

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

s23 application to vary the Tasmanian minimum wage

Tasmanian Trades and Labor Council

(T14811 OF 2020)

PUBLIC SECTOR AWARDS

PRESIDENT D BARCLAY
DEPUTY PRESIDENT N ELLIS
COMMISSIONER T LEE

HOBART, 4 MARCH 2021

Wage Rates - Tasmanian minimum wage rate determined at \$753.80 pw – s47AB - supported wage varied to \$89.00pw –training wage increases by 1.75% - operative date from 1 August 2020

DECISION

[1] On 3 December 2020 the Tasmanian Trades and Labour Council (TTLC) lodged an application seeking to:

- Vary the Tasmanian minimum wage for an adult in full-time employment specified by s 47AB of the *Industrial Relations Act 1984* (the Act) by an increase of 1.75% to become \$753.80 per week effective from 1 August 2020, and to increase the minimum wage contained in awards to the same level.
- Increase the minimum wage payable to persons engaged under the supported wage system to \$89.00.
- Adjust salary rates in the Tasmanian State Service National Training Wage Award by an increase of 1.75%.

[2] This application arises from the *Annual Wage Review 2019-2020* of the Fair Work Commission (FWC) handed down on 19 June 2020.¹ In its decision the FWC Full Bench noted:

"[139] We have decided to award a substantially lower increase this year than that awarded last year due to the marked change in the economic environment and the tax-transfer system and other changes which have taken effect in the current Review period which have benefitted low-paid households. The increases we have awarded are likely to maintain the real value of the wages of NMW and award-reliant employees.

[140] The factors we are required to take into account have led us to award an increase of 1.75 per cent. The NMW will be \$753.80 per week or \$19.84 per hour. The hourly rate has been calculated by dividing the weekly rate by 38, on the basis of the 38-hour week for a full-time employee. This constitutes an increase of \$13.00 per week to the weekly rate or 35 cents per hour to the hourly rate."

¹ [2020] FWCFB 3500.

[3] The matter proceeded to hearing on 2 March 2021. Ms Marta Hodul-Lenton appeared for the Tasmanian Trades and Labor Council (TTLC), Mr Andrew Prior appeared on behalf of the Minister administering the State Service Act 2000 (MASSA), Mr James Katarzynski appeared for the United Workers' Union (UWU), Ms Natalie Jones appeared for The Community and Public Sector Union (State Public Services Federation Tasmania) Inc (CPSU) and Mr S McCullum appeared on behalf of the United Firefighters Union of Australia, Tasmania Branch (UFUA).

[4] A number of unions which have an interest in awards affected by the Application made written submissions. Unfortunately some unions with an interest in affected awards failed to appear or make any written submissions. That is to be regretted. A total of 13 unions have an interest in awards affected by the Application. Only 6 of those unions appeared or made a written submission. Had it not been for the fact that the Application was clearly in the interests of those persons who those unions represent, the Bench would in all likelihood not have heard the application as those who appeared or made submissions did not represent a majority of the unions whose member are affected. Just because the Bench heard the matter on this occasion does not mean it will do so in the future where there is inadequate representation of the unions (and in turn their members) at the hearing.

[5] In any event Ms Hodul-Lenton provided submissions in support of the application:²

"This is an application pursuant to s.47AB of the Industrial Relations Act 1984 to determine the Tasmanian minimum wage and to vary the listed State Service Awards effective from 1 August 2020, to essentially give effect to the national minimum wage increase that was handed down by the Fair Work Commission as part of its annual wage review, and to increase the wage rates within the Tasmanian State Service National Training Wage Award in line with increases to the Tasmanian minimum wage.

The Fair Work Commission's annual wage review raised the national minimum wage by 1.75% from \$19.49 an hour to \$19.84 an hour or \$753.80 for a 38-hour week commencing 1 July 2020; at the same time raising the supported wage system minimum to \$89 per week.

The Fair Work Commission determined a 1.75% national minimum wage rise was appropriate taking into account statutory and economic considerations. They noted that this increase was substantially lower than the previous year because of marked changes in the economy related to the COVID-19 pandemic but would be likely to maintain the real value of low-paid and award-reliant employees [139].

They noted further that the proportion of low-paid households experiencing financial stress is growing, and that an increase to the national minimum wage would assist them to better meet their needs [113].

