

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T No. 3969 of 1992

IN THE MATTER OF an application by
the Minister administering the
Tasmanian State Service Act to
vary the Fire Brigades Award

re restructure of award

DEPUTY PRESIDENT

HOBART, 27 January 1993
continued from 25/1/93

TRANSCRIPT OF PROCEEDINGS

Unedited

DEPUTY PRESIDENT: No changes in appearances?

MR OGLE: No, Mr Deputy President.

DEPUTY PRESIDENT: Yes, Mr Ogle?

MR OGLE: You may remember at the last day of hearing, Mr Deputy President, we'd gone through the award, but during proceedings a number of issues had been raised and what I propose to do this morning is put forward an exhibit which is an amendment to the whole award - consolidated - taking into account all those matters that have been raised and some new ones, if you like, that I hope will accommodate some of the issues the fire union have raised and you, yourself had raised.

DEPUTY PRESIDENT: Yes.

MR OGLE: What I've done, for the ease of reference, is within - this variation is underlined and in italics the areas where we've changed.

DEPUTY PRESIDENT: You obviously didn't go to the Hobart Cup.

MR OGLE: No, Mr Devine reckons he did me a favour. Since I'm a loyal Tasmanian, he probably did.

DEPUTY PRESIDENT: I think we got up to exhibit number 8, so this will be MASSA.9.

MR OGLE: What I'll do, Mr Deputy President, is go through the amendments and the first amendments you will remember relate to the definitions clause where we had a surprise intervener and we undertook to revert to the previous definition and let those other matters be considered before a full bench -

DEPUTY PRESIDENT: Right.

MR OGLE: - so those were the definitions of employee and temporary employee with the deletion of day work I think it was. It's the last definition.

DEPUTY PRESIDENT: Leave them as is pro tem was my note for day.

MR OGLE: Working day it was.

DEPUTY PRESIDENT: Or consecutive - wasn't that to be -

MR OGLE: No, that was during - no, we left the definition of 'day' there -

DEPUTY PRESIDENT: Right.

MR OGLE: - but there was a definition of working day. They had some problems with, so we - after going through the award, it doesn't appear there so, we just deleted it from the definitions. You'll notice the underlining and the italics - the underlined italics indicates where those changes have taken place.

The next change was on page 4 in relation to duty statement where the question was raised about where a - transport is provided by the Tasmanian Fire Service and all we've put in those words is just to make doubly sure that that situation is covered.

DEPUTY PRESIDENT: Yes.

MR OGLE: The next change is on page 9, Mr Deputy President, and you will remember that there was some discussion in relation the issue of how long a person would be expected to be required to be on a trainee level. Now we indicated that our intention was certainly not to keep them forever, but also recognised that we needed to have people skilled and trained -

DEPUTY PRESIDENT: Yes.

MR OGLE: - before they were firefighters so we have done there is indicated achievement of competency established by the Tas Fire Service or up to a maximum of 17 weeks. So what we're saying there is we'll get them up to the competencies but it won't be any longer than 17 weeks.

DEPUTY PRESIDENT: Right. You've put a cap on it.

MR OGLE: Yes. So, whether Mr Devine wants to think about that. I propose some of these changes have been put in - I haven't had the opportunity to -

DEPUTY PRESIDENT: Yes.

MR OGLE: - discuss with Mr Devine. It might be opportune if I go through them and then he might want a short adjournment to consider or even come back at a later stage.

DEPUTY PRESIDENT: Yes.

MR OGLE: Now the next one - amend what's on page 10. You'll remember that during proceedings I indicated there was an error in (c) and we changed it to the fourth and points. It's just a - it previous had second and third I believe.

DEPUTY PRESIDENT: I'm sorry, I didn't pick that up.

MR OGLE: Page 10, up the top, (c) -

DEPUTY PRESIDENT: Yes.

MR OGLE: - we've changed that to fourth and fifth. We actually changed that during proceedings -

DEPUTY PRESIDENT: Oh, right.

MR OGLE: - so I just indicate that to you. The next one, I believe, is a fairly radical change as far as we're concerned. You will remember during previous proceedings, 2954, that we had some great arguments in relation to 3rd and 4th year - sorry, 3rd year and 4-year. Now in (d), after some discussions within this fire service, what - we're willing to compromise and this is really as far as we can go is to indicate that 'shall be made after a maximum of 4 years'. So what we're really saying there is a person can achieve the competencies and once they achieve these competencies, as long as they've got past the 3-year part it can happen during the next year. I hope I've got the words there, but that's what we're indicating.

DEPUTY PRESIDENT: Yes, I understand that there would be a - after a maximum of 4 years but they may be able to achieve it in less.

MR OGLE: That's correct.

DEPUTY PRESIDENT: Yes.

MR OGLE: That's our intention.

DEPUTY PRESIDENT: So, 4 years is not a maximum and a minimum as it was before.

MR OGLE: No, we've - it sort of - it's subject to a competencies or the 4-year limit.

DEPUTY PRESIDENT: Yes.

MR OGLE: We believe this is a major departure on our part, but after much discussion and deliberation we have, if you like, compromised on that particular point and asking the United Firefighters to seriously consider that issue.

DEPUTY PRESIDENT: Yes.

MR OGLE: The next one was (e). You remember during proceedings the United Firefighters raised the issue of consistency between the senior station officer and the senior firefighter and we indicated during proceedings that we would revert to the area of promotion for senior firefighters and we've indicated that in the amendment.

