

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 1999 – s. 140 – application for order

**The Minister for Industrial Relations AND the Department of Employment and Training,
The Australian Workers' Union of Employees, Queensland, Local Government Association
of Queensland Inc AND Others (No B1910 of 2002)**

COMMUNITY JOBS PLAN EMPLOYEES' CONDITIONS

COMMISSIONER FISHER
COMMISSIONER ASBURY
COMMISSIONER THOMPSON

20 December 2002

ORDER

This matter coming on for hearing before the Commission at Brisbane on 20 December 2002, this Commission orders as follows:

COMMUNITY JOBS PLAN EMPLOYEES' CONDITIONS

1. ARRANGEMENT

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2. TITLE

This Order shall be known as the Community Jobs Plan Employees' Conditions Order.

3. OBJECTIVES

The objective of this Order is to prescribe a labour market wage and other entitlements for Labour Market Employees who participate in the Community Jobs Plan. The plan is a labour market program focussed on providing full-time employment for 3 to 6 months, for people who have been unemployed for 12 months or more and those disadvantaged in the labour market and at risk of experiencing long-term unemployment.

The plan provides government funding to Eligible Organisations to enable participants to be employed on essential public works, community and environmental projects.

For organisations to be considered eligible for government grants, project proposals will need to:

- be community based and result in public benefit;
- provide a diverse range of work experiences;
- provide opportunities for skills acquisition;
- be delivered at no cost to the participants;
- have the potential to lead to employment opportunities on completion of the project; and
- ensure that participant employees do not displace existing workers from employment and/or are not used as replacements for retrenched employees.

Additionally, Eligible Organisations will also need to comply with Community Jobs Plan Guidelines which includes:

- providing a detailed description of the project;
- specifying how it will recruit participants and replace those who cease employment on the project;
- providing details of any specific group which may be targeted;
- providing details of the employment arrangements under which participants will be employed;
- specifying measurable and achievable outcomes for the project;
- specifying how it will supervise project participants;
- specifying how it will administer the grant;
- establishing financial management procedures to ensure the segregation of grant funds;
- providing details of anticipated employment outcomes for participants; and
- complying with legislative requirements; for example, Equal Employment Opportunity, Anti-discrimination, Workplace Health and Safety.

Project proposals are facilitated principally at a regional level by tripartite Community Jobs Priorities Committees established in accordance with determinations of the *Breaking the Unemployment Cycle* and Labour Market Interdepartmental Committee (formerly the Jobs Policy Council).

Community Jobs Priorities Committees shall consider and make recommendations on the various community proposals based on an assessment of:

- compliance with Community Jobs Plan Guidelines;
- regional and local priorities, including the regional unemployment rate;
- the impact on the employment of existing workers; and
- recruitment practices and vacancy levels within Eligible Organisations to ensure that recruitment for the project is not used as a means of job substitution.

The parties may raise any matter of substantial merit during the life of this Order arising from the implementation of this Order.

The arrangements within this Order are not to be regarded as a precedent in any other proceedings by any party to this Order or in any other proceeding whatsoever.

4. APPLICATION

This Order shall only apply to employees who participate on a Community Jobs Plan Approved Project. For the employment and documented Training Plan to be recognised, the employee and the Eligible Organisation must be engaged in an Approved Project (as defined).

On the completion of employment on a Community Jobs Plan Approved Project, the conditions within this Order shall cease to apply.

5. DEFINITIONS

“Act” means the *Industrial Relations Act 1999* as amended or replaced from time to time.

“Approved Project” means a project recommended by the Community Jobs Priorities Committee and approved by the Department of Employment and Training where the Eligible Organisation has executed a Memorandum of Agreement with the Department of Employment and Training that specifies the conditions of the grant.

“Australian Qualifications Framework (AQF)” refers to the national system of recognition for the issue of vocational credentials.

“Award” means the State award, Order or industrial instrument that would have applied to the employee but for the operation of this Order.

