

Industrial Relations (Fair Work Act
Harmonisation No.2)
Submission 020



Industrial Relations (Fair Work Act Harmonisation No. 2) and Other Legislation Amendment Bill 2013

Submission to the
Legal Affairs and Community Safety Committee

October, 2013

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No Government will have all the ideas, expertise and insight on any particular topic. Governments are not the only bodies which have these attributes. Whatever the expertise required, the solution to any problem is something about which people can and do reasonably differ. The best result will be produced from rational debate by those with opposing views.

The community is entitled to such a result.

Fitzgerald Report 1987

The Queensland Nurses' Union (QNU) thanks the Legal Affairs and Community Safety Committee (the Committee) for providing this opportunity to comment on the *Industrial Relations (Fair Work Act Harmonisation No. 2) and Other Legislation Amendment Bill 2013* (the Bill).

The QNU - the union for nurses and midwives - is the principal health union in Queensland. Nurses and midwives are the largest occupational group in Queensland Health and one of the largest across the Queensland government. The QNU covers all categories of workers that make up the nursing workforce in Queensland including registered nurses, registered midwives, enrolled nurses and assistants in nursing who are employed in the public, private and not-for-profit health sectors including aged care.

Our more than 50,000 members work across a variety of settings from single person operations to large health and non-health institutions, and in a full range of classifications from entry level trainees to senior management. The vast majority of nurses in Queensland are members of the QNU.

The QNU represents the *industrial* and *professional* interests of our members through our education programs, research, representations and other activities. Thus, as always, our concerns also go to the possible impact that this restrictive legislation will have on the ability of Queensland's nurses and midwives to ensure that Queenslanders receive the safe, quality public health care they deserve.

We ask the Committee to read our submission in conjunction with that of our peak body, the Queensland Council of Unions.

The Parliamentary Process

We state at the outset that without the benefit of a reasonable timeframe in which to contemplate the Bill, our comments are general and relate to outcomes that will occur as a result of yet another onslaught on workers' rights. Our submission gives examples of the

impact of just a few of the proposed amendments on the nursing and midwifery workforce and as a consequence the effect on health service delivery.

The lack of consultation with unions prior to the introduction of a Bill which will significantly affect the working lives of thousands of Queenslanders reflects the Attorney-General's predictable naivety, not only about the role of representative organisations, but also the parliamentary process.

Again, we witness the Attorney-General's unwillingness to follow the principles of good government set out in the Fitzgerald Report (1989) that advocate a comprehensive system of parliamentary Committees to enhance the ability of parliament to monitor the efficiency of government.

Parliamentary Committees develop the skills of backbenchers of all parties and increase their experience in, and familiarity with, public administration, as well as reinforcing their sense of purpose and appreciation of their independent Parliamentary role and responsibility. The legislative process *should allow sufficient time for the involvement of Parliamentary Committees*, having regard particularly to members' general parliamentary duties, including attending to their constituencies (Fitzgerald, 1989, p. 125).

In the haste to demonise, marginalise and silence any group that would speak out in protest the Attorney-General now floats another 250 pages of legislation into the parliament and allows interested parties just over one week in which to respond. The QNU notes with great alarm an increasingly erratic, rushed, immature and spiteful approach to legislative reform being adopted by the Attorney General on a range of fronts.

The Queensland government (2013) informs the public that

consultation is a way to get feedback from the public so we can make policy decisions that benefit the community. A consultation will target a specific issue, and usually runs for 4–6 weeks. After the consultation closes, we will make a decision that takes all our information sources into account.

Apparently, like the Bill itself, consultation is selective. The Premier's grand 30 year plan has involved a consultation process that has continued for months, yet a Bill that will significantly affect the working lives of thousands of Queensland workers is given one week for public comments. As evidenced by the pattern of behavior shown to date, the Attorney-General clearly neither knows nor cares about following due process. The approach adopted is an extreme "crash or crash through" ideologically driven one.

This Bill represents the 6th amendment to the *Industrial Relations Act 1999* since this government took office in March, 2012. In taking this approach to the raft of legislation he

has introduced, the Attorney-General shows unprecedented disrespect for the parliament, its committees, Queensland workers and his own department.

