

**TASMANIAN INDUSTRIAL COMMISSION**

Industrial Relations Act 1984

T No. 3816 of 1992  
T No. 3819 of 1992

**IN THE MATTER OF** an application by  
the Shop Distributive and Allied  
Employees' Association - Tasmanian  
Branch and the Federated Clerks  
Union of Australia, Tasmanian  
Branch to vary the Retail Trades  
Award

re third and fourth minimum rates  
adjustment and new classification  
structure

PRESIDENT

HOBART, 25 June 1992  
continued from 12/6/92

**TRANSCRIPT OF PROCEEDINGS**

Unedited

PRESIDENT: There are no changes in appearances, are there?

MRS H.J. DOWD: Yes, Mr President, if the commission pleases, I appear on behalf of the Federated Clerks Union of Australia, Tasmanian Branch, DOWD H.J.

PRESIDENT: Yes, quite right, Mrs Dowd, thank you. Well Mr Griffin to lead off.

MR GRIFFIN: Good, thank you, Mr President. In relation to those application numbers, as was read out, we're here to insert the third and fourth minimum rate adjustments into the award by 1 July 1990 and also to put before you or before this commission a document outlining a classification structure which has been agreed upon by the parties that that proposal be put to you and ratified through this commission for that date.

Before I hand up the document I'd just go through a few things, Mr President. It concerns the award restructuring process. It's quite a significant time, I suppose, as we're almost at the completion of award restructuring. We're in the process of completing the minimum rates adjustment and the document we have today to hand up is a proposal that implements a new wage structure or new wage classification structure in the Retail Trades Award. It's an integrated structure which has been referred to at the onset and during restructuring as an all-embracing award, the four walls concept.

This four walls concept incorporates storemen, cleaners, shop assistants, clerks, section managers and supervisors into a single graded structure. And perhaps the most important feature of this restructuring exercise is that the negotiations and variations to the award have been structured on one very basic premise. And that is what has been done has been in the long term in the best interest of the employees in the retail industry. It's not been a short term quick fix it by gaining short term pay increases through the minimum rate adjustment principle. That principle has been linked with the extension of ordinary hours, loaded rates in place of penalty conditions.

Since July 1990 the parties were able to come to this commission with an agreed document on award restructuring and the procedure contained 10 points which saw the award varied. There was an operative date then to implement the second structural efficiency increase, an all-embracing award, as I've just mentioned: floristry apprenticeships, annual leave, redundant provisions, managerial classifications, mixed functions, minimum period of engagement, enterprise agreements and trading hours. These points have been addressed in relation to the award.

This restructuring process, Mr President, has been set in place, has formed a career path for employees in the retail industry. The document I'm about to hand up outlines a graded system that gives employees a career in retailing. They start as a junior on the shop floor and proceed up the scale through supervisory and managerial classifications.

It is also significant in that the parties come before the commission today on a basis of consent. It is an agreed position and as has always been - well not always but what we've always endeavoured to do in this exercise is that the whole document or the whole package is a total package. And I think we can outline this today as far as the classifications go. I now hand up a document, Mr President, which we could go through and just outline where those wage classifications will now be varied.

PRESIDENT: Thank you. We'll mark this SDA.1.

MR GRIFFIN: Before we go on to it, Mr President, I might just outline that there are a number of issues which have to be addressed and we consider them as minor details as we were fairly rushed in the last couple of days to get something together as some issues took some discussion before we could come to an agreed position on.

It is our intention that we'd be able to submit a formal and full document on the whole award towards the end of next week to the commission, giving all the variations and incorporating, of course, this document which we have here or the specifics of it. But what this document is basically to give the commission what we have agreed upon on the integrated structure. The grades 1 go through to grade 8 and if we start on the first page, that's the scope of how the award will be changed.

Definitions, still basically very much the same as what's currently in the award.

PRESIDENT: Sorry to pull you up there. My document doesn't - the scope hasn't been changed I take it.

MR .... : It's the arrangement.

MR GRIFFIN: The arrangement, I'm sorry.

PRESIDENT: Oh, okay.

MR GRIFFIN: Now, into the definitions area we've got the - the graded rates of the retail employees. Now we started on grade 1, that is an adult entry point for all people that are engaged in sales or clerical functions; and also as a storeman, where they might come into that position off the



street as an adult and they would not be graded into a further classification until after 6 months' service.

The only people that will stay in that grade are the - well, the few people that might be engaged on cleaning duties and that rate has been agreed as 85%.

PRESIDENT: And that will need to be - oh, I see, yes. Yes, a special reference there to cleaning,

MR GRIFFIN: Yes. Retail employee grade 2 this, as mentioned there, is the - is the main classification within the industry, and that relates back to the 3rd year shop assistant. It's an adult which comes in at the 92.1%. It incorporates -

PRESIDENT: What are you using as 100%? Is that relevant at this stage.

MR GRIFFIN: Yes, as we -

PRESIDENT: Yes, okay.

MR GRIFFIN: - as we go on, unless you wish me to -

PRESIDENT: No, no, no.

MR GRIFFIN: - go onto that.

PRESIDENT: No, that's okay. Yes, you were saying that the retail employee grade 2 -

MR GRIFFIN: Yes, that -

PRESIDENT: - supplanted the 3rd year shop assistant.

MR GRIFFIN: The 3rd year shop assistant. And also which relates back to the grade 1 clerical clerk of the same award.