“*Breaking the Unemployment Cycle* initiative” refers to the Queensland Government initiative which aims to create over 56,000 jobs over six financial years (1998 – 2004).

“Certificate of Completion” means a credential issued by the Department of Employment and Training in recognition of completed compulsory and elective units undertaken as part of the Community Jobs Plan Approved Project.

“Community Jobs Plan” means the labour market program that is a component of the Queensland Government’s *Breaking the Unemployment Cycle* initiative.

“Course of Instruction” means a broad employment and training program incorporated within the Training Plan and aligned to Training Packages approved from time to time by the Training Recognition Council.

“Eligible Organisation” means organisations eligible to participate in the Community Jobs Plan. These include:

- incorporated community sector organisations based in the region where the project is to be undertaken;
- regional Development Organisations;
- local government authorities and instrumentalities;
- government agencies; and
- statutory authorities.

“Labour Market Employees” means employees who participate in a labour market program as defined in section 140 of the Act.

“Registered Training Organisation” bears the meaning contained in the *Training and Employment Act 2000*.

“Statement of Attainment” means a credential, issued by a Registered Training Organisation recognised by the Training Recognition Council, which lists the competencies, attained by the employee and which allows progression towards an AQF credential.

“Training Packages” means an integrated set of nationally endorsed competency standards, assessment guidelines and Australian Qualifications Framework qualifications for a specific industry, industry sector or enterprise.

“Training Plan” means a documented Training Plan that has been developed for the purposes of recording skills development on the Approved Project.

“Training Recognition Council” includes the powers and responsibilities as identified in the *Training and Employment Act 2000*. It shall also include any powers and responsibilities given in terms of successor legislation.

“Training Record” means the permanent record of the on-the-job activities and competencies achieved by the employee through their employment on the Approved Project.

6. TRAINING CONDITIONS

The Course of Instruction associated with Community Jobs Plan employees provides a mix of supervised work and training based on the Training Wage Award – State – Wage Levels A, B and C respectively. Completion of any of these work-based programs will allow employees the opportunity to develop and practice new skills in a work environment during the course of the Approved Project/s in order to maximise employment opportunities on completion of the project.

Each Approved Project will have a Training Plan of which the employees will have a record specifying the assessment arrangements and training outcomes to be achieved during the course of the Approved Project.

The Training Plan will also allow the opportunity to undertake additional accredited training. This shall involve progression through an individual Training Plan developed between the employee and the employer and may involve a Registered Training Organisation where appropriate, which outlines agreed learning outcomes that may be achieved as part of participation in the Approved Project.

On completion of the project, Community Jobs Plan employees will receive a Certificate of Completion issued by the Department of Employment and Training. The training outcomes of the Course of Instruction are designed to be flexible and will lead to the issuing of statements of attainment and qualifications in accordance with the Australian Qualifications Framework (AQF).

Notwithstanding, the training period associated with employment on a Community Jobs Plan Approved Project shall be regarded as complete at the end of the Approved Project.

A Community Jobs Plan employee shall be permitted to attend and be paid by the employer for attendance at any Course of Instruction endorsed by the Department of Employment and Training

The employer shall provide a level of supervision in accordance with the Approved Project during the training and employment period.

The employer agrees that the overall training program will be monitored by representatives of the Department of Employment and Training and that a Training Record may be utilised as part of this monitoring process.

7. EMPLOYMENT CONDITIONS

Employment on the Approved Project will be up to a maximum of 26 weeks of full-time paid employment and be subject to the completion of a probationary period of 4 weeks. In accordance with s. 72(1) of the Act, the employer and employee may agree that for the specific period of employment on the Community Jobs Plan Approved Project the employee serve a shorter probationary period of 4 weeks. All other provisions in relation to probation and discipline shall be subject to provisions within the Act.

The ordinary hours of work shall be an average of 38 per week over the period of the Approved Project. Part-time work on an Approved Project is permitted by Community Jobs Plan employees at no less than the minimum of 15 hours per week averaged over a 4 week period.

