

Case Number
2684/2019 D

1. BACKGROUND

This matter relates to a dispute notification by the Department of Treasury and Finance on behalf of the Department for Correctional Services (DCS) against the Public Service Association of South Australia Incorporated (PSA) and its members who work within Correctional Services in South Australia. The dispute notification arose from the PSA and its members implementing work bans without notice throughout the state prison system that has effectively locked down all prisoners (with the exception of the Mount Gambier prison). The DCS have sought orders to immediately lift the industrial action so that the prisons can operate effectively.

The PSA acknowledges the industrial action that their members have taken and have indicated their members are frustrated with a number of matters that include -The better prisons program, the privatisation of the Adelaide Remand Centre (ARC) and the perceived withdrawal of some industrial rights including the refusal of members and delegates to paid meetings resulting in meetings being held and the subsequent docking of employees' wages during those meetings.

In relation to the action taken by the PSA members today, no decision has been made at this time to "dock" the employees any wages. Having heard from the parties at today's conference I make the following orders-

2. TITLE

This order shall be known as the PSA – July 2019 Industrial Action Order ("**the Order**").

3. APPLICATION

This Order applies to work and employment throughout the Department for Correctional Services and which is regulated by the *South Australian Modern Public Sector Enterprise Agreement: Salaried 2017* and the *South Australian Public Service Salaried Employees Interim Award*.

4. PARTIES BOUND

The parties bound by this order are:

- 4.1. the Chief Executive of the Department of Treasury and Finance, being the person declared to be the employer of public employees for the purposes of section 4(1) of the *Fair Work Act 1994* (SA) ("**the Employer**") (in respect of the Department for Correctional Services (DCS));
- 4.2. the Public Service Association of South Australia Incorporated ("**the PSA**"); and
- 4.3. employees of the Employer who are members of the PSA or eligible to be members of the PSA and who are employed as Correctional Officers within DCS.

5. INDUSTRIAL ACTION MUST NOT OCCUR AND NOT BE ORGANISED

5.1. all persons and organisations bound by this Order must not engage in and/or not organise Industrial Action in respect of correctional services operations conducted by the Department for Correctional Services.

5.2. the PSA and Employees must comply with clause 35 of the enterprise agreement identified above.

6. DEFINITION OF INDUSTRIAL ACTION

For the purposes of this Order "Industrial Action" means:

- 6.1. a work practice, or a way of performing work, adopted in connection with an industrial dispute, that restricts, limits or delays the performance of the work; or
- 6.2. a ban, limitation, or restriction affecting the performance of work, or the offering or acceptance of work; or
- 6.3. a failure or refusal in connection with an industrial dispute to attend for work, or to perform work,

but does not include action taken by the Employer with the agreement of the employees, or action taken by employees with the agreement of the Employer;

7. THAT THE PARTIES ARE DIRECTED TO MEET ON THURSDAY, 11 JULY 2019 TO DISCUSS THE ISSUES AS ARTICULATED IN THE PSA LETTER TO DCS DATED 28 JUNE 2019 IN RELATION TO THE BETTER PRISONS PROGRAMME.

8. THAT UPON COMMENCEMENT OF TOMORROWS DAY SHIFT (THURSDAY 11 JULY 2019) THE DELEGATES ARE TO BE PROVIDED A 30 MINUTE PAID MUSTER TO DISCUSS THE PROCEEDINGS OF TODAY'S HEARING BEFORE SAET

9. SERVICE OF ORDER AND INFORMING EMPLOYEES

9.1. For the purposes of Rule 17 of the South Australian Employment Tribunal Rules 2017, it will be sufficient service of this Order upon the parties bound by this Order if a copy is sent by e-mail to the General Secretary of the PSA at:

neville.kitchin@cpsu.asn.au

9.2. A copy of this Order must be placed on any noticeboards usually used by the Department for Correctional Services for the purposes of communicating with the employees defined in clause 3.3 of this order.

9.3. By **9 PM Today (10 July 2019)** the General Secretary of the PSA must post or cause to be posted a copy this Order in a prominent position on its website.

9.4. The General Secretary of the PSA must take all reasonably practicable steps necessary and available to him under the rules of the PSA or otherwise to:

9.4.1. immediately advise its members, including persons who act as workplace representatives of the PSA at South Australian Prisons ("**Delegates**") engaged in connection with work for the Department that:

- (a) any industrial action must not be engaged in, or threatened;
- (b) any industrial action must not be organised, aided, abetted, directed, procured, induced, advised, authorised, encouraged or facilitated; and
- (c) any direction, advice or authorisation by it to the Employees to engage in industrial action is withdrawn;

9.4.2. not later than [*Insert time and date*], provide a copy of this Order to Delegates;

9.4.3. take all reasonable steps to ensure that Delegates comply with this Order.

10. TERM AND DATE OF EFFECT

This order shall come into effect at **7 PM WEDNESDAY 10 JULY 2019** and shall cease to have effect at **7 PM WEDNESDAY 7 AUGUST 2019**

11. LIBERTY TO APPLY

Any person affected by this order shall have liberty to apply to the South Australian Employment Tribunal to vary, extend or rescind this order.

P. G. McMeel



