

COMMISSIONER IMLACH: Any change in appearances.

MR C. YOUNG: Commissioner, COLIN YOUNG, representing the CEPU. DENNIS MATSON will not be here this morning.

5 COMMISSIONER IMLACH: Thanks, Mr Young. Now, who's going to report to me what the situation is, please?

MR COWIE: Commissioner, I'm quite happy to do that and thank you for the opportunity. The situation appears to be that the CEPU have amended their draft order to include one other superannuation fund, what's commonly called an industrial fund known as QEST.
10 That was one that we proposed at our last hearing.

Further to that, we couldn't reach agreement as to not putting forward other funds, other commercial funds, and the Master Plumbers' Association, commissioner, wish to propose a number of other funds to which the union don't agree to the inclusion of those in the draft
15 order. So, commissioner, we need this morning to put forward some facts in support of that.

COMMISSIONER IMLACH: Yes, thanks, Mr Cowie. Is that correct?

MR YOUNG: Yes.

COMMISSIONER IMLACH: Yes, thank you. Mr Brown?

20 MR BROWN: Thank you, Commissioner. As stated at the last hearing, it is the TCCI's preferred position that there will be no reference to any funds and that such a clause would refer directly and only to the Superannuation Guarantee Act 1992 and this position would be consistent with the simplification of awards and the process
25 that's about to be undertaken within the state.

While it may be that employers are not as aware of this legislation as they need to be, it will be becoming a greater priority for them and others, given the impending changes to the legislation that we referred to last week. As an issue, employers or there representatives will need
30 to be up to date and dealing with that legislation on a fairly regular basis.

Notwithstanding our position as outlined there, the variations of draft order, as proposed, are in accordance with the act and as there is one issue or question that we do have and that being, that the draft order
35 proposes that tripartite agreement with the employer, employee and the union or unions, where applicable, and we question the relevance of that if a union is not requested by the employees to be a party to that agreement or arrangement and we'd be seeking assurances from the union to that effect, that if there were no union representatives, or
40 employees were not representatives of the union or members of the union, that there would not be any interference in regards to the

validity of such an arrangement taking place where it could be deemed to be in breach of the award if such advice hadn't been made to the union. Thank you, commissioner.

COMMISSIONER IMLACH: Yes, thanks, Mr Brown. Mr Young?

5 MR YOUNG: Yes, thank you, commissioner. The union's position is very similar to the previous time we were in attendance here. The union went away and listened to the request for other funds to be included. There is no objection by the CEPU for the insertion of QEST into the award.

10 We do have a problem with inserting the other funds that have been sought by Mr Cowie of the Master Plumbers. One of the questions, I suppose, that springs to my mind is, if we start with two or four, how long does the list eventually become and do we end up naming all of the funds that are in existence in Australia because most of the
15 superannuation funds, I would believe, would comply with the act.

Having said that, just picking up on the right of veto, I believe it was really dealt with last time we were here, but the question of the agreement by the CEPU and if it was the workers' wishes and the employer's wishes and it has been a case on record that the company
20 and the employees have sought an exemption from this commission into their own superannuation and this union did not oppose that because there was statutory declarations signed by the persons working in that company. Whether they were union members or not becomes irrelevant as far as my organisation is concerned because
25 that therefore is the wishes of all the parties and I don't believe that this union should be therefore sticking its nose in, shall we speak, and saying that that shouldn't be the case, where obviously it's all parties' wishes.

30 So, I'm happy to go on transcript and say that the CEU's position now and into the future would be that if there was people seeking exemption and all the parties were happy to have that exemption, then the CEPU would not oppose that.

35 On the rest of the proceedings, I think there is a fair bit of difference between the funds that want to be included and the CEPU'S position, so that's about all I need to say at this moment, commissioner. Thank you.

COMMISSIONER IMLACH: Thanks, Mr Young. We'll just go off the record for a minute.

OFF THE RECORD

40 COMMISSIONER IMLACH: Thank you very much, gentlemen, for those discussions. I think they were positive and fruitful. Mr Young, you've got something to put to me?

MR YOUNG: Thank you, commissioner. The CEPU seeks to amend the draft order that's here and I believe that you have a copy of the new draft order in front of you and I wish to submit that to the commission.

5 COMMISSIONER IMLACH: Yes. Thanks, Mr Young. Mr Cowie, you've got a copy of that draft, I trust?

MR COWIE: Yes, commissioner.

COMMISSIONER IMLACH: Do you agree to that - the amendment?

MR COWIE: Yes, commissioner.

10 COMMISSIONER IMLACH: Yes. Thanks, Mr Cowie. Mr Brown?

MR BROWN: Yes, commissioner, to both questions.

COMMISSIONER IMLACH: Thank you. I grant that application to amend the draft order which is part of the application before the commission and I now note that following our discussions, the parties
15 have agreed that that amended draft order go forward and be included in the award and I indicate now that that agreement will be endorsed and the order will issue but having said that, I note that the employers, particularly the Master Plumbers' Association have agreed, with some reluctance, in that they feel that there are other funds that
20 should be named in the award.

I've indicated now that so long as the standard process is followed an application from the employers to include the name of another fund will be put into the award because the act requires the commission to follow that course. Secondly, or moreover, as the parties know, this
25 award along with all the awards of the commission is about to be reviewed to make it simpler and generally improve the situation.

That being the case, I indicate now to the parties that when that review takes place in regard to this award in particular, superannuation will be on the table again for complete review and in
30 the view of the commission, as presently constituted, meaning myself, there's no need for very large, long prescriptions because the federal law, I believe, covers that adequately but I will request that the employers, if they want to do that, reduce it, and I'm saying now that I'm not opposed to it. They will need to show me in chapter and verse
35 what's already being put in by this amendment, is duplicated in the federal award.

Is that acceptable, Mr Cowie?

MR COWIE: Yes, commissioner.

COMMISSIONER IMLACH: Mr Brown?

MR BROWN: Yes, commissioner.

COMMISSIONER IMLACH: Mr Young?

MR YOUNG: Yes, commissioner.

5 COMMISSIONER IMLACH: Right. Thank you, gentlemen. I congratulate on that and the award will issue as soon as possible. The parties have agreed that the operative date for this amendment will be the first full pay period commencing on or after the 18th February 1998.

10 MR COWIE: Commissioner, just one point of formality, I was asked at our previous hearing to confirm a note of compliance from the QEST fund and I just table that letter for your records.

COMMISSIONER IMLACH: Yes. Thanks. I appreciate that, Mr Cowie.

MR COWIE: We'll provide a copy to the other parties.

15 COMMISSIONER IMLACH: We'll put that on the record. I don't think we had an exhibit from you before, did we, so I'll make that C.1.

MR COWIE: There was in fact an exhibit, being the copy from the federal award of that particular clause.

COMMISSIONER IMLACH: And you put that in yourself, did you, last time?

20 MR COWIE: I tabled that at our last hearing, commissioner.

COMMISSIONER IMLACH: Yes. Well, whatever that was numbered this will be the next number after that.

MR COWIE: It was C.1, I'm sure.

25 COMMISSIONER IMLACH: All right. We'll make this C.2 then. As I say, I appreciate that, Mr Cowie. We know where we are with it now. Thank you, gentlemen. This matter is closed.

HEARING CONCLUDED