In May, 2013, the Finance and Administration Committee tabled its report following the inquiry into the operation of the Queensland Workers' Compensation Scheme. Amongst other matters, the report recommended that the government retain existing provisions in relation to access to common law such that no impairment thresholds would be introduced on accessing common law rights. The Attorney-General chose to ignore this recommendation and introduced additional provisions to suit another agenda, one that we can only assume is his own.

Similarly, when this Committee (LACS) considered the highly contentious *Industrial Relations (Transparency and Accountability of Industrial Organisations) and Other Acts Amendment Bill 2013*, the Attorney-General again chose to override some of the recommendations, announcing on the floor of the parliament that he would introduce a more rigorous set of compliance measures that would apply only to unions (Bleije, 2013a).

We now have the spectacle of the Committee having to consider written submissions to another complex Bill in three days and a further 13 days to write the report. Interested parties have around one week to submit and the committee around two weeks to report back to the parliament. This is not reasonable for the public or the Committee.

Parliamentary Committees are an integral part of our democratic process. They enable the public to put forward their views on important pieces of legislation. Restricting the Committee's ability to consult properly not only limits the public's right to be heard, it also denies the members of the committee the opportunity to do their jobs effectively. Ultimately, the Attorney-General's self interest diminishes all of us.

As the industrial and professional representative of nurses and midwives in this state, we will not be silenced, nor will we cower in the face of these continuing, reckless attacks on our members' workplace rights.

Nomenclature

The QNU notes that the Attorney-General has chosen to name this Bill in a way that implies it reflects the provisions of its federal counterpart, the *Fair Work Act 2009*. While there are some matters that mirror the federal Act, in the main, the Bill represents a selection of those provisions that further enable managerial prerogative and reduce worker's entitlements.

The Committee would also be aware that the *Fair Work Act 2009* was drafted with considerable consultation with employer and employee groups, academics and other parties. Therefore the Bill is not an exercise in harmonisation. Nor does it 'focus on the employment relationship'. The Bill seeks to give *unilateral control* of the employment relationship to employers by reducing the independence and regulatory scope of the Queensland Industrial Relations Commission (QIRC), the representative capacity of unions and the rights and entitlements of Queensland's public sector workers.

The separation of judicial power from legislative and executive power is fundamental to the system of checks and balances designed to achieve a stable democracy (Fitzgerald, 1989, p.328). Under this Bill, we witness the blurring of powers. For example a new section 140(C) proposes that the Minister may give the QIRC a written request to carry out the award modernisation process. Further, s 140C(5) provides that the Minister can

- (c) direct the commission to include in a modern award terms about particular permitted matters; or
- (d) give other directions about how, or whether, the commission must deal with particular permitted matters.

The ability for a Minister to direct the QIRC in such a manner compromises the independence of this tribunal. Section 320(3) of the *Industrial Relations Act 1999* requires the QIRC to be governed in its decisions by 'equity, good conscience and the substantial merits of the case having regard to the interests of the persons immediately concerned and, the community as a whole'. The QIRC cannot meet this central obligation if it is subject to unlimited direction from the Minister as set out in the proposed section 140(C).

These provisions highlight a fundamental conflict of interest between the government's role as legislator and its responsibility as the public sector employer. Under the doctrine of the separation of powers, the functions of the executive arm of government must be (and should be seen to be) separate from the judiciary including independent tribunals such as the QIRC. In the case of the government's role of employer, this separation is more necessary than in any other employer/employee relationship because it must preserve the integrity and independence of the parliament.

Objects of the Bill

The Bill proposes the amendment of Section 3, *Principle Object of this Act*, by deleting sections 3(j) and (o):-

- (j) promoting and facilitating the regulation of employment by awards and agreements;

- (o) promoting collective bargaining and establishing the primacy of collective agreements over individual agreement;

The removal of these two sub-sections represents a significant attack on the regulation of workers' entitlements through awards and certified agreements. Furthermore, their removal offends object 3(n):-

assisting in giving effect to Australia's international obligations in relation to labour standards.

The International Labour Standard – *Right to Organise and Collective Bargaining Convention 1949 (No. 98)* which Australia has ratified states at Article No. 4:-

Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements.

If passed into legislation, this will offend the ILO convention in a number of ways, including:-

- specifying matters that are not allowable content within industrial instruments, awards and certified agreements;
- mandating individual contracts of employment for employees earning remuneration greater than \$129,300 and;
- significantly impeding the collective bargaining process by limiting a bargaining period; and
- limiting the ability of workers to take protected industrial action and forcing workers who do not agree to a collective agreement into arbitration.

