

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T No. 5044 of 1994

IN THE MATTER OF an application by
the Health Services Union of
Australia, Tasmania No. 1 Branch
to vary the Welfare and Voluntary
Agencies Award

re Clause 7 - Definitions

DEPUTY PRESIDENT ROBINSON

HOBART, 7 July 1994
continued from 6/7/94

TRANSCRIPT OF PROCEEDINGS

Unedited

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DEPUTY PRESIDENT ROBINSON: Thank you. What surprises do you have for me today?

MS HARVEY: Well, Mr Deputy President, unfortunately we have got yet another threshold which I will give Mr FitzGerald the opportunity to run his concerns. I mean I am tempted to stand up and try and stop him but all I think that does is, you know, frustrate him, so I will let him put his view to you and - - -

DEPUTY PRESIDENT ROBINSON: If you want to have a fight do not let me stop you - - -

MS HARVEY: Well - - -

DEPUTY PRESIDENT ROBINSON: - - - but I will not get involved in it.

MS HARVEY: - - - I must admit I find this extremely frustrating because what we are here to do is to run a case on the merits. We want to put our position. We are more than happy to listen to the employers position but unfortunately there seems to be some - I am not quite sure what the employees are attempting to gain by raising a bulletin that I sent to my members about the progress in the hearing. Now as I understand what their concern is, is that I wrote in my bulletin giving my members - - -

MR FITZGERALD: Well, I think it would be appropriate - the point I am going to raise is one I foreshadowed yesterday. Now I think it is appropriate, Mr Deputy President, that you hear me first on this issue before you hear Ms Harvey. She is responding to something which I have not even put to the commission yet.

DEPUTY PRESIDENT ROBINSON: Well, I will not hear you both at the one time.

MS HARVEY: I would like to go first; I think - I am on my feet.

DEPUTY PRESIDENT ROBINSON: I am sorry, you see I have just walked in here and I have asked that - made a general comment - as I understood it there were to be some discussion this morning about setting future hearing dates.

MR FITZGERALD: That is right.

DEPUTY PRESIDENT ROBINSON: Is there some other threshold question too involving something which was raised yesterday - - -

MS HARVEY: Yes.

DEPUTY PRESIDENT ROBINSON: - - - and I thought was under control?

MS HARVEY: I was seeking to try and report back to you, Mr Deputy President, about that matter, but I am happy to deal with the dates first if you want to and then we can come back to this issue. But I was indeed reporting back. Yesterday I asked leave for an adjournment, which you granted, and I was reporting back to the commission on the progress we had with that adjournment and what the problems till is on the employers prospective.

DEPUTY PRESIDENT ROBINSON: Right. There still is a problem on that matter, is there?

MS HARVEY: There certainly is, unfortunately.

DEPUTY PRESIDENT ROBINSON: Well, I do not know that it matters which we deal with first. I mean, does it, or does it not?

MS HARVEY: Well, I would like to - - -

MR FITZGERALD: Well, can I suggest that we deal with the issue of dates for a start and that the commission should, with respect, hear me in respect of the threshold point which I raise rather than hear Ms Harvey first, because it would seem to be logically appropriate, I would submit, that you hear the threshold point and you hear Ms Harvey in response.

DEPUTY PRESIDENT ROBINSON: I will hear you both. I mean - - -

MR FITZGERALD: Yes. But I think it is a bit absurd for Ms Harvey to respond to something which I have not yet put to the commission.

MS HARVEY: Actually, indeed, what I was trying to - - -

MR FITZGERALD: We can certainly just simply report that we were unable yesterday to settle the matter and we reserved our position yesterday and we intend to put that to the commission today as a result of our inability to resolve it yesterday.

DEPUTY PRESIDENT ROBINSON: Right. It was a matter raised by you, Mr FitzGerald - - -

MR FITZGERALD: Yes.

DEPUTY PRESIDENT ROBINSON: - - - and so it is your threshold matter and to that extent I guess if you want to, as an applicant would, have the - - -

MR FITZGERALD: That is correct.

MS HARVEY: I am quite happy with that, Mr Deputy President.

DEPUTY PRESIDENT ROBINSON: - - - right to report and then there will be full and proper opportunity given for a response from the other end of the table. And the final right of reply even, Mr FitzGerald.

MR FITZGERALD: Thank you.

DEPUTY PRESIDENT ROBINSON: Okay. What is new to report?

MR FITZGERALD: Well, I think as I indicated in my submissions I think it would be more appropriate that we deal with the issue of dates. There was some problem with dates so we were reluctant I think to involve you in setting of dates but I think if we can get that out of the way for a start, if Ms Harvey agrees to that?

DEPUTY PRESIDENT ROBINSON: Oh, I thought you wanted to continue with your threshold matter?

MR FITZGERALD: Well, I intend to do that, but I think if we can get dates out of the way for a start.

MS HARVEY: I am not fussed which order we do it in, Mr Deputy President.

DEPUTY PRESIDENT ROBINSON: Goodness gracious me.

MS HARVEY: I will do dates. The problem is that - - -

DEPUTY PRESIDENT ROBINSON: You have not got enough dates already?

MS HARVEY: No, we have not.

DEPUTY PRESIDENT ROBINSON: Right.

MS HARVEY: The situation is that we, as I indicated earlier, there has been discussions with the employers about procedural matters and unfortunately we have put a number of procedural options to the employees and their view to date has been that we just have to run our case and it is

not appropriate to talk about procedures at this point, so as a result of that I am going to need some extra days for inspections which then runs us into the first, second and third. Now, I have suggested to the employers that we have a combined schedule of visits and I will be providing a schedule that we intended to follow on 19 July to Mr FitzGerald and hopefully we may actually get some agreement on at least the inspections program. Therefore, I will probably need the 4th and possibly the 5th. So, therefore, the debate is the 16th and 17th were already set aside.

DEPUTY PRESIDENT ROBINSON: Yes.

MS HARVEY: Obviously, the employers are going to need more than two days and we requested that the 18th and 19th be set aside, which is available for the commission, and indeed Mr FitzGerald is available as well. However, he does not want to appear on those days because he wants more time. Now, we have some problem with that, given that I think we have been going now for over a month in this hearing, so it is not as though he has not had access. Also, the commission has met the request to provide transcript on the 8th so that Mr FitzGerald will have the full transcript from proceedings available to him, and we think it is appropriate that the 18th and 19th be set aside for dates.

DEPUTY PRESIDENT ROBINSON: Of July?

MS HARVEY: That is correct - of August.

DEPUTY PRESIDENT ROBINSON: August. You are right.

MS HARVEY: Whereas the employers view to date was that it should be not until after the 30th which, in effect, really gives them over a month after the time I have concluded, if you take into account that inspections are not really formal parts of submissions in that sense. So that is the dispute between us, and unfortunately we cannot agree, so I suppose we put it in your hands to determine the matter.

DEPUTY PRESIDENT ROBINSON: Right. Which dates belong to the HSUA?

MS HARVEY: Well, it is a little bit confused.

DEPUTY PRESIDENT ROBINSON: Up to 5 August, is that right?

MS HARVEY: Well, it is a bit confused because if we get an agreed schedule then they are going to be joint dates.

DEPUTY PRESIDENT ROBINSON: For inspections?

MS HARVEY: Yes. But I would probably need one further day, probably the 4th depending, depending on how many days inspections we end up doing because I have not seen the employers list of where they want to go, but I suspect a lot of the sites are going to be the same. So I would hope that certainly we will be completely and totally finished by the 5th, but some of those dates would be both the HSUAs and the TCCIs dates because they will be inspections.

DEPUTY PRESIDENT ROBINSON: Right. Well, assuming the HSUA case is finished by 5 August, we had promised Mr FitzGerald early in the piece that we would give him some preparatory time between the conclusion of the case proper - and I think inspections are in a neutral area, particularly if they are going to be at establishments nominated separately by both sides notwithstanding the fact that some might be common. So assuming the finishing of the case of the HSUA on 5 August, we indicated that we would give I think a couple of weeks - - -

MS HARVEY: It was 10 days, Mr Deputy President, last time.

DEPUTY PRESIDENT ROBINSON: It turned out to be 10 days, but I think the expression was two weeks, because I checked my diary later and even I had a pang of conscience and I thought, "I promised two weeks and the dates work out at only 10 days", so I do have a conscience, and I thought that was perhaps a little bit narrow, but anyway.

MR FITZGERALD: Could I say something in respect to the dates, Mr Deputy President, or is it - - -

DEPUTY PRESIDENT ROBINSON: Yes. Well, that is right, from the 5th it would really take it up to the 19th, but still we have set the 16th and 17th.

MS HARVEY: I understand Mr FitzGerald has already agreed to the 16th and 17th. The issue is the 18th and 19th.

DEPUTY PRESIDENT ROBINSON: Well okay, we are talking about two more days, is that right.

MR FITZGERALD: That is correct. If I could just say briefly in respect to dates, Mr Deputy President, it is not unusual for a case of this type to be extended over an extensive period of time. I think the commission has very extensive precedent in the public sector which indicates that. We are not attempting in any way to unduly delay it, but a case of this sort requires response time, adequate response time, not only in terms of preparation but also in terms of consultation with membership. Now this

case already has involved a lot of consultation with our members, many of whom travel from the north-west coast.

It is not just from our point of view the time that we need to prepare but also the time which the employers need in terms of consulting us, and they have other business of course at this time of year, but this particular time of the year is very busy and they have other commitments which they need to attend to, in fact running their own businesses. And in that regard the time needs to be adequate. So we would seek the indulgence of the commission in having an adequate response time, or the commission setting reasonable dates so we can adequately respond and have time for preparation and consultation with membership. I just simply make those statements at this time.

DEPUTY PRESIDENT ROBINSON: And your suggestion is after 30 August.

MR FITZGERALD: That would be our suggestion.

DEPUTY PRESIDENT ROBINSON: Okay. Well, in response I have a couple of things to say. I acknowledge that there is a great deal of material to be put and answered in a case such as this. I do not like matters to be drawn out unnecessarily and some reference was made to the length of cases in the past and I suppose I will never recover from the fact the teachers case went for two years on a full bench; I was waking up in the night thinking about that. But seriously, I do like things to be kept moving as far as is possible, but I must have regard for the commitments of organisations and their constituents.

I believe that in the public interest I must also have regard for the costs associated - commission costs, and I refer again to the production of transcript which is costly and we have only got a certain capacity to produce transcript with our own resources and I am reluctant for us to be put to extra expense for contracting it out more than is absolutely necessary, and I hope that would be appreciated by everybody. For that reason I am going to be sympathetic to Mr FitzGerald's situation and set a couple more days, I think in the early part of September; that is being very generous.

MS HARVEY: If I could just be of assistance. We had already agreed to the 30th, 31st, 1st and 2nd and the 26th, so I assume from what you are saying, Mr Deputy President, that we will not be sitting on the 16th and 17th?

DEPUTY PRESIDENT ROBINSON: Well, you are ahead of me. I thought the only dates that had been set were up to 17 August.

MS HARVEY: That is right, and then there is - we had actually set as well the 26th, the 30th - - -

DEPUTY PRESIDENT ROBINSON: Hang on.

MS HARVEY: Sorry.

DEPUTY PRESIDENT ROBINSON: 26 August?

MS HARVEY: Yes, the 30th, the 31st.

DEPUTY PRESIDENT ROBINSON: The 30th - - -

MR FITZGERALD: Is it possible to go off record just while we discuss these details? It might be more productive I think, in terms of - - -

MS HARVEY: Sure.

DEPUTY PRESIDENT ROBINSON: Yes, yes. It might be in the best
- - -

OFF THE RECORD

DEPUTY PRESIDENT ROBINSON: During that brief interval, just for the sake of the transcript, I indicate that we have settled upon future hearing dates. We now move on to the next matter, Mr Fitzgerald, in your report to us.

MR FITZGERALD: Right, thank you, Mr Deputy President. I do not wish to take too much time of the commission up this morning on a threshold point but it is of concern to our members, and I did seek to produce an exhibit yesterday which I withdrew, but if I could resubmit that. Just identifying - - -

DEPUTY PRESIDENT ROBINSON: Thank you.