We go on. It goes through the tasks, and they're not dissimilar to as what they were; engaged upon or the duties that were engaged upon formally. After that we then go on to the grade 3 - retail employee grade 3, and we have there where - what was termed before would have been the - the supervisor or the second in charge and that was when they were deemed by managers as to be second in charge. Also second in charge of a front end controller. That first bit was on the - on the section manager division.

With the clerks there, there was a bit of a problem in relating to the C&A Award where clerical people in that area were at a higher - at a higher rate, but as you can see we have a phasing in period that comes out of that C&A Award.

And by the 1st of June 1994 those people will have reached the same relativity of 96%.

The retail employee grade 4, which is the 100% and which relates to the tradesman's rate, that is when we get up into the managerial areas, such as section managers, where they are in charge of two people, which would include themselves. It would also include those people in the nightfill operation that supervise nightfill staff. It also brings in the clerical as well, which they are the general clerical officer and types and fairly - where are we - we've got the - well, they get up into the more advanced areas of computer skills, keyboard and machine operating.

PRESIDENT: Tell me, Mr Griffin, the supermarket front end that is a description that's known well in the business is it? And I take that means the - from the checkout point, does it?

MR GRIFFIN: What it actually means, yes, Mr President, is a supervisory role by one person who manages the checkouts at the front of the supermarket area. Yes, some of those areas have - you know, they can vary from two or three checkouts right through to about 19. Now, this is where you'll see that at 100% we have someone there who would be supervising 15 employees at any one time.

PRESIDENT: Or up to.

MR GRIFFIN: Up to 15 employees at any time. Now, those - that would include the cash register people operating that, also the people that are packing; that is, the boys at the end as well. So -

PRESIDENT: And girls.

MR GRIFFIN: And girls. Also it would incorporate what is referred to in the supermarket area as the front-end desk or what they call the kiosk. They have people that's operating that as well.

PRESIDENT: Good. Thank you.

MR GRIFFIN: It also means a supervisory role for clerical employees also at - staff which are at a lower level than themselves.

If we go up to retail employee grade 5 there, if we remain on the front-end supervisors, that is where they would be in charge of more than 15 employees. It would also incorporate section department managers where they would be managing four employees, including themselves. And a clerical officer in charge of the same number of people in whatever office they might be operating in.

PRESIDENT: That's a bit of a - bit of a worry having that 'including self' in brackets there, isn't it? I mean, it's a bit hard to say you supervise yourself, although I suppose everybody does in some way.

MR GRIFFIN: Well, they - those people have duties and - to carry out themselves. They would have to be aware that they are -

PRESIDENT: Well the, if we go back to the retail employee grade 4, supervision of up to two sales staff including self. That really means supervision of one other.

MR GRIFFIN: Well, yes. But that - it's always been - been the - the grading, the classing of it -

PRESIDENT: It's existing sort of verbiage.

MR GRIFFIN: Yes.

PRESIDENT: Yes, okay.

MR GRIFFIN: At the relativity of 105%, as I say, management of a defined section or department or three or four employees and, as you say, including self should that person be incorporated in it. We have always been of the view that they should be as those people carry out the same duties as the people that they are -

PRESIDENT: Oh, I'm not suggesting that - that the, for example, the four is a problem. I mean, it - I just say that supervision of up to three clerical staff instead of supervision of up to four clerical -

MR GRIFFIN: Oh, I see what you mean, yes.

PRESIDENT: - clerical staff including self.

MR GRIFFIN: Yes.

PRESIDENT: I mean, that's just being pedantic.

MR GRIFFIN: Right.

PRESIDENT: And while we're on that, just the other thing that does concern me and it's probably in the existing award, and I don't know what sort of disputes might occur as a result of it, but what does the 'at any one time' mean in brackets? I mean -

MR GRIFFIN: Well -

PRESIDENT: - does that mean that if for 5 minutes in a day somebody is supervising 15 employees that -



MR GRIFFIN: Well, I -

PRESIDENT: - that person is automatically retail employee grade 5 -

MR GRIFFIN: Well -

PRESIDENT: - or -

MR GRIFFIN: - in our opinion, yes. But we didn't really look at it in that exact light. What we're saying is that if there's a capacity in, for instance, a supermarket to - where there would be 15 employees being supervised at certain times, whether it would only be Thursday and Friday nights, the fact is that the capacity is there to include or incorporate that number of people.

PRESIDENT: Right.

MR GRIFFIN: Now, it does - it is - yes - make one ask the question. I can understand that. But we don't want to see an area where someone is in grade 4 and then at a number of times through the week where they are doing higher - a higher duty than what they're being classified as. And that could create or become a problem.

PRESIDENT: Yes. Yes, I just -

MR GRIFFIN: It has been a problem within us - well, between us whilst we were discussing all this as to what we decide is small, large or medium. It was my opinion that that number of 15 should be at 10.

PRESIDENT: No, I don't want - I don't want to query the number, I just want to query the - the use of those words in brackets to find out exactly what it means -

MR GRIFFIN: Okay. Well at any one time means the -

PRESIDENT: - so that if there is a dispute - so it means, if there's a -

MR GRIFFIN: - that they have the capacity to operate 15 or more people.

PRESIDENT: Yes. Thank you.

MR GRIFFIN: Retail employee grade 6, this is mainly of course in the supervisory and administrative responsibilities, management levels as far as the shop assistant is concerned, where they're - you might be in a - a defined - in a section or department and, I suppose, just what springs to mind is a

delicatessen in some of the major supermarkets where there certainly would be more than five employees.

