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ABN 72 110 028 825

Level 10, MLC Court, 15 Adelaide St BRISBANE QLD 4000

PO Box 13038 George St Post Shop BRISBANE QLD 4003

Tel:1300 308 420 Fax:(07) 3503-1199

Email: orders@auscript.com.au Website: www.auscript.com.au

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TRANSCRIPT OF PROCEEDINGS

O/N 90239

TASMANIAN INDUSTRIAL COMMISSION

COMMISSIONER T.J. ABEY

T No 13208 of 2008

**AUSTRALIAN WORKERS UNION
(TASMANIAN STATE SECTOR) AWARD**

**Application pursuant to the provisions of section 23(2)(b)
of the Industrial Relations Act 1984 lodged by the
Australian Workers Union to vary the above award
re personal and bereavement leave**

HOBART

2.30 PM, THURSDAY, 18 SEPTEMBER 2008

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THE COMMISSIONER: Yes, I'll take appearances, please.

MR R. FLANAGAN: If it pleases the Commission, Flanagan, R., for the Australian Workers Union, Tasmania Branch.

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THE COMMISSIONER: Thank you, Mr Flanagan.

MR P. BAKER: Commissioner, I appear on behalf of the Minister administering the State Service Act, P. Baker.

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THE COMMISSIONER: Thank you, Mr Baker. Mr Flanagan, I think it's your application?

MR FLANAGAN: Thank you, Commissioner. Commissioner, this application seeks by consent to vary the AWU (Tasmanian State Sector) Award to align the leave arrangements within this award to those arrangements applying through the state service generally. Historically, Commissioner, the AWU (Tasmanian State Sector) Award has, as its history, the Australian Workers Union Construction and Maintenance Award, and the award was formed out of the AWU Construction and Maintenance Award, first as a Federal Award and then was converted from a Federal award to a state award. Arising from that process, the leave arrangements that are contained within the AWU (Tasmanian State Sector) Award at the moment reflect the weekly hire day labour-type arrangements which are contained within the AWU Construction and Maintenance Award.

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In approximately the year 2000 the AWUs membership in the state service were converted from what were then known as temporary employees, who were not deemed as state servants as such, to state servants within the State Service Act. And since that point in time, whilst they have had the same status as a state servant, they have not had common conditions with the service in respect of leave.

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Accordingly, what this application seeks to do is remedy that. It will provide administrative efficiencies for the departments which are concerned. And will provide AWU members who are state servants with the same leave arrangements as other state servants. Now, the scope of the application is quite narrow in terms of its impact, Commissioner.

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There are approximately 15 outside workers at the Royal Botanical Gardens who are covered by the award. There are approximately 12 permanent state servants engaged in fire suppression, and there are a small number of approximately 20 who are employed in track maintenance on a seasonal basis. So the award itself, in terms of its application, is quite limited.

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In the circumstances where the application is by consent, that it seeks to align the leave conditions in this award to leave conditions in the state service generally, and where it leads to administrative efficiencies, the union submits that the application

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does not offend the public interest, and that the commission ought to approve the application in the terms sought. If it pleases the commission.

THE COMMISSIONER: Thank you, Mr Flanagan. Mr Baker?

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MR FLANAGAN: Sir, the Minister supports the application made by Mr Flanagan on behalf of the Australian Workers Union. We accept and acknowledge that the clause in relation to sick leave, the history of the application of the clause and of its origin, the – what is proposed today is to bring employees into line generally with the sick-leave provisions that apply across the state service, although they are not consistent, I might add. But certainly as far as the general state service is concerned, they will be brought into line. And in particular they will be consistent with other employees within the departments into which Mr Flanagan's members work.

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In relation to the parental-leave clause, that is an adoption of the test case standard, which was adopted both by the Federal Commission in 2005 and by this Commission in 2006, and public sector awards generally were varied in late 2006, or was it 2007? My memory escapes me at the moment, but they were varied to reflect the national decision and the state test-case decision. We also would concur that the application does not offend the principles, and accordingly we would ask that the award be varied in the terms as put forward by Mr Flanagan. The only note of caution I would add is that we have a prospective date of a couple of weeks to ensure that we sort out the sick-leave arrangements.

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THE COMMISSIONER: Yes.

MR FLANAGAN: Perhaps if the schedule, Commissioner, could be amended at the last point to say:

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This variation shall take effect from the first full pay period to commence on or after 1 October 2008.

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THE COMMISSIONER: Yes, certainly. And presumably there's administrative arrangements in place to convert existing sick-leave entitlements to the new trade union arrangement.

MR FLANAGAN: The training or sick-leave arrangement that's contained within this takes care of that, Commissioner.

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THE COMMISSIONER: It does.

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MR BAKER: Yes. There's just one other thing. The copy which I forwarded to Mr Flanagan may not in fact be the final version. Just there's a note of caution there. And perhaps if your associate, Commissioner, could derive the copy that's contained in the GCOE Award, and just transpose that into the AWU Award.

THE COMMISSIONER: Yes.

MR BAKER: That's the correct version.

THE COMMISSIONER: Right, okay. Well, we'll sort that out, I'm sure.

5 MR BAKER: Yes.

THE COMMISSIONER: Yes, very well. Having heard the parties I'm satisfied
that the application is consistent with public interest requirements of the Act, the
wage-fixing principles. The application to vary is approved and will operate from
10 the first full pay period to commence on or after 1 October 2008. A formal decision
to that effect will be issued in the next day or so. The commission stands adjourned.
Thank you.

15 **MATTER ADJOURNED at 2.40 pm INDEFINITELY**