



TASMANIA

Tasmanian Industrial Commission

Industrial Relations Act 1984

T No. 8603 of 1999

IN THE MATTER OF an application by the Australian Municipal, Administrative, Clerical and Services Union to vary nominated awards

Re: to increase the meal allowance provision where appearing in each award, as identified, to reflect consumer price index movements in the category of meals out and take away foods (Reference ABS 6401.0) for the period June 1998 to June 1999.

T No. 8613 of 1999

IN THE MATTER OF an application by The Australian Workers' Union, Tasmania Branch, to vary nominated awards

Re: to increase the meal allowance provision where appearing in each award, as identified, to reflect consumer price movements in the category of meals out and take away foods (Reference ABS 6401.0) for the period June 1998 to June 1999.

T No. 8621 of 1999

IN THE MATTER OF an application by The Australasian Meat Industry Employees Union, Tasmanian Branch, to vary the Meat Retailing Award and the Meat Processing Award

Re: to increase the meal allowance provision where appearing in each award as identified, to reflect consumer price index movements in the category of meals out and take away foods (Reference ABS 6401.0) for the period June 1998 to June 1999.

T No. 8624 of 1999

IN THE MATTER OF an application by the Shop, Distributive and Allied Employees Association, Tasmanian Branch, to vary nominated awards

Re: to increase the meal allowance provision where appearing in each award, as identified, to reflect consumer price index movements in the category of meals out and take away foods (Reference ABS 6401.0) for the period June 1998 to June 1999.

T No. 8628 of 1999

IN THE MATTER OF an application by the Australian Liquor, Hospitality and Miscellaneous Workers Union - Tasmanian Branch to vary nominated awards

Re: by increasing the meal allowance, however expressed in each award, in accordance with the Wage Fixing Principles and decisions of the Full Bench arising out of Matters T6107 of 1996, T6582 of 1996, T7198 of 1997 and T7873 of 1998, and to reflect consumer price index movements in the category of meals out and take away foods (Reference ABS 6401.0) for the period June 1998 to June 1999.

T No. 8629 of 1999

IN THE MATTER OF an application by the Australian Liquor, Hospitality and Miscellaneous Workers Union - Tasmanian Branch to vary the Baking Industry Award

Re: by increasing the meal allowance in accordance with the Wage Fixing Principles and decisions of the Full Bench in Matters T6582 of 1996, T7198 of 1997 and T7873 of 1998, and to reflect consumer price index movements in the category of meals and take away foods (Reference ABS 6401.0) for the period June 1998 to June 1999.

T No. 8630 of 1999

IN THE MATTER OF an application by the Australian Liquor, Hospitality and Miscellaneous Workers Union - Tasmanian Branch to vary the Hotels Resorts Hospitality and Motels Award and the Licensed Clubs Award

Re: by increasing the meal allowance in accordance with the Wage Fixing Principles and decisions of the Full Bench in Matters T7198 of 1997 and T7873 of 1998, and to reflect consumer price index movements in the category of meals out and take away foods (Reference ABS 6401.0) for the period June 1998 to June 1999.

FULL BENCH
DEPUTY PRESIDENT JOHNSON
COMMISSIONER WATLING
COMMISSIONER IMLACH

HOBART, 27 September 1999

TRANSCRIPT OF PROCEEDINGS

Unedited

(WOULD PARTIES PLEASE READ THIS TRANSCRIPT CAREFULLY)
(ANY QUERIES SHOULD BE DIRECTED TO THE COMMISSION WITHIN 14 DAYS)

HEARING COMMENCED 9.05am

DEPUTY PRESIDENT: I'll take the appearances please. Mr Paterson?

MR I. PATERSON: If the commission pleases, IAN PATERSON appearing for the Australian Municipal, Administrative, Clerical and Services Union in respect of our application at T8603. I believe that we also would have an interest in the applications by the SDA and the Australian Workers' Union, and if I may while I'm on my feet, I've had contact from Lynne Fitzgerald from the TTLC who has informed me that Grant Courtney has been unable to make today's hearing and won't be putting in an appearance. I just record his apology in that sense, if I may.

COMMISSIONER WATLING: So does that mean you're -

MR PATERSON: I don't have any authority to act or make representations on his case but I'd be seeking later that these matters be joined.

DEPUTY PRESIDENT: Thank you, Mr Paterson. Mr Brown?

MR C. BROWN: If the commission pleases, C. BROWN appearing for the Health Services Union of Australia, Tasmania No.1 Branch in matter T8603.

