

Industrial Relations Act 1984

APPLICATION FOR AWARD OR VARIATION OF AWARD – SECTION 23(1)

The President,
Tasmanian Industrial Commission.

In the matter of the
Medical Practitioners (Tasmanian State Service) Award

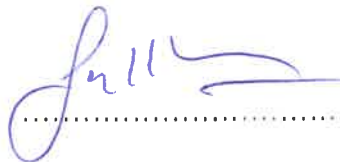
The Minister administering the *State Service Act 2000* applies for the variation of the above mentioned award.

Full particulars of the variations sought are attached.

Name: Jane Hanna

Officer or position: Director, State Service Management Office

Signature:


.....

Date:

17/12/2020
.....

Additional Employer Superannuation Contributions

PART II – SALARIES AND RELATED MATTERS – 15. SALARY SACRIFICE BY EMPLOYEES

Delete

Clause 15. Salary Sacrifice By Employees

And replace with

15. SUPERANNUATION AND SALARY SACRIFICE BY EMPLOYEES

- (a) Superannuation arrangements for employees are prescribed in:
- (i) the *Public Sector Superannuation Reform Act 2016* (PSSR Act)
 - (ii) any regulations made for the purposes of the PSSR Act; and
 - (iii) the Tasmanian Accumulation Scheme Trust Deed created pursuant to the PSSR Act.
- (b) An employee is to be a member of the Tasmanian Accumulation Scheme established by the PSSR Act, unless the employee elects in writing to their employer to become a member of another complying superannuation scheme.
- (c) An employee who had existing superannuation arrangements in place prior to the commencement of this award continues to be subject to those arrangements.
- (d) Additional Employer Superannuation Contributions

The provisions of this clause apply in addition to the rights, entitlements or obligations of the Employer or an employee under the PSSR Act or any regulations made under it.

In this clause:

"complying superannuation scheme" means a superannuation scheme that is a complying superannuation fund for the purposes of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

"default fund" means a superannuation fund that is nominated under section 20(1) of the PSSR Act to be a default fund.

(i) Accumulation Scheme Members

- (1) For any period of unpaid parental leave the employer will make fortnightly additional employer superannuation contributions on behalf of the employee to the default fund or to another complying superannuation scheme if the employee has so elected in writing, at the following rate:

$$\text{EmpCont} = (\text{NRP}/26) \times \text{C}\%$$

EmpCont – Additional Employer Superannuation Contribution

NRP – Normal rate of pay for employee as defined in by Part VII – Leave and Holidays with Pay, Clause 43 Parental leave, subclause (b)

C% - relevant "charge percentage" specified in section 19 of the *Superannuation Guarantee (Administration)*

Act 1992 of the Commonwealth, as amended from time to time

- (2) For a period of paid parental leave for which an employee, in accordance with a relevant Award, has decided to take the period of paid parental leave on half pay as provided for by Part VII – Leave and Holidays with Pay, Clause 43 Parental leave, subclause (e) Maternity Leave, the employer will make fortnightly additional employer superannuation contributions on behalf of the employee to the default fund or to another complying superannuation scheme if the employee has so elected in writing, at the following rate:

$$\text{EmpCont} = 0.5 \times (\text{NRP}/26) \times \text{C\%}$$

EmpCont – Additional Employer Superannuation Contribution

NRP – Normal rate of pay for employee as defined in by Part VII – Leave and Holidays with Pay, Clause 43 Parental leave, subclause (b)

C% - relevant "charge percentage" specified in section 19 of the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth, as amended from time to time

- (3) For any period when an employee is absent from work either totally or partially due to a workers compensation claim and in receipt of a workers compensation weekly payment, the employer will make additional employer superannuation contributions on behalf of the employee to the default fund or to another complying superannuation scheme if the employee has so elected in writing, at the following rate:

$$\text{EmpCont} = \text{WP} \times \text{C\%}$$

EmpCont – Additional Employer Superannuation Contribution

WP – Workers compensation weekly payment paid to employee

C% - relevant "charge percentage" specified in section 19 of the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth, as amended from time to time

(ii) **Defined Benefit Scheme members**

- (1) For any period of parental leave during which an employee is not paid salary or is paid salary of half their normal rate of pay and the employee elects not to pay, is taken to have elected not to pay or is precluded by the rules of the Defined Benefit Scheme from paying, their own contributions to the Scheme, the employer will make fortnightly additional employer superannuation contributions on behalf of the employee for that period to the default fund or to another complying superannuation scheme if the employee so elects in writing, at the following rate:

$$\text{EmpCont} = [(\text{NRP}/26) - \text{AS}] \times \text{C\%}$$

EmpCont – Additional Employer Superannuation Contribution

NRP – Normal rate of pay for employee as defined in by Part VII – Leave and Holidays with Pay, Clause 43 Parental leave, subclause (b)