MR FITZGERALD: - - - that is a Health and Community Services Union memorandum dated 27 June 1994.

DEPUTY PRESIDENT ROBINSON: I have not got a record of your exhibits. Have you got any?

MR FITZGERALD: I do not think - I think that would be the first one. The numbering system I will leave to you.

DEPUTY PRESIDENT ROBINSON: Well, I prefer to say TCCII.

MR FITZGERALD: Thank you. I reckon it is a, in fact a HSU circular. But if I could make some submissions in respect of this and what I will be seeking the commission to do is, in fact, either order the union to retract and properly report the proceedings in our view or there be some adjourning into conference to ensure that where information is reported to membership either employers, employees, that is not done accurately, it is our view that this circular is not accurate, and is, in fact, offensive for a number of reasons. I put some submissions in support of that.

The main area which we see is offensive, in fact, paragraph 3, and I quote:

To date in the TIC the employers have run a number of threshold issues to try to delay the application or stop it from being heard. This includes an attempt to refer the matter to a full bench, banning from evidence all previous work on the award, and a technical argument about wage-fixing principles to stop the applications from being heard.

I respect - I submit in respect to those matters they are both, in our view, offensive and in our view designed to create disharmony and disaffection in the particular industry which up until now has been, or that that has not been a feature of the relationship between the parties. The reason we say that these matters do not represent an accurate reflection of the report of the proceedings so far are as follows.

Firstly, the point the union are making that we are trying to delay. There is simply no foundation for this statement. The facts are that this application, there now two applications before the commission, it has been set down, and we have now set down further dates this morning, and we concede that once all parties have had an opportunity to put their submissions then the commission will after a proper time for proper and adequate consideration to determine the matter, then that either party may exercise the rights available to it under the act; may or may not.

That reflects the proper process of the commission, which we as parties accept, and given that the hearing dates have already been set down, there is certainly nothing to be gained by either party delaying the process. We therefore say that regarding the alleged employer attempts to delay is both inaccurate, misleading and designed to create disaffection which in our view is contrary to the public interest to both employers and employees

alike. And more importantly, the clients who require ongoing diligent and caring assistance.

Secondly, the statement that employers prevented the matter being heard was simply both fundamentally and manifestly incorrect. And that statement in particular could cause potential disharmony and disaffection in the industry. At no time did the TCCI put such a submission. To do so, we would have had to refer - and just excuse me for a moment - specifically to section 21(2)(c) of the Industrial Relations Act of 1984, and I will just quote that. And it is - and I am sure you will be well aware of this, Mr Deputy President.

DEPUTY PRESIDENT ROBINSON: I think I have used it.

MR FITZGERALD: I feel sure you have, but it is a discretionary aspect of the act which allows the commission to refrain from further hearing it, and if I can just quote 21 - - -

DEPUTY PRESIDENT ROBINSON: One of your former colleagues will be attesting me to that, I think.

MR FITZGERALD: I think that could be so. But 21(2)(c) states:

At any stage of these proceedings that the matter or part is trivial.

2, and I will stop there because I do not think it is necessary to go any further, and further proceedings are not desirable, necessarily desirable in the public interest. Now, the circular to shop stewards from the union clearly says that we would - our application is designed to stop the application. That was not the case, and I quote from the last line:

An attemptinaudible. argument about wage-fixing principles to stop the application from being heard.

Now, we made no reference whatsoever to that particular section of the act which would be the particular section that required for this commission to refrain from further hearing. We put quite a different submission which was open to us under the act. I think the commission will recall what we put, and which was a two-pronged argument for the matter to be referred to a full bench pursuant to section 24(4)(b), and the two aspects of that argument was, firstly that there was an important matter related to the wage-fixing principles that because we believed at that time the union had exhausted the processes through the minimum rate adjustment process, that any further adjustment would be required to be pursuant to the work value principle.

Now, we put that argument but at no time did we say to the commission that the matter could not be proceeded with. It is simply an argument which we felt was more appropriately handled by a full bench. Also we put to the commission that the matter had flow-on implications to other awards both public and private and therefore it was of such importance that it should be considered by a full bench. Now, the commission declined to accept our submissions and we accept that, and we have proceeded since that time. But no submission was put that the HSU could not proceed at all. It was simply an argument of principles that we suggested should be more appropriately handled by a full bench.

In that regard the TCCI was simply exercising industrial rights and processes legitimately open to it. And it is not unusual that our organisations and others and, indeed, unions put such submissions. In fact there has been precedents before this commission, and I can recall some years ago before the then Commissioner King that - and I think you might have been involved in a full bench, Deputy President, where the matter was referred by the commission of its own motion in respect to the nurses case.

DEPUTY PRESIDENT ROBINSON: I was not on it.

MR FITZGERALD: Right. You were lucky enough not to be. But that is what occurred in that case, where the commission itself felt that the matter was of - had public interest implications and referred it to a full bench. Now, it is not an unusual process and we were seeking to - and we accept the decision made by the commission, we do not in any way show that we do not, we have proceeded since that time, but it was a process which was open to us and we legitimately put it to the commission. And we accept that the commission declined to accept our submission there.

In fact, I think the record will show from my submission, that Ms Harvey, in fact, encouraged the TCCI to put that argument to get it off - off our chest, as I think she put it. So we could then determine that threshold point. But now she says to her members that by us putting it, after he encouraging us to do so, that we are attempting delay. The important and fundamental point we raise before the commission, and the commission have not ruled conclusively on this point, was this issue of without prejudice negotiations.

Now, the commission, from my recall have stated that they will consider what appropriate weight will be put to those negotiations. Now, again we see that that is a legitimate point to put to the commission, and in no way is it going to delay the proceedings. It has always been our view that when the TCCI has acted on behalf of members in negotiations and those

negotiations fall through that anything put in those negotiations or agreements are not to be used in arbitral proceedings.

Now, we believe this is an issue of fundamental importance, and we put it to the commission for its consideration. Again with no attempt to either delay or stop the proceedings. Now, I think that is the reference to banning from all evidence all previous work on the award. Now, again that is something which was legitimately put to the commission. Now, I understand that the TCCI cannot, nor would it seek to, censure or to - sorry, to vet every circular the union puts to its members. And I understand that is a free and proper process, as we would expect the same in reporting to our members.

However, these proceedings are now before the commission and we are very concerned that there is an accurate reporting to memberships both employees and employers alike. We believe that there is a fundamental flaw and misrepresentation in terms of what has been put to the HSU membership which will create disaffection and, in fact, prejudice the proper conducting of this case. We are of the view that it does put pressure on both employers and the commission, and it is not desirable in the public interest that matters like this be put to the membership in this form.

Now, for those reasons what we would seek from the commission is a retraction, a complete and categoric retraction to correct the misrepresentation what has occurred so that the proceedings which have occurred before the commission can be properly and accurately reported. If it pleases.

DEPUTY PRESIDENT ROBINSON: If you say you seek a retraction, you made reference earlier on that the HSUA be ordered to retract their statement. Ordered by the commission?

MR FITZGERALD: Our first point of view there, Mr Deputy President, would be that there be a strong recommendation from the commission which we would hope the union follows. I think order is probably something which we leave down the track a bit further.

DEPUTY PRESIDENT ROBINSON: Yes, I see.

MR FITZGERALD: It would be our preferred position that this matter be settled either in conference or be by a strong recommendation from the commission that if there is going to be reporting to members that it in fact be accurate and in this case we would seek the commission's assistance to ensure that there is a proper and categoric retraction of what we see as a very fundamental inaccuracy in the reporting process.

DEPUTY PRESIDENT ROBINSON: Thank you.

MR FITZGERALD: If it pleases.

DEPUTY PRESIDENT ROBINSON: Ms Harvey?

MS HARVEY: Yes, I find it somewhat interesting Mr FitzGerald's most - the most recent part of his submission that we should settle this in private conference, because I thought that was exactly what I offered to do prior to going back on record. So - and I think that may be some indication of what this is really about, rather than an attempt to resolve the matter. Now, I just want to make a couple of preliminary comments. It is a sorry day when every bulletin that a union puts out to try to keep up to date its members who are lay people, who do not understand industrial relations niceties and all the technical details, it is a sorry day when we have to stand up before the commission to justify everything that we put out.

Indeed, if the commission was to be involved in such a process of both the HSUA and the TCCI objecting to each others material we would do nothing else. So I hardly think it is part of the public interest that we have dragged before the commission every piece of bulletin or correspondence that potentially by dealing with it in the way that Mr FitzGerald is suggesting could indeed be the result.

I think that the issue about it being - we are before the commission now dealing with an application. The issue before the commission is that application. This issue that Mr FitzGerald has raised has nothing to do with the merit of the application and it has nothing to do with the arguments before the commission. We can either get on with this hearing and resolve it on the basis of the merit of the case, or we can continue to have these backwards and forwards - to-ing and fro-ings about what I consider to be side issues. We did make an attempt to resolve the matter in a way that could satisfy the employers, precisely because we do not see this as the main game; the main game is the application before the commission. So before turning to refute particular parts of what Mr FitzGerald has said I just want to - in terms of the accuracy of how he has reported it, I just want to read to you, Mr Deputy President, what I offered to put out to my members to over come the concern.

MR FITZGERALD: Oh that's - Mr Deputy President, again Ms Harvey has misunderstood the processes, that they were discussions on, in our view, a without prejudice basis. They did not resolve the issues. They should not be put before the commission.

MS HARVEY: I am making a completely honest and up-forward suggestion of what we will put out; there was nothing about without

prejudice through it. There is nothing on the letter I put to them without prejudice. I am offering to resolve what Mr FitzGerald stated was the problem.

DEPUTY PRESIDENT ROBINSON: Let us know what all the - what it is all about.

MS HARVEY: Well, I wish I knew what this is all about as well. But anyway, I have offered to send out to stewards, to the same people that the bulletin went out to, saying:

Finally the employers have requested that I convey to shop stewards that they do not want to stop the application from being heard. However, the thresholds would have delayed the case if they had been successful in getting the matter referred to a full bench. We welcome the commitment of the employers to rationally participate in the arbitration process. After all, we do need to work together in the future. HSUA is committed to running a case on its merits. We welcome the commitment from the employers to do the same.

Now which brings me, I suppose, to my concern about what exactly this is all about. In Mr FitzGerald's submissions to you, Mr Deputy President, he said that they were not - that the issues of concern - if you look at that paragraph he has directed your attention to, the issues of concern, well he cannot deny if the matter had been referred to a full bench there would have been a delay. I mean that is just inescapable logic, we would not have been able to proceed on the day. Secondly, there were arguments put trying to stop things that had happened in relation to the award being put before you - and that was the debate about without prejudice.

Now if I put a bulletin out to my members talking about without prejudice, I am sure that 90 per cent of them or 99 per cent would not understand what it was about. I was trying to report in a way that was accurate and fair. Finally, so the real issue - the real issue is that what they object to is that it said that we - that they would not - here it is - is that it would have had some stopping procedure, so they would not want to stop the application from being heard. I have offered already to put out to exactly the same people this bulletin went to saying that - clarifying it, and I do not concede I was wrong because it would have stopped it from being heard on the day, but I am prepared to put it out to clarify it saying that it would have - that employers do not want to stop the case from going ahead, which is what I understood that they had requested.

Therefore in terms of this issue, as I have already stated, Mr FitzGerald said that he was concerned that we had said it would be stopped. I have offered to fix that. He did say, "I don't resile from the fact that by going

to a full bench that it would have resulted in a delay". And in relation to the without prejudice matters I think I have accurately reported it. All I can say is that to reinforce to you the danger of getting involved in correspondence between employer - the employer puts out to its own employees - we have an obligation and indeed we attempt to try to provide accurate information. We have an obligation to people to keep people updated about what is going on. We do that to the best of our ability.

It is just a pity that the employers would not see fit to allow the matter to be resolved in the manner that I suggested and therefore all I can say is that I request that you do not proceed with any recommendation or order because it is not required, because I have already said I will fix the problem. So in conclusion, Mr Deputy President, all I can say is that I believe this to be yet another example of an unfortunate missing of the real issue. If the commission pleases.

