



## TASMANIAN INDUSTRIAL COMMISSION

---

**CITATION:** Variation of the Nurses and Midwives (Tasmanian State Service) Award, [2023] TASIC 65

**PARTIES:**

Minister administering the *State Service Act 2000*

Australian Nursing and Midwifery Federation (Tasmanian Branch)

Health Services Union, Tasmanian Branch

Tasmanian Trades and Labor Council

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

**FILE NO:** T15087 of 2023

**HEARING DATE(S):** 30 November 2023

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

**DATE REASONS ISSUED:** 12 December 2023

**COMMISSIONER:** Deputy President N M Ellis

**CATCHWORDS:** Award variations – consent application – consent order issued – holidays with pay – Australia Day – effective from 30 November 2023

**REPRESENTATION:**

S Locke for the Minister administering the *State Service Act 2000*

E Shepherd and P Mansell for Australian Nursing and Midwifery Federation (Tasmanian Branch)

## VARIATION OF NURSES AND MIDWIVES (TASMANIAN STATE SERVICE) AWARD, [2023] TASIC 65

### REASONS FOR DECISION

30 NOVEMBER 2023

[1] On 23 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 Nurses and Midwives (Tasmanian State Service) Award.

[2] The application relates to the Australia Day holiday and the introduction of a provision for Tasmanian State Service employees to choose a substitution day on an alternative agreed date. An employee who chooses to substitute the Australia Day holiday with pay for another day is not eligible for any payment of overtime for working on Australia Day. Where an employee chooses to work on the Australia Day holiday with pay, they will receive the appropriate afternoon and/or night shift penalties in accordance with Part V, Section B, Clause (f).

[3] 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.

[4] All parties submitted the variations did not disadvantage employees covered, are in the public interest and are with the consent of the parties. The Health Services Union, Tasmanian Branch provided consent through email correspondence.

[5] I am satisfied that the application is consistent with the public interest requirements in line with s 36 of the Act, it does not disadvantage the Award-covered employees and is with the consent of the parties.

[6] The application for variation is granted pursuant to s 24 of the Act, with the variation effective from 30 November 2023.

[7] Orders reflecting this decision will follow.

