAW – QUEENSLAND – INDUSTRIAL ORGANISATIONS – APPLICATION TO AMEND ELIGIBILITY RULES – Where the applicant is an employee organisation - Where the

application was validly made under the organisation's rules

LEGISLATION:

*Industrial Relations Act 2016*, s 662

*Industrial Relations Regulation 2018*, s 17

*Industrial Relations (Tribunals) Rules 2011*,  
r 198

APPEARANCES:

Mr D Blackmore for the Applicant

**Reasons for Decision**

- [1] The Queensland Nurses and Midwives' Union of Employees ("QNMU") applies to amend its eligibility rules pursuant to s 662 of the *Industrial Relations Act 2016* ("the Act") and r 198 of the *Industrial Relations (Tribunals) Rules 2011*.
- [2] On 19 February 2020, members of the Council of the QNMU were given notice of a proposed amendment to the eligibility rule of the QNMU.<sup>1</sup> The proposed amendment was dealt with by an email ballot that concluded on 26 February 2020. The result of the ballot was that the proposed resolution was passed by a simple majority.
- [3] On 6 May 2020, the Applicant filed an application in the Industrial Registry, seeking to amend the eligibility rules of the QNMU to include "independent contractors", who if they were employees performing the kind of work of the kinds which they usually perform as independent contractors, would be eligible for membership of the QNMU.
- [4] In accordance with s 17(3) of the *Industrial Relations Regulation 2018* ("Regulation") on 15 May 2020, the QNMU published in a newspaper, *The Courier Mail*, a Notice of the proposed amendment of its eligibility rules. Further, and in accordance with s 17(5) of the Regulation, the QNMU served a copy of the Notice on the relevant industrial organisations.
- [5] No notices of objection have been filed by any other industrial organisation.

**The proposed amendment**

- [6] The application seeks to amend Rule 6 (Eligibility for Membership) to include independent contractors, who if they were employees performing the work of the kinds which they usually perform as independent contractors, would be employees eligible

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<sup>1</sup> Rule 101 of the QNMU rules.

for membership of the QNMU. The following table sets out (and highlights) the proposed amendment to Rule 6.

Current Registered Rule	Proposed New Rule
<p>a) The Union shall consist of an unlimited number of persons, men and women, who are registered with the Nurses Board of Queensland, or who produce evidence of other registration as registered nurses, or in the case of those not registered in Queensland, who can produce evidence of training to the satisfaction of the Council; student nurses; enrolled nurses; associate members; passive members; life members and honorary members.</p> <p>b) For the purpose of interpreting this clause associate members shall be assistants-in-nursing and other nurses whom the Council sees fit to accept as associate members; passive members shall be registered nurses or enrolled nursing aides who are retired and/or are not actively engaged in nursing practice in Queensland; life members, those registered nurses who have been elected to life membership; and honorary members, those persons who have identified themselves with the cause of nursing and whom the Council has elected to membership.</p> <p>c) Without limitation to any other part of this eligibility rule the Union will consist of any person employed in any of the following classes of employee in the State of Queensland:</p> <p>i) a nurse; or</p> <p>ii) a midwife,</p> <p>and who is a person registered with the Nursing and Midwifery Board of Australia or any successor to the Nursing and Midwifery Board of Australia.</p> <p>d) Without limitation to any other part of</p>	<p>a) The Union shall consist of an unlimited number of persons, men and women, who are registered with the Nurses Board of Queensland, or who produce evidence of other registration as registered nurses, or in the case of those not registered in Queensland, who can produce evidence of training to the satisfaction of the Council; student nurses; enrolled nurses; associate members; passive members; life members and honorary members.</p> <p>b) For the purpose of interpreting this clause associate members shall be assistants-in-nursing and other nurses whom the Council sees fit to accept as associate members; passive members shall be registered nurses or enrolled nursing aides who are retired and/or are not actively engaged in nursing practice in Queensland; life members, those registered nurses who have been elected to life membership; and honorary members, those persons who have identified themselves with the cause of nursing and whom the Council has elected to membership.</p> <p>c) Without limitation to any other part of this eligibility rule the Union will consist of any person employed in any of the following classes of employee in the State of Queensland:</p> <p>i) a nurse; or</p> <p>ii) a midwife,</p> <p>and who is a person registered with the Nursing and Midwifery Board of Australia or any successor to the Nursing and Midwifery Board of Australia.</p> <p>d) Without limitation to any other part of</p>

<p>this eligibility rule the Union will consist of such other persons, whether employees in the industry or not, as have been appointed officers of the Union, and admitted as members thereof.</p>	<p>this eligibility rule the Union will consist of such other persons, whether employees in the industry or not, as have been appointed officers of the Union, and admitted as members thereof.</p> <p>e) <b><u>Without limitation to any other part of this eligibility rule the Union will consist of independent contractors who, if they were employees performing the work of the kind which they usually perform as independent contractors, would be employees eligible for membership of the Union.</u></b></p>
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[7] I am satisfied that in accordance with s 662(1) of the Act, the amendment has been proposed under the QNMU's rules and that there is no organisation to which its members could conveniently belong that would effectively represent them in a way consistent with the objects of the Act. The provisions of s 662(2) of the Act upon which the Commission may refuse to approve an amendment to the eligibility rule have not been identified in these proceedings and are therefore not enlivened.

[8] Accordingly, I approve the application to amend the eligibility rules, with the operative date of the amendment being the date of this order.

### **Order**

- 1. The Commission approves, pursuant to s 662 of the *Industrial Relations Act 2016*, an amendment to the eligibility rule of the Queensland Nurses and Midwives' Union of Employees.**
- 2. The amendment is to take the form as described in the Application filed in the Industrial Registry on 6 May 2020.**
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