Also the same with the clerical staff where there's more of the - more staff included with the office work. And that's basically who all that does entail, office, clerical, administration in offices and section managers.

Grade 7 is - really goes up into the administrative roles and where shop assistants are certainly not involved. And what we have there is the private sector award of the Clerical and Administrative Employees Award would be applied. There wouldn't be a great many people subject to that grade 7.

Further on in the definitions, trainees shall be employees bound by a training agreement. And it goes on to outline what's been involved; what's already incorporated into the existing award as far as trainees are concerned.

In clause No.3, clause 8 - Wage Rates, we can now see what those relativities and percentage of the tradesman's rate - the amounts per week, that they reflect to. And the only area there we are - we haven't got a rate at this stage, is that grade 7 where it would be referred to the Clerical and Administrative Employees Award.

Where the asterisk is, I just refer back to what I mentioned earlier with the clerical officer, where they are phased in from December of this year through to June of 1994, where they will reach that grade 3 rate of 96%. Then go on to the junior rates, they are the percentage rates, percentage points there that would come from the retail employee grade 2, which is \$384.10.

The transport workers, they are under the General Award. Nightfill employees, they are under the same scale that - as you can see there, they are awarded the 25% loading.

PRESIDENT: Just on the transport workers, the driving function in - in retail employee grade 2 has been sorted out, has it? No problem?

MR GRIFFIN: Well, yes, as far as I'm concerned it has been. It's really just a peripheral duty at that stage. It's nothing as part of their ordinary time duties that they would be engaged upon.

PRESIDENT: Okay. Thanks, Mr Griffin.

MR GRIFFIN: We believe that this - Mr Abey maybe able to go a little bit further in that.

Floristry apprentice, a minimum ordinary rate of payment for those people has been put in there. We're currently looking



at - if we go back to grade 2, I think it was, grade 3 the floristry tradesperson. We're currently investigating whether that particular person is an actual tradesperson. It is our belief that they would be under the Industrial and Commercial Training Act 1985. And my understanding is, it's about to be proclaimed as a trade, it's all but finalised.

PRESIDENT: Gosh, that's taken a long while.

MR GRIFFIN: It has. As I said before, there are some of these things which we have to have finalised and ascertained as in fact -

PRESIDENT: Anyway you can't do much about it -

MR GRIFFIN: At this stage.

PRESIDENT: - at this point, I wouldn't have thought, if - if it hasn't been proclaimed as a trade, then it causes some trouble trying to do anything different -

MR GRIFFIN: Yes.

PRESIDENT: - with it, I think.

MR GRIFFIN: Trainees. We've brought clause 38 out of the existing award and put that into the - into clause 8 of wage rates, which will give the amount assigned to the trainees at their particular age. Additional rates, window dressers, that's the same -

PRESIDENT: Does that mean - does that mean the trainee shift clause is amended?

MR ABEY: It should be.

MR GRIFFIN: It'll be amended, yes.

PRESIDENT: Yes, right.

MR GRIFFIN: Yes.

PRESIDENT: And - okay, thank you. So a revision of the traineeship clause will be necessary.

MR GRIFFIN: Yes, sorry.

PRESIDENT: Good.

MR GRIFFIN: The additional rates window dressers or show card writers, there's not too many of them about, but they will still receive the 5% in addition to their normal wage. Tool allowance, again that's in relation to the florists. The translation as we have or what we will be seeking from you

today, that these people would translate to the new structure as from the 1st of July 1992. And we'll go into that as we get further to schedule 1, which is in this document -

PRESIDENT: Yes.

MR GRIFFIN: - further on. Advice of grading and settlement of disputes, I'll just read that:

(i) All current and future employees shall be notified in writing by the employer of their grading within one month of this Award coming into operation or the date of engagement as the case may be.

(ii) In the event of a dispute regarding grading, the matter shall be discussed by the employer involved or his representative and the relevant union in an attempt to resolve the matter, and if then still in dispute, shall be referred to the President of the Tasmanian Industrial Commission for determination.

Where you've used 'the President' there, have you done it on the basis that applications, section 29 applications have to be made to the president anyway?

MR ABEY: Yes.

MR GRIFFIN: Yes.

PRESIDENT: You did. You haven't just pulled it out because I currently have the Retail Trades Award?

MR ABEY: No.

PRESIDENT: Okay.

MR GRIFFIN: Quote:

(iii) In respect of clerical and administrative employees Grade 4 and above, guidance may, where appropriate, be sought from the definitions contained in the Clerical and Administrative Employees (Private Sector) Award.

So that can be referred to with any concerns as far as those people are concerned. Something which is new as far as the Retail Awards go - the retail award goes is the annualised salary agreement.

Now this comes in after grade 4, grades 5, 6 and 7, and shall not apply to any of the - in the first four gradings. And

this is, if not exact, it's very similar to that that was - this is incorporated into the C&A Award.

PRESIDENT: Is it? Right. Does it deviate in any way, in any substance?

MR GRIFFIN: Not as far as I'm aware. I believe it's practical just straight out, except I think grade 4 in the C&A Award, they are applicable for an annualised salary.

PRESIDENT: Yes. Oh, yes, there are some - there was some odd things around there, and I'm not particularly worried about that.

MR GRIFFIN: No.

PRESIDENT: But I'm just concerned about the general principles applying.

MR ABEY: The only - the only change, Mr President, is that we make reference to 'relevant union' rather than 'the union', for obvious reasons.

PRESIDENT: Yes. Is that - that's the only alteration?