Therefore on the basis of these significant offending amendments:

The QNU recommends that the Committee seeks immediate withdrawal of this Bill from the Parliament and informs the Attorney-General of two essential elements of good government:

1. the proper role and functions of Parliamentary committees;
2. the doctrine of the separation of powers.

Further, that the Committee advises the Attorney-General that this Bill (if passed into legislation) will breach International Labor Standards that Australia has ratified.

Additional Matters

Scope to include matters in Certified agreements

The Bill fundamentally lacks any likeness to contemporary industrial relations practice, highlighted by the removal of the object to promote collective bargaining generally, but also reflected in the specific provisions proposed around negotiating enterprise agreements.

The Bill now assumes the language and purpose of a previous federal coalition government in that it specifically sets out the matters that are 'allowable' and 'non-allowable' in awards, certified agreements and industrial instruments. Not content to leave enterprise bargaining to the parties, the Attorney-General has used the heavy hand of the legislature to ensure that the parties must only include matters that it will 'allow'. In this approach, the Attorney-General is naively unaware of the interdependence of many provisions. For example, we note that the 'non-allowable content in certified agreements' includes a matter that 'requires an employer to manage workloads in a particular way' and yet also includes a matter that 'restricts the efficient delivery of services'.

In other words, nurses and midwives will no longer have existing protections around managing their workloads, yet employers will have free reign to invoke any measure they feel will enable efficient delivery of services.

Modern Industrial instruments are not 'allowed' to include any provision 'that restricts flexible rostering arrangements', so nurses and midwives will now be vulnerable to the employer's concept of flexibility. This means flexibility *of* the workforce, not *for* the workforce and comes at a time when Hospital and Health Services such as Metro North have already unilaterally withdrawn longstanding shiftwork arrangements to save costs. The effect of this has been to transfer costs on to our members who have had to rearrange their family and personal lives to cater to the new shift regime.

The Minister for Health, the Hon. Lawrence Springborg, recently sought our comments on determining health priorities for 2014-2015. In our response we identified the industrial relations framework as an important enabler of these priorities. However, we now find nurses and midwives are subject to the restrictions of a Bill that apparently 'responds to the Blueprint Better Health care in Queensland' (Bleije, 2013b, p 3421).

The disjuncture between the content of the Bill and the objects of the Blueprint could not be more stark. The Attorney-General fails to recognise that the existing industrial relations framework enables effective service delivery through safe workloads, improved nurse-

sensitive indicators, retention of the nursing and midwifery workforce and conditions necessary to quality of care.

To this end, clause 9 of the current *Nurses and Midwives (Queensland Health) Certified Agreement (EB8) 2012*, provides that 'negotiations for a replacement agreement will commence at least 6 months prior to the expiry of this agreement'. The Bill's proposed amendment to s 143 of the *Industrial Relations Act 1999* limits the proposer of a Notice to Commence Bargaining for a replacement agreement to not more than 60 days before the nominal expiry date of the existing agreement. This is regardless of any period already stipulated in an agreement.

Given the size and complexity of the Queensland Health nursing and midwifery workforce, it is difficult to comprehend any possible justification for legislating a necessary period to commence negotiations for a replacement agreement. It is the experience of the QNU that the parties require at least six months to appropriately negotiate a replacement agreement. Two months is vastly inadequate, especially if there is a genuine interest in adopting an approach that is aimed at jointly solving often complex system wide problems through engagement with those who are best placed to drive quality improvement and enhance productivity.

Content of Modern Industrial Instruments

The Bill's attempt to specify the content of modern industrial instruments leads to uncertainty with respect to a number of issues. Nowhere in the 'required' or 'permitted' content provisions of part 3 (Content of Modern Industrial Instruments) is there any reference to the inclusion of a general provision relating to leave entitlements. While we acknowledge that the Queensland Employment Standards (QES) provide for a number of leave types, the omission of leave entitlements in the content of Modern Industrial Instruments raises concerns.

