

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

s23(1) application for award or variation of award

The Minister administering the State Service Act 2000

(T14841 of 2021)

HEALTH AND HUMAN SERVICES (TASMANIAN STATE SERVICE) AWARD

PRESIDENT D J BARCLAY

HOBART, 17 MARCH 2021

Award variation – extension of scope time frame- consent application - operative from 1 July 2018 until 31 March 2022

DECISION

[1] On 9 March 2021, the Minister administering *the State Service Act 2000* (MASSA) lodged with the Registrar, pursuant to section 23(1) of the *Industrial Relations Act 1984* (Tas) an application to vary the Health and Human Services (Tasmanian State Service) Award.

[2] At the hearing in Hobart on 15 March 2021, Mr Hodgson and Mr Prior appeared on behalf of MASSA and Mr Jacobson appeared on behalf of the Health Services Union, Tasmania Branch (HSU). The Community and Public Sector Union, (SPSFT) Inc (CPSU), and the Australian Nursing and Midwifery Federation (Tasmanian Branch) (ANMF) advised that they would be unable to appear but they both endorsed the submissions of the Applicant and consented to the extension of the scope of the Award.

[3] This is the fourth application extending the scope of the award. The extension of the scope is to enable the terms and conditions of those employed by Communities Tasmania to be properly negotiated and to ensure coverage of employees until negotiations have been completed.

[4] There have been delays, not least of which caused by COVID 19. The Applicant relied on written submissions. I set them out:

"1. On 9 March 2021, 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 Health and Human Services (Tasmanian State Service) Award (HAHSA).

2. The Application seeks an order of the Commission to vary Part 1, Clause 3, paragraph 2 of HAHSA, by deleting the words 'between the period 1 July 2018 to 31 March 2021' and replacing with the words 'between the period 1 July 2018 to 31 March 2022'.

3. The effect of this variation would be to extend the current scope of the HAHSA by an additional 12 months to include the Department of Communities Tasmania (DCT).

4. The purpose of this is to enable DCT, the Community and Public Sector Union (CPSU), Health and Community Services Union, Tasmania Branch (HACSU) and Australian Nursing

and Midwifery Federation (Tasmanian Branch) (ANMF) to finalise discussions in relation to the scope of the HAHSAs.

5. The immediate background to this application is that on 31 March 2020 the Commission issued a decision extending the scope of the HAHSAs for a further 12 months (T14755 of 2020). At the time a proposal had been put to the unions. The CPSU specifically had indicated that they had initial consultation with representatives of a group of DCT members who raised some significant concerns about a number of the elements of the proposal. Therefore, it was necessary for the parties to resume negotiations and work through the concerns raised by the CPSU. The unions were about to ballot their members.

6. Since November 2020 DCT has had limited discussions with Unions in relation to the outstanding matters. This is due to the COVID-19 pandemic which consumed a significant amount of resources from the parties in developing responses and supporting employees. The impact of the COVID-19 pandemic has more recently stabilised. Although it is still a significant issue it is not (at the moment) requiring the level of resourcing that it previously was noting DCT have carriage of the quarantine hotels.

7. Over this period there have been changes in the key personnel who were responsible for the progression of this matter. This included:

a) In June 2020, Brett Charlton (formerly Assistant Director Safety, Wellbeing and Industrial Relations) returned to his substantive position in the Department of Justice;

b) In July 2020, Jacqui Allen commenced with DCT initially on a fixed-term arrangement as the Assistant Director Safety, Wellbeing and Industrial Relations. Staff movements resulted in People and Culture being understaffed for a period of time. Subsequently additional staff have been recruited including Jacqui Allen being appointed on a permanent basis and David Hodgson (Manager Workplace Relations) commencing in December 2020.

c) Elise McCarthy who had carriage at the State Service Management Office (SSMO) commenced maternity leave. Andrew Prior now has carriage.

d) Thirza White has commenced as the Secretary of the CPSU and has taken over responsibility for the carriage of this matter from Tom Lynch.

8. The parties (other than the ANMF) have met twice since February 2021 and have agreed upon a Schedule of Actions (attached). The intention remains to complete the negotiation process and submit a consent position in relation to the amendments to the HAHSAs. The parties are also content to commit to a number of 'report backs' during the process to keep the Commission apprised of the progress in relation to this matter.

9. The parties are well advanced in their negotiations and the without prejudice discussions to date have been constructive.

10. The Application does not offend the public interest as:

a) the development of an agreed, orderly and structured resolution to the award issue that arose with the creation of DCT is in the interests of all employees and the community;

b) it ensures an informed and considered approach to both conditions of employment and the operational needs of the organisation, which in turn supports the maintenance of industrial harmony and preserves the continuity of service delivery to the community;

11. There is no disadvantage to the employees covered by the HAHSAs as the extension of the existing scope clause would simply maintain the status quo.

12. The operative date sought is from 31 March 2021."

[5] Mr Jacobson emphasised the delays which had been caused over the last 12 months had in no little way been caused by the response to the COVID 19 outbreak.

[6] All parties submitted the variation sought does not offend the public interest, does not disadvantage those employees covered by the Award and recommended the variations to the Commission.

[7] Having regard to the history of the matter I am satisfied that the variations are in the public interest and that no employees are disadvantaged.

[8] 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 from 1 July 2018 until 31 March 2022. It is to be hoped that the matter will be able to be concluded before the expiry of the new scope.

[4] An order reflecting this decision will follow.



David Barclay
President

Appearances:

Mr Prior for MASSA

Mr Hodgson for Communities Tasmania

Mr Jacobson for HSU

Date and place of hearing:

2021

15 March

Hobart