Community Jobs Plan employees shall not displace existing workers from employment and only be engaged in addition to existing staff levels. Positions normally held by permanent employees shall not be filled by Community Jobs Plan employees.

Overtime and shift work shall not be worked by Community Jobs Plan employees except to enable the requirements of the Approved Project to be effected. When overtime and shift work are worked the relevant penalties and allowances of the Award shall apply.

All other terms and conditions of employment shall be determined by the Award including accommodation and camp provisions, transportation arrangements, overtime and other relevant entitlements and will apply except where amended by this Order. Where no accommodation and camp provisions exist in the Award, and it is necessary for the employees to live in camp provided by the employer, either because there are no reasonable transport facilities to enable the employees to travel to and from home each day or because they are directed to live in such camp, the employees shall be entitled to provisions which are to be no less favourable than the provisions within the Local Government Employees' (Excluding Brisbane City Council) Award – State.

Employment on a Community Jobs Plan Approved Project may be terminated by either party by the giving of one 1 week's notice of termination of employment or in lieu thereof one week's pay shall be paid or forfeited. In circumstances where the employee is leaving to take up alternative employment, a minimum period of one day's notice or the forfeiting of one day's pay in lieu of notice shall apply.

Notwithstanding any Community Jobs Plan employee may apply to the Queensland Industrial Relations Commission to have the termination reviewed in accordance with the provisions of the Act.

Employees shall be entitled to time off without loss of pay for the purpose of attending job interviews. This time off shall be taken at times that are convenient to the employee after consultation with the employer. However, failure to attend the job interview without an acceptable reason will result in loss of pay for the period of absence.

Continued employment after completion of participation on the Approved Project shall be at the discretion of the employer. Periods of employment as a Community Jobs Plan employee shall be regarded as service for the purpose of continuity with the same employer for long service and severance pay.

8. WAGES

Wage rates for Community Jobs Plan employees shall be based on the rates provided within the Training Wage Award – State, Wage Levels A, B and C as amended from time to time. The actual rate received shall depend on the type of work-based training program undertaken during the course of the project (i.e. those programs nominated in clause 7).

Part time wages are based on the base hourly rate (equal to 1/38th of the weekly rate) with amounts rounded off to the nearest 10 cents where appropriate.

Wage level classification applies not to training but to the majority of work activities that will be performed during employment.

Indicative classifications are provided below:

Wage Level A Conceptual activities including information technology and general office administration

Wage Level B	Light construction and skilled manual labour
Wage Level C	Outdoor manual activities including horticulture and landscaping

Future wage increases associated with the Training Wage Award – State shall be deemed to have effect on this Order. In addition, Community Jobs Plan employees shall be entitled to an additional 25% of the base hourly rate with amounts rounded off to the nearest 10 cents where appropriate. This amount shall be paid for all purposes of the Award.

Provided that Community Jobs Plan employees shall not be entitled to:

- annual leave;
- construction, reconstruction, alteration, repair &/or maintenance/site allowances or any other disability allowances of a like nature;
- divisional and district parities;
- public holidays not worked by the employee;
- regional and remote allowances; and
- sick leave.

9. PROTECTIVE CLOTHING OR UNIFORMS

Where a Community Jobs Plan employee is required to wear protective clothing or a uniform, the employer shall provide or reimburse the employee for the relevant protective clothing or uniform in accordance with the provisions of the *Workplace Health and Safety Act 1996* and the Award.

10. OCCUPATIONAL SUPERANNUATION

In addition to the rates of pay and conditions prescribed by this Order, eligible employees shall be entitled to Occupational Superannuation benefits subject to the provisions of the Award or any other relevant legislation.

The employer shall contribute to the relevant Approved Fund as defined for the employee at the rate that is applicable under the *Superannuation Guarantee Charge Act 1992* at ordinary time earnings per week on behalf of each eligible employee.

