

## **TASMANIAN INDUSTRIAL COMMISSION**

*Industrial Relations Act 1984*

s 23(1) application for award or variation of award

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

(T14836 of 2021)

### **NURSES AND MIDWIVES (TASMANIAN STATE SERVICE) AWARD AMBULANCE TASMANIA AWARD MEDICAL PRACTITIONERS (TASMANIAN STATE SERVICE) AWARD**

DEPUTY PRESIDENT N ELLIS

HOBART, 23 MARCH 2021

**Award variation – travel and meal and private motor vehicle allowances - operative date from first full pay period on or after date of approval.**

#### **DECISION**

**[1]** On 1 March 2021, 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 Nurses and Midwives (Tasmanian State Service) Award, the Ambulance Tasmania Award, and the Medical Practitioners (Tasmanian State Service) Award.

**[2]** At the hearing on 19 March 2021, Ms Alice van Galen appeared on behalf of MASSA, Ms Caroline Saint appeared on behalf of the Australian Nursing and Midwifery Federation (Tasmanian Branch) (ANMF), Mr Matthew Gough appeared on behalf of the Community and Public Sector Union (State Public Services Federation) Inc (CPSU), and Mr Steven Smith appeared on behalf of the Australian Education Union, Tasmanian Branch (AEU). Mr James Eddington representing Health Services Union, Tasmania Branch (HSU) and Ms Lara Giddings representing the Tasmanian Salaried Medical Practitioners' Society (TSMPS) provided written consent to the variations and did not appear at the hearing.

**[3]** The variations to the Nurses and Midwives (Tasmanian State Service) Award are to adjust the following allowances in line with the relevant mechanism contained in the Award. The relevant ATO determination for the first two adjustments is the Taxation Determination 2020/5 (TD 2020/5)

- a) The allowances at Part IV, clause 7(d), 'Meal Allowance';
- b) The allowances at Part IV, clause 9(a)(i)(1) 'Travel Allowance'; and
- c) The private motor vehicle use allowance at Part IV, clause 8 are varied in accordance with the relevant mechanism in this part which provides that the rates are varied upon application subsequent to 30 March and 30 September of each year after the Hobart Transportation, Private Motoring subgroup, Consumer Price Index Numbers for the quarters ending 30 March and 30 September respectively become available. It is noted that these adjustments are based on 30 September numbers. Rate 1 and

Rate 3 variations for the first 10,000 kilometres travelled are to be calculated in accordance with the formula specified in decision T.33 of 1985 dated 13 June 1985. Variations to the other rates specified in the tables are calculated by applying the percentage shown in the brackets to the relevant first 10,000 kilometres rate (as varied) shown as 100 per cent.

**[4]** The variations to the Ambulance Tasmania Award are to adjust the allowances at Part V, clause 1(a), Travel Allowance - Meals and Incidental in line with the relevant mechanism contained in the Award. The relevant ATO determination for the first two adjustments is the Taxation Determination 2020/5 (TD 2020/5).

**[5]** Further, the variations to Part V, clause 1(c), Private Motor Vehicle Use allowance is varied in accordance with the relevant mechanism in this part which provides that the rates are varied upon application subsequent to 30 March and 30 September of each year after the Hobart Transportation, Private Motoring subgroup, Consumer Price Index Numbers for the quarters ending 30 March and 30 September respectively become available. It is noted that these adjustments are based on 30 September numbers. Rate 1 and Rate 3 variations for the first 10,000 kilometres travelled are to be calculated in accordance with the formula specified in decision T.33 of 1985 dated 13 June 1985. Variations to the other rates specified in the tables are calculated by applying the percentage shown in the brackets to the relevant first 10,000 kilometres rate (as varied) shown as 100 per cent.

**[6]** The variations to the Medical Practitioner (Tasmanian State Service) Award are to adjust the allowances at Part IV, clause 21 'Meal Allowance', Part IV, clause 22 Travel Allowance - Meals and Incidental in line with the relevant mechanism contained in the Award. The relevant ATO determination for the first two adjustments is the Taxation Determination 2020/5 (TD 2020/5).

**[7]** Further, the variations to Part IV, clause 22, m, 'Private Vehicle Use' allowance is varied in accordance with the relevant mechanism in this part which provides that the rates are varied upon application subsequent to 30 March and 30 September of each year after the Hobart Transportation, Private Motoring subgroup, Consumer Price Index Numbers for the quarters ending 30 March and 30 September respectively become available. It is noted that these adjustments are based on 30 September numbers. Rate 1 and Rate 3 variations for the first 10,000 kilometres travelled are to be calculated in accordance with the formula specified in decision T.33 of 1985 dated 13 June 1985. Variations to the other rates specified in the tables are calculated by applying the percentage shown in the brackets to the relevant first 10,000 kilometres rate (as varied) shown as 100 per cent.

**[8]** ANMF and HSU noted as a consequence of the formula used, the kilometre allowance has decreased notionally from the current rate. This would appear to be because of lower Hobart Transportation, Private Motoring subgroup, CPI Numbers for the relevant period. An allowance rate being decreased because of an Award is varied is unusual and not welcome. Notwithstanding this, the mechanism for the private vehicle use allowance prescribed by the Award has been correctly calculated and applied and compliance with the terms of the Award must be adhered to. Both parties submitted it would be beneficial to simplify the calculation of this allowance and the parties agreed to have further consultation surrounding this issue.

**[9]** ANMF, CPSU, HSU and TSMPS filed written submissions supporting the approval of the variation of the respective Awards. All parties submitted the variation sought does not offend the public interest and is in the interest of their members. On that basis it is in the public interest to make the variation.

**[10]** I am satisfied that the variation is with the genuine consent of the parties, in the public interest and the employees are not disadvantaged overall.

[11] The application is granted and pursuant to ss 24 and 36 of the Act the Award is varied in accordance with the application. The variations effected are operative from the first full pay period on or after the date of approval.

[12] An order reflecting this decision will follow.



**Appearances:**

Ms Alice van Galen for MASSA  
Ms Caroline Saint for ANMF  
Mr Matthew Gough for CPSU

**Date and place of hearing:**

2021  
19 March  
HOBART