



## TASMANIAN INDUSTRIAL COMMISSION

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**CITATION:** Variation of the Health and Human Services (Tasmanian State Service) Award [2023] TASIC 59

**PARTIES:**

- Minister administering the State Service Act 2000
- Australian Nursing and Midwifery Federation (Tasmanian Branch)
- The Community and Public Sector Union (State Public Services Federation Tasmania) Inc
- Health Services Union, Tasmania Branch

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

**FILE NO:** T15079 of 2023

**HEARING DATE(S):** 24 November 2023

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

**DATE REASONS ISSUED:** 1 December 2023

**MEMBER:** President D J Barclay

**CATCHWORDS:** Variation of award – holidays with pay – Australia Day – consent application – consent order issued – operative from 24 November 2023

**REPRESENTATION:**

Stuart Locke and Jane Hanna for Minister administering the *State Service Act 2000*

Lilli Midgley for The Community and Public Sector Union (State Public Services Federation Tasmania) Inc

James Milligan for Health Services Union, Tasmania Branch

- Written submissions received from The Community and Public Sector Union (State Public Services Federation Tasmania) Inc and Australian Nursing and Midwifery Federation (Tasmanian Branch)

## VARIATION OF THE HEALTH AND HUMAN SERVICES (TASMANIAN STATE SERVICE) AWARD [2023] TASIC 59

### REASONS FOR DECISION

HOBART, 24 NOVEMBER 2023

[1] On 17 November 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 Health and Human Services (Tasmanian State Service) Award.

[2] The variation relates to holidays with pay.

[3] The variation enables an employee to substitute the Australia Day holiday with pay for another day of leave with pay. That alternative day is to be taken within a four-week period from 26 January. I noted during the hearing that the alternative day may not be able to be taken within that four week period. I was told that so long as negotiations had commenced to take the holiday on an alternative day then a person would not lose the holiday with pay notwithstanding it was not able to be taken within the four week period.

[4] It was also pointed out that in practice the employee who wished to substitute the holiday would have to make arrangements to substitute the holiday prior to 26 January and the substituted day would be agreed at that time.

[5] It was also noted that the holidays with pay clause still referred to the Queen's Birthday holiday. By the consent of the parties the clause was amended to delete "Queen's" and substitute "King's" in the clause.

[6] 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 the variation should be approved.

[7] The application for variation is granted with an operative date of 24 November 2023.

[8] An order reflecting this decision is to follow.