MR ABEY: Yes. And the other change which I think has been referred to is that with the agreement of the FCU in the Clerical and Administrative Award you can have an agreement - and annualised salary agreement at grade 3.

PRESIDENT: Yes.

MR ABEY: We haven't pursued that in this case.

PRESIDENT: Right. Yes, thank you. Yes, thanks, Mr Griffin?

MR GRIFFIN: No.5, this is the loaded hourly rates which were placed in the award in 19 - at the end of 1990, if my memory serves me correct. And that's basically still very much the same, except that some figures have been changed because they - where - which ones were? I think there's about three that had to be changed from the original award, just what I can recall of it anyway.

Whatever. They have been adjusted as necessary and, as I say, when we get the completed document it will be checked again to ensure that they are the correct rates at the time. Now, No.6, delete the minimum rate adjustment as that will have been completed.

And the clause 22 of the mixed functions, other than clerks. And that's still very much the same as what it originally was. Now part-time employees -



PRESIDENT: So what is - what's happened with the mixed functions clause?

MR ABEY: The only change, Mr President, is that in the second-last line it makes reference to retail employee grades 1 and 2, rather than the old sales assistant.

PRESIDENT: Oh, yes.

MR GRIFFIN: Yes, that's -

PRESIDENT: Thank you. Good.

MR GRIFFIN: One of the changes that has been made to the award since going on to this grading structure has been part-time employees. Whereas before part-time employee or employees who are engaged for more than 20 hours per week were termed as part-time employees and received the same conditions as a full-time employee. And those under 20 hours were considered as casual, did not receive those provisions, but in turn or in lieu were entitled to a 20% loading.

That now has been changed - well, has gone back to those people working 15 hours or less, but what we have provided for those people who are currently working between 15 and 20 hours a savings clause where they - it was in there -

MRS DOWD: It's No.10.

MR GRIFFIN: Number?

MRS DOWD: Number 10.

MR ABEY: Ten.

PRESIDENT: Yes, it's at the end.

MR GRIFFIN: Right, in that - that's right, yes. Add the following subclause in clause 30, the savings. And those:

(c)(i) Part-time employees who were as at 1 July, 1992 working less than 20 hours per week and as a consequence were in receipt of a 20% loading, shall continue to be paid such loading unless it is mutually agreed otherwise.

Also -

PRESIDENT: Yes.

MR GRIFFIN: Yes. And it goes on to - they'd used the nightfill part-time employees and all others.

PRESIDENT: So - you'd bear with me while I work through this - and you've probably discussed it: a person who works more than 15 hours a week on a one-off - you know, on a sort of casual basis, how are they - they're provided for elsewhere in the award are they? Casual - there's a provision for casual employees there?

MR GRIFFIN: Yes, there will be.

PRESIDENT: Yes.

MR GRIFFIN: Yes.

PRESIDENT: Yes. Okay. Yes, good.

MR GRIFFIN: But they - you know, they can - any new employees they can come on - they are entitled after 15 hours now for the award provisions as annual leave -

PRESIDENT: Yes.

MR GRIFFIN: - sick leave et cetera.

PRESIDENT: Yes. Thank you.

MR GRIFFIN: The grading and translation - I'll just read through that, Mr President:

Employees engaged subsequent to 1 July, 1992 shall be appointed to a grade in accordance with the definitions.

Now those existing employees they shall translate to the new structure in accordance with the schedule set out below which is to occur no later than the 1st of December 1992. And if we turn the page, there's the existing classifications and the translation schedule of what will get them to that new structure or that new wage rate.

We essentially see obviously that the 1st and 2nd year adult experience will be wiped out as was proposed initially from - when the award restructuring process commenced under MRAs. They all mostly have reasonably significant increases and it's fairly straightforward, I believe.

PRESIDENT: And these adjustments of 20-odd dollars or more and \$42.00, they're all in -

MR GRIFFIN: Well basically where you've got -

PRESIDENT: - they'll be all picked up within the next 6 months?

MR GRIFFIN: Yes. Now basically those areas where you see such as the 1st year adult experience as \$20.20. Section manager, \$21.30 - those people - very few of them in the industry that it really won't cost the employers that much of - or to any great extent - such as a gunsmith, \$11.70, you know, where we've - how many would be affected by that.

PRESIDENT: What about storeman?

MR GRIFFIN: A storeman, yes, they receive significant increases. There will be a few of those. Cleaners is quite a bit, but I don't know of any companies that employ cleaners on this basis. I think most of it's all contract work where those -

PRESIDENT: I imagine it's been fairly carefully considered. How does that relate the Miscellaneous Workers Award, do you know, in terms of cleaning rates?

MR GRIFFIN: That is 2.3 per cent behind the Miscellaneous Workers Award.

PRESIDENT: Yes. Thank you.

MR GRIFFIN: The Cleaning and Properties Award - yes.

PRESIDENT: Yes, whatever it is.

MR GRIFFIN: Yes. That completes the document, Mr President. That is the basis of our new classification - or wage rate classification. As I said before, we will be forwarding to the commission completed award with all those variations and some of the others which need some tidying up to fall in line with what we've just gone through.

PRESIDENT: Yes. Okay. Thank you. Tell me, what - I thought, when we were last talking about this, there was something to do with the definition of 'Launceston' coming out. Was that -

MR GRIFFIN: Yes, we did talk about that, Mr President. The thing - why we haven't deleted it at this stage is that that was in reference to news vendors and that's what it is in relation to.

PRESIDENT: Do those laws still apply?