DEPUTY PRESIDENT: Thank you. Ms Archer?

MS J. ARCHER: JILL ARCHER of the Australian Liquor, Hospitality and Miscellaneous Workers' Union, Tasmania Branch in respect of matters T8630, T8629 and T8628.

DEPUTY PRESIDENT: Thank you, Ms Archer. Mr Noonan?

MR I. NOONAN: If the commission pleases, I appear on behalf of the Shop, Distributive and Allied Employees Association, Tasmanian Branch - NOONAN P., appearing in relation to T8624 of 1999.

DEPUTY PRESIDENT: Thank you, Mr Noonan. Mr Wakefield?

MR I. WAKEFIELD: If the commission pleases, I appear for the Australian Workers' Union, Tasmania Branch - WAKEFIELD I., in matter T8613.

DEPUTY PRESIDENT: Thank you, Mr Wakefield. Mr Long?

MR J. LONG: If the commission pleases, JEFF LONG, and I appear on behalf of the Construction, Forestry, Mining and Energy Union in matter T8603, T8613, T8621, T8624 and T8628 of 1999.

DEPUTY PRESIDENT: Thank you, Mr Long. Mr Dilger?

MR D. DILGER: If the commission pleases, DILGER D, for the Tasmanian Chamber of Commerce and Industry Limited appearing in all matters.

DEPUTY PRESIDENT: Thank you, Mr Dilger.

5 Mr Paterson, you wanted to apply to have the matters joined and heard as one?

MR PATERSON: If it pleases the commission, I believe these matters all go to the same principles and effectively seek to vary different awards according to the same process and principles and I think it is
10 appropriate that they do be joined.

DEPUTY PRESIDENT: Does any other employee representative here wish to speak to that argument at all? Is there any objection, Mr Dilger?

MR DILGER: No, deputy president.

15 DEPUTY PRESIDENT: In that case we'll formally order that the matters be joined and heard as one. I should indicate that I've received a facsimile transmission from the Australian Mines and Metals Association which in respect of application T8613 of 1999, that I think perhaps is the Australian Workers' Union application, the association
20 indicates that it represents Pasminco (Rosebery) and Pasminco (Hobart) in respect of this application. Mr Fitzgerald states that the association's instructions are to consent to the application.

In addition, I have received a letter from Mr Griffin of your organisation, Mr Noonan, which I understand was forwarded also to
25 other interested organisations. Mr Griffin states in his letter:

*no copy - - - The association wishes to foreshadow that at the opening of the hearing we will be seeking to amend the application in accordance with decisions of the full bench in matters T6582 of 1996, T7189 of 1997 and T7873 of 1998 and to
30 reflect Consumer Price Index movement in the category of meals out and takeaway foods, reference ABS 6401.0 for the period June 1998 through June 1999.*

Would you like to speak to that application, Mr Noonan?

35 MR NOONAN: Just a point of clarification there, Mr Deputy President, is that in relation to the Retail Pharmacy Award?

DEPUTY PRESIDENT: Yes, it is indeed. I'm sorry, Mr Noonan, yes, it specifies in the head note of the letter that it's the Retail Pharmacy Award.

MR NOONAN: Well, yes, my understanding is, Mr Deputy President and members of the bench that the Retail Pharmacy Award hasn't been varied for the last two adjustments for meal allowance. What our organisation is endeavouring to do is to amend it by the full amount in today's application. I perhaps may seek your guidance there, if that's possible, or if there would have to be separate applications to reflect the full adjustment of \$10 that currently is being sought today.

There hasn't been any discussion to my knowledge, Mr Deputy President and members of the full bench with the TCCI, but there has been discussion with the Pharmacy Guild and I'm not quite sure if they are fully endorsing our application or not at this point.

COMMISSIONER WATLING: Well, just before the deputy president comments on that, I take it that there's a typographical error in your letter. It's T7198 isn't it of 1997?

DEPUTY PRESIDENT: Yes, it is too.

MR NOONAN: That's correct, Mr Commissioner.

COMMISSIONER WATLING: So you're seeking to fix that?

MR NOONAN: Yes.

DEPUTY PRESIDENT: Yes, thank you, Mr Noonan.

Mr Dilger, as I perceive the amendment, it seeks to apply the variations that were approved by full benches of this commission in the matters referred to by Mr Noonan, that in terms of money amounts if it were to succeed would take the meal allowance from \$9.25 to the \$10 amount that Mr Noonan was speaking about. Do you have any views on the - or rather, I should say, do you have any instructions in relation to the application to amend the T8624 to accommodate that change?