The next amendment, Mr Deputy President, relates to page 13,

higher duties allowance. You will remember during the proceedings - the last proceedings we indicated we were prepared to go away and think about the whole issue of higher duties allowance and relieving duties. After considering that issue, we haven't changed our position in principle. We recognise what the United Firefighters Union were saying. We've tried to make it more clearer in this definition that higher duties is really talking about non rostered positions while the relieving area is talking about rostered positions and we're indicating on clause 31 that really what that is about is recognising the operational requirements to relieve absences in the fire brigades, but that requirement is not to the same extent in non rostered areas. We've also included the words 'consecutive days' to make it absolutely clear what we're on about. So in principle we haven't changed our position there. Just tried to clarify it somewhat.

There was a minor amendment on page 15. Mr Devine pointed out an error in the clause number. We've changed that to clause 26. On page 18, Mr Deputy President, there still is an error. It's under clause 27 - overtime - rest period after overtime. There's a typographical error where it says '26.1', that should be '27.1'.

DEPUTY PRESIDENT: Yes.

MR OGLE: Clause 28.4 on page 19 -

DEPUTY PRESIDENT: Ah, just a sec, if you don't mind. Page 19, you say?

MR OGLE: Yes. Clause 28.4, you would remember it was the issue of giving details of people's pay -

DEPUTY PRESIDENT: Oh, yes.

MR OGLE: - and we sought to include the word 'superannuation', and after discussion we had no intention of making this override the Industrial Relations Act and I thought while I amend that, might as well put in some words to reflect that situation.

DEPUTY PRESIDENT: Yes. Good.

MR OGLE: The next amendment, Mr Deputy President, related to public holidays and there was some discussion again about the issue of reflecting or referring back to another act and we decided to eliminate those words, and we believe now that we've come up with the intention that we did have.

DEPUTY PRESIDENT: Yes. It's the Industrial Relations Act 1984 in 28.4 not '1985'.

MR OGLE: Clause 31 - relieving duties - rostered shift

workers again relates to that higher duties one. There was some I believe reference to other positions there and what we've tried to do is clarify between all the areas, so what we're really saying in clause 31 - relieving duties is operational areas in fire brigades where - first of all for short term absences where a station officer is absent and a senior firefighter is expected or required to relieve. The second one is longer term absences where either a station officer or a senior station officer are absent and senior firefighter or station officer, both qualified, are required to relieve.

They are the amendments that were made, Mr Deputy President. Then we - you might remember, I'd be surprised if you didn't - we got into the area of the calculation of salaries -

DEPUTY PRESIDENT: Yes.

MR OGLE: - and the first discussion we really had was the issue of SIPS as they appeared in the award as opposed, quite frankly, what we were paying people. Now, my research indicates to me that this situation occurred some time back in about '88 or '89 where one of the increases was actually missed in this award and since then the increases have been applied, e.g., the last 2.5 per cent which has put the SIPS payment that actually appear in the award out of kilter.

DEPUTY PRESIDENT: Oh, right.

MR OGLE: Now some time ago, my colleagues indicate to me that this was actually brought to the attention of your associate -

DEPUTY PRESIDENT: Is that right?

MR OGLE: - and he did indicate that when the award was next to be amended he would - I think the words are erratum and correction or amendment.

DEPUTY PRESIDENT: Right.

MR OGLE: So really the SIPS that appear in the award are out of kilter with the SIPS that - for everyone else in the public sector. So from our point of view, we'd -

DEPUTY PRESIDENT: The award's wrong.

MR OGLE: - the award just hasn't caught up. There's just an error dating back to '88, so therefore, I would put two exhibits now, Mr Deputy President, correcting the previous exhibits I put forward. The first exhibit relates to the calculation of the salaries and the next exhibit relates to the present salaries plus the inclusion of allowances.

DEPUTY PRESIDENT: Right. Does it matter much which - ?

MR OGLE: No, it does not, Mr Deputy President.

DEPUTY PRESIDENT: Right. We'll mark the document headed 'Calculation of Salaries - Appendix 1' as MASSA.10 and the document headed 'Present Salaries including Allowances and Loadings' as MASSA.11.

MR OGLE: Thank you, Mr Deputy President. Now if I just take you through these calculations. Could I just have a minute, please, Mr Deputy President?

DEPUTY PRESIDENT: Yes.

MR OGLE: If we go to - thank you, Mr Deputy President, - if we go to -

DEPUTY PRESIDENT: MASSA.11 is really in substitution for MASSA.8, isn't it?

MR OGLE: That's correct.

DEPUTY PRESIDENT: Yes.

MR OGLE: Yes. Now if I just take you through the calculation of salaries how we've determined what the present salaries are if there was no work-value increase. That's what the assumption is in these calculations. There's also some assumptions that the allowances presently appearing in the award will be assumed into - consumed into an all encompassing salary. It also assumes that the issue of loadings will be consumed into salary. So if I just take you through - and it may assist by having some reference back to MASSA.6.

DEPUTY PRESIDENT: Right.

MR OGLE: So if we just go through that exhibit. The first one there is recruit firefighter and the base salary seems to have an error.

MRS BURGESS:

MR OGLE: It should be \$324.20. So if we could just seek to amend those. It should be \$324.20. The disability, if included, would be \$7.00 giving a sub total of \$331.20. Now, previously recruit firefighters weren't required to undertake any shift or - either on a rostered shift or non rostered shift basis. It was basically day work and what we're indicating there is that both for the situation where recruits are within a station rather than as a programmed training

development exercise, required to be part of a shift, or even if they are undertaking training there is the requirement for night training, training at various hours during the day, so that's reflecting that situation. It puts the calculation out there slightly and really means the \$452.35 should be multiplied by 52 to come up with the annual amount.

DEPUTY PRESIDENT: We're working off MASSA.10 are we?

MR OGLE: Yes, Mr Deputy President.

DEPUTY PRESIDENT: Yes. And that change to the base rate again, if you don't mind?

MR OGLE: \$324.20 it should be.

DEPUTY PRESIDENT: \$324.20, yes.