MR GRIFFIN: Well that's what I - I haven't gone into - I haven't looked into it yet, Mr President, as to whether they are still valid or - maybe it needs to be addressed.

PRESIDENT: Well would it be possible to check that in the interim -



MR GRIFFIN: Yes.

PRESIDENT: - because I'd be quite delighted if it came out.

MR GRIFFIN: Yes.

PRESIDENT: And unless there's some good reason for it being there, I'd prefer it to come out.

MR GRIFFIN: As far as I'm aware there's not at this point.

PRESIDENT: All right. Yes. Well, thanks, Mr Griffin.

MR GRIFFIN: Good. Thanks, Mr President.

PRESIDENT: Mrs Dowd?

MRS DOWD: Mr President, the application by the Federated Clerks Union of Tasmania before you today is for the implementation of the new classification structure and for the third and fourth MRAs. We have a consent position that has been put before you this morning. It follows quite lengthy negotiations and discussions between the parties and we believe it is the completion of the structural efficiency exercise.

We have agreed on the new structure - an integrated structure and the appropriate relativities as a package, but I have been instructed by our secretary to inform the commission that we do have some reservations about the references to the Clerical and Administrative Employees (Private Sector) Award in this particular award, the Retail Trades Award. There are two references - one is the retail employee Grade 7 which is on page 6 of the document which states:

This applies to senior level administrative officers. The definitions and wage rates applicable to Administrative Officer Grades 6 and 7 of the Clerical and Administrative Employees (Private Sector) Award shall be applied.

Also in clause 8 - Wage Rates on page 8 under subclause (j) under the 'Advice of Grading and Settlement of Disputes' subclause it also refers to the Clerical and Administrative Employees (Private Sector) Award. We believe that there could be a little bit of confusion for some employers, if they look at that particular subclause because it says:

In respect of Clerical and Administrative Employees Grade 4 and above -

That Grade 4 and above applies to the grading in the Retail Trades Award but the Grade 4 in the Retail Trades Award is the equivalent of Grade 3 in the Clerical and Administrative

Employees (Private Sector) Award as clerical officer Grade 3. I believe there could be a little bit of confusion there by that reference to the Clerical and Admin Award.

PRESIDENT: Yes, you've got me confused. Does - did I hear you right? Did you say that the Grade 4 reference here -

MRS DOWD: The Grade 4 reference in the Retail Trades Award is the equivalent of the Grade 3 clerical officer in the Clerical and Admin. (Private Sector) Award.

PRESIDENT: Yes, well I think that ought to be more clearly explained.

MRS DOWD: I believe that there could be a little bit of confusion there by that reference.

PRESIDENT: Yes.

MRS DOWD: We felt that it was mainly a cosmetic exercise to actually have this in the award instead of the two or three extra pages that would be required under the definitions clause.

We did agree to the package, but we do put on record that we have reservations about that particular reference.

PRESIDENT: Yes. Yes, I should have thought - I thought - that that meant that if there was a problem with a Grade 4 classification in this award -

MRS DOWD: Well, if they looked to a Grade 4 classification in the clerical and admin. award it is above the Grade 4 classification in the Retail Trades Award.

PRESIDENT: But the dispute that's been referred to here is in relation to somebody classified Grade 4 in the retail award.

MRS DOWD: Yes.

PRESIDENT: But -

MRS DOWD: Well, if the employers -

PRESIDENT: - that classification when applied when translated to clerical and admin. is at Class III.

MRS DOWD: It would be the equivalent of the Clerical Officer Grade 3.

MR ABEY: We can find a way through this.

PRESIDENT: Yes. Okay, no, I think I follow it better now, thanks. Very good.



MRS DOWD: By the Federated Clerks' Union agreeing to the reduction from 20 hours to 15 hours for part-time employees who receive the 20% loading we would like to stress that any employee currently receiving the 20% loading and wishing to retain that 20% loading should not be coerced into relinquishing the 20% loading. We believe that it should be a genuine agreement; we believe that it should be in writing; and part of the wages and records kept by the employers.

That hasn't been included in the savings clause in the document. That was only discussed with Mr Abey this morning, but I believe he has no problems with it actually being in writing and part of the records. But that will be something that will be tidied up when a new draft is actually forwarded.

PRESIDENT: Good.

MRS DOWD: We have also agreed to the insertion of the annualised salary clause. It is consistent with the C&A award, with a variation to cater for more than one union. In other words, the appropriate union, instead of just a reference to the Federated Clerks' Union.

We would also like to put on notice that at a later date we will be pursuing a minor increase in the percentages for junior rates.

Mr President, we believe that the agreed document presented to you today should be ratified, and that the new structure implemented and the third and fourth MRAs granted as of the 1st of July 1992, or the first full pay period on or after that date, and we believe that it in no way offends the principles of this commission. Subject to any questions of the commission, that ends my submission.

PRESIDENT: Yes. Thanks, Mrs Dowd. No questions. Mr Abey?

MR ABEY: Thank you, Mr President. I can confirm that we have reached a consent position, and reference has been made to the four walls concept insofar as the new classification structure is concerned. We are not quite to the end of the four walls project, but we are a long way down that track.

By having an integrated structure involving all the classifications currently contained within the Retail Trades Award that means that we are 9/10ths of the way towards a complete four walls project.

Now what I mean by the term 'the four walls project' is that it is our longer term objective that every employee engaged within a retail store shall be subject to the Retail Trades Award.