MR DILGER: No, I don't, but would it be possible to have an adjournment perhaps at the end of the proceedings for the other matters and then I could speak to Mr Noonan on that briefly and perhaps take some further instructions and see what actually the Pharmacy Guild had to say because there's no-one here to represent the interests of the Pharmacy Guild straight off, but perhaps if I could just have some brief discussions with Mr Noonan about that and seek to resolve that unless I be guided if there's any other barrier to prevent that going ahead, but that's all I could say on that matter, deputy president.

DEPUTY PRESIDENT: And at this time you would see no need for there to be separate applications, I take it?

MR DILGER: No.

DEPUTY PRESIDENT: No. Yes, thank you, Mr Dilger. We will formally amend the application in the manner sought by Mr Noonan in support of the advice given to us by Mr Griffin.

5 I think we'll proceed through these matters, Mr Dilger and I'll accept your suggestion at the end of the submissions we can give you an opportunity to take the matter up with Mr Noonan.

MR DILGER: Thank you, deputy president.

DEPUTY PRESIDENT: Yes. Mr Paterson?

10 MR PATERSON: If the commission pleases, these applications seek to vary the meal allowances to reflect movements in the meals out and takeaway Consumer Price Index movement over the twelve months to 30 June 1999. The information, the data is attached to our application and includes an extract from that publication identifying the meals out and takeaway foods index weighted average of eight capital cities
15 showing a movement from 122.5 to 125.2 over that twelve month period. This is a 2.2 per cent increase which translates to a 20 cents increase on the \$9.80 of the current allowance.

20 The application by the Australian Services Union, I believe a number of the other applications includes the same formula applied in previous decisions of this commission. It's clearly just a formula for converting movement in an index to a percentage movement.

The application is made against the backdrop of the previous cases of this commission.

25 I'd submit that this application is consistent with the previous decisions of the commission as identified in our application and first established in T5763 of 1995. Further, it's consistent with the application of the Wage Fixing Principles 1999 at principle 10.1.1 which provides for the movement of expense-related allowances and that it doesn't offend the public interest and is consistent with the
30 public interest at section 36 of the Act.

We'd seek that these applications be granted with an operative date from today's date.

35 I won't be tendering any further evidence. I believe that the information contained in our application in fact provides the commission with all the relevant information that it requires and this is an application which does seek to flow on and continue or keep flowing the precedence of the commission in the movement of expense-related allowances. If the commission pleases.

40 DEPUTY PRESIDENT: When you say an operative date of today's date, Mr Paterson, do you mean that specifically or the first pay period commencing on or after?

MR PATERSON: The first full pay period commencing on or after today's date.

DEPUTY PRESIDENT: Thank you.

MR PATERSON: If the commission pleases.

5 DEPUTY PRESIDENT: Mr Brown?

MR BROWN: Sir, the HSUA supports Mr Paterson's submission and we believe it's consistent with the Wage Fixing Principles and the public interest requirements of the Act. If the commission pleases.

DEPUTY PRESIDENT: Thank you, Mr Brown. Ms Archer?

10 MS ARCHER: Mr Deputy President, I have nothing to add to that. This adjustment are we talking about or my application?

DEPUTY PRESIDENT: In your case we'll be talking about all the catch-up adjustments.

MS ARCHER: Well, should I talk about that now or later?

15 DEPUTY PRESIDENT: I think it would be a good time to talk about it now.

MS ARCHER: Right. Okay. Yes, in addition to what Mr Paterson and Mr Brown have alluded to, our union seeks to make adjustments to our awards as a catch-up in terms of meal allowances from previous
20 adjustments.

The first application which has been given the number T8630 of 1999, that seeks to adjust according to the Wage Fixing Principles and decisions of the full bench of the Tasmanian Industrial Commission arising out of matters T6107 of 1996, T6582 of 1996, T7189 of 1997
25 and T7873 of 1998.

DEPUTY PRESIDENT: Could I just interrupt you there? T8630 doesn't deal with all of those decisions. My appreciation it concerns the Hotels, Resorts, Hospitality and Motels Award -

MS ARCHER: Oh, right.

30 DEPUTY PRESIDENT: - and Licensed Clubs Award, and deals with the previous decisions of the commission in T7198 and T7873.

MS ARCHER: Right. Okay. I'm sorry about that, Mr Commissioner, I got my papers mixed up. Yes, well that is to adjust those two awards to include the last two adjustments as well as this latest one.

