

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

s55(2) application for approval of an industrial agreement

Minister administering the State Service Act 2000

And

Health Services Union, Tasmania Branch (T14862 of 2021)

AMBULANCE TASMANIA – PARAMEDIC IMMUNISER AGREEMENT 2021

PRESIDENT D J BARCLAY

HOBART, 23 SEPTEMBER 2021

Industrial agreement – application approved – agreement applies with effect from the date of registration and will remain in force until 30 June 2022 - forwarded to registrar for registration

DECISION

[1] On 20 September 2021, 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 Ambulance Tasmania – Paramedic Immuniser Agreement 2021.

[2] The interests of the affected employees are represented by the Health Services Union, Tasmania Branch (HSU). The parties agreed that the Application was to be dealt with on the papers and they have filed written submissions.

[3] The Agreement provides for the creation of a classification of employees known as Paramedic Immunisers. The need for such an agreement is explained in the Ministers submissions as follows:

“To enable a broader workforce to provide the various COVID-19 vaccines the Director of Public Health (as the delegate for the Secretary of the Department of Health), under the authority of the *Poisons Act 1971*, has authorised paramedics to immunise independently the various COVID-19 vaccines.

Section 3 of the *Poisons Act 1971* provides that ‘paramedic’ has the same meaning as in the *Ambulance Service Act 1982*. Section 3AB of the *Ambulance Service Act 1982* provides as follows:

3AB. Meaning of *paramedic*

For the purposes of this Act, a person is a *paramedic* if the person is –

(a) an officer of the Ambulance Service who –

i. holds –

(A) a prescribed paramedic qualification; or

(B) a qualification and experience that the Commissioner is satisfied demonstrates a satisfactory level of understanding and competence in the areas of knowledge contained within a qualification prescribed under sub-subparagraph (A) ; and

(ii) is appointed to a position determined by the Commissioner to be a paramedic position

...

An opportunity has been identified to appoint and employ graduates of a prescribed paramedic qualification to Paramedic Immuniser positions rather than taking qualified paramedics 'off-road'. Persons who can be employed to the position of Paramedic Immuniser could be new graduates who do not fit the definition of 'paramedic' or other classification under the Ambulance Tasmania Award but fit within the meaning of 'paramedic' under the *Ambulance Service Act 1982* as outlined above.

The scope of the Ambulance Tasmania Award provides that:

This award is to apply to all persons employed under the *State Service Act 2000* who are employed in the Department of Health and Human Services and for whom a classification is contained in this award, except for employees for whom a classification is contained in another award of the Tasmanian Industrial Commission.

As a result of there being no suitable classification descriptor included in the Ambulance Tasmania Award that could apply, Paramedic Immunisers cannot be covered under this Award and, as a result, the Ambulance Tasmania Agreement 2019 also cannot apply. Accordingly, it is necessary to make an industrial agreement under s 55 of the *Industrial Relations Act 1984* to provide for 'Paramedic Immuniser' classification, terms and conditions."¹

[4] The Agreement will operate until 30 June 2022 which is estimated to cover the period of the government's intensive program of vaccinations.

[5] The general terms and conditions of employment are governed by the adoption of the Ambulance Tasmania Award and the Ambulance Tasmania Agreement 2019, although the Paramedic Immunisers will not be provided with uniforms and equipment given the specific task and term for which they are employed and the limited duties they will perform.

[6] In regard to classification and salary the Minister submits:

"Paramedic Immunisers covered by this Agreement will be paid the rates specified under this clause with an increase occurring from the first full pay period commencing on or after 1 December 2021. The salary rate of Paramedic Immuniser is aligned with that of a Paramedic Intern given that both positions are designated as graduate positions. Paramedic Immuniser's cannot be classified as Paramedic Interns under the Award as Paramedic Immunisers will not be 'undertaking the necessary and relevant work experience and other training as determined by the Commissioner to

¹ Ministers submissions

become a Paramedic' as is required for Paramedic Interns under the Award.² Further, Paramedic Immunisers will not be required to practice under supervision of a Paramedic unlike Paramedic Interns who are. A Paramedic Immuniser means an employee who holds a Bachelor of Paramedic Science or equivalent and who is appointed to an approved Paramedic Immuniser position. The Paramedic Immuniser will be responsible for vaccinating patients/clients."

[7] It is clear, given the COVID 19 pandemic that it is in the public interest to speedily roll out the vaccines. In order to facilitate that aim it is reasonable to employ persons to carry out the vaccinations. The creation of the roll of Paramedic Immunisers, using the skills of recently qualified paramedics is a sensible way to achieve those aims. The terms and conditions of the employment are reasonable.

[8] I have considered, given the Agreement creates a new category of employee whether the Agreement makes provision for ordinary hours of work, the provision of leave and providing for rates of wages generally and therefore must be dealt with by the Full Bench.³ I have ultimately come to the conclusion that in effect the Agreement, while standing on its own, effectively incorporates terms and conditions of employment from another award and agreement. As such the Agreement does not make provision for those things (other than by incorporation) but rather the existing Award and Agreement does, both of which have been appropriately approved and varied by the Full Bench where necessary. Indeed I note that the matters provided on the Agreement could have been achieved by a variation of the Award. If that had been the case the variation would not have had have been heard by the Full Bench. Accordingly I am of the view that a single Commission can hear and determine this Application.

[9] The HSU consents to the making of the Agreement. I am satisfied that the Agreement is consistent with the public interest requirements of the Act, does not disadvantage the employees concerned, and 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.

[10] Pursuant to s55(4) the Agreement is approved with an operative being the date of registration and shall remain in force until 30 June 2022. 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

Parties Representatives:

Ms E Reale for MASSA
Mr K Kennedy for HSU

Date and place of hearing:

Determined on the papers

² Refer Part II – Classifications, Salaries and Related Matters, cl 1 of the Ambulance Tasmania Award.

³ See s 35 *Industrial Relations Act 1984*