MR OGLE: I believe the calculation per annum comes to \$23,522 per annum.

DEPUTY PRESIDENT: Right.

MR OGLE: I also indicated in the last days of hearing this puts us in a far better position in relation to recruitment also particularly where the number of people we're recruiting who have some sort of trade background to try to recruit them at \$17,222 even though it is only for three months, provides great difficulty. Now -

DEPUTY PRESIDENT: Yes. And I understand that people who have a trade background seem to have a natural sort of advantage as recruits. Is that right?

MR OGLE: I don't know that it's an advantage. It's not an absolute selection criteria -

DEPUTY PRESIDENT: Yes.

MR OGLE: - but it is the way that recruitment seems to occur. I think it's fair to say that some of those people have experience of life, if you like, that puts them in a better position to compete.

DEPUTY PRESIDENT: Yes.

MR OGLE: But like all recruitment, I think it's a matter of balance and I know that the fire service also has an obligation to youth employment, so it's a matter of balancing that up in the selection of people, but it would be also fair to say that there are quite a number of people throughout the fire brigade - and I think from memory there is a UFU exhibit to say some - how many people that had some sort of trade qualification.

DEPUTY PRESIDENT: Yes.

MR OGLE: But as I indicate it does put us in a better position by taking this approach regarding recruitment.

DEPUTY PRESIDENT: Yes.

MR OGLE: So, we go down the list and the next level after completion of training you will see the introduction of SIPS and the introduction of the driving allowance.

Now it's far from an exact science to - to say that everyone at the end of training has that driving allowance but - but after referencing the pay area it's fair to say that the vast majority of people at least have that qualification, so what we're doing is incorporating that into the calculation of our composite salary, if you like, to reflect the fact that they both have that qualification and they would have received an allowance had they - had the allowance been still separate.

DEPUTY PRESIDENT: Yes.

MR OGLE: And I don't balk from the fact, Mr Deputy President, that this approach provides a cost-neutral outcome as far as we're concerned. Our concern in just applying the percentage, that is, the 36.25% loading to the base salary plus the allowances particularly including disability and SIPS would end us up with about a 4% increase by the mere - because at the moment disability and SIPS aren't included aren't included in the calculation of the loading.

DEPUTY PRESIDENT: Aren't they?

MR OGLE: No, they're not. Yes, in addition to the - this is the present clause 24 talks about in addition to the wage rates prescribed in clause 8 (salaries) employees are required to shift work shall be paid the following loadings on the total of the aforesaid wage rates. Those salaries prescribed there are the, if you like, the base rate salaries.

So we go down the list including for the next rate, we include -

DEPUTY PRESIDENT: Sorry, could - just -

MR OGLE: Yes.

DEPUTY PRESIDENT: - before you leave firefighter -

MR OGLE: Yes.

DEPUTY PRESIDENT: - (1), the drivers allowances, the - is the minimum -

MR OGLE: That's the minimum one, yes, Mr -

DEPUTY PRESIDENT: Is it possible that anyone would have achieved the - what do they call it -

MR OGLE: No, it's my understanding, Mr Deputy President, that the answer to that is no.

DEPUTY PRESIDENT: No. Right.

MR OGLE: So the next level we go to is the base salary plus a disabilities, again including the same SIPS payment, but an increase in the drivers allowance. It's more likely at that stage is that people gain that extra level of competence with respect to drivers allowances. Again it's not everyone at the moment, but it starts to be the vast majority of people and -

DEPUTY PRESIDENT: What's the incentive for people to pass the test if they get paid for it anyway?

MR OGLE: Well our indication there, Mr Deputy President, is that it becomes a requirement -

DEPUTY PRESIDENT: Right.

MR OGLE: - or one of the competencies to progress to the next level -

DEPUTY PRESIDENT: Right.

MR OGLE: - so in effect by that method, if you like, ensuring that everyone at that level has that level of skill.

DEPUTY PRESIDENT: Right, so it would be a bar to - to promotion for some perhaps?

MR OGLE: Yes - we haven't gone into the detail of the competencies. They'd be competencies that we would need to do a lot more work on.

DEPUTY PRESIDENT: Mm.

MR OGLE: They're being worked on both locally and nationally, and I'm not really in a position to say whether it be a barrier or there might be an either/or situation.

DEPUTY PRESIDENT: Right.

MR OGLE: I think it needs to be recognised some people can fill a certain task like driving, others might not quite be as good in that area but might have another competency which we adjudge as sufficient skill -

DEPUTY PRESIDENT: Right.

MR OGLE: - and I - I'd hate to think -

DEPUTY PRESIDENT: So it may be that it wouldn't be a barrier.

MR OGLE: It wouldn't be a barrier is probably the - in fact I'd be changing what I said before in indicating that it is unlikely that it be a barrier, but there might need to be some sort of equivalent competency to ensure that that - that occurs - or give recognition to the fact that they get an extra \$3.65 per week.

DEPUTY PRESIDENT: Right.

MR OGLE: Again we go forward with an increase in the SIPS payment which also results in an increase in the loadings. Now it's - it's 2.4 thereafter the completion of 36 months where we come up with a base rate of 367, a disability component of \$7 and a SIPS component of 59.70 that our indications that is where the highest level of drivers allowance the majority of people are getting into that level of competence, hence the increase to \$5.25 -

DEPUTY PRESIDENT: Right.

MR OGLE: - which is the present provision. This also provides by calculation an increase in the loading to \$133.00 giving us an annual amount of 20 - 29,741.

The - I suppose the benchmark as far as we're concerned is the first class firefighter - I've just got bracket - in brackets (4 years) - but remembering we've indicated in our submission an either/or situation - competencies or up to a maximum of 4 years - that's how that should be read. I really haven't had the opportunity to change those words quite to reflect that, but I would indicate to you, Mr Deputy President, it's the words in the bulk of the award that should be applied there.