Of significance to nurses and midwives is Professional Development Leave, an industrial entitlement that nurses and midwives pursued for many decades and finally achieved in the sixth round of enterprise bargaining negotiations in 2006. Clause 88 of the Bill inserts a new part 3 Division 2A into the *Hospital and Health Boards Act 2011*. Under Division 2A, the Chief Executive may issue health employment directives about the conditions of employment for health service employees. This includes 'the professional development and training of health service employees in accordance with the conditions of their employment' set out under s51A(2)(e).

S51C(1) provides that

if a health employment directive is inconsistent with an industrial instrument, the health employment directive prevails over the industrial instrument, unless a regulation provides otherwise.

Taken together, these two provisions leave nurses and midwives subject to a unilateral decision in a health employment directive to withdraw or amend professional development leave. This of course flies in the face of the proposed s71CB of the *Industrial Relations Act 1999* that states

For an inconsistency provision, the directive is taken not to be inconsistent with the QES provision to the extent that the effect of the directive *is more favourable* to an employee than a QES provision.

We also note that the Bill will preclude workload management clauses such as the Business Planning Framework (BPF) for nurses and midwives from modern industrial instruments. The BPF is a tool that was jointly developed over ten years ago by Queensland Health (QH) and the QNU. It has been validated as an invaluable planning tool. If properly implemented it involves the development of service profiles, matches the demand with the supply of nursing/midwifery services and as a result effectively manages the workloads of nurses and midwives employed by QH. The BPF as a workload management tool is critical in the current political context of job losses. As a 'non-allowable' matter, the Bill makes the BPF unenforceable. This type of uncertainty is a feature of the Bill and the hallmark of unfettered managerial prerogative.

A significant feature of the *Nurses and Midwives (Queensland Health) Certified Agreement 2012* (EB8) is a commitment to productivity enhancements (clauses 6 and 33 – see attachment A). The Bill will compromise these important aspects of health service delivery as many of the productivity measures identified in EB8 are implemented through consultative mechanisms enabled by industrial instruments. Importantly, the Bill fails to recognise significant activities that have facilitated productivity enhancements such as the Interest Based Problem Solving (IBPS) approach adopted since 2006 to the negotiation and implementation of the enterprise agreement covering nurses and midwives employed by Queensland Health.

IBPS is distinguished by a focus on the parties' interests rather than their positions or the outcomes they seek. A co-operative approach such as IBPS is an essential ingredient in both improving the quality and delivery of health services and enhancing productivity. This scheme has delivered benefits for both parties, however the Bill now makes it clear that the Attorney-General prefers an adversarial approach to industrial relations that emboldens the employer through this obscure law. The QNU sees this as a tragic outcome given the time,

energy and resources invested to date in the adoption of an IBPS approach. We are now left to wonder what might have been if we continued down this path. Instead we are now condemned to mediocrity, managerial prerogative reigning supreme and an old style adversarial approach to industrial relations – all of which will severely undermine our capacity to address the significant challenges confronting us in the health system and the broader economy.

Relationship between Modern Awards and Enterprise Bargaining

A continuing agreement (as defined in the Bill) will be extended by up to one year beyond its nominal expiry date. The government may then provide a wage increase to employees covered by the ‘continuing agreement’ by regulation.

An existing certified agreement will become a ‘continuing agreement’ if the agreement reaches its nominal expiry date and the relevant pre-modernisation award for the agreement has not been modernised under the relevant provisions of the Bill. This scenario does not recognise the ‘no fault’ situation of a group of workers subject to a certified agreement being converted to the status of a ‘continuing agreement’ because it was not possible to conclude the modernisation process in the time available. Such a situation denies the affected employees their entitlement to collective bargaining for a replacement agreement through no fault of their own and subjects them to an automatic extension and an associated wage increase by regulation.

The Bill creates a scenario whereby workers currently covered by a certified agreement must finalise the modernisation of their award consistent with the terms set out in the Bill. They then must not commence bargaining for a replacement agreement more than two months before the nominal expiry date of the current agreement and must not seek to take any protected industrial action that may offend the extremely narrow ‘relevant industrial action’ provisions of the Bill. If this group of workers do offend such provisions they will be subject to a conciliation period that extends for 14 days before being referred to arbitration if the conciliation fails. The arbitration period for a matter is then limited to 90 days.

This is not bargaining. If for no other reason, the timeframes and constraints placed upon workers seeking to advance their claims are unreasonable and unworkable. In reality, the Bill proposes a system of wage determination by regulation.