Now the obvious cases are in the meat trades and bakers, possibly chemists and restaurant keepers possibly. We would envisage as a longer term objective that they will be able to be slotted into these classification structures, and the way the relativities have been established that would not be a difficult task, because the numbers sort of fit fairly comfortably with the sort of classifications which would appear in these other awards. So that remains to be done, and it is still on the agenda.

I would like -

PRESIDENT: Does that - could I just interrupt you there - does that mean that - or are you saying that the file should be kept open?

MR ABEY: No, no, I don't think the file should be kept open, but we are just not quite - the four walls project is not quite there - but we have got the -

PRESIDENT: But as far as the completion of this exercise in accordance with the principles we should have taken it as far as we can go at this point?

MR ABEY: Yes. All I am saying is that - I think for convenience sake we can close the file. All I am saying is there is still this aspect which remains on foot which -

PRESIDENT: Yes, I understand that.

MR ABEY: Thank you. There are a number of points that perhaps I should comment on.

The question of the section supervisor, that has been the cause of some considerable debate, and I am convinced that we were at cross-purposes all the time.

The intention in distinguishing between the section supervisor at 100% and a section supervisor at 105 is to distinguish between what the member of the general public would perceive as a small supermarket as opposed to a large supermarket.

Now if we may draw a picture about this. What is intended is that a large supermarket would be, with some exceptions, largely those supermarkets run by the chains. A small supermarket, again with some exceptions, would be those which could be described as being run by the independents, and we've played around with figures to try and draw that distinction and we have come up finally with the terminology of 15 employees at any one time.

Now what needs to be understood is that the role of a section supervisor, or a front-end supervisor I am sorry, is something more than just supervising.

For example, that front-end supervisor is normally responsible for organising rosters, and so the intent is - and generally speaking in each supermarket there would be one person who would fall into this category - and they would, apart from on the floor supervision, would also be responsible for organising the rosters and when casual employees come in, etc. And so the term 'at any one time' essentially means peak time.

And so if - and I agree with Mr Griffin - if the potential was there at peak stages during the week there is going to be more than 15 employees under their supervision, then they would be classified at the higher level .... consulted widely on this particular issue, and I think we're in a position where both the chain supermarkets and the independents are satisfied with this outcome, and it's clearly understood.

Again a minor point on - and you made an obvious reference to being - using the words 'in charge of yourself' in some of those supervisory roles, I only make the observation that that terminology is taken from the existing award. And I think it probably has its genesis in the fact that we're talking about section or departmental managers who have responsibilities which go beyond your supervising people.

They have, for example, you know, responsibilities for displays, you know, advertising, pricing perhaps, and the reference to the number of people is simply to give an indication of the size of that department, not necessarily precisely how many people they're supervising. It is a management role which goes beyond just straight supervision.

But I agree with you, there would be better words. I am just a bit frightened if we changed what has always been understood in the industry, we might create greater confusion.

PRESIDENT: I thought we were making wholesale changes, anyway.

MR ABEY: Well, I am quite relaxed about it -

PRESIDENT: Well, you just have to reduce it by one.

MR ABEY: That's right.

PRESIDENT: And take out - include yourself.

MR ABEY: If that's the commission's preferred approach, we can accommodate that.

PRESIDENT: But my problem with it is that it says, 'supervision of' rather than 'supervision of section' or



'department' or something of that nature. Once you say 'supervision' it draws that obvious query.

But, anyway, I am relaxed about it too. If that's what people understand and that's the way they want it to remain -

MR ABEY: I think that is what is understood. You see, it would create a confusion, particularly if you go down - you have got the indicative tasks - and then you have got employment categories. Now if you didn't use the same expression in both areas you would -

PRESIDENT: Yes, that's something I wanted to pick up with you, anyway, because I think they are contradictory. The tasks and the employment categories are contradictory.

MR ABEY: Well, perhaps if you can take me to that now.

PRESIDENT: Well, go to page 5, that's the first one that comes to mind. Under 'Tasks', 'Supervision of up to four clerical staff'.

MR ABEY: Page 5? Oh, right.

PRESIDENT: Yes. Under 'Tasks'.

MR ABEY: Yes.

PRESIDENT: 'Supervision of up to four clerical staff, including self', and then go down to the bottom of the employment categories, 'Clerical officer in charge of up to four clerical staff'. Now, does that mean five? I mean, 'tasks' means - it is four under 'Tasks' but under 'Employment Categories' it could mean five.

MR ABEY: Yes. They are meant to mean the same thing. That is a classification within the award now, in charge of three or four employees, including self. I mean - yes -

PRESIDENT: I mean, look, could it cause a problem? I mean, if you put an advertisement in the paper for somebody to be a clerical officer in charge of up to four clerical staff, do you grade them at Grade 5, or do you -

MR ABEY: I think the way around it is to -

PRESIDENT: Or do you grade them at Grade 6?

MR ABEY: - put - you'd put 'including self, wherever appearing'. I think that would cause less confusion than trying to change it.

PRESIDENT: I will leave it to you, anyway, to sort that one out -



MR ABEY: Okay

PRESIDENT: - in your new document.

MR ABEY: We have just taken the easiest that come. Mrs Dowd has given notice that at some stage in the future that the FCU intends to run a case to increase slightly - in her terms - the junior rates.

I will also put on notice that we will be opposing that application.

PRESIDENT: Right. I thought you would.

MR ABEY: You mentioned the question of the transport classification, that expression is taken exactly as it appears in the award now.

PRESIDENT: Yes.