35 Well, T8629 - correct me if I'm wrong - does that relate to the Baking Industry Award?

DEPUTY PRESIDENT: Yes.

MS ARCHER: Yes. That one is an application to increasing the meal allowance in each award however expressed, in accordance with the Wage Fixing Principles and decisions of the full bench of the
5 Tasmanian Industrial Commission arising out of T6582 of 1996, T7189 of 1997 -

DEPUTY PRESIDENT: I think that's T7198.

COMMISSIONER WATLING: 9 - 8.

MS ARCHER: T7?

10 DEPUTY PRESIDENT: 1- 9 -8.

COMMISSIONER WATLING: 9 - 8.

MS ARCHER: 9 - 8. Sorry. Well, I have got that wrong on the application. Can that be amended?

15 DEPUTY PRESIDENT: I think we've dealt with that in other proceedings earlier. If it's necessary to amend it then we will amend it.

MS ARCHER: And T7837 of 1998.

DEPUTY PRESIDENT: That's correct.

MS ARCHER: And then that must leave T8628 of 1999 in respect of a number of awards to vary according to four previous decisions of the
20 full bench which I have read out earlier and to include the adjustment that's been principally concerned here today.

DEPUTY PRESIDENT: Yes. For the sake of the record, I should indicate that the four variations that relate to this application are those in T6107, T6582, T7198, T7873 and the awards concerned are
25 the Cleaning and Property Services Award, Fibreglass and Plastics Award, Health, Fitness Centres Award, Ice Cream Makers Award, Laundry and Dry Cleaning Award, Miscellaneous Workers Award, Security Industry Award, Veterinary Services Award and Wholesale Plant Bakeries Award.

30 These increases, it seems to me, do misquote a recent film title contain the full monty of award variations in respect of allowances going back some years. Do you have something to say as to why this has not been done on an annual basis or these provisions kept up to date?

MS ARCHER: I can only say it's because our organisation in all truth
35 failed to keep up with them and we're seeking to right that and keep up with each adjustment in the future.

DEPUTY PRESIDENT: All right. Thank you, Ms Archer. Mr Wakefield?

5 MR WAKEFIELD: If the commission pleases, we have nothing further to add to Mr Paterson's submissions and seek that the commission endorse the increase.

DEPUTY PRESIDENT: Yes, and in the AWU's case, as with the ASU's case, your awards are all up to date and you're only seeking the current year's variation.

MR WAKEFIELD: The current one, yes, that's right.

10 DEPUTY PRESIDENT: Mr Noonan?

MR NOONAN: Thank you, Mr Deputy President. We support the submissions made by Mr Paterson. Our application falls within the principle 10.1 of the existing allowances of the Wage Fixing Principles and we seek an operative date of the first full pay period on or after
15 today's date, that is, 27 September 1999. If it pleases.

DEPUTY PRESIDENT: Thank you, Mr Noonan. Mr Long?

MR LONG: I've got nothing further to add, sir, other than to support the previous submissions by the other parties.

DEPUTY PRESIDENT: Thank you, Mr Long.

20 Mr Dilger, do you want your brief adjournment now or do you want to make submissions beforehand?

MR DILGER: Well, it might pay just to have the brief adjournment now, deputy president, so we can get it all done at once.

DEPUTY PRESIDENT: Yes.

25 **SHORT ADJOURNMENT 9.25am**

HEARING RESUMED 9.32 am

DEPUTY PRESIDENT: Yes, Mr Dilger, thank you.

MR DILGER: Yes, thanks for the adjournment, deputy president. As far as the applications of Messrs Paterson, Brown, Wakefield and
30 Long, as previously mentioned I, too, adopt the submissions of Mr Paterson and the application is by consent. In regards to the applications by Ms Archer and Mr Noonan in respect to the catch up of the meal allowances, there is also no objection to that and that application is by consent on the proviso that the increases have no
35 retrospectivity attached to them and that the increases as far as the \$10 meal allowance also starts at the first full pay period after today's date as well. If the commission pleases.

DEPUTY PRESIDENT: Yes, having heard the parties, we've decided that we should indicate that we are prepared to vary all of the awards before us in the manner sought by each of the applications including the application as amended by Mr Noonan. The commission's orders will take effect from beginning of the first full pay period to commence on after today's date.

The reasons for the commission's decision and the commission's orders will be published as soon as possible.

That concludes the hearing of matters T8603 and others of 1999.

10 **HEARING CONCLUDED 9.35am**