



## TASMANIAN INDUSTRIAL COMMISSION

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**CITATION:** Variation of the Tasmanian Firefighting Industry Employees Award [2023] TASIC 45

**PARTIES:**

Minister administering the State Service Act 2000

United Firefighters Union of Australia, Tasmania Branch

**SUBJECT:** *Industrial Relations Act 1984*, s 23(1) application for variation of Award

**FILE NO:** T15064 of 2023

**HEARING DATE(S):** 5 September 2023

**HEARING LOCATION:** Tasmanian Industrial Commission, Hobart

**DATE REASONS ISSUED:** 7 September 2023

**MEMBER:** President D J Barclay

**CATCHWORDS:** Variation of award – updated employment categories – superannuation - leave provisions – consent application – consent order issued – operative date of the variations, save the variations to clause 7 of Part 1 and clause 1 of Part 2, of the first full pay period commencing on or after 1 December 2022. The variations to clause 7 of Part 1 and clause 8 of Part 2 will be from 5 September 2023.

**REPRESENTATION:**

Emily Reale for Minister administering the *State Service Act 2000*

Stephen McCallum for the United Firefighters Union of Australia, Tasmania Branch

## **VARIATION OF THE TASMANIAN FIREFIGHTING INDUSTRY EMPLOYEES AWARD [2023] TASIC 45**

### **REASONS FOR DECISION**

**HOBART, 7 September 2023**

**[1]** On 30 August 2023, the Minister administering the *State Service Act 2000* (MASSA) lodged with the Registrar, pursuant to section 23 of the *Industrial Relations Act 1984* (the Act), an application to vary the Tasmanian Firefighting Industry Employees Award.

**[2]** The variations relate to leave provisions. In the written submissions of MASSA, the major amendments are identified as follows:

- improved superannuation benefits for additional employee contributions;
- improved leave entitlements for paid parental leave (including an increase to the weeks of paid parental leave for the primary and secondary caregiver);
- (new) grandparent leave (paid and unpaid leave provisions to support grandparents acting as primary caregivers);
- personal leave (to insert a new Aboriginal family relationships provision);
- bereavement and compassionate leave (to extend the entitlement to instances of miscarriage and stillbirth; and to insert a new Aboriginal family relationships provision);
- family violence leave (increase from 10 days to 20 days; and to insert a new Aboriginal family relationships provision);
- (new) Aboriginal cultural leave (5 days paid leave to enable an Aboriginal employee to be absent from work to engage in Aboriginal Cultural practices and meet Cultural expectations as an active Aboriginal community member during their employment in TSS);
- (new) disability leave (5 days per year to be used for activities (including attending appointments) associated with an employee's long-term physical or psychological disability);
- (new) foster and kinship care leave (up to 10 days per year to support foster and kinship carers);
- (new) gender affirmation leave (4 weeks paid leave and 48 weeks unpaid leave for employees affirming their gender); and
- (new) surrogacy leave (6 weeks paid leave to support an employee acting as a surrogate in a formal surrogacy arrangement)."

**[3]** It is not necessary to set out in detail the amendments. They are self-explanatory. However, I should note that there is some potential dispute about the effect of the new provisions relating to secondary care givers leave in respect to parental leave. The issues relate to whether additional secondary care givers leave is additional to, and therefore

accessible only after, taking a period of leave at the time of the birth of the child. There may also be issues around the commencement of the new scheme of leave being from 1 December 2022. It is unnecessary to resolve those issues now.

**[4]** The parties submitted that notwithstanding the potential disputes, the provisions relating to parental leave formed an integral part of significant amendments to leave provisions, which were the result of lengthy negotiations. It was submitted that the variations should be approved.

**[5]** I am satisfied that the application is consistent with the public interest requirements of the Act and does not disadvantage the Award-covered employees. I am satisfied that notwithstanding a potential dispute about one part of the whole tranche of variations that the variations should nevertheless be approved.

**[6]** The application for variation is granted with an operative date, save the variations to clause 7 of Part 1 and clause 1 of Part 2, from the first full pay period commencing on or after 1 December 2022. The variations to clause 7 of Part 1 and clause 1 of Part 2 will take effect from the date of the variation, namely 5 September 2023.

**[7]** An order reflecting this decision is to follow.