MR ABEY: I would point out that there is also an existing classification in the award referring to a van salesman. We've interpreted that as meaning that their principal function is that they are a salesman that happens to drive a van. So we have interpreted that as meaning driving functions which are incidental or peripheral to their principal function. So I don't think it does anything more than what is in the award at the moment.

The expression in the award now for transport workers refers to those employees who are classified as transport workers. That is their primary function.

PRESIDENT: You are not anticipating an appeal?

MR ABEY: I hope not. The casual and part-time employees, if I can just explain a little more what we have done there.

In essence, the current position is that if an employee works less than 20 hours a week they shall be paid a loading, whether they be part-time or casual. Now, in essence, all we have done is change 20 to 15.

PRESIDENT: Yes.

MR ABEY: .... the savings clause as described.

PRESIDENT: Yes, when I asked that question I did as you to bear with me, because I was trying to orient myself in the award.

MR ABEY: That's understandable. Mrs Dowd has expressed some reservations about reference to the Clerical and

Administrative Employees Award and a number of areas. We make the observation that in this particular award clerical employees are very much in the minority. In fact, in the vast majority of the stores they probably don't exist.

The clerical and admin. definitions in the C&A Award are lengthy, to say the least, and it just seemed to us when we are talking about an integrated structure that to apply what amounts to three or four pages of definitions to probably less than a handful of employees statewide was overly cumbersome, and just a reference to the clerical and admin. award would suffice.

It is a reference only to wage rates and definitions. In all other respects the Retail Trades Award would apply.

So far as containing guidance from the Clerical and Admin. Award and any dispute settling. I think if we concluded the word on page 8 in item 3 - (j)(iii), where it says 'where appropriate, be sought from the definitions' include the words 'at the equivalent relativity contained in the Clerical and Administrative Employees' would overcome any confusion.

PRESIDENT: Yes, that sounds a good idea. What do you think about that, Mrs Dowd?

MRS DOWD: That's quite acceptable, Mr President.

PRESIDENT: Yes, thank you.

MR ABEY: Annualised salaries has been covered. The question of Launceston, we looked at that, there still is reference to a different spread of hours for newsvendors in Launceston, for whatever reason that's beyond me. But -

PRESIDENT: Is that by legislation?

MR ABEY: No, no. It's in the award.

PRESIDENT: In - oh, right.

MR ABEY: Yes. There is a - a marginally longer spread of hours for newsvendors in Launceston on Monday to Wednesday. It's for -

PRESIDENT: Has that been negotiated or discussed at any level?

MR ABEY: Well, I think the only thing we can do is really leave it there, because to change it would put a more onerous provision of the newsvendors in Launceston, and we're not about to do that just for the sake of making an award tidier. I'm sure the SDA are not going to agree to extent the general prescription across the state.



PRESIDENT: Yes.

MR ABEY: I think it's just one of those things we're going to have to live with.

PRESIDENT: Yes.

MR ABEY: Really what it means is that the ordinary hours on Monday to Wednesday can be up to 9.30 in Launceston for newsagents, not without penalty rates, but the ordinary hours can be that.

Going to the schedule 1, I put a slightly different construction on it than Mr Griffin and I think a more favourable construction for the people that he represents. The intent of schedule 1 is that on 1 July that is what will occur. That schedule. People will go to those categories. The second part of it is that there may be instances where, after an examination of the duties and responsibilities and the new definitions, an employee might be classified at a higher grade than such schedule shows - an individual employee. In that case that translation to the higher level will occur not later than 1 December.

In other words, the employers mean employees have got six - or nearly 6 months to look at whether anyone in fact fits at a higher level on an individual basis than the translation schedule might show. That's - again, is consistent with what we did in the Clerical and Admin. Award.

I would hasten to add that in the case of sales classification I don't believe there's going to be any dispute, because the position is fairly clear cut. There may be some arguments in relation to the clerical function where it's more complex, and that's really what that's intended to cover.

Now, you note that there are - in the maximum wage increase column there are some figures which appear relatively high. I want to make a couple of observations. Firstly, that's a maximum, because it's inherent in this that it's absorbable against over-award payments. And in the key classifications, such as the 3rd year shop assistant, the figure is \$5.90. That is the final MRA. In most other classifications it's two MRAs, about 10 to \$12. Because all other classifications have only received two MRAs, through no fault of their own. It's simply because we've been trying to develop a new structure.

There are some odd ones, such as cleaner and storeman, where the rates can only be described as being depressed in relation to what - particularly the standards applicable for cleaners rates as it's simply been ignored over the years, because it really has no application. So I don't think that will have any impact. In the storeman area, I suspect that most



storemen would be paid significantly over the award rate, where they exist, and so that should not be a major problem.

I would add, and I've had some informal discussions with Mr Griffin on that, but if there are individual cases which would impose significant hardship on an individual employer, then we would like to talk to the SDA about accommodating that through, say, an enterprise agreement rather than trying to .... arrangements for all these categories which we don't believe will have much impact.

PRESIDENT: That's - and you've discussed that?

MR GRIFFIN: Yes. No, that's good.

PRESIDENT: Happy with that, Mr Griffin?

MR GRIFFIN: Yes, Mr President.

PRESIDENT: Yes.

MR ABEY: Having said that, Mr President, we are pleased to indicate our consent to the document and indicate our appreciation to the way the unions have approached this exercise. And we would ask that the commission endorse it so that it may apply from 1 July. If the commission pleases.

PRESIDENT: Good. Just a couple of things. 1 July, you don't believe will be a shock in the system to employers?