AS – Actual salary paid to employee while on parental leave

C% - relevant "charge percentage" specified in section 19 of the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth, as amended from time to time

- (2) For any period when an employee is absent from work either totally or partially due to a workers compensation claim, and in receipt of a workers compensation weekly payment and the employee elects not to pay, or is precluded by the rules of the Defined Benefit Scheme from paying, their own contributions to the Scheme, the employer will make additional employer superannuation contributions on behalf of the employee for that period to the default fund or to another complying superannuation scheme if the employee so elects in writing, at the following rate:

$EmpCont = WP \times C\%$

EmpCont – Additional Employer Superannuation Contribution

WP – Workers compensation weekly payment paid to employee

C% - relevant "charge percentage" specified in section 19 of the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth, as amended from time to time

(e) Salary Sacrifice

- (i) An employee may elect to salary sacrifice a proportion of their award salary to a complying superannuation scheme of their choice, as defined in the *Public Sector Superannuation Reform Act 2016*, or non-salary (excluding novated lease of vehicles) and superannuation benefits, subject to compliance with any Tasmanian or Commonwealth government directive or legislation
- (ii) Any Fringe Benefit Tax or Administrative costs incurred as a result of an employee entering into or amending a salary sacrifice agreement will be met by the employee
- (iii) Salary for all purposes, including superannuation for employees entering into salary sacrifice agreement, will be determined as if a salary sacrifice agreement did not exist
- (iv) Salary sacrifice agreements will be annual based on the Fringe Benefit Reporting Year with employees being able to renew, amend or withdraw at any time.

Parental Leave

PART VII – LEAVE AND HOLIDAYS WITH PAY

43. PARENTAL LEAVE

Delete

Clause (e) Maternity Leave, clause (f) Special Maternity Leave, clause (g) Partner Leave and Clause (h) Adoption Leave and Clause (j) Parental Leave and Other Entitlements; and include a new subclause (r) at the end of the clause.

And replace with

(e) Maternity leave

After twelve months continuous service an employee is entitled to 16 weeks paid maternity leave which forms part of the 52 week entitlement provided in subclause (b)(i).

- (i) The 16 weeks paid leave is to be taken at the commencement of the period of maternity leave and must be taken in a consecutive period, except in circumstances provided for in Part VIII, Clause 4 (d)(ii).
- (ii) The rate of pay for an employee during the period of the paid absence is the normal rate of pay, as defined in Clause 2 (a) (viii) of this Part,
- (iii) The employee may elect to take payment for the paid period of the absence,
 - prior to the commencement of the leave or;
 - over 16 consecutive weeks at a consistent rate of pay or;
 - over 32 consecutive weeks at a consistent rate of pay
- (iv) Where an employee elects to take half pay over 32 weeks the payment beyond the 16 weeks does not increase the accrual of paid leave entitlements prescribed by this award.
- (v) An employee is to provide written notice to the employer in advance of the expected date of commencement of parental leave. The notice requirements are:
 - (1) at least ten weeks' notice of the expected date of birth in a certificate from a registered medical practitioner stating that the employee is pregnant;
 - (2) at least four weeks' notice of the date on which the employee proposes to commence maternity leave and the period of leave to be taken.
 - (3) particulars of any period of partner leave sought or taken by the employee's partner.
- (vi) An employee is not in breach of this clause if failure to give the required notice is due to the date of birth occurring earlier than the presumed date.
- (vii) Subject to subclause (c)(i) and unless agreed otherwise between the employer and employee, an employee may commence maternity leave at any time within six weeks immediately prior to the expected date of birth.
- (viii) An employee who continues to work within the six week period immediately prior to the expected date of birth, or an employee who elects to return to work within six weeks after the birth of the child is required to provide a medical certificate to the employer stating that the employee is fit to work on their normal duties.

(f) Special Maternity Leave

- (i) An employee who has not yet commenced maternity leave and who suffers an illness related to their pregnancy or is required to undergo a pregnancy related medical procedure is to be granted any paid personal leave to which the employee is entitled and such further unpaid special maternity leave as a registered medical practitioner certifies as necessary before their return to work.
- (ii) Where a pregnancy related illness or medical procedure is continuous with the commencement of maternity leave the aggregate of paid personal leave, special maternity leave and parental leave, including parental leave taken by a spouse, is not to exceed 52 weeks.
- (iii) Where the pregnancy of an employee terminates other than by the birth of a living child, not earlier than 28 weeks before the expected date of birth the employee is entitled to up to 52 weeks parental leave, including 16 weeks paid maternity leave, certified as necessary by a registered medical practitioner.

