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## TRANSCRIPT OF PROCEEDINGS

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O/N 72621

### **TASMANIAN INDUSTRIAL COMMISSION**

### **DEPUTY PRESIDENT P.C. SHELLEY**

**T No 13077 of 2008**

**T No 13078 of 2008**

**T No 13082 of 2008**

**T No 13083 of 2008**

### **GENERAL CONDITIONS OF EMPLOYMENT AWARD COMMUNITY AND HEALTH SERVICES (PUBLIC SECTOR) AWARD**

**Applications 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, the Community and Public Sector Union (State Public Services Federation Tasmania) Inc and the Health Services Union of Australia, Tasmania No. 1 Branch to vary the above awards re principle 13 of wage fixing principles and review of the award in accordance with the wage fixing principles of the Tasmanian Industrial Commission**

### **HOBART**

**10.30 AM, THURSDAY, 24 JANUARY 2008**

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

THE DEPUTY PRESIDENT: Thank you. So these applications concern two awards and they have been made by two different parties. I take it that they can all be dealt with together, is that the case, Mr Baker?

5 MR P. BAKER: Yes, Deputy President.

THE DEPUTY PRESIDENT: Okay. So I will take appearances, please for all of the matters collectively.

10 MR BAKER: Deputy President, I appear on behalf of the Minister, administering the State Service Act.

THE DEPUTY PRESIDENT: Thank you.

15 MR T. JACOBSON: If it pleases the Commission, Deputy President, I appear on behalf of the Health Services Union of Australia, Tasmania No. 1 Branch.

THE DEPUTY PRESIDENT: Thank you.

20 MR M. JOHNSTON: If it pleases the Commission, Deputy President, I appear on behalf of the Community and Public Sector Union, State Public Services Federation of Tasmania Inc.

THE DEPUTY PRESIDENT: Thank you.

25 MR D. PYRKE: If the Commission pleases, I appear on behalf of the Association of Professional Engineers, Scientists and Managers, Australia.

30 THE DEPUTY PRESIDENT: Thank you. Okay. Now, who wants to go first? Mr Baker?

MR BAKER: Thank you, Deputy President. Deputy President, this matter arose - you may recall there were some discussions before the Full Bench when we were doing a review of the awards insofar as salaries were concerned in the latter part of 35 2007 and further, the issue was also raised in hearing before you when we varied the awards by incorporating parental leave. We see today's hearing as the opening of the files in both award matters and we see it as a journey that we would like to conclude no later than May/June of this year at the very latest.

40 To that end if I just sort of sum up - there's a couple of little things in relation the awards themselves. Both awards, CAHSA more so than GCOE contains a detailed range of conditions of employment that affect employees generally within the health sector. Unfortunately there are also other bits and pieces which are not found in the award and indeed in respect of CAHSA there are a series of administrative 45 directions, which in fact override the terms of the award so as to, if you like, provide over award payments to certain groups of employees.

It is our desire and it is the desire of the department and in the very brief discussion I've had with Mr Brown of the union, it is also his desire that those administrative instructions are also incorporated into the award. And to that end I have arranged with the department to organise a working party to look at those issues that are  
5 outside the award that have application to employees working within the health sector. The general conditions of employment award is an award that is probably notable for what is not in it as opposed to what is in it and we have had over the last couple of years I suppose discussions on and off within our own organisation and also with the CPSU on occasions as to how the award should be structured and  
10 what's in it as opposed to what's not in it.

As I said the award is notable for what's not in it and it is our desire at the end of this process that it should reflect a modern award, that it contains not only the current award provisions – well, I'll re-phrase that, award provisions that are current and are  
15 meaningful, because clearly some of the allowances that are still shown in the award and indeed are applied are misapplied, if I could use that expression. For example, the diving allowance is for employees who dive off a barge next to the Tasman Bridge, but I would venture to say it has been some years since that occurred, but the provision still exists in the award and it's used for something else today, so it is time  
20 we actually re-defined that clause for example.

We also intend to include into both awards certain ministerial directions regarding the issue of working hours, annual leave, etcetera. One of the first things that we intend to do in relation to the GCOE award, an agreement has been reached in  
25 relation to that with the CPSU, is to incorporate sick leave, or personal leave as it is now known, generally into the award and we see that as a first step. Finally, Deputy President, I have circulated to the parties a reformatted award, which Mr Jacobson advises me this morning that he hasn't had the opportunity of pursuing as yet. So what I would suggest to the Commission, subject to any direction from yourself, is  
30 that the document be tabled and subject to any comments from the unions present this morning that that document be – form a basis of our ongoing discussions.

The document has been consolidated to include the recent amendments in relation to parental leave location allowances, which were varied shortly before Christmas, as  
35 was the supported wage. There are – it still contains some clause – or a number of clauses which need to be addressed, including the list of respondents, one of whom I understand no longer exists. So there is a fair bit of work to be done and we have got four and a half months – four months to do it in, so we will be busy. So subject to – what I would like, I suppose, is before I conclude is that there be probably a report  
40 back to the Commission four weeks from today. I haven't discussed that with the union representatives this morning, but if they have an alternative position I am open to it and indeed from yourself, Deputy President.