DEPUTY PRESIDENT ROBINSON: I really should not be listening to any of this. I just want to make it clear that I am here to deal with two applications which are put in and I do not believe it is right for myself, as a member of the commission, to get involved in either union or employer politics and the communications that they have between their constituent members. I mean, we live in a democratic society where free speech reigns. That freedom of expression is availed of by our newspapers, by our other media outlets, and through other means.

We collectively do not always agree with statements which are made, but however if you live in a society your only protection is if someone oversteps the mark and leaves themselves open to court actions; this is not the sort of thing that is suggested here. I do not feel that the commission has been intimidated or affected in any way by the issuance of these sorts of bulletins. The commission insulates itself from all exterior matters and concentrates upon only those things which are formally put before it in hearings. I do not believe it is appropriate that I get involved in the merit or otherwise of material such as TCCII, and therefore I stop there.

It is not therefore me for to either recommend that certain things be done or not done. I mean, if I was to open up that avenue I would be attempting to vet or censor publications put out by TCCI or other press releases by all sorts of people in our community. I do not want to get involved in that stuff, I have got enough to do listening to the very thorough and comprehensive submissions of the likes of Mr Brown and the other advocates at the bar table, in which I am most interested and would like Mr Brown to continue.

MR BROWN: Down to business, Mr Deputy President. Thank you. Just two brief matters, Mr Deputy President, as carry over from yesterday.

One is that I was not quite confident about some information which I gave to the commission with regards to the national competency standards project, and I indicated that it was based in Western Australia and I thought it was going to Queensland. And I checked that out, and it is definitely going to Queensland.

DEPUTY PRESIDENT ROBINSON: Good.

MR BROWN: And so the other states will, including Tasmania, will be consulted as a result of the second part of the project. You also asked a question yesterday, Mr Deputy President, regarding the employers and what they thought about all of these developments that were occurring, and I again looked up one of the ACCI documentation and they outline that the advantage to employers of the sorts of things I was outlining yesterday are as follows: This means that an employer can be confident that a person with some form of certificate - - -

DEPUTY PRESIDENT ROBINSON: Could you - I am sorry, could you remind me of the source from which you are reading.

MR BROWN: The source of the document, in this instance, is the Australian Vocational Education and Training System, CBT, issued by the Confederation of Australian Industry, which of course is now the Australian Chamber of Commerce and Industry.

DEPUTY PRESIDENT ROBINSON: All right, thank you.

MR BROWN: And they said that: This means that an employer can be confident that a person with some form of certificate that is registered is competent to do the job, the competency has been assessed. It is equally good for all parts of Australia. The competency meets required standards and it is based on an analysis of the needs of the job. So the employers can be confident that what they get from the certification under this new system means that the employee can actually do what the bit of paper says that they can do.

And it goes on to outline the advantage to employees which is, a nationally recognised certificate of job competency. It means that a person seeking work has a document which assures the employer of the competence - that the competency is appropriate - sorry, I will re-read that: It assures the employer of the competency in appropriate jobs of the holder of the certificate, is equally valid in all parts of Australia, it certifies training based on an analysis of current needs in the job and certifies training that is consistent with national standards of competency. I just thought I would point that out a bit more thoroughly.

Mr Deputy President, yesterday we dealt with the national competency standards and the requirements for developing those national competency standards and what the implications, or at least some of the implications were for it. What I would like to do now is move on to the Australian Standards Framework which I referred to yesterday. The identification of what competencies are required in the workplace, of course is one issue. The level and the standards to which the competencies are expected to be performed is a completely different matter.

One of the requirements that the National Training Board has is that prior to the registration of competencies they must be aligned with the Australian Standards Framework. And it is at this point that the competencies cease to simply be a set of competencies and they actually become competency standards. The Australian Standards Framework is a set of eight competency levels which serves as a benchmark for the development and the recognition of competency standards in relation to work across all Australian industries.

Mr Deputy President, if I can refer you back to exhibit 5.3, HSUA5.3, tab number 5 and the last page in the exhibit with the heading: Competencies Alignment. On the left-hand side is the eight levels of the Australian Standards Framework. Level number 1 represents the entry level point of someone into the industry. Someone who, perhaps, does not have any training nor orientation to the particular industry at all. In our submission that would equate with DSW level 1, which is an induction traineeship level.

And then the level of competency progresses right through up to level 8, which theoretically is the most senior competent level within any occupational group of jobs. The National Training Board requires that the units of competency or the packages of the units of competency are aligned against each of those levels within the Australian Standards Framework. Now, some of the competencies in fact may apply to every single level within the Australian Standards Framework. For example, something as generic as communication would be required by someone at ASF level 1 but would also be required by someone at ASF level 8. The level and the complexity, etcetera, of the application of that competency of course would differ through the eight levels of the Australian Standards Framework.

And that, in a sense, is the purpose of it, is to determine the - that any given competency is appropriate for a particular level in terms of the complexity of it. The Australian Standards Framework actually provides the bridge between competency requirements of work and work structure in the vocational education and training certificate system. The alignment of competencies and the level of competencies against the Australian

Standards Framework is designed to facilitate objectivity and comparability and therefore utility of the standards within and across industries.

Specifically the National Training Board states that the role of the Australian Standards Framework provides benchmark to enable comparisons between levels of competency and standards, across industries, between industries and between sectors within industries.

That is, to give an example, a group of workers at a particular Australian Standards framework level within industry A are able to be compared with another group of workers at the same Australian Standards framework level in industry B in terms of the level of standards competencies that are required to be performed. So by requiring that all competencies are aligned against this Australian Standards framework means that within industries different sectors, such as the disability sector and the aged sector for example, can be compared and levels can be attained.

Mr Deputy President, that does not necessarily mean that all eight levels must be present when competencies are aligned against the Australian Standards framework. It may for example be that levels 1, 2 and 3 may be too basic for some occupational groupings, that is that workers entering - even at the entry level - into an industry require a greater level of competency and level at which that competency is performed than are provided for in levels 1, 2 and 3. Obviously the higher up the professional ladder ones goes the more that would apply. People who are required to undertake fairly extensive pre-service training courses before even entering employment obviously enter the industry with a fairly high level of competency, so it is unlikely that they would enter at that very basic level.

There are examples of industries that have had their competencies aligned against the Australian Standards framework whereby they begin their alignment as ASF level 4. There are also examples, particularly within the hospitality industry, of industries that have a complete set of competencies but they are only aligned up to and finish at ASF level 4. So there is no requirement that all eight levels within the Australian Standards framework are used; it depends upon the nature of the industry and the scope of work within the industry.

The National Training Board also specifies that part of the role of the ASF is to provide a work-based benchmark for alignment of vocational credentials and other forms of recognition of competency. In a moment, Mr Deputy President, I am going to be taking you through the new national qualifications framework, looking at the new nomenclature for qualifications in Australia as of next year, and you will note that the ministers, MINCO, have aligned qualifications against the Australian Standards framework as well.

Thirdly they provide the - ASF provides the basis for specifying competency levels required by the workforce and for setting national attainment targets, particularly with regard to recruitment and employment and the types of numbers of traineeships that are established by both state and territory governments and the Commonwealth government. It also provides the linkage between the requirement of work and the outcomes of education and training providing a basis for relevance of training now and in the future.

I indicated yesterday that there have been studies done with regards to TAFE in Australia and the relevance of the training that TAFE provides and some concerns that very little of it was actually used in the workforce. This process of linking the requirements of work and the outcomes of education and training against the Australian Standards framework will mean that both the qualifications and the outcome of the training is appropriate to industry's needs because it is driven by the industry itself.

The ASF also provides - the Australian Standards framework also provides the basis for promoting consistency and flexibility in vocational education and training systems. And we will get to a point a little bit later where part of the flexibility is that people can have their competencies that they may have recognised, even though they may not have undertaken any formal training, and to get certification for those competencies without having to undertake any further training. That is obviously a fairly significant move towards flexibility compared to the current system.

DEPUTY PRESIDENT ROBINSON: There would be a system of testing no doubt?

MR BROWN: There will be a system of assessment but not the training associated with that assessment. The National Training Board recognises that the eight competency levels outlined in the Australian Standards framework are related to specific work structure including industrial classifications in industrial awards. If I could take you to that same tab that we are on, Mr Deputy President, tab 5, and the document headed Australian Standards Framework Descriptors. These descriptors are broad descriptors of each of the eight levels, and I will not take you through each of them but I would like to take you through a couple just to give you a bit of example of the sorts of criteria that they are using. On the third column on that first page, the level descriptors, level 1:

Competency at this level involves the application of knowledge and skill to a limited range of tasks and roles and some autonomy if working in teams.

Now if I could take you over the page to level 3:

Competency at this level involves the application of knowledge with depth in some areas and a broad range of skills achieving outcomes within time constraints.

The competencies are likely to be applied under limited guidance with checking related to overall progress but may take some form of broad guidance and autonomy if working in teams. Responsibility for the work of others and or team coordination may be involved. And then to level 6, Mr Deputy President:

Competency at this level involves the self-directed development of knowledge with of the work of others and for a defined function or functions may be involved.

Now, obviously the type of wording that they are using there is probably fairly familiar to the commission because it would come up in various industrial classifications or used in various industrial classifications.

The ASF descriptors show a progression from lower levels, ASF level 1 through to ASF level 8. The main discriminating factors that they use are as follows, that:

The level of discretion, autonomy and freedom to act increases and broadens, and is related to a wider span of activity -

as you move from a lower to a higher level -

the range of contingencies to be dealt with and the complexity of the work, as well skill base required to be applied increases.

Competencies can be related to management functions and/or specialist functions.

These criteria, Mr Deputy President, are very similar to those used in the HSUA application to describe work at the various classification levels. If I could refer you to tab 6 in the same exhibit which is an attempt by us to try and draw some comparison between the classification descriptions that we have used in our application and the descriptions, an example of which I have just read out to you, for the Australian Standards Framework. You will note at DSW level 1, which is the levels in the HSUA allocation against the metal relativity which is also the relativity in the HSUA application and we have then suggested an alignment against the Australian

Standards Framework for the purposes of seeing whether there is a comparison.

And just to run through the areas of similarity, in DSW level 1 in our classification we used concepts like: without previous experience, three month induction period level, works under direct supervision, and in the ASF they have: direct guidance and regular checking. In our application it has: performs routine basic duties, and the ASF says: undertakes limited range of tasks and roles. The training and/or qualifications are equivalent at that level usually is: on-the-job induction training provided by the employer.

Level 2, with relativities of 82 per cent and 87.4 per cent, we have also aligned with ASF level 1. It is a: non-supervisory worker, works under direct supervision, the ASF says: direct guidance and regular checking. The training implication here is usually: on-the-job provided by the employer usually via, sort of, on-the-job supervision and experience, etcetera.

Level 3, 92.4 and 100 per cent aligned with ASF level 2: undertake a range of activities, subject to direct supervision, the ASF says: routine guidance with intermittent checking. We have got: work follows established routines, methods, standards and procedures. The ASF says: established routines, methods and procedures. And over the page, page 2, the top of: provides assistance to lower level workers, the ASF says: may have some responsibility for some roles coordination. And we have: minor level judgment with problem solving within established procedures, the ASF says: choice of action required is usually clear with limited scope in the choice. Again at this level the training or qualifications is: primarily on-the-job training provided by the employer via supervision. May undertake some basic off-the-job training in the form of short course or minor modules.

At level 4, in our application we have: work under general supervision, the ASF says: limited guidance with checking of overall progress. We have: work undertaken may be of a non-routine nature but subject to pre-set objectives, the ASF says: some complexity in tasks and roles and the extent in choice of actions required. We have: supervised lower level workers, the ASF has: responsibility for the work of others may be involved. We have: uses initiative, discretion and judgment and planning and organising work, the ASF says: some discretion and judgment is required. At this level the training, we are suggesting is: relevant certificate level qualification up to Australian Standards Framework level 3 including a trade certificate or a trade right certificate or equivalent. May also undertake some on-the-job training in the form of supervision.

