

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

s55(2) application for approval of an industrial agreement

Minister administering the State Service Act 2000

and

Australian Education Union, Tasmanian Branch

and

The Community & Public Sector Union (State Public Services Federation Tasmania) Inc

and

Health Services Union, Tasmania Branch

(T14707 of 2019)

ALLIED HEALTH PROFESSIONALS PUBLIC SECTOR UNIONS WAGES AGREEMENT No. 3 2016

PRESIDENT D J BARCLAY

HOBART, 21 NOVEMBER 2019

Industrial agreement – application approved – old agreement cancelled – new agreement applies with effect from 22 December 2016 and will remain in force until 30 June 2018 - forwarded to registrar for registration

DECISION

[1] On 4 November 2019, the Minister administering the State Service Act 2000 (MASSA) lodged with the Registrar, pursuant to Section 55(2) of the *Industrial Relations Act 1984* (the Act), the *Allied Health Professionals Public Sector Unions Wages Agreement No.3 2016* (the Agreement) for registration. The Application also sought cancellation of the *Allied Health Professionals Public Sector Union Wages Agreement No. 2 of 2016*.

[2] At the hearing in Hobart on 5 November 2019, Mr Ben Phillips and Ms Elise Mccarthy appeared on behalf of MASSA, and Mr Chris Kennedy appeared on behalf of the Health Services Union, Tasmania Branch (HSU). Mr Tom Lynch on behalf of The Community and Public Sector Union (State Public Services Federation Tasmania) Inc (CPSU) advised the Commission via email that the CPSU consents to the Application and Ms Roz Madsen on behalf of the Australian Education Union, Tasmanian Branch (AEU) advised the Commission via email that the Australian Education Union consents to the Application.

[3] Mr Phillips spoke to the Application. He said:¹

“So T14707 of 2019 is the application for the new agreement, which as noted has arisen following the submission of the other application, being the dispute that was lodged in accordance with s29 on 9 October. That application was

¹ Pages 2 line 41 to Page 4 Line 18 of the Transcript

made by HACSU regarding the implementation – an outcome on the successful personal upgrade scheme application made by Ms Michelle Nicholson within the Department of Health. Specifically this relates to the Allied Health Professional Level 3 Personal Upgrade Scheme that's available through the Allied Professionals Agreement, number 2, 2016. From that application HACSU sought an order that the commission – from the commission that the applicant, Ms Nicholson, be upgraded to the level 35 -effective from 21 December 2017.

The current agreement provides that successful applicants without 10 post-graduate qualifications will be advanced past the qualifications barrier to AHP3 pay point 4, and that further progression to the fifth pay point will be subject to normal, incremental arrangements, where an employee's in possession of relevant post-graduate qualifications and achieves advancement in accordance with this scheme. Further 15 progression will occur to AHP4, pay point 1 with normal annual progression to AHP4 pay point 2.

Following a previous set of changes to these classifications, this does not reflect the current structure, both parties have been in discussion for some time regarding the unintended consequences of that previous classification restructure on the advancement through this scheme, and the issue's also been subject to a number of recent and current bargaining rounds. While it is also envisaged that a new agreement's likely for this group in the future, this is not yet agreed. So accordingly, in the interest of settling the matter and those other matters that have been discussed by consent of the parties, we're here today to register to Allied Health Professionals Agreement number 3, 2016. Which will cancel and replace the Allied Health Professionals Agreement number 2, 2016.

This will resolve the current dispute while allowing current negotiations to continue. It's noted that the changes to the agreement are all within Sch11, which relates to the Allied Health Professional Level 3 Personal Upgrade Scheme. These changes provide for the intended progression of successful applicants, through the salary scale by updating references to classifications as required. Specifically that schedule now provides that successful applicants without post-graduate qualifications will be advanced to AHP point 5q, where an employee is in possession of relevant post-graduate qualifications and achieves advancement in accordance with this scheme. Further progression will occur to AHP 4. 2, with normal annual progression to AHP 4.3 to occur.

It's noted that advancement beyond AHP4.3 will not occur without obtaining promotion or merit to an advertised vacancy of AHP4. So the changes within this being that the pay point for advancement, without post-graduate qualifications changing from AHP3.4 with increment to AHP3.5, to now direct progression to AHP3 .5q, and for with post-graduate qualification, changing from AHP4.1 with incremental progression to AHP4.2, to progression to AHP4.2 with incremental progression to AHP4.3. The rest of the agreement remains the same as the current version, which includes maintenance of the date of and period of operation, being 22 December 2016 through to 30 June 2018.

It's noted that the 2016 agreement has been updated given that the subsequent 2018 agreement provided for salary increases only. While, as mentioned, the 2019 agreement's currently being negotiated. We submit there's nothing preventing the commission approving the registration of this agreement, the agreement does not disadvantage the employees covered. There's a genuine

concern of the parties the agreement complies with the requirements of s55 of the act and the public interest is satisfied. If it please, I have nothing further on T14707".

[4] Mr Kennedy indicated that the HSU supports the Application.

[5] I am satisfied that it is appropriate to cancel Agreement No. 2 of 2016. The old agreement is essentially replaced but updated with appropriate classification. No one loses any benefit of the old agreement by its cancellation.

[6] I am satisfied that the proposed agreement is consistent with the public interest requirements of the Act, does not disadvantage the employees concerned, and obviously the term of the agreement does not exceed 5 years. I am satisfied that there is genuine consent to the Agreement by the parties to it.

[7] Pursuant to s55(4) the Agreement is approved with an operative date of 22 December 2016 and shall remain in force until 30 June 2018. The file will now be referred to the Registrar for registration of the Agreement in accordance with the requirements of s56(1) of the Act.



D J BARCLAY
PRESIDENT

Appearances:

Ms Phillips and Ms McCarthy for MASSA

Mr Kennedy for HSU

Date and place of hearing:

2019

5 November

Hobart