

TRANSCRIPT OF PROCEEDINGS

O/N 69310

TASMANIAN INDUSTRIAL COMMISSION

**PRESIDENT P.L. LEARY
DEPUTY PRESIDENT P.C. SHELLEY
COMMISSIONER T.J. ABEY**

T No 13038 of 2007

**ADMINISTRATION AND CLERICAL EMPLOYEES,
TECHNICAL EMPLOYEES, OPERATIONAL EMPLOYEES,
PROFESSIONAL EMPLOYEES AND COMMUNITY AND
HEALTH SERVICES (PUBLIC SECTOR) AWARDS**

**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 awards re review process**

HOBART

10.00 AM, FRIDAY, 23 NOVEMBER 2007

**MR P. BAKER appears with MS J. MOLHUYSEN for the
Minister administering the State Service Act
MR T. JACOBSON appears for the Health Services Union of
Australia, Tasmania Number 1 Branch
MR T. LYNCH appears for the Community and Public Sector
Union State and Public Services Federation Tasmania Inc.
MR L . CROWLEY appears for the Association of Professional
Engineers, Scientists and Managers, Australia**

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

PRESIDENT LEARY: Thank you. Could we take appearances please.

MR P. BAKER: President and Members of the Bench, I appear on behalf of the
Minister administering the State Service Act, P. Baker and with me this morning is
5 MS J. MOLHUYSEN.

PRESIDENT LEARY: Thank you.

MR T. JACOBSON: President and Members of the Bench, Tim Jacobson appearing
10 on behalf of the Health Services Union of Australia, Tasmania Number 1 Branch.

PRESIDENT LEARY: Thank you.

MR T. LYNCH: Madam President, Members of the Bench, Tom Lynch appearing
15 for the Community and Public Sector Union State and Public Services Federation
Tasmania Inc.

PRESIDENT LEARY: Thank you.

MR L. CROWLEY: Madam President and Members of the Bench, Luke Crowley
20 appearing on behalf of the Association of Professional Engineers, Scientists and
Managers Australia.

PRESIDENT LEARY: Thank you. Mr Baker.
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MR BAKER: Thank you, President. President and Members of the Bench, this
application arose out of the state wage case earlier this year in matter T12940 of '07
in relation to all private and public sector awards. In those proceedings before the
Bench on behalf of the Minister I submitted that the wage fixing principles as they
30 were then ought to be amended by varying principle 13 in the following terms:

*Consistent with this principle and principle 6.2 by extension public sector
awards may be varied from time to time to reflect salary rates and conditions of
employment as may be agreed between the parties bound by relevant public
35 sector awards.*

And at paragraph 111 of your decision in that matter, the principle was agreed to and
consequently inserted into the principles, the amended principles of July 2007.
Consistent with that, that forms the basis of our application today and I would re-
40 state what I said and is contained in your decision of July at paragraph 28, where I
submitted and I was talking about a review of public sector awards generally:

Fundamental to that review, that is hand in glove, is the requirement to review and
rationalise the industrial agreements that pertain to them. Therefore if you rationalise
45 agreements you must rationalise the awards that underpin them and the content
contained therein. We require a mechanism that is necessary to enable the parties to
those awards and agreements to place the content into a prescriptive format
providing security of outcome.

We contend that such security of outcome may be achieved by consolidation of wages and conditions into a single award document that would have application of up to 13,000 employees. President and Members of the Bench, today we take the first step in the consolidation of our awards and of our agreements. Before you today
5 there are five awards which we would submit to the commission are our five principal awards. Those awards namely are the: administrative and clerical employees – I'm sorry I'll rephrase that – they are five principal awards that go to the fixation of wages within the state service. They are primarily: the Administrative and Clerical Employees Award; the Operational Employees Award,
10 the Professional Employees Award and the Technical Employees Award, together with the Community and Health Services Public Sector Award.

Those awards will reflect – that is of course dependent upon the decision of the commission today – they will reflect the proposed new rates of salary from 1
15 December, from the first full pay period commencing on or after 1 December this year. In addition to that in relation to the aforementioned awards they have been reformatted consistent with the rules of the commission and secondly we have deleted the translation provisions that were inserted into those awards way back in 1996-'97.

20 In addition the CASA award has also been reformatted and insofar as that award is concerned there weren't any translation tables contained therein, and as a consequence that won't be deleted. Just in respect of the awards themselves there are two issues that I would bring to the attention of the commission and will need to
25 make an adjustment to the draft orders that we've presented to the commission this morning.