45 THE DEPUTY PRESIDENT: Thank you. Mr Jacobson?

MR JACOBSON: Thanks, Deputy President. Look, it's true that there have been discussions and discussions before this Commission in relation to – conducting the review of both the awards that are before you today in all those applications – of

listing all those applications and certainly from our perspective we wouldn't disagree with a number of the issues that Mr Baker has raised. One of the issues I would raise, however, is why in fact the diving allowance doesn't in fact exist in the Community and Health Services Public Sector Award and I think we might have to  
5 have some further discussion about that.

THE DEPUTY PRESIDENT: Maybe a site inspection?

MR BAKER: At the bottom?  
10

MR JACOBSON: Well, I could say in Queensland at the moment in some of the district health services it may well be that there is an unfortunate necessity that there be a diving allowance. But on a more serious note, can I say that the reason for the further applications made by the unions with respect to this matter is a simple  
15 procedural concern that we have had and whilst there have been some discussions with the Minister in relation to conducting this process from the outset it was understood that this process would be a joint process, a co-operative process.

The application by the Minister, whilst we knew that it would be made, it was  
20 certainly our understanding that we would have been consulted in the making of the application and secondly, you know, following the application being made we received a copy of the General Conditions of Employment Award that was proposed to be part of the process that was conducted or that was to be conducted before you today. Again, a matter that there had been no consultation about the detail in relation  
25 to the changes to that award as well. So simply, from our perspective we believe that the process should proceed, that it should proceed on a co-operative basis, on the basis of the parties being equal players in that and that the process can be driven by all parties on that basis, that we believe that – and we are hopeful that we are able to achieve the time frames as outlined by Mr Baker and that in terms of a range of  
30 issues that have been raised, certainly don't disagree with those. In terms of report back, four weeks I think from my perspective is not problematic and I think that we could potentially list that today.

THE DEPUTY PRESIDENT: Okay. So have you got a series of meeting scheduled  
35 to progress it?

MR JACOBSON: There is - from here on in there will be a schedule of discussions between us. And I think it is important that - given the nature of the matters that are before you, that we have not only an electronic exchange of information but there are  
40 in fact face-to-face discussions between the parties so we understand each other's respective positions as we work through it and that we don't end up in the situation where there is some misunderstanding based on electronic transfer of information etcetera. So we would see that there is a necessity for there to be face-to-face meetings between the parties as well as a transmission of a number of the technical  
45 details around this process between the parties. Unless you have any questions, Deputy President, that's where we would end our submission.

THE DEPUTY PRESIDENT: Thank you. Mr Johnston?

MR JOHNSTON: Thank you, Deputy President. Look, I think it is fair to say that there is unanimous understanding of the desirability of having a modern and comprehensive award underpinning the employment of our members and the Government's employees. We certainly would also offer our support to a scheduled  
5 report back four weeks from – or around four weeks from today. I think it's important that we put some of the provisions which are more appropriately dealt within an award, that are currently with in other instruments, into the award package, so I think this process can be – if it is collaborative and can be very constructive and result in a better underpinning for the employment of our members. Thank you.

10 THE DEPUTY PRESIDENT: Thank you. Mr Pyrke?

MR PYRKE: Yes, thank you, Deputy President. Deputy President, we support the process that is aimed at – in the broader of the award and looking more specifically  
15 at including conditions that are currently missing; that's a good objective and refining the award again, these kinds of things we are certainly things we are happy to be part of. If the Commission please.

THE DEPUTY PRESIDENT: Thank you. Mr Baker, did you want to respond  
20 particularly in respect of – a slight hint there as to a lack of consultation to date and the request that there be face-to-face meetings? I mean I - - -

MR BAKER: Well, you know, I mean I – we had a meeting prior to Christmas and I indicated at that stage that I would make an application early in the New Year,  
25 which I did. Now, I think we will leave it there.

THE DEPUTY PRESIDENT: Okay. Fair enough.

MR BAKER: And I might – perhaps if I can be so bold to suggest a date for our  
30 next get together before you?

THE DEPUTY PRESIDENT: I think that would be a very good idea. Yes, okay.

MR BAKER: Four weeks from today is around about Thursday, 28 March.

35 MR JACOBSON: It is February.

THE DEPUTY PRESIDENT: That's February?

40 MR BAKER: Sorry, February. Well, that's got rid of a month.

THE DEPUTY PRESIDENT: Okay. 10.30 am on Thursday, 28 March – I mean  
February. I wrote it down in February, for a report back and no doubt you will have had at least one face-to-face meeting in the interim and I am anticipating that a great  
45 deal of progress will be able to be reported at that meeting in view of the ambitious timetable that has been set. So the matter is adjourned until that date.

**MATTER ADJOURNED at 10.30 am UNTIL  
THURSDAY, 28 FEBRUARY 2008**