

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

s23(1) application for award or variation of award

The Minister administering the State Service Act 2000
(T14718 of 2019)

HEALTH AND HUMAN SERVICES (TASMANIAN STATE SERVICE) AWARD

PRESIDENT D J BARCLAY

HOBART, 18 DECEMBER 2019

Award variation – scope - consent application – operative between the period 1 July 2018 and 31 March 2020

DECISION

[1] On 5 December 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 scope of the Health and Human Services (Tasmanian State Service) Award.

[2] In correspondence to the Commission Mr Brett Charlton, on behalf of MASSA, requested the matter be heard in Chambers:

“Given this is a consent application and noting the matters have been previously canvassed in detail before you, the parties request that consideration be given to determining the matters on the papers ...”

[3] On 11 December 2019 the President wrote to the parties advising that if the parties consented he would deal with the matter in Chambers. Mr Tom Lynch on behalf of The Community and Public Sector Union (State Public Services Federation Tasmania) Inc, Mr Tim Jacobson and Mr J Eddington on behalf of the Health Services Union, Tasmania Branch and Ms Caroline Saint on behalf of the Australian Nursing and Midwifery Federation (Tasmanian Branch) consented, in writing, to the request to hear the matter in Chambers.

[4] Mr Charlton sought a variation to the scope of the Award. As this was the fourth time the scope was sought to be varied I set out Mr Charlton’s submissions as to why this application is necessary and should be granted:

“At the hearing of 28 August 2019, the parties submitted a schedule of actions, detailing the future activities that were required in advance of seeking the support of the Commission in the proposed changes to the Health and Human Services (Tasmanian State Service) Award (HAHSA). An updated version of that schedule is enclosed, with a column added that identifies those actions that have been completed and those that remain outstanding.

The progress of this matter has now reached the point where unions need to consult and ballot their members on the proposed outcome, and subject to the outcome of the ballots the documentation can be finalised and the support of the Commission can be sought to register the variations to HaHSA. As detailed in the enclosed emails, the unions have recently highlighted an issue with conducting the

consultation at this time, as it coincides with the release of the various offers from the concurrent wage negotiations. In discussions regarding this matter, the difficulty was identified with concurrently consulting with members on the Communities Tasmania award matter and the wages agreement, given both relate to changes to conditions of employment.

As noted in the enclosed emails, the unions have proposed delaying their consultation and ballots until post the completion of the current wage agreements process, which will include the drafting and registration of agreements should the offers be accepted. Subject to the outcome of that process, this would likely mean the consultation and ballot on the award coverage issue could commence sometime in January or February 2020.

Whilst it was the clear aim of the parties to complete the activities within the timeframes enclosed in the attached schedule and finalise the matter prior to the current expiry date of 31 December 2019, external events have impacted on our capacity to achieve this. On that basis, the parties have jointly determined to request the support of the Commission in further extending this matter to 31 March 2020, to enable the unions a clear space to undertake the consultation and balloting of their members.

A consent application seeking the variation is enclosed and the original hard copy application has been provided to the Commission. This applications seeks to maintain the status quo of award arrangements; remains in the public interest as it facilitates the continued progression of this matter in a consultative and orderly manner and has no disadvantage to employees given the award coverage arrangements it maintains are those proposed for the future."

[5] It may be seen therefore that 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.

[6] In the circumstances outlined above I am satisfied that the variation are in the public interest and that no employees are disadvantaged.

[7] The application is granted and pursuant to s24 and 36 of the Act the Award is varied in accordance with the application. The variations to the award are operative between the period 1 July 2018 and 31 March 2020.

[8] An order reflecting this decision will follow.



David Barclay
President

Appearances:

Date and place of hearing:

2019
Hobart