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TRANSCRIPT OF PROCEEDINGS

O/N 2510

TASMANIAN INDUSTRIAL COMMISSION

COMMISSIONER J.P. McALPINE

T No 12473 of 2005

SILVICULTURE AND AFFORESTATION AWARD

**Application pursuant to the provisions of
section 23(2)(b) of the Industrial Relations Act 1984
by the Australian Workers Union, Tasmania Branch,
to vary the above award re insertion of new clause -
shift work**

HOBART

9.30 AM, TUESDAY, 31 JANUARY 2006

**This transcript was prepared from tapes recorded
by the Tasmanian Industrial Commission**

HEARING COMMENCED

[9.30am]

PN1

MR R. FLANAGAN: I appear for the Australian Workers Union, Tasmania Branch.

PN2

MR P. MAZENGARB: I appear for the Tasmanian Chamber of Commerce and Industry Limited. If the Commission pleases.

PN3

THE COMMISSIONER: Thank you. Right, fire away.

PN4

MR FLANAGAN: Thank you, Commissioner. Commissioner, this application seeks to vary the Silviculture and Afforestation Award to incorporate provisions for shift work and I would seek to tender an amended schedule of variation.

PN5

THE COMMISSIONER: Thank you.

PN6

MR FLANAGAN: If I can just explain, the amendment which has occurred, Commissioner, is on the last page of the amended schedule. Previously there was a clause N, permanent night shift, which has been removed and the previous subclauses O and P have been renumbered N and O respectively. Now, in respect of the permanent night shift the union reserves the right to subsequently apply to the Commission to insert a provision to that effect. However, we have achieved consent on the matter on the basis that we don't pursue that particular provision on this occasion so we simply reserve our rights generally to go down that path.

PN7

Now, the history of the provision which is before you is that it is substantially duplicates the shift work provision which is found in the Australian Workers Union Construction and Maintenance Award, and award of the Australian Industrial Relations Commission, and the basis for that is that that is the award which in years gone by regulated the silviculture and afforestation activities. In the 1970s silviculture and afforestation was removed from that award and in - I think it might have been 2000, Commissioner, a State Award based on the AWU Construction and Maintenance Award was made in the State jurisdiction to pick up the silviculture and afforestation industry.

PN8

What had occurred was until the 1980s the forest companies had engaged their own work forces therefore when they were removed from the Federal Award they all had their own enterprise award such as Forestry Tasmania and ANM. However, in the 1980s the work was out sourced thus requiring the State Silviculture and Afforestation Award to be made in 2000, so the provision which is here is modelled appropriately, we say, on the provisions of the AWU Construction and Maintenance Award of the Federal Commission.

PN9

The actual application has been necessitated by a change in forest practices. Up until quite recently vermin control was done by the use of a poison known as 1080. However the forest practices have changed and vermin control is now done essentially by shooters of a night and of course as it stands at the moment the obligation on employers engaged in that activity is to pay penalty rates which is a little onerous so the purpose of this application is to ensure that there are shift work provisions which go into the award.

PN10

Ultimately we believe when it is night shift it should be - permanent night shift it should be 30 per cent but we have reached agreement not to pursue that on this occasion but what it does do at least is establish a shift work provision to cater for the fact that there is now a number of employees and it would be in the order of 50 to 60 across the State that are now engaged in shift work in the industry and that is a development which has occurred over the last 12 months, so in terms of its application it will have a direct impact on 50 to 60 people in the State that are engaged in that vermin control.

PN11

Now, we would simply submit that given that the application and the form of the application is not inconsistent with a number of shift work provisions which are contained in State awards, and given that it is necessitated by changed work practices in the industry, that it is appropriate that the award be varied to give effect to the shift work provisions and indeed, that has been recognised in the negotiations and discussions that we have had with the Tasmanian Chamber of Commerce and Industry.

PN12

In terms of an operative date, Commissioner, the union is seeking an operative date from the first full pay period to commence on or after 14 February. That will allow the TCCI to communicate with the employers engaged in this activity and it is important to note that they are small businesses so they will need some time to be aware of it so that they can alter their payment arrangements. If it pleases the Commission.

PN13

THE COMMISSIONER: Okay. Mr Mazengarb?

PN14

MR MAZENGARB: Yes, thank you, Commissioner. I am pleased to advise that there have been a series of discussions and negotiations with the TCCI representing a number of respondent employers to the award and as indicated by my colleague, Mr Flanagan, as a consequence of those discussions there have been some minor amendments to the original application as lodged by the AWU. I am pleased to advise as a consequence to that, that as I indicated, we do not oppose the application.

PN15

We believe that it is not contrary to the wage fixing principles and it is not contrary or it certainly does not offend the public interest requirements and

expectations of the Act. I am appreciative of the operative date we have been able to achieve, that being the first full pay period on or after 14 February 2006 and again as indicated by Mr Flanagan, that is so that our members, employers in this industry, can adjust their working patterns and the arrangements in relation to the payment to the employees affected by this application so from the TCCIs perspective, Commissioner, I am pleased to advise that we agree with the application. If the Commission pleases.

PN16

THE COMMISSIONER: Thank you. Just for my clarity, how are those permanent night shift people going to be covered there?

PN17

MR FLANAGAN: They will be picked up by the 15 per cent provision which is contained in subclause (j).

PN18

THE COMMISSIONER: I see, so it is just a basic shift allowance finished?

PN19

MR FLANAGAN: Yes.

PN20

THE COMMISSIONER: Okay. All right. Okay, well, that is fine. I am comfortable to amend this so we will make it operative from the first full pay period on or after 14 February 2006 and will I expect to see you back to come and talk about permanent night shift at some stage?

PN21

MR FLANAGAN: Yes, at some stage but not immediately.

PN22

THE COMMISSIONER: Not in the immediate future, that's good. Okay, gentlemen, thank you. It is approved.

ADJOURNED INDEFINITELY

[9.40am]