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TRANSCRIPT OF PROCEEDINGS

O/N 75642

TASMANIAN INDUSTRIAL COMMISSION

DEPUTY PRESIDENT P.C. SHELLEY

T No 13095 of 2008

GENERAL CONDITIONS OF EMPLOYMENT AWARD

**Application pursuant to the provisions of section 23(2)(b)
of the Industrial Relations Act 1984 lodged by the Minister
administering the State Service Act 2000 to vary the above
award re supported wage**

HOBART

10.15 AM, THURSDAY, 28 FEBRUARY 2008

**This transcript was prepared from tapes recorded
by the Tasmanian Industrial Commission**

THE DEPUTY PRESIDENT: Thank you, I'll take appearances, please.

MR P. BAKER: Deputy President, I appear on behalf of the Minister Administering the State Service Act 2000, P. Baker.

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THE DEPUTY PRESIDENT: Thank you.

MS C. SERRA: Good morning, Cristina Serra representing the Community and Public Sector Union, Tasmanian Branch. Thank you.

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THE DEPUTY PRESIDENT: Thank you.

MR T. JACOBSON: Good morning, Deputy President. Tim Jacobson appearing on behalf of the Health Services Union of Australia, Tasmanian Number One Branch.

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THE DEPUTY PRESIDENT: Thank you.

MR T. LYNCH: Deputy President, Tom Lynch from the CPSU also appearing on behalf of the CPSU.

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THE DEPUTY PRESIDENT: Thank you. Mr Baker?

MR BAKER: Thank you, Deputy President. Deputy President, the government has a policy of employing persons with disabilities of various levels and, unfortunately, even though we do have or have had a clause in the award that gives – that provides for the employment of such persons, it has, up until recently, been sparingly used, I might say, quite unfortunately, but nevertheless there has been a growth in recent times, following an emphasis of the policy downwards into agencies, that the employment of disability – of persons with disabilities be increased and that in turn has given rise to people looking at the supported wage clause, perhaps for the first time in detail, and drawing a conclusion that perhaps the wage rate, as it is prescribed in clause C of the award, of the supported wage clause, is not as clear as what it might be.

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And an issue has arisen whether or not an employee who has been employed, for example, in a clerical capacity at level 2, whether the employee should actually progress through the incremental scale through years of service, and so the application before you this morning is to make it perfectly clear that a person who is assessed with a disability in accordance with subclause (c), supported wage salary rate of the clause, does in fact progress through the incremental stage of the salary scale as would a person without a disability.

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THE DEPUTY PRESIDENT: Yes. I mean, looking at the previous wording I would have thought it was implicit but I mean, I don't disagree that sometimes things need to be made explicit.

MR BAKER: My office considered that it was clear. However, the query was raised as to whether or not we should now be paying it, as opposed to the fact that we are paying it, so - - -

5 THE DEPUTY PRESIDENT: Okay.

MR BAKER - - - I thought: be prudent - - -

THE DEPUTY PRESIDENT: Yes.

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MR BAKER: - - - we will spell it out and make sure that that is not only the intent of the clause, but it is the intent, and that is what we expect the agencies to do, so that is just – that is the long and the short of it. We just want to make sure that it is clear - - -

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THE DEPUTY PRESIDENT: Yes.

MR BAKER: - - - and that people who are in this unfortunate position do receive their entitlement.

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THE DEPUTY PRESIDENT: Now, you would think it would be discriminatory if they didn't progress through the incremental levels as everybody else who would be having their prescribed by that class of work would.

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MR BAKER: You and I may agree on that, Deputy President, but nevertheless we have advised the agency of our view. The agency has complied with our view but I now want to go back and say we have now varied the award to say that that is what it is, so that – yes, that is the length of my submission and I would say, Deputy President, that it is consistent with the wage-fixing principles and it does not offend the public interest as prescribed by section 36 of the Act, and I have had a brief discussion with Mr Lynch concerning the matter 10 days ago.

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THE DEPUTY PRESIDENT: Thank you.

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MR BAKER: Thank you, Deputy President.

THE DEPUTY PRESIDENT: Thank you. Now, who is going to speak for – Ms Serra?

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MS SERRA: In the matter of amending clause 13(c) for the supported wage rates in the General Conditions of Employment Award the CPSU consents to this amendment.

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THE DEPUTY PRESIDENT: Thank you.

MS SERRA: Thank you.

MR JACOBSON: Similarly, the HSU consents to the amendment that has been sought by the minister.

5 THE DEPUTY PRESIDENT: Thank you, Mr Jacobson. Well, I indicate to the parties that the award will be varied in the manner sought and a decision will issue in due course. That matter is adjourned.

MATTER ADJOURNED at 10.30 am INDEFINITELY