

COMMISSIONER: Take appearances please.

MR D HOLDEN: I appear on behalf of the Tasmanian Independent Schools Teachers Association, HOLDEN D.

COMMISSIONER: Thanks Mr Holden.

5 **MR W J FITZGERALD:** If it pleases, I appear on behalf of the Tasmanian Chamber of Commerce and Industry, FITZGERALD W.J.

COMMISSIONER: Thank you. Mr Holden?

MR HOLDEN: Thank you Mr Commissioner. The application is to vary the award, the Independent Schools (Teachers) Tasmania Award.
10 The application results from a previous decision of a full bench of the commission, decision of July 4, in matter T6928 of 1997 and others. What we are seeking is, in effect, a flow on of that decision. We seek to increase all salary rates in clause 8 of the award, by \$1768 per annum or \$34 per week.

15 The principles attached to the full bench decision of 4 July, provide for an automatic flow on of the \$10 per week to all awards of the commission, and make provision for the three arbitrated \$8 safety net increases from previous decisions to be flowed on if there is agreement between the parties, and of course if it satisfies the public interest.

20 This application meets all the requirements, in that the association has given previous commitments to the commission in respect of the requirements of the commission's principles. The association is committed to continuing to give that commitment to the requirements of the full bench decision, in respect of the \$10 per week.

25 The application has been agreed to by the umbrella association which represent private schools, who I understand, have instructed the TCCI in this matter.

Over award payments are not an issue, and in fact the inclusion of the \$1768 per annum increase will have extremely minimal effect. The
30 overwhelming majority of schools subject to this award, and virtually all teachers, I estimate probably 98%, are subject to an industrial agreement in which the current salaries are already higher than the salaries will be in this award after the \$1768 per annum is added.

35 There is one school - one major school - which is an exception, and the commission I think is very familiar with that, that's Leylands Christian School, the practical effect of the application in respect of Leylands is that the salaries there will increase by \$10 per week, the \$24 already is being paid. So in effect, all teachers at Leylands will have their salaries increased by \$520 per annum.

5 There are a number of - what I will describe as alternate or peripheral
- schools who employ a very small number of teachers. As I said, my
estimation - it's certainly not a factual statement - is that there are
probably 2% of independent school teachers involved. They will, as I
understand it, though I am not - this is not confirmed to me - they will
15 pay the full \$34 per week increase. Now rather than being an impost
on them, the exact opposite is really the case.

10 These schools were advised, I understand, eighteen months, two years
ago, - and I believe the commission is aware of this because Mr
Shorter of the AIST passed on the information at a private conference -
that those schools were advised eighteen months to two years ago that
they should be preparing to be paying the three \$8 safety net increases
at that time.

15 My understanding is that hasn't happened, so in effect they will now
be subject to paying it as of the date of any decision of this hearing,
subject of course, to the commission agreeing to the application before
it.

20 The format in which the award has been set out, I understand, is
acceptable to the commission, and if it isn't I seek the commission's
guidance in that respect.

25 The granting of the application in full, as I've already said, will have
minimal impact, there is no possibility of flow-on. The public interest
is not transgressed in any way. The parties directly involved in this
award, and I refer now to the AIST and the association, are currently
quite a way down the track to re-drafting the whole award, which will
meet, as I understand it, all the criteria that the commission require it
to meet, and of course that award will have to pass the commission's
scrutiny. In fact we are meeting immediately this hearing is over to
process the matter further.

30 I commend the application to the commission and request that the
operative date be the first full pay period on or after today. Thank you.

COMMISSIONER: Good, thank you. Mr Fitzgerald?

35 MR FITZGERALD: Thank you commissioner. I need to be very, I
think I only need to be very brief in response. Mr Holden has, I think,
clearly laid out the background to this matter to the commission. I'm
appearing on behalf of, and on the instructions of, the Association of
Independent Schools Tasmania, who have instructed me to consent to
the application. I'm not aware of all the background in terms of the
effect -

40 COMMISSIONER: Does that mean the TCCI supports the
application?

MR FITZGERALD: The TCCI supports the application, yes, certainly.

COMMISSIONER: Right.

MR FITZGERALD: But, I just simply put on record it's on the instructions of AIST, who are instructing us in this matter, and have had negotiations and discussions with Mr Holden, not only in respect
5 to this application but also future award review, and that they are continuing. So we would support the application. I don't think it's necessary for me to address all the aspects which Mr Holden has, because it would be repetitious. I understand from my instructions that those schools which are affected were previously advised.

10 In terms of the majority of schools, this application will have no affect whatsoever, given the agreements in place. In terms of the commission's requirements to observe its own principles, as well of section 36 of the *Industrial Relations Act*, in respect to public interest, I would support Mr Holdens' submissions that it doesn't offend the
15 principles in that regard, or section 36.

The commitment is acknowledged by Mr Holden, on behalf of the association, to continuing the award review process, which is required in terms of the safety net adjustments, and for those reasons, commissioner, we would support the application, with the operative
20 date being the date of ratification, if that is today we'd support that as well.

COMMISSIONER: I'd like to indicate to the parties I'm going to vary the award in the manner sought. It will be operative from the first full pay period to commence on or after today. I'll hand down a written
25 decision as soon as possible.

I also remind the parties that there is currently a conference proceeding before the President in relation to award format, arising out of the \$10 safety net adjustment case, and I understand the union movement and the Tasmanian Chamber of Commerce and Industry
30 have made submissions during the course of that conference. It may well lead to a change in the formatting of awards of this commission, but I, just in case you weren't mindful of that, just let you know. I think there's been two or three conferences so far. But the decision will come down as soon as possible, including the order in relation to
35 this matter.

MR HOLDEN: Could I comment before we go off the record, Mr Commissioner, the association will, of course, comply with any requirement of that. And the real reason I rose to my feet is that I wonder, is it possible to defer our hearing set down for the 27th? We
40 are making considerable progress - I can give the commission that assurance - and, as I said, we are meeting today, and I will not have time to prepare notes for the people who would appear before you on the 27th.

COMMISSIONER: Right, and are you agreed to that Mr Fitzgerald?

MR FITZGERALD: I really have no instruction in that regard. It's a bit difficult for me to respond, commissioner. Mr Shorter has been dealing directly with Mr Holden and I don't know the state, but I can only take it on face value what Mr Holden says.

5 COMMISSIONER: Yes, well you'll let me know when, say in an hours time or something?

MR FITZGERALD: Yes, I'll do that.

COMMISSIONER: Right. Thank you very much, this matter's now closed.

10 **HEARING CONCLUDED**