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ABN 72 110 028 825

Level 10, MLC Court, 15 Adelaide St BRISBANE QLD 4000

PO Box 13038 George St Post Shop BRISBANE QLD 4003

Tel:1300 308 420 Fax:(07) 3503-1199

Email: orders@auscript.com.au Website: www.auscript.com.au

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TRANSCRIPT OF PROCEEDINGS

O/N 88393

TASMANIAN INDUSTRIAL COMMISSION

COMMISSONER T.J. ABEY

T No 13196 of 2008

POLICE AWARD

Application pursuant to the provisions of section 23(2)(b) of the Industrial Relations Act 1984 lodged by the Police Association of Tasmania to vary the above award re Clause 11 – Expense Allowances, and Clause 16 – Leave

HOBART

9.28 AM, MONDAY, 25 AUGUST 2008

THE COMMISSIONER: Good morning. Could I take appearances please?

MS A. SMITH: Good morning, Commissioner. My name is Angela Smith, appearing for the Police Association of Tasmania.

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THE COMMISSIONER: Thank you, Ms Smith.

MR T. MARTIN: Good morning, Commissioner. Tony Martin, appearing for the Commissioner of Police.

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THE COMMISSIONER: Thank you, Mr Martin. Ms Smith?

MS SMITH: Thank you, Commissioner. This application relates to the usual annual review of expense related allowances contained within the Police Award. And additionally, there are a couple of housekeeping matters which have been picked up since the new award was introduced in March of this year. Further, the reimbursement expenses relating to property sale and property purchase have been reviewed, and have been increased. And there is also an amendment to clause 16 which is the leave provisions of the Police Award which addresses an identified problem in relation to police officers returning to duty while on different types of leave. So there's a new clause been introduced there.

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THE COMMISSIONER: Which one is that, sorry?

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MS SMITH: Clause 16 Leave, of the Police Award.

THE COMMISSIONER: Yes.

MS SMITH: The agency has indicated it consents to the variation of the Police Award as per the application. The variation to the expense allowances relates to monetary amounts. The essences of the clauses remain the same. The increased amounts relating to overnight expense allowances, motor vehicle mileage allowance and incidentals has been adjusted in line with the GCOE Award which is in accordance with the provisions of the Police Award.

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The remainder of the expense allowance monetary amounts have been adjusted in accordance with a formula established in TA33 of 1987 which is based on the consumer price index adjustment, calculated for the period March 2007 to March 2008. That adjustment for that period is calculated at 4.25 per cent. I seek to tender the method of calculation to arrive at the percentage claimed, together with a document downloaded directly from the Australian Bureau of Statistics website which indicates the changes to the indices in the relevant quarters.

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THE COMMISSIONER: I will mark this A1, consumer price index numbers.

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EXHIBIT #A1 CONSUMER PRICE INDEX NUMBERS

MS SMITH: The formula for determining the increases is by subtracting the previous March quarter index points of the weighted average of the eight capital cities from the current March quarter, thereby establishing the increase of 4.25 per cent. The property purchase and property sale reimbursement expenses are clause
5 12.2 and 12.3 of the Police Award has been reviewed and increased based on the median price of a three bedroom home in Hobart. This is the first - - -

THE COMMISSIONER: Sorry, this is in 12?

10 MS SMITH: 12.2 – clause 12.2 and 12.3 of the award.

THE COMMISSIONER: It doesn't seem to be on this draft order or on the application. It goes from clause 11 - - -

15 MS SMITH: I've got page 3 here. Haven't you got page 3?

THE COMMISSIONER: Okay, we'll sort that out after we've finished. If you can continue, Ms Smith?

20 MS SMITH: Yes. Okay. So where was I?

THE COMMISSIONER: Sorry, you were talking about the - - -

MS SMITH: So it's based on the median price – the review and the increase is
25 based on the median price of a three bedroom home in Hobart. This is the first review of these reimbursement allowances since their introduction in 2005. The Police Association requested the review by the Commissioner of Police in accordance with the award provisions and we welcome the increase. Clause 12.3.9 has been amended to reflect that the increased amounts are applicable from 1
30 December 2007, so they're retrospective to that date.

Clause 12.3.9 is the provision that actually provides for the annual review of these allowances. There is an amendment to clause 16.7 Paternity Leave. The amendment removes a reference to a male in a paternity leave eligibility clause, clause 16.7.3.
35 The amendment leaves the provision gender neutral which provides for paternity leave for both male and female members. That may very well be on that page 3 as well. I'll just check that.