Legislated Minimum Employment standards

The Bill proposes a QES provision for public holidays. Section 71IA (4), however, provides that an employee who works on a public holiday and is not the subject of a modern industrial instrument is to be paid at the employee’s base rate of pay (See section

71IA(4)(b)). The QNU is not able to identify any other exception to this provision that would suggest a pre-modernisation industrial instrument would prevail over this provision once the QES comes into effect.

Should the Bill pass into law in its current form, it is apparent that the Award Modernisation provisions would not be implemented prior to Christmas 2013. The consequence of s 71IA, therefore, would be that nurses and midwives required to work in our public hospitals on Christmas Day would be paid at their base rate of pay and not at the current award penalty rate of pay. Such a possibility defies all logic and any test of reasonableness.

Similar nonsense appears under s71FB (Requirement for employees to give notice etc...) that requires an employee absent for more than two days on sick leave to produce a doctor's certificate or other evidence of the illness to the employer's satisfaction. The current award requirement for nurses and midwives in Queensland Health is to produce a doctor's certificate after an absence of more than three days on sick leave. Section 71FB(2) does not recognise the pre-eminence of any existing industrial entitlement.

Protected Action and disputes

One aspect of state and federal legislation has been a right to take 'protected' industrial action. 'Protected' industrial action constitutes the only context in which workers can lawfully exercise the right to strike. All industrial action taken outside that regime may be subject to some form of legal sanction. The concept of 'protected' action recognises that if governments want to encourage workers to engage in bargaining over their pay and conditions of employment, workers must have the right to take action in support of those claims. Recognition of a right to take 'protected action' in certain circumstances gives employees leverage in bargaining but it also controls the nature and extent of that leverage, limiting the circumstances in which they can exercise it (McCrystal, 2010).

Section 148(1)(c) of the Bill provides that the QIRC can intervene in a bargaining process if, among other items, a negotiating party is 'organising or engaging in, or threatening to organise or engage in, relevant industrial action'. Section 148(3)(iv) defines 'relevant industrial action' as industrial action (among other matters) 'that affects, or threatens to affect, directly or indirectly, access to, or delivery of, services to the community or a part of it'. This provision would render any protected industrial action by nurses and midwives open to an employer's claim that it is in breach of section 148(3)(iv) of the Bill before the action even commenced.

Individual employment contracts for senior staff

The proposed Chapter 6A - Arrangements for High-income Senior Employees - introduces individual contracts for employees earning remuneration in excess of \$129,300. The definition of 'remuneration' includes the annual superannuation contribution made by the employer, amongst other items. This level of remuneration would exclude all Assistant Directors of Nursing, Nursing Directors, and Directors of Nursing, i.e. Nurse Grade 9 and above, from award and certified agreement coverage. The removal of these senior nurses from industrial instruments would effectively destroy the nursing and midwifery career path.

The career progression for nurses and midwives below these senior levels is from the Nurse Unit Manager/Clinical Nurse Consultant (NUM/CNC) classification of Grade 7. The Nurse Grade 8 classification is the Nurse Practitioner classification which is a specialist clinical role. Most commonly nurses would move from the NUM/CNC position to the more senior ADON/DON positions and would normally 'act up' into these positions from time to time.

With the creation of individual contracts for these senior positions it is unclear how nurses and midwives covered by a certified agreement would be able to act in higher positions. This in itself would create an impediment to many NUMs/CNCs progressing to higher levels because of the associated loss of industrial protection and tenure through individual contracts.

The Bill clearly specifies that an engagement under s194, the so-called 'high income guarantee contract' excludes individuals from accessing unfair dismissal and dispute settling procedures of the QIRC. This loss of job security in itself is further exacerbated by the uncertainty around entitlements once a nurse or midwife moves beyond the industrial instrument classifications.

Amendment of *Superannuation (State Public Sector) Act 1990*

The QNU notes the proposed changes to the *Superannuation (State Public Sector) Act 1990*, particularly section 2B – Membership of the Board. The transitional arrangements outlined in the Bill means that upon commencement of the legislation the appointment of existing trustee directors ends and all offices declared vacant. We understand from informal discussions over the past week or so that only three or four of the existing QSuper trustee directors are confirmed as continuing on the board after 30 November 2013.

