

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

s59(2) application to vary an industrial agreement

Minister administering the State Service Act 2000

and

The Community and Public Sector Union, Tasmanian Branch (State Public Services Federation) Inc

and

United Voice, Tasmanian Branch (T14399 of 2016)

Correctional Officers Agreement 2013

ACTING PRESIDENT N M WELLS

HOBART, 2 MAY 2016

Industrial agreement – correctional officers agreement 2013 – replacement of clause 18 classification structure and progression arrangements – variation approved – operative date 2 May 2016

DECISION

[1] On 9 March 2016, the Minister administering the State Service Act 2000 (MASSA), the Community and Public Sector Union, Tasmanian Branch (State Public Services Federation) Inc (CPSU) and United Voice, Tasmanian Branch (UV) lodged with the Registrar, pursuant to Section 59(2) of the *Industrial Relations Act 1984* (the Act) an application to vary the *Correctional Officers Agreement 2013* (the Agreement).

[2] The matter was heard before the Tasmanian Industrial Commission (the Commission) on 2 May 2016. The Commission indicated to the parties that the application had been made under s59(1) of the Act which allowed for the variation of an industrial agreement by the making of a subsequent industrial agreement. The relevant subsection reads:

"(1) An industrial agreement may be varied, renewed, or cancelled by a subsequent industrial agreement made by and between all the parties to the agreement, but so that no party is deprived of the benefit of an agreement by a subsequent industrial agreement to which he is not a party."

[3] The parties have applied for the Commission to make an order to vary the industrial agreement, which is provided for in s59(2) of the Act. The relevant subsection reads:

"(2) Without prejudice to subsection (1), the Commission may, by order, vary an industrial agreement on receipt of an application by the parties to the agreement."

[4] Accordingly, the Commission sought and obtained an amendment by the parties, to the application, to reflect that the application was made pursuant to s59(2) of the Act.

[5] In specific terms, the application seeks to replace the current clause 18 'Classification Structure and Progression Arrangements' with a new clause.

[6] At a hearing on 2 May 2016, Mr Brett Charlton appeared for the MASSA. Mr Tom Lynch appeared for the CPSU. Mr Leigh Hills appeared for UV.

[7] Mr Charlton indicated that this variation was made to update a number of essential requirements of the Agreement relating to the classification of Correctional Officers and Correctional Supervisors. This was said to be necessary as there are a number of vacancies existing for Correctional Supervisors and Correctional Officers first class which, at present, were unable to be filled due to difficulties in obtaining the required qualifications for those roles.

[8] Mr Charlton advised that difficulties had arisen relating to the completion of annual assessments which, in turn, enabled progression to positions of Correctional Officer First class or Correctional Supervisor. He advised that due to the advent and testing of a new internal assessment tool, the variation to the agreement as sought, would allow for internal assessments to be carried out and appointments to be made to the vacancies.

[9] Mr Charlton submitted that the variation sought changed the qualifications required of a Correctional Officer First class from a Certificate IV or relevant university qualification, to that of successful completion of the internal assessment. Further, that the variation sought changed the qualifications required of a Correctional Supervisor by adding the internal assessment to the existing listed qualifications.

[10] Mr Lynch and Mr Hills both advised the Commission that whilst they supported the making of the variation sought, both the CPSU and UV continued to press for external, transferrable qualifications for Correctional Officers and Correctional Supervisors. It was submitted, however, that the current needs of the workplace were that the vacancies for these positions be filled and they would continue to address the question of external, transferrable qualifications in the current industrial agreement negotiations.

Conclusion

[11] This application is made pursuant to s59(2) of the Act to vary the Agreement by replacing the current clause 18 'Classification Structure and Progression Arrangements' with a new clause as provided in the draft order.

[12] I note that the variation has been consented to by all of the parties to the agreement and it does not offend the public interest test.

[13] I further note that the variation does not affect the operative term of the agreement and thereby does not offend the provisions of s55(5) of the Act.

[14] I find the variation sought by the parties is appropriate in the circumstances.

[15] Pursuant to s59(2) of the Act, the *Correctional Officers Agreement 2013* is varied by replacing the current clause 18 'Classification Structure and Progression Arrangements' with a new clause in the terms contemplated in an order which will follow.

A handwritten signature in blue ink, "N M Wells", is written over a red circular stamp. The stamp contains the text "THE TASMAMAN INDUSTRIAL COMMISSION" around the perimeter.

N M Wells
ACTING PRESIDENT

Appearances:

Mr B Charlton, for MASSA

Mr T Lynch, for CPSU

Mr L Hills, for UV

Date and place of hearing:

2016

May 2

Hobart