

## **TASMANIAN INDUSTRIAL COMMISSION**

*Industrial Relations Act 1984*

s23(1) application for award or variation of award

### **The Minister administering the State Service Act 2000**

(T14638 of 2019)

## **HEALTH AND HUMAN SERVICES (TASMANIAN STATE SERVICE) AWARD**

PRESIDENT D J BARCLAY

HOBART, 21 February 2019

### **Award variation – extension of scope time frame- consent application - operative from 1 July 2018 until 1 September 2019**

#### **DECISION**

[1] On 14 February 2019, The Minister administering *the State Service Act 2000* (MASSA) lodged with the Registrar, pursuant to Section 23(1) of the *Industrial Relations Act 1984*, an application to vary the Health and Human Services (Tasmanian State Service) Award relating to an extension of the scope time frame.

[2] At the hearing in Hobart on 18 February 2019, Mr Brett Charlton and Mr Nigel McCullough appeared on behalf of MASSA. Mr James Eddington appeared on behalf of the Health Services Unions, Tasmania Branch (HSU) and Mr Tom Lynch appeared on behalf of The Community and Public Sector Union (SPSFT) Inc (CPSU). Ms Caroline Saint from the Australian Nursing and Midwifery Federation (Tasmanian Branch) (ANMF) advised in writing that the ANMF consents to the variation and that they would not attend in person.

[3] Mr Charlton made extensive submissions setting out the history of the matter, its current status and the intentions of the parties moving forward. I venture to set out what he said:

"[T]he application before the Commission today is provided jointly by the parties and it relates to an earlier application, matter T14603 of 2018, which was a consent application to vary the Health and Human Services Award. The application before you today is seeking an order of the Commission to extend by six months the arrangements entered into when this matter was last before the Commission. Matter T14603 was initially heard on the 26<sup>th</sup> of June 2018 and the background was covered at that hearing but is also detailed in part in the decision of the Commission issued on the 29<sup>th</sup> of June 2018. In seeking the variations of the award at that time, the parties undertook to work jointly on determining the future award arrangements of the State Service employees undertaking duties at Communities Tasmania. The parties further undertook to report back to the Commission on the progression of those deliberations and seek any associated variations to relevant awards as required. This application today is an opportunity to provide an update to the Commission on these matters.

Now, I should note, President, that the timely progression of this matter has been somewhat challenging given other activities occurring within the broader State Service industrial environment, of which I expect you are no doubt aware. Notwithstanding,

I'm pleased to advise that the parties note that there have been very constructive without prejudice discussions to date. Whilst the parties understand that if nothing occurs then the result is that the Tasmanian State Service Award applies the other option being explored is retaining the link to the Health and Human Services Award for employees that are currently covered by that award as well as establishing the Health and Human Services Award for all Communities Tasmania positions into the future. The proposed six month extension is sought to enable the parties to finalise an agreed position to take to employees for their consideration. This would be in the form of consultation that identifies the current issues and the potential differing impacts on staff and outlines the proposed arrangements going forward.

The extension would also allow for unions to seek confirmation from their members as to whether the proposed arrangements are supported and should they be supported this extension would also provide the necessary time to implement the change which would include drafting any necessary award variations and seeking the support of the Commission with those variations. There would also be a need to undertake variations to the existing payroll arrangements to reflect any variations agreed by the parties. And furthermore the extension would also allow for the parties to consider alternative approaches should the agreed position not be supported by affected employees.

The parties submit that maintenance of the existing arrangements for a further six months is in the public interest. The development of an agreed, orderly and structured resolution to the award issue that arose with the creation of Communities Tasmania is in the interests of all employees and the community. It ensures an informed and considered approach to both employees' conditions of employment and the operational needs of the organisation which in turn supports the maintenance of industrial harmony and preserves the continuity of service delivery for the community. This extension does not create disadvantage to employees as it does not alter their existing terms and conditions and they continue to enjoy the benefits of their longstanding award arrangements. Providing enough time to support an appropriate level of consultation with employees is advantageous to them as it enables them to deliberate on the proposed approach in an informed manner and undertake the necessary liaison with their unions.

Once there is a final determination in relation to the future award arrangements at Communities Tasmania the parties will be able to finalise a proposed scope and award variations that reflect these arrangements. These will then be the subject of a further application to the Commission for consideration and the parties recommend the proposed variation to the Health and Human Services Award to the Commission."

- [4] All parties submitted the variation sought does not offend the public interest, does not disadvantage those employees covered by the Award and recommended the variation to the Commission
- [5] I am satisfied that the variation is in the public interest and that no employees are disadvantaged.
- [6] The application is granted and pursuant to s24 and 36 of the Act the Award is varied in accordance with the application. The variation to the award is operative from 1 July 2018 until 1 September 2019.

[7] An order reflecting this decision will follow.



David Barclay  
**President**

**Appearances:**

Mr B Charlton and Mr N McCullouch for MASSA  
Mr J Eddington for HSU  
Mr T Lynch for CPSU (SPSFT) Inc

**Date and place of hearing:**

2019  
18 February  
Hobart