

**AUSCRIPT PTY LTD**

ABN 76 082 664 220

Suite 25, Trafalgar Centre 108 Collins St HOBART Tas 7000

Tel:(03) 6224-8284 Fax:(03) 6224-8293



## **TRANSCRIPT OF PROCEEDINGS**

---

O/N 9758

### **TASMANIAN INDUSTRIAL COMMISSION**

#### **COMMISSIONER SHELLEY**

**T No 11009 of 2003**

#### **PROFESSIONAL ENGINEERS AND SCIENTISTS (PRIVATE INDUSTRY) AWARD**

**Application pursuant to the provisions of  
section 23(2)(b) of the Industrial Relations Act 1984  
by the Association of Professional Engineers,  
Scientists and Managers, Australia to vary the  
above award re to insert a new clause 3 - requirement  
to work reasonable overtime in part v hours of work  
and overtime**

**HOBART**

**10.00 AM, THURSDAY, 18 SEPTEMBER 2003**

**HEARING COMMENCED**

**[10.00am]**

PN1

MR D. PYRKE: I appear on behalf of the Association of Professional Engineers, Scientists and Managers of Australia.

PN2

MR J. O'NEILL: I appear on behalf of the Tasmanian Chamber of Commerce and Industry Limited.

PN3

THE COMMISSIONER: Thank you. Mr Pyrke?

PN4

MR PYRKE: Commissioner, this is an application to vary the award in relation to the model clause on reasonable overtime that was determined by the Full Bench of the Commission in matter T10886 and that was done in July of this year. My submission is based on the draft order which is attached to the application. I can take another copy for an exhibit now if it pleases, or I can  
- - -

PN5

THE COMMISSIONER: Yes, thank you. I will mark it A1.

**EXHIBIT #A1 DRAFT ORDER ATTACHED TO APPLICATION**

PN6

THE COMMISSIONER: Thank you.

PN7

MR PYRKE: Commissioner, as you can see there are two parts to the draft order. At part 1 we seek to insert a slightly modified version of the model clause determined by the Full Bench. The modification is a cross reference to the relevant clause dealing with a time off in lieu of overtime. I know two points in relation to this modification. Firstly, that it is in line with decisions of the Federal Commission in awards that include provision for time off in lieu of overtime, as this particular award does; and secondly that the modification preserves the effectiveness of a flexibility that potentially benefits employer and employee alike and that is the capacity to take time off in lieu.

PN8

As the application deals with the model clause we know that the rationale and substantive arguments underpinning it have been fully canvassed by other people in another time and another place. Accordingly, I will say no more about this part of the application other than to note for the record that the employees in this particular industry face all of the pressures referred to by the ACTU and the test case. In my submission it follows that the draft order is most appropriate.

PN9

Part two of the draft seeks to insert a reference to the model clause into clause 2, index of part one application and operation of the award. The purpose of this part is simply to signpost what we have done in part one of the application. Commissioner, the application has been discussed with the TCCI and I understand that it has their consent. I submit that the application conforms with the wage fixation principles and that it is consistent with the public interest.

PN10

On the basis of this submission I believe it is open to you to make an order in the terms set out in the application. If you agree I propose that the order should have effect from the first pay period commencing on or after today's date. If the Commission pleases.

PN11

THE COMMISSIONER: Thank you. Mr O'Neill?

PN12

MR O'NEILL: Yes, thank you, Commissioner. TCCI consents to the application. The application is in line with the matter 10886 of 2003 which was part of the State Wage Case. It is in line with the Federal Commission's model clause for requirement to work reasonable overtime. It is in accordance with the public interest. It doesn't offend the Commission's wage fixing principles and we agree to the operative date being the first full pay period on or after today's date. If it pleases.

PN13

THE COMMISSIONER: Very succinct. I indicate to the parties that the award will be varied in the manner sought with an operative date of the first full pay period on or after today's date and a decision and order will issue in due course. The matter is adjourned. Thank you.

**ADJOURNED INDEFINITELY**

INDEX

LIST OF WITNESSES, EXHIBITS AND MFIs

**EXHIBIT #A1 DRAFT ORDER ATTACHED TO APPLICATION PN6**