On page 3, level 5: work under limited supervision, the ASF says: general guidance with checking. We have: provides technical guidance and expert advice, the ASF says: wide range of tasks and roles with complexity in the range and choice of actions required. We have: responsibility - sorry, responsible and accountable for the organisation and work of others, the ASF says: supervision of other staff with responsibility for limited organisation of work of others. This level is pegged at an advance certificate or equivalent level and: may also undertake some on-the-job training, perform supervision and off-the-job training in the form of short courses.

At level 6, our description says: minimal direction, the ASF says: broad guidance. We say: exercises broad discretion, the ASF says: operates both routinely and non-routinely, judgment is required. Supervise complex activities, advance level of technical and specialised skill, the ASF says: self directed application of knowledge with substantial depth in some areas and a range of technical and other skill to task roles and functions in both varied and highly specific contexts.

DEPUTY PRESIDENT ROBINSON: Could I suggest or could I ask a question before you go on. Does it not require a great deal of objectivity to apply these standards. I mean, what might appear to - in somebody's mind as being a complex activity somebody else might say: oh, that's not complex at all.

MR BROWN: Right.

DEPUTY PRESIDENT ROBINSON: How do you get over that possibility?

MR BROWN: Well, the Australian standards - I mean, the Australian Standards Framework is obviously broad and it is meant to be broad and therefore obviously open to interpretation. The alignment of the Australian Standards Framework with the actual competency standards is left up to the industry for that purpose. So it is the industry that makes those decisions along the way. As you will see in a moment - I mean, even though we have - I have gone through this process of showing how the HSUA application is consistent with the wording the Australian Standards Framework it is not just left at that because there are other things that can brought to bear to, I guess, cross check and give some clarification to that, which is what I planned to do next.

The ministers, in fact, have helped us out by going to the extent where they have actually aligned the qualifications in the new qualifications framework against the Australian Standards Framework and so therefore if you start to look at the types of qualifications that are required then you get the level

of complexity that is required, and so it goes round in a bit of a circle. What I am trying to point out is that if you take our descriptions in the classifications they are consistent, not only with the Australian Standards Framework and not only with the metals relativities that we are trying to line them up against, but they are also consistent with the requirements for accreditation under qualifications. So you get this checking of consistency all the way through and that is really what I am trying to demonstrate at this point.

I will not go on to level 7 because it is the same thing. The - what we have in our description is - lines up against the Australian Standards Framework. What you might just note there, Mr Deputy President, in level 7, is that the alignment with the Australian Standards Framework is level 6/7 which is quite permissible to do that. But the reason being is that level 7 really does not have the clarity that the other six levels have at this point in time partly because the ministers have decided to not align level 7 and 8 of the Australian Standards Framework at this point. They are reserving that matter till later.

The descriptors refer to the skills requirement of work in a changing industry and enterprise context. Entry of individuals into the workforce may be at any level. Pre-service training qualifications obviously mean that people will enter at a higher level, as I described earlier. There is an expectation inherent in the levels that require people to have an established work orientation but not necessarily employment experience. And, I guess, certainly at the lower levels, and particularly at ASF level 1, it was anticipated that the schooling system would provide that orientation to work, given that there is a lot of concern that the schooling systems in Australia may have failed, they are now building that into this sort of framework.

The alignment of the competencies against the ASF, as you have just indicated, is not an easy task therefore the National Training Board states that: An industry may align the formal work structure, normally a career path, or industrial classifications to the ASF and indicate a range of combinations for packaging the units of competency into jobs in the work structure to enable the identification of achievement of competencies at each level in the work classification structure as well as each ASF level.

Basically that is going to what you were just talking about, Mr Deputy President, and that is that there is a difficulty in aligning, that it is up to the industry to align and they are suggesting that one of the ways that may make it a little bit easier to make this alignment, is in fact to have appropriate industrial classifications in industrial awards. That would make it easy to see where the career path grade structures - - -

DEPUTY PRESIDENT ROBINSON: With appropriate definitions.

MR BROWN: Yes, yes. The National Training Board also states that the intention of alignment is to be able to establish clearly the relationship between any group of units of competencies required in work in a group of jobs, the ASF levels, and the certification that could be achieved from acquiring the defined set of competencies at a particular ASF level. As such there are three aspects involved in the alignment of the standards. First, of course, is the Australian Standards Framework and the descriptions that they have used, which I have taken you to. Second is the grouping of units of competencies that set out the requirements of groups of jobs in areas of work.

And as we indicated yesterday, those competencies are not available and will not be available for some time. However, the third element is that the work structure that contains the groups of jobs, which can be established from work levels, job descriptions and/or industrial classifications, is required to be able to make those alignments. I guess, that is saying is that it is important that the classification levels that we establish in this award restructuring process enable the competencies when they are available to be able to be aligned adequately with the Australian Standards Framework.

And it is particularly important that the classification levels provide an adequate skills base career path opportunities for workers within the industries. If for some reason we adopt classifications in an award that do not have an adequate range of career path opportunities that are skill based, Mr Deputy President, then it is going to be extremely difficult when we do have the competencies standards to make any alignment against the Australian Standards Framework at the end of the day. And as I indicated at the beginning, we are one of the few countries in the world that has undertaken this process to actually link it to industrial relations, but that is part of the reason why we have done, is to make it appropriate.

That is the Australian Standards framework section, Mr Deputy President, although I am going to be referring to it again, because it is a very important framework. It is lining up competencies and where they fill. The next section has to do with the national qualifications framework that I have been talking about. One of the problems that Australians have for some time is the lack of consistency in credentials and qualification nomenclature. This is primarily due to two factors. One is that until recently there was no linkage between vocational education and training qualifications and qualifications in the higher education sector.

Secondly, there was no consistency in qualifications provided by TAFE, as this was a state responsibility and not a Commonwealth responsibility.

Again, in my introductory comments yesterday, I indicated that vocational education and training was the state - constitutionally a state responsibility, not a Commonwealth responsibility and therefore we have had these eight different systems of not only accreditation but also nomenclature.

DEPUTY PRESIDENT ROBINSON: And with Tasmania being the only one that got it right?

MR BROWN: That it got it right, yes, that is right. In December 1993, MINCO, the ministerial council, endorsed a new national qualifications framework, which is due to come into effect on 1 January 1995, next year. Currently, education and training courses are accredited under what is called the RATE guidelines, RATE stands for the register of Australian tertiary education, and it is administered by the Australian Education Council. Those RATE guidelines for many years, even though they are periodically reviewed, have been the basis on which all awards are accredited against. As of 1 January 1995, RATE will no longer apply. In fact, for all intents and purposes, RATE no longer applies now and courses will be accredited under the new national framework for the recognition of training and use the guidelines that are established under the national qualifications framework.

Could I take you to tab number 3, Mr Deputy President, in our submission? On the page with Roman numeral (ii), headed Definition of Terms - - -

MR BROWN: - - - and just half-way down the page, the definition of qualification that they use. The qualifications are:

Formal certification issued by a relevant approved body in recognition that a person has achieved learning outcomes relevant to identified individual professional industry or community needs.

And as we discussed yesterday, in this context the relevant approved body will be the State Training Authority of Tasmania and one of its standing committees, which is the Accreditation and Approvals Committee - sorry, Accreditation and Recognitions Committee. Could I also you to pages 1 and 2 and the statement of principles under the new national qualifications framework, and just quickly read them out:

The national qualifications framework should:

provide nationally consistent recognition of outcomes achieved in post-compulsory education.

So even though it is - or you will see in a moment that it include the upper level of schooling, not just vocational education and training:

*provide guidelines for the structure and relationship
and generally contribute to life-long learning.*

I will come back to that life-long learning, because that is really what this whole system of training is heading towards; is really a true concept of life, life-long education and learning:

encourage the provision of more and higher quality vocational education thus contributing to national economic performance; and -

finally -

promote national and international recognition of qualifications offered in Australia.

And over to page 6, Mr Deputy President, at the top of the page is the current system of nomenclature for vocational education and training qualifications and higher education qualifications in Australia. And there is currently nine levels that are recognised by RATE, the register of Australian Tertiary Education, and then from the bottom, the lowest being the certificate level, advanced certificate, associate diploma, diploma, bachelor degree, graduate certificate, graduate diploma, masters degree and doctoral degree. And if I could take you then over to page 10, and after consideration and obviously much research and submissions by education providers and other interested bodies, including governments, the ministers have agreed to the following nomenclature now being used for qualifications in Australia. And this is 1 January next year.

And they start down the bottom at a senior secondary certificate of education, which is year - at the completion - successful completion of year 12. And then moving up through four levels of national certificate, national certificate levels I, II, III and IV, a diploma, advanced diploma. And then moving to the higher education sector, unchanged, bachelor degree, graduate certificate, graduate diploma, masters degree and doctoral degree.

If I can then take you to page 12, and the Relational Between Sectors in the Delivery of the Framework. I just would like to read out the next two pages, because they give a context in which we can understand the new framework:

The framework provides for an integrated cross-sectoral model of post-compulsory education inter-sectoral relationships within the framework.

Authority to issue qualifications:

The authority to issue qualifications is the least ambiguous aspect of the framework and to issue the relevant state or territory senior secondary certificate of education.

That probably will not change in Australia, we will have the same level as we have at the moment in Tasmania, so, I guess Tasmania did get it right, Mr Deputy President.

In the vocational education and training sector each state/territory has legislative responsibility provides nationally agreed principles and processes for providers to issue qualifications.

In Tasmania, Mr Deputy President, as we have said, the authority to issue those vocational qualifications will be vested in the State Training Authority Tasmania, that is providing of course that the legislation is passed unamended or that that particular aspect of it is not amended.

And (c):

In the higher education sector universities degrees and post-graduate qualifications.

In other words, at this point in time they are still self-regulating.

It should be noted that the overlap in the framework and the higher education sector.

If I could just stop there and take you to the very last page in this section, Mr Deputy President, and I will come back to this and explain it again in a moment, but you will see I have developed a chart here and have listed in the second column the new national qualifications framework and on the right-hand side indicated what the delivery sector will be.

You will note that at the point of the new diploma and the new advanced diploma there is an overlap between the vocational educational and training sector and the higher education sector, both will be delivering and accrediting courses at diploma level and advanced diploma level. Whereas below that there is predominantly the domain of vocational educational training sector and of course from bachelor degree on it is the

responsibility of the higher education sector. I will come back to that diagram in a moment.

The second point is the involvement in the delivery of the courses:

In the delivery of courses there is much greater overlap between sectors this is currently occurring in the AVCTS pilot programs.

The AVCTS stands for the Australian Vocational Certificate Training System which is the new entry level training system, again to be introduced as of 1 January next year which will replace current traineeships and apprenticeship systems, and I will talk about that in a moment. Basically, what they are saying there is that even schools will get into the vocational education and training whereas they have been, I guess to some extent been preparing people for vocations; in the future they are anticipating that schools will actually participate in vocational training for particular industries.

Already senior secondary certificates of education interface for entry in some universities through credit transfer arrangements.

And then the inter-sectoral relationships within the framework, I will not go into that in detail, Mr Deputy President. If you are that keen to understand I am sure you can read it at some other stage - - -

DEPUTY PRESIDENT ROBINSON: In my spare time.

MR BROWN: - - - in your spare time. If I can take you to page 16 and the second paragraph down:

Under this approach, enterprises, industry and cross-industry bodies have the prime responsibility by the National Training Board.

That is via the process that we went through yesterday.

Where these standards exist they must be achieved in order for a qualification to be issued.

That is qualifications now will be aligned, not only aligned against the Australian Standards framework but they must be based on those national competency standards. However:

In the transition period where national competency standards do not exist enterprise, community or professional groups.

And if I could then take you to page 20.

Page 20 - and this is the beginning of the section that outlines for each of the new nomenclature in the new national qualifications framework what the characteristics of learning outcomes should be for it to be accredited at any given level. It outlines the authority for learning outcomes at any given level and also outlines the pathway to the qualification at any given level. Again, I will not run through all the 12 levels or whatever they are, Mr Deputy President, but I will just give you a little bit of a sample, particularly the ones that are going to be relevant to what I am saying.

Certificate level 1 - which of course is the most basic of the vocational qualifications under the new framework - characteristics of learning outcomes, breadth, depth and complexity of knowledge and skill will prepare a person to perform a defined range of activities, most of which may be routine and predictable. Applications may include a variety of employment related skills including preparatory access and participation skills, broad-based induction skills and/or specific workplace skills. They may also include participation in a team or work group.