THE COMMISSIONER: No, it's just at the top of page 4.
40

MS SMITH: Right. Clause 16.9.1(e) and (f) of the recreation leave provisions are deleted and incorporated into a new clause 16.12 which will be called Return to Duty Whilst on Leave. The Police Award provides for police officers who return to duty whilst on recreation leave and partly for those while on long service leave, but there
45 are identified areas where the provisions were either silent or fell short. And certainly they are silent in the Long Service Leave Act that applies to police officers, in relation to return to duty, that is.

The new clause prescribes entitlements for return to duty whilst on paid leave such as recreation leave, long service leave and different types of paid parental leave. And also for unpaid parental leave and leave without pay. In times past members returning to duty from various types of leave, paid leave, other than recreational
5 leave were not really credited with leave, but were given time in lieu and this can be – the taking of which can be problematic in itself. Also there was no specific provision in relation to payment. The new clause makes specific provision for these entitlements.

10 THE COMMISSIONER: What's the difference between re-crediting and time in lieu?

MS SMITH: Re-crediting means it's a specific entitlement that goes back to your leave that you took, so if you take a day of long service leave it will be re-credited
15 back to your long service leave.

THE COMMISSIONER: Your long service leave.

MS SMITH: Time in lieu is a loosely managed provision.

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THE COMMISSIONER: Right. Okay, so that's the essence of it.

MS SMITH: Yes, and it's dealt with at the workplace. And there can be problems in arranging times to actually have that off.

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THE COMMISSIONER: Yes.

MS SMITH: The last minor variation is to clause 23 Dog Handlers. This clause was amended at the time the new award was introduced in March of this year. All
30 reference to explosive detector dog handlers was removed at the time. Given the recent introduction of another type of police dog into Tasmania, the provisions are now relevant to all types of dog handlers. The amendment is at clause 23.2.1 and removes the words "explosive detector." It was just an oversight that we've only just recently picked up.

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This concludes the explanation of the variations sought. And in summary I believe the wage fixing principles are satisfied, and that these expense related allowance exist and there is the economic capacity to pay. Further I believe the application is consistent with the principles of the Commission and does not offend the
40 requirements of section 26 of the Act relating to public interest considerations. We respectfully submit that the date of operation be effective from the date of determination, and Mr Martin has informed me the agencies are able to manage the change with a minimum of bother. That concludes my submission, Commissioner. Thank you.

45

THE COMMISSIONER: Yes. Mr Martin?

MR MARTIN: Yes, thank you, Commissioner. Commissioner, the expense related items are fairly much machinery in nature and obviously we've consulted and worked with the Police Association in arriving at those figures in making certain that they've been checked at our end. In relation to the return to duty whilst on leave, I think the insertion of that as a new clause will make the award more readable. When we looked at this with the Association, we were looking at varying the different parts of the award to pick up the intent, and it was finally concluded that it would be better to have a separate subclause just surrounding exactly what it was the parties were meaning.

10 The return to work formed quite a big focus when the Commissioner of Police undertook the consultative forum conducted around the State. The members made it very clear that they would prefer a day off, as Ms Smith indicated the TOIL was a bit of a problem to the members, and they said they valued the actual day back on and re-crediting. When we originally drafted the award it more or less only picked up the recreation leave, and now we've included the other forms of the paid leave that are available to members. So I think it's an enhancement to the award.

20 And the dog handlers, as Ms Smith has said, was just a glitch. We thought we'd ironed that wrinkle out, but obviously we didn't at the time. So I believe that the variations are in the public interest. There is a capacity to pay. I endorse the retrospectivity of the allowances for purchase and sale of the house, because that's another important thing that the Commissioner of Police was wanting. I commend it to you, Commissioner.

25 THE COMMISSIONER: Yes. What was the -- I'm missing the page, what was the operative date for the - - -

30 MS SMITH: I have page 3 here for you, Commissioner.

THE COMMISSIONER: Thank you. The proposed operative date is the date of decision which will be today. Is it a finite date or the first pay period, I'm relaxed about either? I noticed with allowances - - -

35 MS SMITH: We would submit date of decision, Commissioner.

THE COMMISSIONER: Yes, but date of decision not first pay period?

40 MS SMITH: Yes.

THE COMMISSIONER: Do you accept that, Mr Martin?

45 MR MARTIN: Yes, Commissioner, for the expense related allowances that's fine, and the reason for the property sale expenses its back to the introduction of the new award, that was the intent of the parties there. So there are two separate dates: one related to the property sale expenses and property purchase; and the other allowances in there are from - - -

THE COMMISSIONER: Yes. Having heard the parties I am satisfied the application is consistent with the wage fixing principles and the public interest requirements of the Act. The award will be varied operative from 25 August 2008, save and except the clause relating to transfer expenses which will be operative from
5 1 December 2007. A formal decision of that effect will be issued in the immediate future. On that basis the Commission stands adjourned. Thank you.

MATTER ADJOURNED at 9.41 am INDEFINITELY

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