DEPUTY PRESIDENT: Yes.

MR OGLE: Again, we apply a base rate for disability and SIPS component, the full drivers allowance, the increase in loadings to come up with an annual amount of 31,244 per annum.

DEPUTY PRESIDENT: Right. There would still be some allowances you will need to remind me, that might be added on such as first aid allowance.

MR OGLE: That's correct. First aid would be one, Mr Deputy President. The reason we haven't included first aid is we believe it is a special allowance -

DEPUTY PRESIDENT: Yes.

MR OGLE: - and it's only given to -

DEPUTY PRESIDENT: One person per shift.

MR OGLE: Yes, so it's not one of those we can have as all-encompassing.

DEPUTY PRESIDENT: Mr Devine?

MR DEVINE: Mr Deputy President, at this juncture, I don't know if it's appropriate, but might I request that we have very, very short adjournment so I can confirm with Mr Ogle?

DEPUTY PRESIDENT: Yes, yes. But do you want Mr Ogle just to finish -

MR DEVINE: Well no, particularly at this particular juncture, I'd like an opportunity to - to just confirm with him for a few minutes before we go any further.

DEPUTY PRESIDENT: Are you happy to confer -

MR OGLE: Always happy to confer with Mr Devine -

DEPUTY PRESIDENT: - gentlemen, at the other end of the table?

MR OGLE: - if it means we get some sort of resolution or agreement.

DEPUTY PRESIDENT: Alright, well I'll disappear for 5 minutes and you might just let me know when you're ready.

SHORT ADJOURNMENT

DEPUTY PRESIDENT: I might just indicate that I've got another hearing scheduled for half past 10.00, but I anticipate that I might have a request for that matter to be adjourned so that if we need some more time this morning I'll have to obviously finish up by half past 10.00, but if everybody hangs around for about 10 minutes and there's the need, it's more than likely that we can resume.

MR OGLE: Right, thank you for that, Mr Deputy President. Well obviously closer to half past 10.00 know where - actually on reflection it might be an appropriate time for, say, Mr Devine to give him the opportunity to -

DEPUTY PRESIDENT: Okay.

MR OGLE: - come back after that. That - if that's satisfactory to him.

DEPUTY PRESIDENT: Yes.

MR OGLE: It gives him just a few minutes to reflect and that might be an appropriate adjournment for everyone. So if I finish my submission -

DEPUTY PRESIDENT: Right.

MR OGLE: - and I believe I can by - sort of in the next 15 minutes, it might be the best way to go.

Thank you for the adjournment, Mr Deputy President. What we're - where we were at was the first class firefighter 4 years and we'd gone through the levels there. I would indicate that that in our proposal equates to the present senior 4 years.

DEPUTY PRESIDENT: Mm.

MR OGLE: Now the next one talks about a senior firefighter and I would ask that there be an amendment there to include on completion of competencies rather than officer development program.

And that should also be reflected in MASSA.11 in the same place - senior firefighter on completion of competencies.

DEPUTY PRESIDENT: Yes.

MR OGLE: Now I would indicate to you, Mr Deputy President, that this is where there is a major problem with the United Firefighters. I would also - and the firefighters can obviously speak for themselves, but it would appear that there has been some misinterpretation on our part in relation to the words we've included in the bulk of the award in relation to promotion - the promotion level. You'll remember at clause 13 - I think it was 13(e) that we included the words promotion at that level - it's on page 10.

DEPUTY PRESIDENT: Yes, I have found it.

MR OGLE: Yes, and that was on the basis - we believe that that was something United Firefighters were putting forward but it would appear that that's not the case - and they'll obviously speak in some - or speak about that. They're indicating now that they were really referring to (f). Now that leaves me in a bit of a dilemma because I was - I sought my instructions based on their agreement. It wasn't an issue that we were going to die in a ditch about. So I'm sort of pre-judging, I suppose, rather than them put their case and me

come back, but I'm indicating if that's their position I think we'd - we'd drop the promotion issue now.

It's just that we did it on the understanding that that's where we thought they were agreeing, but if they're not going to agree, I don't think that's something we wish to pursue.

DEPUTY PRESIDENT: Well I say -

MR OGLE: But maybe you'll need to listen.

DEPUTY PRESIDENT: - in - in time then you'll - you'll indicate to me what changes, if any -

MR OGLE: I will, Mr -

DEPUTY PRESIDENT: - we need to make to the documentation before us.

MR OGLE: Yes. I'm just indicating so you're aware -

DEPUTY PRESIDENT: Right.

MR OGLE: - as we go through this document.

DEPUTY PRESIDENT: To save me trying to carry all that stuff in my head you see.

MR OGLE: Yes, thank you, Mr Deputy President. As we go down the list, you'll see the next, I suppose, major change in our calculations in MASSA exhibit 10 occurs on 4.2. Now what we've included there is the diploma allowance. You'll remember during proceedings that there were a number of references to the fact that the associate diploma of applied science is now the qualification - I don't think you could forget actually - but that is now the qualification.

Now previously there was an allowance given for the - the Institute of Fire Engineers allowance, and it's our position that they are equivalent allowances, so therefore that situation should be recognised by the inclusion of that diploma allowance rather than having a separate diploma allowance.

Now I would indicate to you that not everyone as you wouldn't be aware through reading transcript has that allowance and many of the qualified people at this stage have the qualification but not the allowance so there may need to be some sort of grandfather clause, I think is the appropriate terminology to cover that -

DEPUTY PRESIDENT: I can relate to that, yes.

MR OGLE: - that definitely wasn't the inference, Mr Deputy President - to reflect that situation, but this is really a calculation which we see as the appropriate way to go. And so it goes through right up to the level of district officer - and that should be district officer/superintendent - on point No.7.