Then I will run through on this one the authority and the pathways, because they are identical in the others - well up to a certain level anyway. The authority for learning outcomes where the National Training Board endorse national competency standards exist - and of course we know they do not at this point in time for disability services - the defined unit of competency established by the relevant industry or enterprise for ASF - Australian Standards Framework level 1 will have been achieved. In the absence of endorsed national competency standards, the competencies established in consultation with the relevant industry, enterprise, community or professional group broadly comparable with ASF Australian Standards Framework level 1 will have been achieved.

General competencies such as key competencies to performance levels as required by relevant industry, enterprise, community or professional groups, and Mr Deputy President, the key competencies detailed there are of course the eight that I read out yesterday and I will not bother going through them but they are the ones like problem solving, communication, dealing with technology, cultural awareness etcetera. So really they are anticipating that at this introductory level, or this basic level of vocational certificate is those sorts of competencies that people will be dealing with.

If I can take you over to certificate level 3, on page 24, under Characteristics of Learning Outcomes:

Performance of a defined range of skilled operations, usually within a range of broader related activities Participation in teams including group or team co-ordination may be involved.

And you will notice under the Authority for Learning Outcomes it is exactly the same except in this context, it is aligned with Australian Standards Framework level 3 and so on. Over the page, Mr Deputy President, to certificate IV, and I would just like to address the next two in a little bit of detail because they actually go to the equivalent of what we actually have in terms of training in the TAFE system in Tasmania at the moment for disability services.

Under certificate IV the characteristics of learning outcome are described as:

Performance of a broad range of skilled applications including requirements to evaluate and analyse current practices limited organisation of others.

And you will notice that the authority for learning outcome specifies Australian Standards Framework level 4, and the responsibility for the delivery of that is still within the vocational sector. But if I could just take you over the page to page 27 and the pathways to this qualification. It says:

The pathways to the qualification are accredited course or courses of structured training delivered by a recognised provider -

and a recognised provider may be TAFE but it may also now be a private provider, as we discussed yesterday -

or a combination of an accredited course of study delivered by a recognised provider and/or recognition of prior learning -

which I will come to shortly -

including credit transfer and/or experience or in a vocational education training sector set out above.

That last one, Mr Deputy President, actually opens the opportunity for people to actually gain a qualification without undertaking any formal training whatsoever. If their competencies can be assessed, if they have the competencies and the competencies are measured against what the requirements are within that qualification, then in the future it will be possible for people to gain those qualifications or partially gain those qualifications through just being able to demonstrate that they have the

competencies that are required. Bearing in mind, and it is important to do so, that competencies are about outcomes about what someone can do, not how they acquired the actual competencies.

DEPUTY PRESIDENT ROBINSON: Yes. I suppose an example might be in the arts where you have got an artist or a painter or a violinist who describes themselves as self-taught - by some miraculous means perhaps they have acquired a very high level of skill.

MR BROWN: Exactly. I mean, my own example is a point in case. I trained as a social worker. I have never worked as a social worker and I never intended to, I just wanted some aspects of the training and that was all that was available at the time. I have never used most of the skills that I had to do to go through and get that qualification, so I was jumping hoops in a sense. Most of the competencies that I now have - and I humbly state that I am reasonably competent in a number of areas - I have done that not through any formal training, but in fact through application on the job and the types of skills that I developed by trying new things and doing them.

But I have no bits of paper that would say that I am competent in any of these areas. This new system of training, should I wish to avail myself of it, would give me the opportunity to in fact gain certificates of competency in a whole range of areas if it was necessary for me to demonstrate to a prospective employer that I had those competencies, so - - -

DEPUTY PRESIDENT ROBINSON: Yes. Where we have examples in this small town of people I will not name, who started off as, pardon the expression Ms Harvey, as office boy and ended up as manager of a large business and highly successful business without, to my knowledge, undergoing formal - education through formal institutions.

MR BROWN: That is right. And, I mean, in previous generations that would have been a fairly common pathway.

DEPUTY PRESIDENT ROBINSON: Yes.

MR BROWN: And certainly my grandfather started out as a gatekeeper at 15 years of age in the gasworks factory in London and ended up being the chief industrial chemist without undertaking any formal training whatsoever.

DEPUTY PRESIDENT ROBINSON: Well, we had a former prime minister who started off driving trains.

MR BROWN: Yes. So, hopefully, we may be going - at least going back to that to some extent where people are able to develop competencies and

get those competencies recognised without having to jump all of the hoops that have been put in their way. Just moving to the next one, the diploma, Mr Deputy President, because this, as I have shown, equates with the associate diploma and we have an associate diploma in disability services, and the characteristics of learning outcome here the self-directed application of knowledge and skill; the substantial depth in some areas where judgment is required in planning and selecting appropriate equipment, services and techniques for self and others; breadth, depth and complexity covering planning and initiation of alternative approaches to skill and knowledge applications across a broad range of technical and/or management requirements, evaluation and co-ordination; applications involve participation in the development of strategic initiatives as well as personal responsibility and autonomy in performing complex technical operations or organising others.

It may include participation in teams including teams concerned with planning and evaluation functions. Group or team co-ordination may be involved. The degree of the emphasis on breadth as against depth of knowledge and skills may vary between qualifications granted at this level. And you will not, Mr Deputy President, that that is aligned at the Australian Standards Framework level 5, and the only difference is that now the higher education sector comes into play, that this qualification and the next one, the advanced diploma, both can be delivered by either the higher education sector or the vocational educational training sector.

Now this becomes important, Mr Deputy President, because at the current time we have both the advanced certificate and the associate diploma in disability services in TAFE up for re-accreditation, that is that their accreditation under the rate guidelines runs out at the end of this year and they are required to be re-accredited by the commencement of next year. Given that they are right on the cusp of the changeover from the rates system to the new national qualifications framework the department - the Department of Industrial Relations - they keep changing their name, Vocational Education and Training, which is state department, has determined that courses up for re-accreditation in the second half of the year should be accredited using these requirements rather than the rate requirements.

So what I have just read out to you is the criteria that will be applied to both the advanced certificate and the associate diploma courses for re-accreditation, and I will talk a little bit more about the re-accreditation process in a moment. But if we look at that and if we look at the fact that the ministers have already aligned those level of qualifications against Australian standards framework and then if I could just take you briefly to HSUA4, which is the outline of the claim - - -

DEPUTY PRESIDENT ROBINSON: HSUA4, yes.

MR BROWN: Page 15, which is the disability services employee level 6, and just read out to you some of the requirements there under the dot points halfway down the page beginning that:

The employee exercises broad discretion shall contribute knowledge in establishing procedures in the appropriate work related fields at a higher level than a level 5.

Mr Deputy President, when you look at those requirements against the characteristics of learning outcome at the diploma level, and in fact they are a similar level - they are almost the similar level requirements - and you will note that in level 6 we have it as an associate diploma level program. In the new national qualifications framework the equivalent of the associate diploma is in fact the diploma. So there is an alignment of our stuff against the new diploma, which also lines up against the Australian standards framework at ASF level 5. And the descriptions are all consistent - there is not inconsistencies amongst them, and there is also similar levels of qualification, the associate diploma which under the new framework is the diploma.

If I could take you now back to the diagram that we had at the very last page of tab number 3 in HSUA5.3, and back to the new qualifications framework. Mr Deputy President, the nomenclature there for the new national qualification framework is as the ministers have determined. The alignment with the Australian standards framework, the different levels, meaning the level at which the work is performed in the workplace, has already been aligned by the ministers and we can see that the levels 5 and 6. The difficulty is then aligning current qualifications up with that new qualifications framework to see where the equivalency is. Obviously taking it from the very top, the doctoral degree, because the nomenclature has not changed, neither have the requirements; then there is an equation between both doctoral degrees, and so on, right the way down the line till you get to bachelor degree.

When you get into the vocational area , it is somewhat more difficult. In a moment when I get to the Australian vocational certificate training program, you will note that they have already determined that the trade certificate is the equivalent to certificate level 3 within the new national qualifications framework. Now, obviously certificates level 1 and 2 are in new categories that have been put into vocational training, that previously did not exist. That leaves the two levels of certificate level 4 and diploma for alignment. The advanced certificate, we are suggesting is certificate level 4, and the associate diploma is the equivalent to the diploma, which would make the advanced certificate an Australian Standards framework

level 4, and the associate diploma an Australian Standards framework level 5. And if you line up all the different descriptors, there is a direct consistency in comparison across them.

We have no diploma in this state, and that would be the equivalent of the advanced diploma, which is as high as the alignment with the Australian Standards frameworks go. You will note that even though there is eight levels in the Australian Standards framework, the ministers have stopped short on levels in 7 and 8 of aligning. What their anticipation is that there may, in fact, be further levels of qualifications under the new framework for levels 7 and 8 in the vocational area, if required. So they are basically leaving their options open. But by and large, levels 7 and 8 are professional levels within the Australian Standards framework, and would be aligned at, at least diploma level and above.

That completes the descriptions of the national qualifications framework, Mr Deputy President, and I would like to move now, if I could, to mechanisms for the recognition of the prior learning. A central feature of the national training reform agenda is its flexibility and the attempt to avoid unnecessary duplication of resources or the allocation of those resources to areas where they are not productive. And one of the more interesting features of the training reform agenda, if people stay awake long enough, is the recognition of prior learning. Recognition of prior learning is the principle which states that if someone has a competency which they demonstrate then they should not be expected to undertake any further training associated with that competency, and should be given full credit and recognition for that competency.

This applies regardless of how the competency was acquired. The competency may have been acquired through informal training, through formal training, through work experience, or in fact, simply through life experience. And it is of no consequence how the competency was acquired as long as the person can demonstrate that they have the competency. Now, part of the whole process and all the mechanisms, and that, that have been put in place, is in fact, how this is actually going to work in practice. I mean, it is a nice concept but it is probably a little bit more difficult to see how it might work.

In fact, there is a lot of activity going on with regards to this. There are draft policies of both principles and procedures that are before the authorities at the moment, getting to stage where they are almost ready to be adopted, which will put in place a means by which recognition of prior learning can be recognised in all training courses. There is many segments within the community services and health industry, and I am sure within the disability services industry as well, where formally accredited training programs have been slow to develop and many workers gain employment

without any formal qualifications. We are not for a moment would suggest that people should have a qualification before they enter into employment within the disability services area. However, we would not go - move away from suggesting that training is very, very important if workers are to do a job effectively.

DEPUTY PRESIDENT ROBINSON: Yes. Would you be aware of the fact that many, many years ago, and I do not know whether it still exists or not, there used to be a committee called the Recognition of Tradesmen's Rights, and I think it was under the wing of the old Department of Labour and National Service, it was called at that time. That is how far I am going back. And that used to recognise and presumably accredit people as tradespersons who had not had any formal qualifications or even an apprenticeship.

MR BROWN: Yes.

DEPUTY PRESIDENT ROBINSON: And I think one of the criteria used to be length of time in the industry as working as such.

MR BROWN: Right, experience component.

DEPUTY PRESIDENT ROBINSON: Yes, yes. So, there is nothing really new in that - - -

MR BROWN: No, there is not.

DEPUTY PRESIDENT ROBINSON: - - - in that concept.

MR BROWN: Concept.

DEPUTY PRESIDENT ROBINSON: In that concept, but it was confined, I suppose to a very limited area like that.

MR BROWN: Well, virtually now they are broadening it out, I mean, theoretically someone could become a doctor and get qualified as a doctor without undertaking any training whatsoever if they could demonstrate that they met the competencies.

DEPUTY PRESIDENT ROBINSON: You just think some of them already do.

MR BROWN: Mind you, on the other hand, there is a lot of people with qualifications out there that do not have competencies, too, so - - -

DEPUTY PRESIDENT ROBINSON: That is right, no guarantee is there?

