



Tasmanian Industrial Commission

Industrial Relations Act 1984

T No. **9240 of 2000**

IN THE MATTER OF an application by
the Construction, Forestry, Mining and
Energy Union, Tasmanian Branch for
the making of the Mobile Crane Hiring
Award

Re: Title and Scope

COMMISSIONER IMLACH

HOBART, 18 December 2000
Continued from 24 November 2000

TRANSCRIPT OF PROCEEDINGS

Unedited

(WOULD PARTIES PLEASE READ THIS TRANSCRIPT CAREFULLY)
(ANY QUERIES SHOULD BE DIRECTED TO THE COMMISSION WITHIN 14 DAYS)

HEARING RECOMMENCED 10.30am

COMMISSIONER: I think we have the same appearances as last time, so we won't need to go any further.

MR BODKIN: Mr White is with me today, Mr Commissioner.

5 COMMISSIONER: I'm sorry, yes. Mr White, CFMEU. Mr Bodkin?

MR BODKIN: When we adjourned, it was on the basis that Mr Mazengarb would communicate with his members as to their attitude to the proposed award and I think Mr Mazengarb has a report to make in that regard, commissioner.

10 COMMISSIONER: Thanks, Mr Bodkin. Mr Mazengarb?

MR MAZENGARB: I can advise that at our last meeting I did undertake to get in contact with our members who are, we believe, subject to this award application. I can advise that we haven't received any instruction from our members to oppose this application, so to advise the commission from the outset that on the understanding, as I believe it does, mirrors the federal award, the TCCI will not be opposing the application made by the union. If the commission please.

COMMISSIONER: Thanks, Mr Mazengarb. Now, Mr Bodkin?

20 MR BODKIN: In that case, commissioner, the union would be requesting that the commission make an award in the terms of the draft award attached to the application. It is, as my friend has indicated, a mirror image of the federal Mobile Crane Hiring Award and from the union's investigations we believe that basically crane hire companies, although the ones that are not bound by that award in Tasmania are observing it or in some cases probably paying more, but as there is no opposition we believe that the commission is able to make the award.

30 In our submission, it would comply with the principles, in particular the first award principle as recently amended by the state commission.

The other two matters, I suppose, are the question of the award interest. Two matters come up there. First of all, the eligibility of the CFMEU to enrol crane operators. That would not be in doubt, commissioner. As you are aware, the CFMEU is an amalgamation of a number of unions including the Federated Engine Drivers and Firemens Association and the eligibility of that association is incorporated in the CFMEU rule and of course it's well known that it expressly covers, amongst other classifications, crane operators. Indeed, the CFMEU is the union party to the federal Mobile Crane Hiring Award so eligibility would not be disputed.

As to the other matter I suppose the commission would need to be satisfied in the question of an award interest, is whether the applicant union has any members employed in the industry. We do assert and claim that we have members. I can provide this information from the bar table, or Mr White could give evidence if the commission desired.

COMMISSIONER: Yes, thanks, Mr Bodkin. Perhaps if we go off the record for a minute.

OFF RECORD 10.38am

ON RECORD 10.50am

COMMISSIONER: It will be known as the Mobile Crane Hiring Award. We haven't got a scope, have we, Mr Bodkin?

MR BODKIN: Actually, in 1.4 -

COMMISSIONER: 1.4 - I haven't got a 1.4. Starting with title 1?

MR BODKIN: Yes. Then we go to the definitions clause. It's in Part II, 1.4 of Part II on page 3.

COMMISSIONER: Page 3. We have to have a scope, because remember, I said about conforming with the requirements of the locals.

MR BODKIN: Yes.

COMMISSIONER: I think what you'd better do is draft up a statement prescribing the scope of the award. It'll have to be something in the order of - this award covers employees engaged in the work of the mobile crane hiring industry -

MR BODKIN: Which is a service industry, et cetera?

COMMISSIONER: I don't know.

MR BODKIN: I would use 1.4 because that in effect is the scope of the national award, although it does -

COMMISSIONER: Let's just have a look at it. We'd better go off the record again.

OFF RECORD 10.52am

ON RECORD 10.55am

COMMISSIONER: Thank you for that, gentlemen. I advise now the application for the award will be granted and an order will issue covering the title and the scope of the award, but following discussions between the parties, the actual terminology used in the scope clause

will need to be refined. I will draft that up and send it to you, Mr Bodkin and to you, Mr Mazengarb as a draft and then let us all see if we can't come up with a simple statement that covers that area.

Is that acceptable to you, Mr Bodkin?

5 MR BODKIN: Yes, thank you, commissioner.

COMMISSIONER: Mr Mazengarb?

MR MAZENGARB: Yes, Mr Commissioner.

10 COMMISSIONER: Good. After that, Mr Bodkin, it will be for you to apply to have your union's interest declared in that award. Nothing else? It might be that we resume operations even with that after the Christmas break. Thank you.

HEARING ADJOURNED 10.58am