DEPUTY PRESIDENT: Alright.

MR OGLE: Now both with station officers, the officer levels, they don't require the qualification of drivers allowance but I've included that in the calculation to maintain the relativities, if you like.

DEPUTY PRESIDENT: Yes.

MR OGLE: It's a difficult one because they don't require it, but if you didn't include it, the relativities between the officer and the firefighter are so minimal that - and what we're really on about is having incentive, I suppose, to seek those higher levels, so that's the reason there.

Again, as far as control room operators are concerned, the same process has been gone through. It's the addition of SOPS at the appropriate times; it's only in point 4 there after 24 months that we include the computer allowance, again to recognise that people at that level have that competency - would be required to have that competency in future, and therefore the elimination or the allowance is no longer required, that's the rationale, if you like, for that particular clause or that particular calculation.

Now, Mr Deputy President, that I understand only leaves one matter that you raised yesterday and that was in relation to overtime and the calculation thereof.

DEPUTY PRESIDENT: Monday.

MR OGLE: Monday, I'm sorry - and in a principal way how - on what rated you would include the overtime. I really understand where you were coming from because if you include the loading you're actually including a 10% component for overtime and then applying for overtime, you're including that in the calculation.

I haven't got any particular answer for that other than to make some sort of very complicated calculation of overtime to vary from the, you know, the all-encompassing amount. The only position we can put to you, Mr Deputy President, while we have great difficulty in coming up with tangible amounts for higher duties for instance, for the occlusion of the allowances, for the hours, for instance, which we believe is a fairly significant change, we believe that will give us greater flexibility - it will also have an effect on overtime.

Now I'm not in a position to be able to say that's \$10,000 or \$20,000 or we won't need any overtime - it's very difficult. But what I'm trying to say to you is that we believe the - the savings on that part will offset any additional -

DEPUTY PRESIDENT: Yes, my purpose in raising it simply was that to make sure that you were aware of what the award contains and - and if you wanted to put a submission in relation to it you're more than welcome of course.

MR OGLE: Yes - thank you for that, Mr Deputy President. It was considered, but I suppose my submission there is that we've got to the stage with overtime that with these changes it will be reduced to only essential overtime - the flexibility and provisions will allow maybe some - well some reduction in overtime in the future, but it will have got to the absolute minimum we can get it and we're - in a budget we're talking about \$50,000 overtime per annum, so as far as the fire service is concerned overtime doesn't become a huge issue.

DEPUTY PRESIDENT: No.

MR OGLE: So if there was -

DEPUTY PRESIDENT: Yes -

MR OGLE: - a minor increase we believe that will be offset by the fact that we're going to reduce our overtime.

DEPUTY PRESIDENT: That - that loading has been in the award for a long, long time and it's been the subject of - of comment, I suppose, over the years and I - as I say, I just wanted to throw it into the ring -

MR OGLE: Yes.

DEPUTY PRESIDENT: - as it were and leave it at that.

MR OGLE: The only submission we relate to the over - to the loading, Mr Deputy President, relates to the annual leave - that's the connection that we make there of the percentage included for public holidays, for instance, has a relationship for the public holidays that are granted as annual leave.

DEPUTY PRESIDENT: Yes.

MR OGLE: That's our submission or will be our submission in respect of annual leave, but as far as the rest of the loading is concerned it's been examined in detail -

DEPUTY PRESIDENT: Yes.

MR OGLE: - the whole issue of the 42 hours we've gone through and we've decided as the Tasmanian Fire Service, that's the best way to do it.

DEPUTY PRESIDENT: Yes.

MR OGLE: So, yes, I'm aware that loading becomes the matter of some comment. We just believe that going to this composite rate we've had the loading there for some time. Everyone's used to it. We have some consistency of rosters, therefore some consistency of people knowing when they're rostered, therefore we believe consistent with the structural efficiency principle we're now in a position to go the next step -

DEPUTY PRESIDENT: Yes.

MR OGLE: - which I believe is far in advance of most other - most other people. We just believe that this is part of the - the evolution, if you like, of - in this type of employment of getting to an annual salary.

DEPUTY PRESIDENT: Yes.

MR OGLE: It has great advantages for us when you relate that to hours and it has great advantages to the employee - they know exactly what dollars they are to receive, but I would just indicate that will be part of our argument when we get to annual leave.

DEPUTY PRESIDENT: Right.

MR OGLE: So that, I believe, Mr Deputy President, unless you've got any questions, is -

DEPUTY PRESIDENT: No.

MR OGLE: - is my submission in relation to the award.

DEPUTY PRESIDENT: Would it be appropriate, Mr Devine, if you had an adjournment for about half an hour, anyway, at this stage, or are you ready to proceed?

MR DEVINE: Mr Deputy President, I believe I can continue, and it may be that we could be completed by 10.30.

DEPUTY PRESIDENT: Fine; okay, good.

MR DEVINE: Just, firstly this morning, Mr Deputy President, I will quickly go through some alterations to the award, or to deal with on page 13 higher duties allowance and non-rostered was mentioned again by Mr Ogle.

DEPUTY PRESIDENT: I'm sorry, what document are you working from?

MR DEVINE: I beg your pardon, sir, MASSA.9.

DEPUTY PRESIDENT: Right.

MR DEVINE: Which is the latest proposed award.

And, page 13, 'Higher Duties Allowance - Non-Rostered Shift Workers', and I would simply say to that, sir, that the firefighter's position is unchanged in that we believe that particularly with the non-rostered shift workers and higher classifications there is no requirement at any level to go up a classification, and if the management requires anybody to go up any classification in any area we believe that those people shall be qualified to do that job by way of examination or competencies, and that if they are doing the job they should be paid, sir.

DEPUTY PRESIDENT: If they are only doing it for half an hour?