(g) Partner Leave

After twelve months continuous service an employee is entitled to 3 weeks paid partner leave which forms part of the 52 week entitlement provided in subclause (b)(i) to be taken at the time of the birth, except in circumstances provided for in Part VIII, Clause 4 (d)(ii).

In addition, an employee will also be entitled to access a further 2 weeks of accrued leave entitlements (Recreation or Long Service Leave) or as Leave Without Pay.

An employee is to provide to the employer at least ten weeks notice prior to each proposed period of partner leave, with:

- (i) A certificate from a registered medical practitioner which names the other parent, states that the other parent is pregnant and the expected date of birth, or states the date on which the birth took place; and
- (ii) An employee is to provide written notice to the employer in advance of the expected date of commencement of parental leave. The notice requirements are:
 - (1) the proposed dates to start and finish the period of partner leave; and
 - (2) that the period of partner leave will be taken to become the primary care-giver of a child; and
 - (3) particulars of any period of parental leave sought or taken by the birth parent.

An employee is not in breach of subclause (e) if the failure to give the required period of notice is due to the birth occurring earlier than expected, or due to the death of the other parent of the child, or other compelling circumstances.

(h) Adoption Leave

- (i) After twelve months continuous service an employee identified as the primary care giver is entitled to 16 weeks paid adoption leave, which forms part of the 52 week entitlement, except in circumstances provided for in Part VIII, Clause 4 (d)(ii).
- (ii) After twelve months continuous service an employee who is a partner but not identified as the primary care giver is entitled to 3 weeks paid partner leave continuous from the day of placement, except in circumstances provided for in Part VIII, Clause 4 (d)(ii).
- (iii) An employee is to notify the employer at least ten weeks in advance of the date of commencement of adoption leave and the period of leave to be taken. An employee may commence adoption leave prior to providing such notice where, through circumstances

beyond the control of the employee, the adoption of a child takes place earlier than expected.

- (iv) Before commencing adoption leave, an employee is to provide the employer with a statutory declaration stating:
 - (1) the employee is seeking adoption leave to become the primary caregiver of the child; and
 - (2) particulars of any period of adoption leave sought or taken by the employee's partner.
- (v) An employer may require an employee to provide confirmation of the placement from the appropriate government authority.
- (vi) Where the placement of a child for adoption with an employee does not proceed or continue, the employee is to notify the employer immediately and the employer is to nominate a time not exceeding four weeks from receipt of notification for the employee's return to work.
- (vii) An employee is not in breach of this clause as a consequence of failure to give the required periods of notice if the failure is due to a requirement of an adoption agency to accept earlier or later placement of a child, or due to the death of a spouse, or other compelling circumstances.
- (viii) An employee seeking to adopt a child is entitled to unpaid leave to attend any compulsory interviews or examinations that are necessarily part of the adoption procedure. The employee and the employer are to agree on the length of the unpaid leave. Where agreement cannot be reached, the employee is entitled to take up to two days unpaid leave. If available paid leave, other than personal leave, may be taken instead.
- (ix) An employee is not entitled to paid Adoption Leave unless the child that is, or is to be, placed with the employee for adoption:
 - (1) is, or will be, under 16 as at the day of placement, or the expected day of placement, of the child; and
 - (2) has not, or will not have, lived continuously with the employee for a period of 6 months or more as at the day of placement, or the expected day of placement of the child; and
 - (3) is not (otherwise than because of adoption) the child of the employee or the employee's spouse or partner.

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(j) Parental Leave and Other Entitlements

- (i) An employee may, in lieu of or in conjunction with parental leave, access any accrued recreation leave or long service leave entitlements subject to the total amount of leave not exceeding 52 weeks.
 - (a) An employee may, subject to written application and approval, access any compassionate or bereavement leave they become entitled to during the period of parental leave subject to the total amount of leave not exceeding 52 weeks.

Compassionate and Bereavement Leave

PART VII – LEAVE AND HOLIDAYS WITH PAY

46. COMPASSIONATE AND BEREAVEMENT LEAVE

Delete

Clause (f) Relationship to other paid leave

And replace with

(f) Relationship to other paid leave

- (i) By written application to the employer, an employee who is absent on recreation leave who becomes entitled to compassionate or bereavement leave during that period of recreation leave, may be credited with an amount of recreation leave equivalent to the number of working days of compassionate or bereavement leave approved and taken during that period of recreation leave.
- (ii) By written application to the employer, an employee who is absent on parental leave and who becomes entitled to compassionate or bereavement leave during that period of parental leave, may be taken to be on compassionate or bereavement leave for the approved period of compassionate or bereavement leave.
- (iii) Compassionate and bereavement leave is not available while an employee is absent from work due to paid leave for a reason other than that specified in subclause (i) or (ii).