The QNU is extremely concerned about the loss of expertise from the board and has sought clarification from the Queensland Treasurer about how this will be addressed via transitional arrangements and the significant risks associated with the loss of expertise

mitigated. This is of particular interest to the QNU given that the Bill provides for us to nominate a trustee director to the QSuper board. At time of writing, the QNU had not yet received a response to our inquiry about this important matter. Given that QSuper has been regulated by the Australian Prudential Regulation Authority (APRA) for some years now, the QNU believes that this issue is one that APRA will also have a keen interest in.

Ensuring board stability is central to the maintenance of best practice governance and appropriate risk management for QSuper, one of the largest superannuation funds in Australia with over \$43 billion Funds under Management and 530,000 members. The planned retirement from the board by two longstanding trustee directors was known for sometime. However the further loss of board expertise resulting from decisions made to not continue the nomination of a number of longstanding employer and employee nominated trustee directors that is occurring in conjunction with this legislative change is of great concern. This in part results from the loss of board nomination rights by the Queensland Council of Unions and Australian Workers Union and the resultant loss of two longstanding trustee directors from the board.

Conclusion

Public sector nurses and midwives in Queensland are already facing unprecedented attacks on their career and governance structures, workload management, shift rostering arrangements and now workplace rights. We again ask the Attorney-General (through the Committee) to abandon this proposed legislation.

We recognise that the Attorney-General appears uninterested in the adverse effect this Bill will have on workers. However, an exhausted, dissatisfied nursing and midwifery workforce cannot continue to deliver high quality of health care in the face of such relentless attacks. Rather than increasing productivity these measures serve to punish and frustrate a highly trained profession.

We welcome the opportunity to discuss the Bill further with the Committee at the public hearing on 1 November.

References

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Nurses and Midwives (Queensland Health) Certified Agreement 2012

6. The purpose of this agreement is to:

- Promote an effective, efficient and productive health system that is affordable and meets the growing needs of Queenslanders.
- Strategically position Queensland Health through the Nursing and Midwifery workforce to be a key driver in the National Health Reform agenda.
- Improve accountability, innovation, effectiveness, efficiency and responsiveness to community needs.
- Develop a positive and safe workplace culture where relationships are based on trust and respect and teamwork is fostered, ideas are freely shared and problems solved collaboratively.
- Devolve to Hospital and Health Services level the interest based bargaining approach between the nursing and midwifery workforce and Queensland Health management as an effective way of achieving shared objectives.
- Continue to attract and retain sufficient numbers of appropriately skilled nurses and midwives to Queensland Health to deliver patient centred, safe, quality care, whilst improving the effective management of workloads.
- Provide attractive, competitive and equitable remuneration for nurses and midwives.
- Continue to utilise the Business Planning Framework (BPF) as the tool to plan and manage workloads for clinical service provision to maximise appropriate effective resource allocation.
- Deliver innovative and sustainable models of nursing and midwifery care supported by a responsive skills mix.
- Build the future capacity of a professional highly skilled and competent nursing and midwifery workforce to meet community needs through pro-active and innovative workforce planning.
- Provide working arrangements which support work-life balance for nurses and midwives and quality patient care.
- Provide a classification framework and career structure that offers a choice of accessible and rewarding career paths for nurses and midwives incorporating consistent professional standards and principles.
- Implement innovative and responsive approaches to fully utilise, develop and value nurses and midwives in all categories and levels and at all stages of their career through effective succession planning and management.
- Build the non-acute health care system through innovative primary and preventative health care models.
- Optimise the opportunities to access all sources of funding under the Hospital and Health Services frameworks.
- Build a strong, stable and sustainable nursing and midwifery workforce responsive to the service needs of diverse rural and remote locations.
- Recognise the QNU as the principal industrial and professional nursing union.
- Provide simple, easily understood and easily applied conditions of employment within a co-operative and consistent industrial relations framework.
- Devolve to nurses and midwives in management positions the necessary authority to achieve the objectives of this agreement.

33. Commitment to future Reform and Productivity Enhancements

- 33.1 The parties have a goal, through the processes and initiatives outlined in this agreement, to achieve productivity enhancement and cashable savings to fund increases in the agreement beyond 2.5% per annum.