In recent years, the Tasmanian Industrial Commission has aligned our minimum wage rise with the rise determined by Fair Work and we submit the Commission need not depart from that approach.

The Tasmanian Trades and Labour Council asserts that this is a fair and reasonable way to maintain the Tasmanian minimum wage.

² Transcript PN14-PN19.

We also note the Commission must have regard to the public interest in exercising its jurisdiction to determine the minimum weekly wage and to vary the Awards.

It is our submission that it is in the public interest to increase Tasmania's minimum wage in line with the national minimum wage order to maintain a relevant minimum safety net.

In relation to the supported wage system, custom and practice has seen the rate increase in line with the national supported wage minimum and consistent with income tests for pensions set by the Department of Human Services. These have been published and we seek the supported wage minimum be increased to \$89 per week.

With respect to the Tasmanian State Service National Training Wage Award, we note that clause 12(d) of this Award provides that all wage rates are to be adjusted, effective from 1 August, by the same percentage that the Tasmanian Minimum Wage increases, as determined in accordance with section 47AB of the Industrial Relations Act 1984. Accordingly, the application before you includes an increase of 1.75% to the wage rates in this Award."

[6] The parties who appeared endorsed the submissions made by the TTLC and agreed the variations are in accordance with the public interest. All written submissions also supported the Application.

[7] Written submissions were received from MASSA, UWU, CPSU, UFUA, Health Services Union, Tasmanian Branch, Police Association of Tasmania, Commissioner of Police, and Australian Nursing and Midwifery Federation (Tasmanian Branch).

[8] The Commission has aligned the Tasmanian minimum wage with that determined by the Fair Work Commission over the recent past. In the present circumstances and noting the unanimous consent, we consider that it is consistent with the public interest to continue the alignment on this occasion. We also note s35(7) of the *Industrial Relations Act 1984* which provides:

"...

(7) Subject to this section, where a Full Bench is satisfied that, having regard to a decision of the Australian Commission that is applicable to the wages payable generally to employees who are subject to awards of the Australian Commission in Tasmania, a variation should be made to the wages payable generally to employees under awards of the Commission, the Full Bench may order that any such variation be made.

..."

[9] Pursuant to s47AB of the Act we determine that the Tasmanian minimum wage for an adult in full-time employment will be \$753.80 per week effective from 1 August 2020.³

[10] Awards containing a supported wage clause will be varied to reflect the new supported wage of \$89 per week effective from 1 August 2020⁴. We note that this rate has historically been set at an income level which does not compromise benefits received under the Disability Support Pension.

³ Annexure 1

⁴ Ibid

[11] The training wage is also increased by 1.75% for those covered by the Tasmania State Service National Training Wage Award.

[12] Pursuant to s 23 of the Act, awards containing minimum wage and supported wage clauses will be varied to reflect this decision.

[13] All Award variations arising from this decision will be effective from 1 August 2020.

[14] Orders arising from this decision will be settled by the Registrar with recourse to the President.



Appearances:

L Hodul-Lenton for TTLC

A Prior for MASSA

N Jones for CPSU

S McCullum for UFUA

Date and place of hearing:

2021

March 2

HOBART

Annexure 1

Award	Tasmanian Minimum Wage	Supported Wage System
AWU (Tasmanian State Sector) Award	\$753.80	\$89.00
Custodial Officers Award	\$753.80	\$89.00
Facility Attendants (Tasmanian State Service) Award	\$753.80	\$89.00
Governor of Tasmania Staff Award	\$753.80	\$89.00
Health and Human Services (Tasmanian State Service) Award	\$753.80	\$89.00
Legal Practitioners Award	\$753.80	\$89.00
Nurses and Midwives (Tasmanian State Service Award)	\$753.80	N/A
Parliamentary Staff Award	\$753.80	\$89.00
Police Award	\$753.80	N/A
Port Arthur Historic Site Management Authority Award	\$753.80	\$89.00
Ambulance Tasmania Award	\$753.80	\$89.00
Tasmanian Fire Fighting Industry	\$753.80	N/A
Tasmanian State Service Award	\$753.80	\$89.00
TasTAFE Teaching Staff Award	\$753.80	\$89.00
Teaching Service (Tasmanian Public Sector) Award	\$753.80	\$89.00