11. DISPUTE RESOLUTION PROCEDURES

Any dispute or grievance arising from difficulties in translation, assessment, performance and the achievement of training and employment outcomes between an employee and an employer shall be identified and resolved in accordance with the agreed procedures:

In the event of an employee/s having a grievance or dispute the employee/s shall in the first instance, attempt to resolve the matter with the employer or the employer's workplace representative, who shall respond to such a request as soon as reasonably practicable under the circumstances.

If the issue cannot be resolved at the workplace level, the Department of Employment and Training's regional officers will attempt to resolve the issue through mediation.

Any issue that cannot be resolved after following the procedure prescribed above may be referred to the Queensland Industrial Relations Commission.

Without prejudice to either the employee or the employer, whilst the above procedure is being followed, work shall continue normally, except in the case of a genuine safety issue and neither party shall unduly delay the procedure.

Throughout all stages of the procedure all relevant facts shall be clearly identified and recorded.

Notwithstanding the above, any further dispute and/or grievance shall be managed through the processes of the Award.

12. ANTI-DISCRIMINATION

It is the intention of the parties to this Order to prevent and eliminate discrimination, as defined by the *Anti-Discrimination Act 1991* and the *Industrial Relations Act 1999* as amended from time to time, which includes:

- discrimination on the basis of sex, marital status, family responsibilities, pregnancy, parental status, age, race,

impairment, religion, political belief or activity, trade union activity, lawful sexual activity and association with, or relation to, a person identified on the basis of any of the above attributes;

- sexual harassment; and
- racial and religious vilification.

Accordingly in fulfilling their obligations under the Act, the parties to this Order will make every endeavour to ensure that the Order is not directly or indirectly discriminatory in its effects. Nothing in this clause is to be taken to affect:

- any discriminatory treatment (or treatment having different effects) which is specifically exempted under the *Anti Discrimination Act 1991*; and
- the employee, employer or registered organisation pursuing matters of discrimination, including by application to the Human Rights and Equal Opportunity Commission/Anti-Discrimination Commission Queensland.

13. SPECIAL ARRANGEMENTS

Nothing within this Order will prevent employers and employees from entering into supplementary industrial arrangements in accordance with the provisions of the *Industrial Relations Act 1999* (State) or the *Workplace Relations Act 1996* (Commonwealth).

The wage rates contained in this Order are minimum rates and may be supplemented by enterprise bargaining, over-award arrangements or other similar initiatives.

14. INDUSTRIAL RELATIONS

Union Encouragement

This clause gives effect to s. 110 of the *Industrial Relations Act 1999* in its entirety. Consistent with s. 110 a Full Bench of the Queensland Industrial Relations Commission has issued a Statement of Policy on Union Encouragement (reported 165 QGIG 221) that encourages an employee to join and maintain financial membership of an organisation of employees that has the right to represent the industrial interests of the employees concerned.

At the point of engagement, the employer shall provide employees with a document indicating that a Statement of Policy on Union Encouragement has been issued by the Queensland Industrial Relations Commission, a copy of which is to be kept on the premises of the employer in a place readily accessible by the employee.

The document provided by the employer shall also identify the existence of a union encouragement clause in this Order.

Union Delegates

Union delegates and job representatives have a role to play within a workplace. The existence of accredited union delegates and/or job representatives is encouraged.

The employer shall not unnecessarily hinder accredited union delegates and/or job representatives in the reasonable and responsible performance of their duties.

Deduction of Union Fees

Where arrangements can be entered into, the employer is encouraged to provide facilities for the deduction and remittance of union fees for employees who signify in writing to their employer, their desire to have such membership fees deducted from their wages.

Union Induction

Upon request, the employer will allow authorised representatives to address employees during working time on matters associated with terms and conditions of employment, provided that such discussions do not unreasonably disrupt the work process.

15. DATE OF OPERATION

This Order shall operate from 1 January 2003, and shall remain in force until such time as the Community Jobs Plan ceases or this Order is amended in accordance with the Act.

Dated 20 December 2002.

By the Commission,
[L.S.] E. EWALD,
Industrial Registrar.

Operative Date: 1 January 2003
Order – Community Jobs Plan Employees' Conditions
Released: 23 December 2002