Namely in respect of the Community and Health Services Public Sector Award at clause 6B(1) unfortunately we've omitted to update the reference in that award from
30 the Minister for Public Sector Administration to the Minister administering the State Service Act, so we'll need to amend that. And secondly, insofar as the Professional Employees Award is concerned, there is a list of award requirements for consolidation. Back in '96-'97 when this award was made there were a number of employees who translated into the document, into this award, who did not possess
35 professional qualifications at the time. So they were grandfathered into the award.

Now, following a request from Mr Lynch, the CPSU, we've actually removed a number of those awards that have disappeared into the ether, but Mr Lynch – for reasons that pertain to his organisation – he would like them reinstated into the
40 award. I've indicated to Mr Lynch that I have no objection to that and we will reinsert those awards back into the document under clause C Qualifications, so we'll pop those back in again.

45 PRESIDENT LEARY: So you'll just provide us with replacement pages will you?

MR BAKER: Yes, President.

DEPUTY PRESIDENT SHELLEY: Sorry, so you are reinserting clauses?

MR BAKER: Well, if I take you to the Professional Employees Award - - -

DEPUTY PRESIDENT SHELLEY: Yes. Is this - - -

5 MR BAKER: And if you go to clause 8, it's actually on page 11 and under C
Qualifications (1) there is a statutory requirement for qualification and there is a list
of those Acts there. Then over the page at (2) there is Award Requirements for
Qualifications and they are cited in the Inland Fisheries Commissions Award and the
10 Tasmanian Museum and Art Gallery Award of '97. Now, there are a number of
other awards which were relevant when the Professional Employees Award was
made in '96-'97 which we deleted.

Now, we deleted them on the basis that those awards no longer exist and there are a
number of those such as the Agricultural Officers Award, the Foresters Award,
15 etcetera, that contain provisions for translation from there into the Professional
Employees Award for employees who did not have – hold the necessary prerequisite
qualifications at the time. Now, what Mr Lynch has sought from us is to reinsert
those awards back into the awards. Now, I've indicated to Mr Lynch that I don't
have a problem with that. I'm not sure whether it's necessary but - - -

20

DEPUTY PRESIDENT SHELLEY: No, I think there has been a dispute about that.

MR BAKER: I'm not sure whether it's necessary - - -

25 DEPUTY PRESIDENT SHELLEY: In the past.

MR BAKER: But if Mr Lynch feels more comfortable so do we, so we'll do this
together. As I've indicated we see this as the first step, hopefully before next year –
sorry, I'll rephrase that – before this time next year we will be back before the
30 commission with a single stream award encompassed in our General Conditions of
Employment Award, however that might be named - - -

PRESIDENT LEARY: Do we need a forklift to get it through the door?

35 MR BAKER: Probably, but we'll get it here. President and Members of the Bench,
we would submit that the applications meet the wage fixing principles as amended in
July 2007 by your decision in matter T12940 of '07 and it meets the public interest
test at section 36 of the Act. So subject to any questions or comments from the
Bench I will conclude my submissions there and ask that the awards be varied in the
40 manner sought with an operative date – I'm sorry, and subject to those variations to
them as I've indicated and they will operate from the first full pay period on or after
1 December 2007. Thank you.

45 PRESIDENT LEARY: Can I just ask you other than the variations that you've
referred to and you're going to provide replacement pages for, the awards that were
given prior to the hearing, they're the same documents that we're dealing with,
there's no change to those?

MR BAKER: No change at all.

PRESIDENT LEARY: Okay. And the rates of pay are the enterprise bargaining rates of pay, effective from 1 December?

5

MR BAKER: Yes.

PRESIDENT LEARY: That includes the 4.5, I think, the latest increase.

10 MR BAKER: Yes, the 4.5 – they will actually include the 4.5 per cent.

PRESIDENT LEARY: Yes, okay.

MR BAKER: We've had fun calculating, but I think we're there.

15

PRESIDENT LEARY: It looked all right, but then I'm not going to say that's final.

MR BAKER: There are some strange rules about how we put the pay together.

20 PRESIDENT LEARY: We must have strange rules otherwise life wouldn't be worth living.

MR BAKER: Well, that's true.

25 PRESIDENT LEARY: Thank you. Mr Jacobson?

MR JACOBSON: Thank you, Madam President. We simply would concur with the submission made by Mr Baker on behalf of the minister. As he said that this is the first step in a process of updating awards to reflect current wages and conditions.