MR DEVINE: Rarely, in fact, particularly at the non-rostered shift level, sir, would you ever, ever need to carry out that sort of a role for half an hour.

DEPUTY PRESIDENT: Right.

MR DEVINE: At the very least we would be talking about a day or a shift or longer.

In line with that, and just for uniformity, on page 20 with relieving duties - and we support this clause - clause 31, but we put that the provision in clause 31.2 which deals with the ability of a station officer particularly to be able to act in the capacity of a senior station officer for terms exceeding four rostered shifts.

We believe that that clause should be applied to 31.1 for a period not exceeding four rostered shifts, and we believe that in the future that would make for a far more efficient workplace.

I've had some discussions with Mr Ogle and he indicated to me that he may be in a position to come back with a revised opinion on that, but that's for him to say.

But our position is that we believe that we do support the clause, but 31.2(i) those provisions should be applied in 31.1 - or 31.2(i) I think it probably be better termed.

DEPUTY PRESIDENT: Should apply -

MR DEVINE: To 31.1.

DEPUTY PRESIDENT: I'm going to need, aren't I, a final position statement on all these things before I get to work and treat those matters which are agreed as written or require arbitration.

MR OGLE: Mr Deputy President, could I suggest that I - I am in your hands here really - whether there is a need for - I understand what you are saying, there is a need for a final absolute draft with no amendment.

DEPUTY PRESIDENT: Yes.

MR OGLE: I am quite happy to present that to you after discussions with Mr Devine.

DEPUTY PRESIDENT: Right. I don't know whether you need to prepare another one. We might just have another role through. I mean, what I would be fearful of, of saying, yes, that's agreed, that's agreed, and at the end of it people say to me you're a fool, we didn't agree to that at all remember.

MR DEVINE: I believe this is the only area left in the award where there is some confusion as to whether we are fully agreed or not. It may be appropriate that with 31.2(i) that we would be more than satisfied with reaching a position in the next couple of days whether the government is in a position to inform you on whether they agree to that or not, informally, sir.

DEPUTY PRESIDENT: Alright, sure, but from the exercise from where I sit I'm carefully trying to record those things which are agreed and those things which are not agreed, and so forth.

MR DEVINE: I understand.

MR OGLE: From my point of view, Mr Deputy President, there is only this issue that Mr Devine is talking about now, and the issue of whether promotion at that senior firefighter level should remain, and they are the only two outstanding matters, if you like, now.

It's best to get them agreed, and if I can get them agreed I will endeavour to do that. But, I don't know, I think we'll probably have to need unfortunately to come back for 5 minutes and say, here you are.

DEPUTY PRESIDENT: Alright. It is just from the remarks that have fallen this morning, you know, that -

MR DEVINE: The further remarks that I would make this morning, Mr Deputy President, relate to clause 11, 12 and 13 particularly in the MASSA.9 exhibit, and they deal with salaries, classification standards and promotion and

advancement, and I wish to clear up a little bit of confusion all around here and go back to comments that I made initially on Monday, and say that Part C particularly and any annex, or appendix rather, that deals with wage rates were, from the UFU's point of view, not in agreement.

Classification standards particularly and salary rates are not in agreement, and we believe that they are under T.2594 up for arbitration.

The United Firefighters's position remains unchanged with respect to both the classification standards, the rates of pay and, in fact, also the translation provisions that we supplied as an exhibit, which we believe are very, very important.

DEPUTY PRESIDENT: Yes. I did ask Mr Ogle the other day how come we are getting into this sort of detail on wage rates when that is part of another file.

MR DEVINE: Yes, quite right, sir.

In fairness, with respect to the calculation of salaries, obviously we don't agree with the salaries as such.

DEPUTY PRESIDENT: Right.

MR DEVINE: And we stand on our position that was previously argued with respect to allowances in T.2594, but in fairness to the government's position it was probably necessary that that be put forward in order to qualify what was meant by the composite salary rate in the proposed new award.

DEPUTY PRESIDENT: And what's your response to the concept of composite salaries?

MR DEVINE: Well, it's a position that's been well negotiated, sir, and it is one that we are agreed upon.

DEPUTY PRESIDENT: Right.

MR DEVINE: Except to say that those allowances that we previously stated should remain outside of the annual salary, that position still remains to be arbitrated, in our opinion.

I have to say that the altered position of the government with respect to a first class firefighter shall be made after a maximum of 4 years - which is on page 10 - and I think actually exists in clause 13, really does not - whilst the whole of that clause is in dispute that particular concession as seen by the government doesn't satisfy the UFU's position at all.

We still believe that that level of competency of a first class firefighter should be achieved after 36 months.

In fact, in the calculation of salary rates there's an indication on the first page on 2.4 after the completion of 36 months that the driver allowance for a Driver 1 in fact of \$5.25 will be included on the completion of 36 months; and whilst I have not got the documentation, I can recall where the government witness, or one government witness in particular, argued vigorously that that particular level can't be reached by all personnel within that 36 months; and the UFU contended that in the main it was - more than in the main it was.

Now, that's just a point that I make to reinforce our position - well, not even to reinforce, that's the wrong terminology - but restate our position that we believe that first class firefighter is reached on the completion of 36 months, and the required competencies can be adequately satisfied.

DEPUTY PRESIDENT: Isn't it a bit of a swings and roundabout situation, though, if there are even a very small number of people who haven't reached full driver competency, that there would possibly be an assumption that at a certain point they had the right to that allowance?

You know, there are obviously assumptions that you just showed, pointed out, that you believe are not in accordance with current practice.

MR DEVINE: If I recall, sir, in T.2954 I argued vigorously that the need to maintain a driver allowance was in order to have sufficient people sufficiently qualified to aspire to those positions, albeit that particularly a Driver 1, an aerial operator, etc., you need to have a very high level of competency and the ability to work unsupervised.