MR BROWN: Yes. I mean, over the years, and as is said, I am sure that this is the case in disability services as much as anywhere else, where there has not been a lot of formal training around, many workers simply acquire very sophisticated at times levels of competencies simply by working in the job that the experience that - what we were just talking about, and under this new agenda item, then their competencies will be able to be not only recognised but actually formally acknowledged through certification. NFROT, the National Framework for the Recognition of Training, which is responsible for the types of certificates that will be issued, stipulate that someone who undertakes training and gets the certificate at the end, and somebody who does not undertake any training but applies for recognition of prior learning and is successful and gets the same certificate, that there should be nothing on the certificate that in any way indicates the different pathways that those two people used to get to that point.

So, when someone goes to an employer and says, here are my qualifications, there is nothing on the qualification that says that they did it through training or they did it through recognition of prior learning to avoid any bias. The qualification will stand as a legitimate qualification regardless of the pathway that was utilised.

It is now a requirement, Mr Deputy President, that all courses being delivered, whether by the public or private providers, which seek accreditation - and over a five-year period every course will have to seek that accreditation because the maximum period of accreditation under the rate guideline was five years, so it will take five years to virtually bring this system in completely. But all training that is accredited must demonstrate that they have procedures in place and they are consistent with all of the principles for recognition of prior learning. So that there will be no accreditation for a course that cannot demonstrate that they have procedures in place for recognition of prior learning.

Already I sit on a committee that is responsible for recommending to the accreditation recognitions committee courses for accreditation within our industry area, and it already is a requirement that they must demonstrate how they are going to deal with this issue of recognition of prior learning. So this one is not just a theory, it is starting to be put into practice. The current TAFE courses undergoing re-accreditation, TAFE courses in disability services, the associate diploma and the advanced certificate, both will need to have procedures in place for recognition of prior learning if they are to gain accreditation.

Back to that body called MINCO, Mr Deputy President. In 1992 MINCO - but it was then known as MOVEET not MINCO, as the Ministers for Vocational - - -

DEPUTY PRESIDENT ROBINSON: You have got to be careful how some acronyms turn out.

MR BROWN: Yes, you do, you do. MOVEET of course stands for the Ministers of Vocational Employment Education and Training, which was superseded at a later stage by MINCO, which is the Ministerial Council, but in any case MOVEET, or MINCO its equivalent, signed the national framework for the recognition of training. This means that that all of the ministers of all state and territory governments and the Commonwealth all signed the agreement. And in so doing they also addressed the issue of recognition of prior learning and established five key principles and six main processes which are required to govern recognition of prior learning, and I would just like to briefly refer them to you, which is in tab 8 of exhibit 5.3.

DEPUTY PRESIDENT ROBINSON: Just a single page.

MR BROWN: Just a single page. And the key principles are that:

The recognition of prior learning shall focus on the competencies held as a result of formal and informal training not how, when or where the learning occurred.

So it does not matter how you got it, as long as you have got it then that is all that matters:

The recognition of prior learning underpins the system of competency based training.

We have already talked about how the competencies are developed and recognition of prior learning will be based on those competencies.

It is essential that training providers have a demonstrated commitment to recognising the prior learning of adults.

I am not quite sure how that word "adults" got in there, Mr Deputy President, but I think we are interpreting adults in this context as anyone who is old enough to work, so it would include what we understand as young people as well as adults in this context.

DEPUTY PRESIDENT ROBINSON: What about people who are too old to work?

MR BROWN: No comment, Mr Deputy President, pass on that one. Thirdly:

The recognition of prior learning shall be available to all potential applicants adequate support to potential applicants.

And then the processes:

Assessment or evidence of the accumulated learning experiences of an individual in relating to the required competency.

That is that the individual who is applying for recognition of prior learning can really put anything forward that in any way gives an indication that they have acquired competencies through previous experience. That may be - depending on how many competencies and also the complexity of the competency, curriculum vitae that outline work experience and a range of work experience and a range of setting - that may be letters of support from employers or in fact co-workers who can in fact attest to the competency. It may be informal training that they have undertaken has not been accredited but they have the course outlines that show the types of coverage that was dealt with in that course etcetera. It really can be just about anything.

On the issue of equity and fairness, it is under this point in particular that I think a lot of women who previously have been at home and are re-entering the workforce will in fact have a lot of competencies, that they actually learnt through being involved in child rearing or whatever, recognised as being appropriate and valued competencies within the workplace.

DEPUTY PRESIDENT ROBINSON: Would there also be some instances of a requirement to do some sort of formal examination or filling in of questionnaires if not examinations?

MR BROWN: The procedures that are being developed at the moment are adopting what is called a risk model approach. It is based on the more risk involved in the competency - like the more important the competency is - - -

DEPUTY PRESIDENT ROBINSON: Like being a doctor?

MR BROWN: Yes, then the higher the risk assessment that will be involved in that. If it is a fairly mundane competency and there is evidence presented that the person has it, then they probably would just be awarded the competency. However, if the application of the competency has importance then they may well be put through a fairly rigorous assessment process to demonstrate that. And of course one of the important things here, Mr Deputy President, is people coming from overseas who are

having a lot of difficulty having their qualifications recognised in Australia.

You only need to go to Melbourne and hop into a taxi and the chances are it is a doctor or a lawyer or an architect who is driving you around; they have come from another country but cannot get their qualifications recognised. It is under this mechanism that they will be able to. Now obviously if it is a doctor seeking to have qualifications recognised, there will be a higher risk management approach taken to assessing the RPL application than if it was a sanitation worker or something like that.

DEPUTY PRESIDENT ROBINSON: Or an industrial commissioner or something like that.

MR BROWN: Or an industrial commissioner.

Thirdly, that a range of techniques to assess accurately the competencies held. Fourthly, support mechanisms to encourage and facilitate applicant use the process and that is a fairly important one because, obviously, some people would be in a better position to avail themselves than others, for example, migrants or people with limited literacy skills preparing applications would be at a disadvantage compared to someone who is fairly fluent in that regard.

And, fifthly, a clear criteria for deciding whether or not to grant recognition so that everyone knows the basis on which they are either being accepted or rejected, and a review phase. And in this that is quite important because this process is not only about giving some recognition for prior learning but if for some reason it is deemed that they have not got the competency, what this process allows for is indicating to the person what they need to do to get the competency. So it is also part of almost a training process, if you like; it is built into it.

Mr Deputy President, that gives you an indication of the RPL policy and what is involve in it and obviously how it fits into all the other frameworks I have been talking about. What I want to go on to now is the Australian Vocation Certificate Training System which is the new entry level training system, and the description of that and some of the developments that are taking place within the disability services area. But that will take me some time, so it may be an appropriate time to adjourn.

DEPUTY PRESIDENT ROBINSON: So this would be a convenient time, all right. We will adjourn till 2.15, but I am advised that we will need to transfer our hearing to the other small room after lunch.

MR BROWN: Right.

LUNCHEON ADJOURNMENT

DEPUTY PRESIDENT ROBINSON: Yes, Mr Brown?

MR BROWN: Mr Deputy President, before lunch we managed to finish the national framework for the recognition of training. This afternoon what I would like to do is go through the Australian Vocational Certificate Training System which is a new entry level training system that has been introduced, and then look at current training in disability services in Tasmania and some of the developments that are taking place there. And they are the two areas I have yet to finish. Tomorrow, Mr Deputy President, we would like to call an expert witness and we anticipate that we would take most of the morning examining that witness and then, it depends how long it takes, Mr FitzGerald in the afternoon.

DEPUTY PRESIDENT ROBINSON: Thank you.

MR BROWN: Mr Deputy President, in line with developing a more educated skilled and productive work-force, MINCO, but again it was MOVEET when it was actually - made this decision in 1992, considered a report prepared by the Employment and Skills Formation Council which is a council that is actually a part of NBEET, which is an advisory board established to advise the Commonwealth Government only in this instance.

DEPUTY PRESIDENT ROBINSON: How many of these little committees and things are there? How many people are involved all told all around Australia?

MR BROWN: A lot of people are the same people.

DEPUTY PRESIDENT ROBINSON: Pardon?

MR BROWN: They run into hundreds; a lot of people are the same people that sit on the same boards, but last count there was something like 72 different bodies or structures that had been established to implement the whole package of training reform agendas, so it is quite significant. NBEET, the National Board of Education and Training, has got three subcommittees: the Education and Schools Formation Council which is chaired by Laurie Carmichael, which is basically responsible for the policy development advising government on vocational matters, so mainly TAFE orientated. There is also the Higher Education Council and the Australian Schools Council, so it covers the schools, vocational and higher education.

Once upon a time when the Commonwealth was doing a lot of the funding those bodies provided most of the funding to the states for schools, TAFES and universities. But now the majority of that has been transferred to the Australian National Training Authority. So the Educational Skills Formation Council wrote a report, one of many that is around on these subjects, and what they recommended was a new system of entry level training in all industry areas in Australia. This entry level training program is known as the Australian Vocational Certificate Training System and is due to be formally introduced as of 1 January next year, although there have been a number of pilots running over the last two years to test out various aspects of the programs and how it will work.

The report produced by the Education and Skills Formation Council identified that between 40 and 45 per cent of the school leavers do little or no further education and training and the aim of the Australian Vocational Certificate is to greatly increase the amount of vocational education and training done in Australia, particularly by school leavers, and focus the training on the effectiveness of works for the appropriateness to the workplace.

Like all training developments that are occurring the training is required to be competency based and accredited under the national framework for the recognition of training which I outlined this morning. By virtue of the fact that this is designed as an entry level training system, the Australian Vocational Certificate is aimed primarily at young people entering the work-force for the first time. Primarily, but not exclusively, it is not restricted to young people and in fact is available to anyone up to 64 years of age, I think is the age they actually have on it. But most of it is appropriate to school leavers who are entering the lower levels in the Australian standards framework.

The training is aimed at two areas of competence. The first area of competence is the key areas of employment, and that is the key competencies that we looked at: collecting, analysing, organising information; communicating ideas and information; planning and organising activities; working with others in teams; using mathematical ideas and techniques; solving problems; using technology and cultural awareness. In many ways they are preparation for employment-type skills, or they most generic placed skills that people require within the workplace regardless of what industry or setting that might be going into.

DEPUTY PRESIDENT ROBINSON: Can anybody be accepted for this vocational training certificate?

MR BROWN: Theoretically, yes, providing the places are available within the training system, yes.

DEPUTY PRESIDENT ROBINSON: Yes. But I mean they do not have to have pre-entry qualifications to do that?

MR BROWN: No, there is no pre-entry qualifications and unlike some of the traineeships that are around they are not required to have been out of work for 12 months or anything like that, it will be just straight entry for anyone that wants to do it.

DEPUTY PRESIDENT ROBINSON: Right.

MR BROWN: And in fact, as you will see in a moment when I run through the projected targets it is expected that just about every single young person will be in this training system.

DEPUTY PRESIDENT ROBINSON: There must be some incentive too, I suppose?

MR BROWN: It is incentive to employers. It is not the - you know, I will run through what the incentives might be to employees.

DEPUTY PRESIDENT ROBINSON: Yes. Okay.

MR BROWN: But those key competency areas are one of the main focuses at least at the lower levels of the Australian Vocational Certificate. The second are Vocational Competencies both that are recognised by the National Training Board as national competency standards for a given industry area and where of course national standards have not been developed then interim competency standards will be able to be used.

The Australian Vocational Certificate Training is initially expected to provide three levels of certificates up to Australian Vocational Certificate level III. AVC level III equates with the current TAFE certificate or a trades qualification. A fourth level of certificate is anticipated to cover Australian standards framework level IV at some stage in the future, but at this point in time they are not proceeding with that development. If I could just take you, Mr Deputy President, to tab number 3 in the exhibit HSUA5.3.

DEPUTY PRESIDENT ROBINSON: Yes.

MR BROWN: And under the national qualifications framework, you see that there is four levels of certificates there, in the second column. And they equate with (a) Australian Standards frameworks levels 1, 2 and 3, and it is those three certificates which will be the Australian vocational certificates or the certificates award - - -

MR FITZGERALD: Sorry, just having a bit of trouble finding it.

MR BROWN: Sorry. The last page on tab 3.

MR FITZGERALD: Oh yes.