The process and initiatives will be agreed and monitored by NaMIG. Queensland Health will not adopt a negative cost cutting approach to pursuing productivity enhancements and is committed to ensure adequate resources are allocated to maximise the full potential of any agreed initiatives.

The parties are committed to proactively participate in a comprehensive reform process to promote new and effective methods of work that deliver increasingly efficient and effective clinical practices while maintaining appropriate clinical outcomes.

- 33.2 Significant opportunities to enhance productivity and promote effective resource utilisation have been identified by the parties. Given the size and breadth of location of the nursing and midwifery workforce in Queensland Health, nurses and midwives are ideally placed to drive significant productivity improvements within the context of the health reform agenda.

The parties acknowledge that nurses and midwives in management positions require the necessary delegated authority to ensure these productivity enhancements are achieved during the life of the agreement. To this end, local delegations must enable nurses and midwives to achieve productivity enhancements. It is agreed that a joint Queensland Health/QNU review of local delegations framework relating to the initiatives highlighted below will be conducted within six months of certification of this agreement. The agreed necessary amendments to delegate authority to facilitate the achievement of the productivity enhancements will be made at the conclusion of this review. This review process will also involve the identification of agreed targets with respect to productivity and identification of the enhancements to be achieved via the development of an agreed Key Performance Indicator (KPI) framework.

- 33.3 A data collection and reporting capacity will be established and funded within NMOQ to compile, analyse and report on the implementation of nursing and midwifery efficiency and effectiveness measures contained in this agreement (including identifying budgetary savings). The scope of this unit will be broad, capturing both the specific initiatives outlined in clause 33.4 below as well as general productivity enhancements arising from the implementation of the BPF, new models of nursing and midwifery and any other productivity enhancements identified during the life of the agreement, including locally identified savings. This functional area of NMOQ will liaise closely with areas such as the Centre for Healthcare Improvement to ensure that the contribution of nursing and midwifery to the achievement of broader organisational improvement agendas is captured. The enhancements achieved will be reported in the annual report of NaMIG via the incorporation of the agreed KPI framework that will include measures relating to workforce, efficiency and effectiveness and quality measures.

- 33.4 Specific commitments:

The nursing and midwifery workforce will actively support measures to improve access to care through innovative approaches to the patient experience, including the implementation of advanced practice roles. The measures to be supported include but may not be limited to:

- Full implementation of the BPF (which will result in decreased utilisation of agency/casual staff and the implementation of appropriate skills mix according to evidence based practice)
- Criteria Led Discharge
- Hospital in the Home
- Hospital Avoidance Program
- Midwifery led models
- Community Hospital and Other Interface Programs

- Clinical redesign processes including, the Time to Care approach (e.g. The Productive Ward) and Patient Journey Boards
 - Improved functioning of multi-disciplinary teams
- 33.5 The nursing and midwifery workforce will actively support system-wide initiatives to enhance optimisation of funding and effective use of resources through improved systems, processes and revenue generation and enhancement. This includes but may not be limited to:
- Maximising funding opportunities under the Activity Based Funding and block funding arrangements, in particular ensuring that the BPF is appropriately implemented to ensure the matching of supply with demand for nursing and midwifery services;
 - Generation of own source revenue for Queensland Health;
 - Implementation of eHealth initiatives;
 - Implementation of Nurse on Q.
- 33.6 The parties agree to consider a range of other matters including:-
- The removal of barriers that prevent the utilisation of an employee's full skill, competence and training;
 - The development of simplified award/agreement arrangements that do not reduce current entitlements and that are, as a total, cost neutral to Queensland Health;
 - The adoption of unit/service specific enterprise flexibility arrangements which allow for adoption of local agreements with specific conditions that promote better work outcomes for Queensland Health and nurses and midwives. It is agreed that such arrangements will require majority employee agreement within the affected workgroup and the consent of the relevant union. Nothing will limit the rights of any party to access the QIRC through the existing dispute settlement process;
 - The undertaking of a feasibility analysis and options for the development of an "all in" salary rate, such as that which applies in caseload midwifery annualised salary;
 - A process to identify and eliminate waste and inefficiency in work covered by this agreement. This is not designed to encompass issues around restructuring or job reduction;
 - The development and rollout of absence management and employee wellbeing arrangements to improve workforce participation. Such arrangements will be genuinely based on improving workplace culture through promoting trust and positive communications.