The fire service is the type of occupation and profession, not only with driver allowances but in all sorts of areas, we need to - and I might be deviating here and off the thread a little bit to what today is all about - but, put simply, it is not always easy to cast a blanket across all fire service personnel and say you will all be qualified or competent in all areas.

Quite simply because some people are very competent in one way and not in another, and vice versa. And that's our position with respect to allowances. And I don't wish to go over old ground.

DEPUTY PRESIDENT: No.

MR DEVINE: I mean, I believe that 2594 was well argued over a long period of time.

DEPUTY PRESIDENT: Yes. It makes it a little bit difficult, though, if you embrace a concept of composite rates but don't include certain things in the formula.

MR DEVINE: Yes, I understand that. The composite rate that has been embraced, if we look at the types of things that have been proposed that are definitely agreed on such as your base rate, disability, loadings, etc., are across the board, and it is a matter where we can put them together as a composite rate and it is administratively far more effective, and more effective from the point of view of the award.

Unless you - the only other comment I would make, Mr Deputy President, is with respect to the diploma allowance, and I would say that the diploma allowance in years gone by initially was for some - it might have been initially for three or four people in the whole service 15 years ago - and it was an allowance that really came about by the management imposing it or putting it there and saying that if somebody goes out and attains the Institute of Fire Engineers Diploma they will be paid an allowance.

It is not my recollection or my understanding that that allowance has ever had any great input by the union or, in fact, the dollar amounts have had any great recognition.

The situation of the associate diploma was, quite simply argued through T.2594 to demonstrate the level of competency that was now going to be required by the service to gain that level; and it wasn't so much rested upon the dollar amounts.

The only other issue, or in fact I would ask Mr Ogle whether on MASSA.11 and MASSA.10 where they refer to district officer whether we are - I have got a typographical error in that it should read 'district officer and superintendent'.

DEPUTY PRESIDENT: I thought he said it was to be district officer/superintendent.

MR OGLE: Yes, that's correct. Yes, Mr Deputy President, and I sought to amend it.

MR DEVINE: That was my understanding, but on the latest exhibits it still doesn't appear.

DEPUTY PRESIDENT: No, but I am sure I marked mine accordingly when he said it. Yes.

Classification 7 on the exhibit, MASSA.10.

MR DEVINE: And definitely, lastly, Mr Deputy President, on MASSA.11, while we're in dispute with almost all of MASSA.11, more to the point don't agree with it, with the senior station officer level I'd also point out that there's been an addition

there on attainment of management qualifications. And quite frankly, not previously in the award or anywhere else has there been a specific requirement for the attainment of management qualifications at any level, even at the levels of superintendent, chief officer, deputy chief officer. In fact, chief officer of the service, it's my understanding - I don't know that it's written down anywhere - that there has to be a requirement for the attainment of management qualifications.

It's previously been that it would be a desirable qualification but I point out that the attainment of management qualifications at senior station officer level, which is a level that is very, very largely one that is operational, quite frankly is applying qualifications or it is our opinion, and we stress strongly that we believe that to require somebody to attain management qualifications to get to any level of senior station officer, is going too far, put simply.

DEPUTY PRESIDENT: I thought you might be a little ambivalent about that though, having argued under another application that work value changes have occurred. Now you're saying that you don't believe that this particular requirement ought to be imposed upon people for whom you're seeking a wage increase.

MR DEVINE: Yes, I understand what you're saying, sir. We maintain the position that the work value has occurred and we maintain the position that we have a requirement for the attainment of an associate diploma of fire technology, which is new. I simply say that the position of senior station officer that might previously have been carried out at superintendent level, the superintendent was not ever required to have an attainment of management qualifications any more than the brigade chief.

I simply say that before we start talking about putting an attainment of management qualifications at senior station officer level, we should at least be considering applying it at a much higher level in the award.

DEPUTY PRESIDENT: I hear what you say.

MR DEVINE: Unless you have any questions, sir.

DEPUTY PRESIDENT: Well I've got to accommodate different parties in the next 3-1/2 minutes.

MR DEVINE: If the commission pleases.

DEPUTY PRESIDENT: Is there anything further that we could do today then in the event that this matter doesn't go very long - the next matter?

MR DEVINE: Well I don't know about Mr Ogle, sir, but our side of the - the opportunity of the - possibly on clause 31 for the government to restate a position. I don't think that we've - that's it.

MR OGLE: I believe within the next half hour, Mr Deputy President, I could come back with amendments to that - or our position re that clause and clause 13(e).

DEPUTY PRESIDENT: All right. Well shall we perhaps adjourn till 11 o'clock.

SHORT ADJOURNMENT

DEPUTY PRESIDENT: Mr Ogle?

MR OGLE: Thank you, Mr Deputy President. We are now in a position to report back with respect to two issues that I believe were outstanding. And first of all, that first issue related to page 10, paragraph (e).

DEPUTY PRESIDENT: Of MASSA.9?

MR OGLE: Of MASSA.9.

DEPUTY PRESIDENT: Page 10, item (e)?

MR OGLE: Yes, Mr Deputy President.

DEPUTY PRESIDENT: Right.

MR OGLE: I would seek to amend that to delete the word 'promotion', as underlined.

DEPUTY PRESIDENT: Yes.

MR OGLE: And replace that with 'advancement' and delete the words, the final words 'and to a vacant position on merit', which was our original position.

DEPUTY PRESIDENT: Right.

MR OGLE: I think that my only submission in relation to that, Mr Deputy President, we were - when we changed it we believe we were trying to reach an agreed position with the United Firefighters but during proceedings it became very clear that that is not the case and we would revert to our previous position and it was based on a misunderstanding, as I understand it.

