

## **TASMANIAN INDUSTRIAL COMMISSION**

### ***Industrial Relations Act 1984***

s55(2) application for approval of an industrial agreement

### **Minister administering the State Service Act 2000**

and

### **Australian Nursing and Midwifery Federation (Tasmanian Branch)**

and

### **Health Services Union, Tasmania Branch**

and

### **The Community and Public Sector Union (State Public Services Federation Tasmania) Inc**

(T14795 of 2020)

## **COVID-19 RESPONSE VICTORIAN DEPLOYMENT (HEALTH) AGED CARE SERVICES AGREEMENT 2020**

PRESIDENT D J BARCLAY

HOBART, 21 September 2020

**Industrial agreement – application approved –agreement operative from 21 August 2020 and will remain in force until 30 November 2020 - forwarded to registrar for registration**

### **DECISION**

On 4 September 2020, 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 Covid-19 Response Victorian Deployment (Health) Aged Care Services Agreement 2020.

**[1]** At the hearing in Hobart on 15 September 2020, Mr Tim Witt and Ms Emily Reale appeared on behalf of MASSA, Ms Caroline Saint appeared on behalf of the Australian Nursing and Midwifery Federation (Tasmanian Branch) (ANMF) and Mr Tom Lynch appeared on behalf of The Community and Public Sector Union (State Public Services Federation Tasmania) Inc. (CPSU).

**[2]** Mr Witt submitted as follows:

“Thank you, president. By way of introduction to this application for s55 agreement, president, you will be aware that a state of emergency was declared in Tasmania on the 17th March 2020, as a result of the Corona Virus Pandemic. In Australia the State of Victoria is currently the most impacted and experiencing high levels of community transmission, which

has resulted in a significant number of outbreaks in aged care services. The Australian Government has requested assistance from states and territories to deploy a team of nurses to support the COVID-19 pandemic response in Victorian Aged Care Services. Tasmania has responded to this request and is providing support to the Victorian response through the deployment of staff, who have volunteered to assist. The COVID-19 Response Victorian Deployment Health Aged Care Services Agreement 2020 has been filed with the consent of all the parties to provide a monetary allowance for certain employees who are defined in clause 3 of the agreement, deployed to provide support as part of the COVID-19 response in Victoria.

So the main features, if it pleases, president, of the agreement are as follows. The clause 3, the application clause, outlines the employees covered by the agreement, being those employees deployed to provide support as part of the COVID-19 response in Victoria and who are covered by the Nurses and Midwives Tasmanian State Service Award, specifically registered nurses or enrolled nurses, and the Health and Human Services Tasmanian State Service Award, specifically registered nurses or enrolled nurses, specifically there's a role of forward commander.

Clause 4 provides the date of operation and this agreement is to run from the 21st August 2020 until the 30th November 2020.

Clause 7 establishes, if it pleases, a sixty percent allowance for the employees deployed.

Now this in addition to pay and conditions received under their relevant award and agreement. It is for the duration of deployment in Victoria including any periods of isolation or quarantine in Victoria or Tasmania. This agreement effectively conveys funds from the Commonwealth through the State Service Employer to the staff and the allowance is paid on a base rate of salary.

In conclusion, president, if it pleases, it is submitted that this agreement is made with the consent of the parties and it is in the public interest and does not disadvantage any employee covered by the agreement."

**[3]** Mr Lynch, with whom Ms Saint agreed made the following submission:

"SUBMISSIONS - MR LYNCH: Thank you, president, and look I – I endorse the comments made by – by Mr Witt. This – this came about very quickly, we pulled it together very quickly, and – and I think it is – you know, is a great recognition by the Commonwealth and the state for the – for the role that these people are playing, and I would like to acknowledge the service and dedication shown by these – these people to literally put themselves in harm's way in order to support our colleagues in Victoria while they're – they're trying to get out of the dreadful mess that they're – that they're in.

The agreement itself is fairly simply, in that it establishes the – the allowance and the circumstances for the payment of – of that allowance.

The other matters that we discussed in the negotiation of the allowance – of the agreement weren't put in the agreement they were put in another document and I would like to table a copy of the Nursing Deployment to Victoria Information Pack."

[4] I annex to these reasons a copy of the Information Pack. It seems to me that if there is any doubt about the construction of the Agreement then the information pack is a document which the parties agree assists with the understanding of the Agreement and can be used as an aid to interpretation of it.

[5] During the hearing I raised the issue of out of pocket expenses. I was advised that the employer will pay accommodation expenses direct to the accommodation providers. In regard to other out of pocket expenses I was advised that those to whom this agreement applies will not be out of pocket in consequence of their working in Victoria. Obviously those expenses will nevertheless have to be reasonable.

[6] I also echo the submissions of Mr Lynch regarding the service and dedication of those who will travel to Victoria to assist with that States response to the second wave of the coronavirus.

[7] 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.

[8] Pursuant to s55(4) the Agreement is approved with an operative date from 21 August 2020 and will remain in force until 30 November 2020. 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**

***Appearances:***

Ms T Witt and Ms E Reale for MASSA  
Ms C Saint for ANMF  
Mr T Lynch for CPSU

**Date and place of hearing:**

2020  
15 September  
Hobart