MR BROWN: Yes. So, that the second column there, and there is the four national certificates, certificates levels 1, 2, 3 and 4. Initially the first three certificates will be the three certificates that will be awarded as Australian vocational certificates. The fourth one will eventually be introduced but at this stage they have not defined it or defined what the nature of it might be. So, that is how this new training program will slot into the national qualifications framework. It is also how it lines up against the Australian Standards framework. So really, the first half of the Australian Standards framework, or the first four of the eight levels, will be this entry level training arrangements.

DEPUTY PRESIDENT ROBINSON: Does this jell with, or replace or what, the apprenticeship system?

MR BROWN: The Education Skills Formation Council, and therefore MINCO, because they have accepted the report, to my understanding, acknowledge that this will replace all other forms of entry level training. And in fact, as of 1 January next year, the Commonwealth Government has stipulated that it will no longer provide any funds to any other form of entry level training apart from the Australian vocational certificate. Now, I suspect there is some - - -

DEPUTY PRESIDENT ROBINSON: Well, they do not provide any funding at the moment to apprentices, do they?

MR BROWN: Oh, they do. There is a number of incentives for employers to take on - - -

DEPUTY PRESIDENT ROBINSON: Commonwealth money?

MR BROWN: Yes, Commonwealth money, to take on employees.

DEPUTY PRESIDENT ROBINSON: For state responsibility?

MR BROWN: This money that is given to the state, and the state administers it, but it is basically Commonwealth funds. I think the state contributes some, but it is essential Commonwealth funding. Yes, there is negotiations going on at the moment, backwards and forwards, and obviously there is some people who, for you know, apprenticeship is somewhat of a sacred cow and they are a little loathe to see those

disappear, but if you look at the nature of this training, it is very similar to what apprenticeship training is, and in a sense what it is doing is expanding apprenticeship training out from just simply the trades into all occupations virtually in all industry areas.

DEPUTY PRESIDENT ROBINSON: Right. But where it concerns trades, there is practical as well as theoretical training?

MR BROWN: Well, in the Australian vocational certificate training system is, in fact, a combination of on and off the job training. So, it has both the on the job practical component as well as the off the job skills or competency development, like through TAFE or some other private provider. So, in that sense, it is very similar to what the apprenticeship system is, where they used to go off to TAFE and do some of their training and then come back and practice it on the job. And the duration, even though this is not time served, so it is difficult to indicate how long it would take, but the timing is roughly the same as what an apprenticeship would take, you know, round - between three and five years to complete up to the Australian vocational certificate level 3 will probably be the norm and apprenticeships are around the four year-mark at the moment.

DEPUTY PRESIDENT ROBINSON: The training schemes under this new arrangement, are they for set periods of time or can people sort of do modules and progress fast or slower through?

MR BROWN: Every individual will be under an individual training agreement. The training agreement will be negotiated obviously between the trainee and the employer, but it must be registered with the State Training Authority in the same way that apprenticeship training agreements have to be registered with the State Training Authority at the moment.

DEPUTY PRESIDENT ROBINSON: Yes, but apprenticeship training used to be, and perhaps I am going back a long time, years before, set designated periods of time.

MR BROWN: No, there is a high degree of flexibility in the system.

DEPUTY PRESIDENT ROBINSON: Is there.

MR BROWN: Particularly if someone RPLs, like that is recognition of prior learning, then obviously there is areas of competency that they do not need to learn, therefore there is more time actually on the job. And the wages arrangements would be worked out on the basis of how long the person is on the job. So, if they, for example, it is anticipated that AVC level 1, certificate level 1, which is entry level, the trainee will spend up to 60 per cent of their time off the job in-off-the job training, and 40 per

cent on the job. Under the trainee wages arrangements that have been worked out, they will only get paid for that 40 per cent that they are actually on the job. And then, when they go into AVC certificate level 2, they might end up spending 60 per cent on the job and 40 per cent off the job, in which case they get paid for the 60 per cent that they are on the job, and I think it goes - - -

DEPUTY PRESIDENT ROBINSON: But this is futuristic? I have not seen any of that translated into awards.

MR BROWN: Well, you probably will fairly soon. Next week in the federal jurisdiction there is a joint application by the ACCI and the TTLC to put forward a national training wage award, and if that is successful, that will then - the state - they will come into the state jurisdiction. So there will be an attempt to establish a Tasmanian state training award.

DEPUTY PRESIDENT ROBINSON: Oh right. Well, obviously that - the applications will be treated on merit.

MR BROWN: I hope so. Yes, so there is a lot of developments and things happening in that, so it is not something that is too far away. It is actually the - they are trying to put the arrangements in place now. One of the features of the training system is that it will provide a broad range of pathways combining education and training and working experience. In some ways, as I said, one can liken the proposed system or the system that is about to be introduced to the old apprenticeship system, that this will have a high degree of flexibility. In particular, the various pathways. One of the or two of the principles that competency-based training is based on is that different people learn in different ways, therefore they require different types of input to learn a competency. And that different people will take different amounts of time to learn, therefore you cannot set programs up that are time fixed.

Now, in line with that, in the development of the Australian vocational certificate, they are virtually saying that it does not really matter how someone gets to that point where they have got the Australian vocational certificate level 3, as long as they there, and they may get it by remaining at school until year 12, in which case they have probably completed most of the requirements of AVC level 1, and they maybe need to do another three months of on the job experience to pad that out. Whereas someone else might leave school at year 11 or leave school at year 10, because school does not suit them, and go more into a TAFE-type setting, or in fact, straight into employment and take a longer period of time to reach that point of AVC3.

So they are saying is that there is a number of different pathways that people will be able to take, depending on how they most appropriate learn competencies and the amount of time that they need to learn those competencies. So, there is a lot of flexibility.

DEPUTY PRESIDENT ROBINSON: I take it there is a lot of promotion or education of the industrial community involved to be aware of these opportunities.

MR BROWN: Indeed, DEET are handing out at the moment what they are calling TRIP funding.

DEPUTY PRESIDENT ROBINSON: That sounds interesting, TRIP funding.

MR BROWN: Which is - - -

DEPUTY PRESIDENT ROBINSON: Is that return or single fare?

MR BROWN: - - - Training Reform Information Program which is basically an education type grants to organisations to educate industry into these training reform developments.

MR WATSON: You are going to have to have a schedule of acronyms to this decision.

MR BROWN: Absolutely and appendices, yes. The government is anticipating that almost all school leavers will gain structured training and qualifications for work via this Australian Vocational Certificate Training system once it is fully established. For example, the following targets have been released. By the year 2001, 90 per cent of all 19-year olds are expected to have finished year 12 or have finished an initial post-school qualification or be doing formally recognised education and training. Basically that 90 per cent of all 19-year olds would have completed the equivalent of AVC certificate level 1.

By the year 2001, 90 per cent of all 20-year olds are expected to have an AVC level 2 certificate or be proceeding to a higher level. And by the year 2001, 60 per cent of all 22-year olds are expected to have an AVC level 3 certificate or higher or be proceeding to a higher qualification. So you can see that the targets are fairly ambitious, the government is treating this seriously. The Education and Skills Promotion Council has called for an additional \$1.5 billion to be added to the vocational education and training bill to be able to accommodate the - just the off-the-job training component for this new system

DEPUTY PRESIDENT ROBINSON: Right.

MR BROWN: And of course there are incentives to employers to take on trainees under this system, not the least being that they do not have to pay them a full-time wage they only pay them for the component that they are on the job, but on top of that they also get certain subsidies from the government. So, it is quite a - quite a massive turn around to the type of opportunities that people have had available to them, and of course there is going to be a lot of social implications with the implementation of this sort of program for young people, but we are not here to discuss that.

DEPUTY PRESIDENT ROBINSON: You might have to continually remind me of how this is relevant to the two applications we have got here.

MR BROWN: Coming right up, Mr Deputy President. The Australian Council for the Rehabilitation of the Disabled - I think that is what it is called, is not, or did it change its name, ACROD?

DEPUTY PRESIDENT ROBINSON: Yes.

MR FITZGERALD: Yes.

MR BROWN: The Australian Council for the Rehabilitation of the Disabled in South Australia have got an Australian Vocational Certificate pilot program under way. The pilot, which was established in 1992, is basically trying to get an AVC system in place that can then be used in other states and territories for disability services. So, for all intents and purposes, it is the form of training or a form of training for disability service workers up to, in the first instance, an Australian Standards Framework level 3 and probably moving into Australian Standards Framework level 4 when that is finally introduced.

DEPUTY PRESIDENT ROBINSON: Should we perhaps wait until that work is done?

MR BROWN: How long would you like to wait for it, Mr Deputy President? It could be some time before that is done. In any case, I mean it is a matter of what comes first the chicken or the egg. If we can structure this award to have the career structure in place then that stuff is going to slot into it. We could wait and have that in place and then restructure the award. But I think certainly what we are proposing would be the same as what we would be proposing then, because it has the career structure in place that is consistent with these types of developments that are taking place.

Now, if I could just run through the features of the AVC pilot in disability services that is running in South Australia. It is a structured work base entry level training program because under the Australian Vocational Certificate system you can either have institution-based or work-based or a combination of them, work-based obviously being people undertaking training while they are on the job, doing a combination of on and off-the-job training. Institution based is where they attend TAFE on a full-time basis in art and employment and go and get their structured experience later, after they finish the TAFE institutional component of it.

The disability services AVC project involves the identification of interim competency standards up to ASF level 3 and obviously this project is working very closely with the National Competency Standards Development Project to ensure that the types of standards that they are developing up to ASF level 3 are consistent with the types of developments that are occurring in the National Competency Standards Development Project for the same Australian Standards Framework level.

It involves the development curriculum based on those interim standards; it involves the development of a skills based career pathway; it involves addressing the industrial relations issues including training wage arrangements and conditions; it involves conducting the pilot with a group of 15 to 20 trainees and it involves the evaluation of the project, obviously. Recently, the ACROD in South Australia applied for further funding to the Commonwealth to extend the project to a national project, that is, that it would be - involve a number of other states taking groups of trainees into the industry and testing out both the curriculum, the level of the standards, the level to which they have been aligned against the Australian Standards Framework and the administrative arrangements.

Through the Community Services and Health Industry Training Board, Tasmania has indicated that it is keen to be one of those states to be involved in the extension of the South Australian project into a national project. My guess is that we will be successful in that and that later in this year we will be setting up an Australian Vocational Certificate pilot training program to test out what South Australia has done and its applicability to a Tasmanian context.

In any case, Mr Deputy President, Tasmania was heading down this path with the recent establishment of the - an industry working group established by the State Training Authority for the purposes of looking at entry level training for disability services industry in Tasmania. Now, the industry working groups are the method that the current training authority of Tasmania, which when the new legislation is introduced, will become or be superseded by the State Training Authority, and I suspect the State Training Authority will use exactly the same system. Whenever training

is established they establish these industry working groups, it is the task of those industry working groups to develop the interim competency standards where no national standards exist and then develop the curriculum based on those standards, put the administrative arrangements in place and get the training under way.

Now in most instances, industry working groups will only go to the first level of training, that is the certificate level 1, and as an interim arrangement, they are called career start traineeships. The career start traineeships really are the first certificate level of the Australian vocational certificate training system for all intents and purposes. So, recently we had an industry working group for disability services, established by the Training Authority of Tasmania for the purposes of setting up that early entry level training.

Now, if I can go on, Mr Deputy President, you will see the relevance as to why I explained to the commission that particular training system by looking at the current training in disability services in Tasmania. There is currently a range of training for workers in disability services in Tasmania at a range of levels. At TAFE in Tasmania you are offered two courses, as I have indicated earlier, at advanced certificate and at associate diploma levels. These two courses have previously been accredited under the RATE, register of Australian Tertiary Education guidelines. Both programs are currently under review, and both programs will need to be re-accredited by the end of this year, but not under the RATE guidelines but rather under NFROT in the guidelines that I outlined this morning from the national qualifications framework.

And if I could refer you to the last two pages on tab number 1 in exhibit 5.3 and we were looking at these yesterday, Mr Deputy President, the draft competency standards for disability services that have been developed by the national competency standards project for disability services.

DEPUTY PRESIDENT ROBINSON: Yes.