And the final issue relates to clause 31 - I would undertake to supply you with detailed wording, Mr Deputy President.

DEPUTY PRESIDENT: Right.

MR OGLE: In respect to clause 31(i), I would seek to amend that to say: when an officer is absent on account of sickness, injury or other authorised absence or through unforeseen circumstances, a senior officer qualified or station officer may relieve in a temporary capacity as determined by a senior officer.

DEPUTY PRESIDENT: Right.

MR OGLE: Can I - I meant: senior firefighter qualified or station officer. I might have said senior officer.

DEPUTY PRESIDENT: You did and I crossed out 'firefighter'.

MR OGLE: Sorry. I'll just repeat that: when an officer is absent on account of sickness, injury or other authorised absence or through unforeseen circumstance a senior firefighter qualified or station officer may relieve in a temporary capacity as determined by a senior officer.

DEPUTY PRESIDENT: Right.

MR OGLE: Consistent with that amendment in subparagraph (ii): the employee selected to relieve shall be a senior firefighter qualified or a station officer on a particular shift. Consistent again, (iii): in the event of a senior firefighter qualified or station officer not being available an off duty station officer may be recalled if circumstances warrant. And (iv): an employee shall receive an allowance calculated as the difference between the salary of a senior firefighter qualified and the station officer first level or station officer and the senior station officer first level as appropriate, which represents the corresponding level of duties and responsibilities as undertaken.

Really what I'm doing there, Mr Deputy President, is agreeing with Mr Devine's submission in relation to that issue.

DEPUTY PRESIDENT: I see, right. And that's the extent of the variation?

MR OGLE: Yes, Mr Deputy President. The only other issue I wish to raise, and I'm probably at an advantage to you in this situation, is that the full bench - public sector full bench is sitting at this very moment in relation to a number of issues and it raised the question, I suppose, the interrelation to those issues in this award, which are general issues. I would like to make it abundantly clear that it is our position that if that full bench continues then those matters continue to be matters of commonality that may need to be referred back to that full bench.

DEPUTY PRESIDENT: Thanks for letting me know.

MR OGLE: Yes. I'd have to admit I've walked out half way through proceedings and it was a bit of a mystery to me what was going on. But I'd need to restate that position.

DEPUTY PRESIDENT: Right.

MR OGLE: If those common conditions still prevail and that process still prevails then where we've indicated that they are common issues - I think during proceedings we've indicated a number of different conditions relate specifically to fire and we're happy to deal with them under this award.

DEPUTY PRESIDENT: Right, well I shall make my own enquiries too.

MR OGLE: I'm sure you will, Mr Deputy President. And that I believe - as I indicated I will supply you with the relevant wording and amendment and I hope that's the final submission.

DEPUTY PRESIDENT: No comment.

MR DEVINE: I believe that all that needs to be said, Mr Deputy President, has been said. Clause 31 is acceptable to us as now proposed by the government. It was acceptable before but is more acceptable now. If the commission pleases.

DEPUTY PRESIDENT: Right. Well there are no matters, are there, to be argued here? Is that right?

MR DEVINE: I believe the only position -

DEPUTY PRESIDENT: Annual leave.

MR DEVINE: - is annual leave, which may come up at some later time depending on whether it's pursued or not pursued.

DEPUTY PRESIDENT: Yes.

MR DEVINE: With respect to the deliberations on 3969 and clauses 11, 12 and 13, which have been canvassed extensively, the only other clause I think that we had major difficulty with was the higher duties clause which is where we've got an opinion which differs from that of the government with respect to higher duties or acting up for personnel on non rostered shift work.

DEPUTY PRESIDENT: Right. Well is there any more time needed to explain your situations and your reasons further on that?

MR DEVINE: I don't believe from our point of view, sir. I think we've canvassed the issue extensively.

DEPUTY PRESIDENT: Right. Fair enough.

MR DEVINE: If the commission pleases.

DEPUTY PRESIDENT: Are you happy to accept that everything that needs to be said has been said, Mr Ogle, save for us all finding out what's happening to annual leave.

MR OGLE: Yes, that remains one of those matters that -

DEPUTY PRESIDENT: And any other matters that, sort of, are on their agenda at that other place.

MR OGLE: Certainly, that's the only - I don't like repeating myself but it's an important issue as far as we're concerned. If that continues to be common then I'm sure the public sector full bench will make their view well known. We're just in the difficult situation at the moment where they're proceeding with their hearing and we're not aware of the result.

So all I'm indicating to you if there are matters that are common we would take the position of the public sector full bench on those otherwise, as Mr Devine indicated, there's just that issue of higher duties. There's no - we've got different positions on that and that's as far as we -

DEPUTY PRESIDENT: And you'll give us a tidied up MASSA.9. I've already made note of those changes that you've indicated which at a pinch I could get by with.

MR OGLE: Yes, I will supply you with that in the next day or so, Mr Deputy President.

DEPUTY PRESIDENT: And Mr Devine too, of course.

MR OGLE: Yes, certainly.

DEPUTY PRESIDENT: Right. Well we've already dealt with operative date, haven't we? It's been debated.

MR OGLE: Yes, Mr Deputy President. I can't think of anything we've missed so I think we've covered all the areas we -

DEPUTY PRESIDENT: It's just that I can hardly believe it, that's all.

MR OGLE: Yes, we're now in your hands, I suppose.

DEPUTY PRESIDENT: Very well. Okay, well thank you all for the great deal of work you've put in. You've made your arguments very clear and presented your respective cases in a way that's to be commended. And I will reserve my decision, I

think, on all the matters that have been put to me including, of course, the matters that are consented to. I do have to be satisfied under the legislation that the wage fixing principles and provisions of the act, including public interest, have been satisfied, not like some other areas.

Okay, thank you very much.

HEARING CONCLUDED