30

We have checked the rates. In fact we checked them on two or three occasions and they are in fact correct, and those are the rates that will apply as of 1 December this year. Particularly in relation to the Community and Health Services Public Sector Award as Mr Baker referred to, the only other changes that have occurred to date, or at this point in relation to that is the reformatting of that document and those matters are acceptable to us and that's essentially all we would add to the discussion at this point.

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PRESIDENT LEARY: Okay, thank you. Mr Lynch?

40 MR LYNCH: Madam President, likewise the CPSU supports the submission by Mr Baker on behalf of the minister. It's certainly been a hard process for us to start and I think this is certainly a good step forward.

PRESIDENT LEARY: You're on a roll now.

45

MR LYNCH: We are on a roll now and it's only taken us three or four years to get here. Principally the things we have achieved in this first step is to update those salary rates so that they effectively implement the agreement reached in the Public

Sector Unions Wages Agreement of 2007. The reformatting exercise, although I understand there will need to be further reformatting and there's a lot of discussions between the parties about the current structure of the awards and whether we need to have four stream awards and a separate conditions award, and we'll be looking at coming back to you with the simplest version we can there.

There's also the removal of those obsolete translation tables, but in doing that I think it made it more important that those old awards, even if they have been removed, are retained in Professional clause 8C(1) and (2) because that made it clear what qualification was required - - -

PRESIDENT LEARY: Well, the definitions are contained in those awards aren't they?

MR LYNCH: That's correct and those group, but there's still a lot of people who are working under the professional award whose qualifications are coming from their old awards. The only other point I would like to make is one small change in the CASA award and that is the CPSUs title at clause 6A(2) again. We're required to have our incorporated status acknowledged in there, so I would just seek - - -

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PRESIDENT LEARY: Is that for Work Choices purposes?

MR LYNCH: Yes, I think it's for – but also I think under the State Incorporations Associations legislation we need to do that, so I'd ask Mr Baker if that change could also be made on that page as it goes forward. Thank you.

25

PRESIDENT LEARY: Okay, thank you. Mr Crowley?

MR CROWLEY: Thank you, Madam President. The Association of Professional Engineers, Scientists and Managers also support the submission made on behalf of the minister.

30

PRESIDENT LEARY: Have you checked the rates and agree with the rates?

MR CROWLEY: We have checked the rates, we do – yes, we do agree with the rates. I think there was a dollar one up and down, but we weren't sure if we were going on exactly the right figures and decimal points etcetera, so no, the rates are fine.

35

PRESIDENT LEARY: So you are happy with the rates that are in the document.

40

MR CROWLEY: We are happy with the rates, yes.

PRESIDENT LEARY: All right. I forgot to ask you, Mr Lynch, you've checked the rates?

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MR LYNCH: Madam President, I found this really very hard because normally mathematically you add something up and you get the same number.

PRESIDENT LEARY: Hopefully.

MR LYNCH: These rates are, I think we all acknowledge, are somewhat of a compromise, but given that it's been so long since they've been done it's only a
5 number of dollars one way or the other at a couple of points, and it's largely to do with how the fixed dollar amounts are calculated, rather than the percentage amounts because we've had so many of them since 2000. So we're happy that these rates are a fair reflection of what people are being paid now and a good point for us to go forward from.

10 PRESIDENT LEARY: To start from, okay, that's good. All right. Did you want to add anything else?

MR BAKER: No, only that I concur with Mr Lynch it's been a nightmare actually
15 putting together those figures at the bottom, because we've actually had some of the agencies – we've had different rates of pay apply. So this will actually reflect - - -

PRESIDENT LEARY: That's handy.

20 MR BAKER: This will actually bring it back into line, so we'll go forward - - -

PRESIDENT LEARY: So there should be some consistency now, is that what you're saying?

25 MR BAKER: Well, there will be because we'll be able to go back to the award – like I and Mr Lynch will be able to go back to the award and say, "This is the rate."

PRESIDENT LEARY: That's it. Excellent. Thank you for your submissions. I've done a quick check of the documents and other than the changes that you've referred
30 to we're happy that the awards can be approved and effective from 1 December 2007 which is to come isn't it – yes, it's coming. Accordingly the awards will take effect from that date, or on and from that date, and we'll just await the replacement pages that you've referred to.

35 MR BAKER: Yes, President, we'll get those to you today.

PRESIDENT LEARY: All right. Well done, that's a big job and I think you've achieved something very significant there, so continue on with the good work.

40 MR BAKER: Thank you.

PRESIDENT LEARY: Thank you. This matter is adjourned.

45 **MATTER ADJOURNED at 10.20 am INDEFINITELY**