MR BROWN: And these will form the basis of the interim competency standards for the purposes of accreditation under NFROT. The witness that I will be examining tomorrow will talk more about this in detail, and about procedures that are involved, but the process that is generally adopted for the re-accreditation of TAFE programs is that initially there is a review committee established, which consists of all the relevant members of industry, including unions and employer representatives, and that group usually has a fair amount of time, six to nine months usually, in which to review the curriculum, and if it is not in competency-based format, rewrite it so that it does meet competency-based requirements, that is based

on either the national competency standards or interim competency standards.

And then it is put forward to an accreditation committee which recommends accreditation or otherwise, and the conditions under which a course may be accredited, there can be conditions applied to it, for a maximum of five years, and that goes forward to the accreditations and recognition committee of the State Training Authority. Now, these are the interim competency standards that that review committee which has been meeting since February this year has adopted as the basis for the interim competency standards that they will present, as their justification for accrediting under the national framework for the recognition of training.

And if I could just take you to tab 2, Mr Deputy President, part of that process they have that review committee has identified a range of modules that will need to be included in the programs. Now, not all of these modules, Mr Deputy President will necessarily be present in the curriculum when it is finalised. What this module map has attempted to do, and is doing, and it goes over the page as well, is to identify all the different areas of curriculum that may be needed across a whole range of training within disability services. Now, obviously if it at associate diploma level, some of those will be included that will not be included in lower level courses, and obviously some of the units that might be included in the lower level courses would not be included in the associate diploma level course.

But nonetheless, at this stage what they have done is try to map out everything that might need to be included in a full range of disability training to demonstrate. Now, I will just point out very briefly, I will not go into detail, on the second page down on the right-hand side, they have got levels which roughly equate with the Australian Standards framework levels, and they are looking at level 3 and below for support worker, and then level 4 and level 5. There was a typographical error which the witness tomorrow will testify to, that that 5 should have been 5 and above, and it was left - inadvertently left out.

So, they have actually set up a little sub-committee, which is now going away to look at each of these module areas, and to align them against the Australian Standards framework. Now, given that the level, of course, for accreditation is the associate diploma, and the ministers have already aligned the associate diploma to ASF level 5, then we know that they will be at least ASF level 5 if not higher, and probably will be higher, up to ASF level 6. Now, that is just for the purposes of Tasmania.

Because there are disability services courses in other states of Australia, which run to degree level, which is levels 7 and 8 in the Australian

Standards framework, and we know already that there is entry level training through the form of the Australian vocational certificate and disability services, the pilot that is running in South Australia, then there will be a requirement on the national project management committee for disability services to develop competency standards across all eight levels within the Australian standards framework, levels 1 to 8. Whereas I indicated this morning that industries are not necessarily required to do that. They can start at level 3 and go up, or they can stop at level 4 if they want to. Because of the range of training that is available in this industry, and obviously based on the requirements by industry itself to have those courses established, then there will need to be a full range of competency standards developed right through the Australian Standards framework level from 1 to 8.

So - and we will talk more tomorrow with the witness, Mr Deputy President, about that accreditation process and how it fits in with the sorts of things I am talking about. In addition to the two existing TAFE courses, as I indicated, the - we have got an industry working group that is looking at the entry level training, and even if we do not take on board the Australian vocational certificate pilot from South Australia in the first instance, we almost certainly will have a career start traineeship at ASF level 1 and/or 2.

A number of interstate education institutions as I indicated, Mr Deputy President, offered disability services at degree level, that is university level, and we are talking about Australian standards framework levels, so the two highest levels in the framework. Those courses are offered, or some of those courses in any case are offered by distance education or external learning mode. Charles Sturt University, for example, and Edith Cowen University both offer external studies at degree levels in those courses, which means that even though there is no course available beyond associate diploma level in Tasmania for students full-time, that does not mean that they do not have access to degree level training. There are people working in disability services in Tasmania who, we understand, are taking - are doing units externally in degree level programs.

So even though we do not have that degree level program in Australia, sorry, in Tasmania, we do have access to a full range of training. Within the next two years and probably a lot less than that, we will have a full range of training across all ASF levels available to people in disability services in Tasmania. This package of training arrangements once in place, and there is no doubt that that will all be put in place - most of it is there already - will provide a full range of training with multiple entry and exit points for workers. One of the requirements within the whole training reform context is that there are multiple entry/exit points for training.

And if I can just take you back to tab 3 - yes, tab 3, and the very last page, given that courses will only be credited under the new national qualifications framework shortly we will have training at certificate level I, II, III in the context of the Australian Vocational Certificate Training System, possibly at level IV, but not at this point in time. We will have diploma - sorry, we will have certificate level IV because we already have the advanced certificate here in Tasmania. We will have a diploma, because we already have the associate diploma here in Tasmania, and the advanced diploma and degree level, particularly the degree level, is available to Tasmanian workers through external studies for other universities.

So we have a full range of undergraduate qualifications that will be available for disability service workers in Tasmania within the near future. This will mean that Tasmania will have an articulated range of training available right through the whole ASF framework and that goes a long way towards establishing education - sorry, goes a long way towards establishing the training and education sector's contribution to the skills based career pathway for workers in disability services. Their side of the deal essentially is done or is almost worked out. What we need to do now is of course reflect that within industrial awards and within this award in particular.

DEPUTY PRESIDENT ROBINSON: Yes. Within your knowledge, Mr Brown, would those Tasmanian people who are studying for say a diploma course at the moment, would they be doing that with the encouragement of the employer or would they be doing it for self education purposes and hoping that it will be useful at some time in the future, or what?

MR BROWN: I think it is probably the full range of options available there, Mr Deputy President. We know of some employers that do assist workers and encourage workers to undertaking further training partly because it is in their interests if they have got better skilled workers and they may not contribute to the full cost of doing so. But some of them enable the workers to take time off work to attend lectures and undertake that sort of training, or they provide other sort of incentives for workers to do that. Obviously, of course too there is a number of employers that do not assist workers to do that, but that does not necessarily mean that the workers no longer take the training, they may still do it and they may do it for a number of reasons.

DEPUTY PRESIDENT ROBINSON: Yes, the reason I ask is whether or not it might be demonstrated that there is a need within the disability services industry for people to be taking these advanced courses. Or, you know, conversely, would such training in the majority of instances be not required - I mean, it could be the icing on the cake, but - - -

MR BROWN: Two points, Mr Deputy President, the first is that in the past the development of training and of course whether a course gets set up has usually been purely the providence of the educational institution that is running the course. And there is no doubt that courses have been established that do not have any relevance to industry; that has been demonstrated, just because the educators think that industry needs and they have put it on, under this system of training it cannot work that way. Unless the industry requests it, unless the industry wants it, then the training will not be established. So the fact that there are these developments taking place right from the Australian Vocational Certificate level training right the way through and is an indicator that in fact the training is required by industry, and it is by and large supported by employers.

DEPUTY PRESIDENT ROBINSON: Right.

MR BROWN: Because if, at the end of the day if it is not then we will not have it.

DEPUTY PRESIDENT ROBINSON: Yes.

MR BROWN: For example, the development of the National Competency Standards, if employers are not wanting training at, you know, above very basic level, then the development of the competency standards means that it will stop at that ASF level. Now all the indications are, and the employers are as much involved in this process as what unions and others are, is that we are looking at the full range of training opportunities right across the board and that that represents a career structure development for the industry and it also represents the skills and training needs of the industry and it is the industry itself that is making those decisions.

DEPUTY PRESIDENT ROBINSON: But when we talk about the industry - and maybe it will become clearer as the case goes on and indeed it may be assisted by a carrying out of inspections - but wouldn't the industry covered by the award be diverse and variable? I mean there would be large establishments, like for instance I would imagine Devonfield and Oakdale and its complexes right down to, I don't know, I have not seen them - - -

MR BROWN: Very small operations.

DEPUTY PRESIDENT ROBINSON: - - - but something like - I had a dispute recently down at Huonville.

MR WATSON: Tahune Fields.

DEPUTY PRESIDENT ROBINSON: No. That was interestingly a place with a four-bed home, as I understand it, Mr FitzGerald, wasn't it?

MR FITZGERALD: Yes.

DEPUTY PRESIDENT ROBINSON: A four-bed residential establishment. So what I am assuming - rightly or wrongly at this stage - is that, as I say, there would be when we are talking about "the industry" there would be some employers who might have a greater need for people with a range of skills and others may be confined to serving a particular need of a very small discrete group.

MR BROWN: But then there is nothing in this whatsoever that takes away the prerogative of the employer to employ to the level of skill that they require.

DEPUTY PRESIDENT ROBINSON: Yes. All this comes back to my question originally as to whether or not the people participating in this higher level of training were doing so of their own volition or the encouragement and support of the employers in the industry.

MR BROWN: Well obviously I do not know that. I do not know all the employers or all the groups in the industry to know whether that is so, but certainly bodies like ACROD pride themselves on being representative bodies. In Tasmania bodies like TADS do so. TADS we have an employer chairing the industry working group that we have established and it has employer representation on it. Presumably there is feedback to the industry, that the industry hears about it and knows about it is debated. And the other thing is that through all of this process, not only the development of competency standards but also the development of curriculum, you are required to demonstrate broad consultation. So in fact if there is any real groundswell out there against these developments taking place, that would be detected very early in the piece and really you could not go much further until that was sorted out.

DEPUTY PRESIDENT ROBINSON: No. Forgive me, Mr Brown, it is one thing to take these sort of things for granted and another thing to place them on the record.

MR BROWN: Absolutely. Yes, I know. My guess - I mean certainly the involvement that I have had in training - which is usually what I do most of my time, not this type of activity - when working with employers as well as others in trying to get some of these training systems in place and developed and up, is that there is broad encouragement by employers within the disability services industry for the types of training developments

that are taking place. And if there is not, then they certainly have not indicated that to date.

DEPUTY PRESIDENT ROBINSON: Right, thank you. Sorry to interrupt you.

MR BROWN: That is all right. Mr Deputy President, that just about concludes the information of the frameworks. I realise that it has been somewhat convoluted and may be at times seemingly a little bit off the mark. But what I have attempted to do is show is that these developments that are taking place are not really that different from the types of arrangements that we are dealing with here in the commission. It is essential that if those training developments are to work, and the development of competency standards, and the alignment with the Australian Standards Framework will fall into place in a way that reflects industry needs and what the industry requires, then we need industrial awards that - as I mentioned at the beginning under the structural efficiency principle - build in skill-based career pathways and build in and facilitate the encouragement of workers to undertake further vocational training as we are required to demonstrate.

No matter which way you look at it, Mr Deputy President, we have tried to look at what we have got in our submission in the classifications and the classification definitions and line those up against whatever might measure it to see whether they are appropriate or not. We have lined them up against some metals relativity and they fit. We have lined them up against similar awards from other jurisdictions. We have lined it up against the descriptions within the Australian Standards Framework. We have lined it up against descriptions within the national qualifications framework. And they are all consistent.

The levels that we have established, the qualifications or equivalent at various levels that we have established are all consistent with all of those developments. That is in contrast, Mr Deputy President, to the TCCI application, which is successful and stops at level 5, will really inhibit the development of any career pathway within this industry. In fact it will be difficult if they are successful to see how the associate diploma would have any relevance whatsoever in Tasmania in the disability services industry because of where it is pegged.

So on the basis of this part of the submission, Mr Deputy President, we again submit that our application is consistent with the wage fixation principles, that it does develop a very logical and coherent career pathway structure that is consistent with where the industry itself is going and the other developments that are occurring. If the commission pleases.

DEPUTY PRESIDENT ROBINSON: Thank you.

MR BROWN: I thought I might take a bit longer than that. I think there are cheers all around.

DEPUTY PRESIDENT ROBINSON: I don't think anyone will complain. Any complaints?

MR FITZGERALD: No complaints.

DEPUTY PRESIDENT ROBINSON: No complaints; I didn't think so. Tomorrow we will start off with the calling of a witness, will we?

MR FITZGERALD: Yes.

DEPUTY PRESIDENT ROBINSON: Right, okay. We will adjourn until 10.30 tomorrow.

THE MATTER WAS ADJOURNED UNTIL
FRIDAY, 8 JULY 1994