

FACT SHEET

North West Maternity (Employee Entitlements) Bill 2023

The North West Maternity (Employee Entitlements) Bill 2023 establishes the framework under which employees of the North West Private Hospital may elect to transition their employment to the North West Regional Hospital as part of the transfer of inpatient maternity services from the integrated private public partnership model to the Tasmanian Health Service and for the transfer of their leave and other entitlements.

The Bill seeks to ensure that the new public maternity service has sufficient resources to sustain the current level of inpatient maternity services in the North West of Tasmania by ensuring that employees of the North West Private Hospital are not financially disadvantaged as a result of taking up employment in the public service.

The Bill allows an eligible employee of the North West Private Hospital to elect to transfer their employment from the transfer date, which is 4 December 2023, in conjunction with the commencement of the new public inpatient maternity service.

Under the framework, the Minister for Health, or delegate, may issue a notice to an employee who is eligible to transfer their employment to the Department of Health. These notices may specify the terms and conditions that may apply to the transfer of the eligible employee.

On receipt of a notice, an eligible employee may elect to transfer their employment to the Department of Health. This election must be made in writing and comply with any requirements specified in the notice from the Minister.

If an eligible employee elects to transfer their employment, and notifies the Minister of this intention, the Bill sets out the consultation process that must occur in respect to that employee. The employee may elect, at the consultation, to have a support person present, as well as a representative of a union or a legal practitioner.

Following consultation, the Minister may provide the eligible employee with a transfer notice that sets out the terms and conditions that apply to that employment. These terms and conditions are specific to the employee and may include matters such as scope of practice requirements, registration and continuing education requirements, probation, performance management and supervision requirements and hours to be worked.

Notices under the Bill may be given by the Minister to an employee of the North West Private Hospital at any time in the transfer period, which is the period 4 December 2023 to 31 May 2024.

The Bill provides for the transfer of an eligible employees' leave (personal leave and recreation leave), including long service leave, and other entitlements that are specified in the transfer notice for an eligible employee, on the commencement of their employment with the Department of Health.

In respect to long service leave, the Bill provides for the calculation of long service leave in the public sector due to the differences between the rates at which long service leave

accrues in the private sector under the *Long Service Leave Act 1976* and that under the *Long Service Leave (State Employees) Act 1994*.

The Bill also provides that the period of continuous service that the transferred employee accrued with Health Care immediately prior to the employee transferring to the Department of Health, is taken to be continuous service under the *State Service Act 2000*. From the employee transfer date, entitlements such as maternity leave, paternity leave, adoption leave and redundancy calculations are to be made under the *State Service Act 2000*.

The Bill does not prevent any of the terms of employment of a transferred employee from being altered by any award, industrial agreement or law after that person becomes a State Service employee.

In the event of a dispute arising under the Bill, the Minister is to determine all such disputes. In determining a dispute under the Bill, the Minister is to consult with the North West Private Hospital and any other person considered appropriate in respect to the circumstances of the dispute. A decision of the Minister is final.

The Bill provides the Department of Health the ability to obtain employee information, including employment and payroll records, from the North West Private Hospital in respect to employees who are eligible, or may be eligible, to transfer their employment to the Department of Health. By virtue of sharing information, neither an employee of the Department of Health nor the North West Private Hospital will be in breach of any Act, such as the *Personal Information Protection Act 1994*, where that person has acted in good faith.

The Bill also provides a head of power for regulations to be made.