MR ABEY: Well -

PRESIDENT: I mean, 1 July has been in the award, the -

MR ABEY: 1 July -

PRESIDENT: - signal's been there for some time.

MR ABEY: The signal's been there for nearly 2 years, so there will be many employers out there who will have forgotten about it. I don't know what we can do about that. Certainly from a TCI point of view we have forewarned or reminded employers that this is happening, but certainly we don't speak for all retailers.

PRESIDENT: Yes.

MR ABEY: But I don't know what else anyone can do, because it's been in the award since January 1991 anyway.

PRESIDENT: Yes. And the other thing, the two MRAs for those who are catching up, do you - you don't see that as offending the principles?

MR ABEY: No, it doesn't offend the principles in that the principles provide that by agreement you can do that. And of course the circumstances are that these employees have not got the third MRA, through no fault of their own. It was simply because we didn't want to compromise our ability to negotiate a classification structure with MRAs locked in. And because it didn't happen 12 months ago when perhaps we originally anticipated, those employees, in fairness, have probably been or arguably disadvantaged. So we're quite comfortable with that.

We have consulted quite widely, the TCI and the other two retail organisations have been involved all of the discussions. We don't pretend to speak for everyone, but I don't know what else we can do.

PRESIDENT: Yes. Thanks very much, Mr Abey. Mr Rice?

MR RICE: Thank you, Mr President. The Retail Traders Association, sir, have been involved in extensive meetings and negotiations, both with the TCI and the other employer bodies and with the FCU and the SDA regarding this matter. It has been a long drawn out process. It hasn't been that painful, I don't think. And we've been able to reach an accommodation on it, sir. And I would only like to endorse the remarks made and comments by Mr Abey, and we'd ask the commissioner to endorse this consent document effective from the 1st July, sir.

PRESIDENT: Yes.

MR RICE: If it please the commission.

PRESIDENT: Yes, thanks, Mr Rice. Mr McDougall?

MR McDUGALL: Yes, Mr President, thank you very much. We, I mean the Tasmanian Chamber of Retailers, have likewise been involved since the inception of this project, and we have consulted with - both with the employer bodies and with the two unions involved, and the third union when they appear, and we're very satisfied with the way things have gone.

I was not present at the meeting on - I think it was Tuesday, when this final documentation was put together, but I'd certainly like to pay tribute to the two main negotiators in this, that's Mr Abey and Mr Griffin, for being able to put together a document which we feel that we're comfortable with. And certainly you have the endorsement of the Tasmanian Chamber of Retailers as regards to this document, and would - we certainly give our consent to that document. If the commission pleases.

PRESIDENT: Very good. Mr Griffin?



MR GRIFFIN: Good, thank you, Mr President. There's just something which perhaps should have been brought up initially when I first gave a submission, and that was, it will come to no surprise to Mr Abey, from the onset of these negotiations the union, or the association, has always been of the view that there is and there ought to be in - in a classification structure a two-level shop assistant. And I mean by that, we have our base rate shop assistant, and for those people that during some time or training they acquire extra skills, more product knowledge, they do more training, that they should be awarded a higher rate of pay.

In order to enable this document to go through today and in order to ensure that the majority of employees in the retail industry do receive this due classification and new wage rates with the third and fourth, final MRAs, we did not - we sought not to pursue it during these negotiations.

But what I'd like to do now is put on notice that at some stage we will be pursuing a second rate or a second level shop assistants rate of pay. And that's in relation to those elements which I mentioned. And whether we come back before the commission here on a - to argue it, or whether we have a work-value case carried out or whether we come back on a consent basis -

PRESIDENT: You might come -

MR GRIFFIN: - which I doubt will be very -

PRESIDENT: You might come back with an enterprise bargain -

MR GRIFFIN: Well, maybe.

PRESIDENT: - implemented.

MR GRIFFIN: Maybe. But I'd just like to put it on notice that that is our intention down the track.

PRESIDENT: All right. Well, thank you for that. I won't delve into it too far, I don't want to jeopardise the -

MR GRIFFIN: Thank you.

PRESIDENT: - the consent document that is sitting before us so happily at the moment.

MR GRIFFIN: Good.

MR ABEY: Mr President, if Mr Griffin has put that on the record, I also similarly put on the record, because this has been a contentious point between us, that the employers view the retail employee grade 2 as the principal operating classification. And that that classification embraces the



general run of shop assistants, if I may used that term, without supervisory or managerial duties, and not simply what might be described as a base level shop assistant without product knowledge.

That of course may well be a matter of argument at some later date, but if Mr Griffin wants to put leave reserved then similarly we also have to state our position. And I don't believe that either position should jeopardise the agreement a such.

PRESIDENT: No. Well, we're going to close this file, or that's the - that's the submissions of the parties, so the file will closed. And then I suppose it's up to the parties to make their minds up as to what they want to do from there on.

All right. Has anybody else got anything further to add? No. Well, thank you very much. I too would like to say that I'm very pleased we've been able to come together with a consent document. It's a very good and worthwhile effort. And I'm quite happy to indicate on the record at the moment that I give approval to the document, the third and fourth MRAs effective from the 1st July '92, and the new classification structures.

I will wait on you providing me with a new and comprehensive document that can take the form of an order, and that will have to be fairly quickly -

MR GRIFFIN: Yes.

PRESIDENT: - provided. I would not like to issue an order that's got a retrospective - the retrospective date of 1st July, if I can avoid it. So I'll - I ask you to do your best to get the document to me very quickly. With that, we'll close these proceedings. Thank you very much.

HEARING CONCLUDED