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## **TRANSCRIPT OF PROCEEDINGS**

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O/N 9560

### **TASMANIAN INDUSTRIAL COMMISSION**

#### **COMMISSIONER P.C. SHELLEY**

**T No 10416 of 2002**

#### **BUTTER AND CHEESEMAKERS 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 to delete all clauses and insert in lieu thereof the provisions as detailed in Schedule A attached hereto.**

**HOBART**

**9.30 AM, FRIDAY, 11 JUNE 2003**

**Continued from 15.5.03**

PN86

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

PN87

MR I. PATERSON: I appear for the Australian Municipal, Administrative, Clerical and Services Union.

PN88

THE COMMISSIONER: Thank you, and I note that there is no appearance entered on behalf of the employer but the Commission has received a letter advising that they consent to the draft award as submitted by the Australian Workers Union which I guess is yet to be handed up and supporting the union's application.

PN89

MR FLANAGAN: Thank you, Commissioner. Commissioner, as you are aware this has been a fairly lengthy exercise. It has been the subject of a number of applications from time to time but I am in the fortunate position as is borne out by the correspondence from Mr Cameron, to indicate that the parties are in consent for the reformatting of the Butter and Cheesemakers Award and the application of the minimum rates principle to the occupations regulated by that award.

PN90

Now, Commissioner, back in 1998 the Australian Services Union made an application and as a part of that process it was agreed that at the point in time when a reformatted award was made and the minimum rates adjustment principle applied the first minimum rates adjustment would be operative from that date and there would be three further adjustments on application by the union and it was agreed that they would be four months apart, so I just seek to tender a copy of what was agreed back in those proceedings as the phasing-in arrangements.

PN91

THE COMMISSIONER: Thank you. Well, that is AWU2.

**EXHIBIT #AWU2 COPY OF AGREEMENT 1998**

PN92

MR FLANAGAN: Thank you. Now, consistent with those arrangements and further discussions which have been held with Mr Cameron, it has been agreed that the phasing-in arrangements will continue to be four months apart, subject to the union making application for it, which we will be doing, so that has been an agreed proposition. The rates clearly in AWU2 are no longer contemporary given that there have been a number of safety net adjustments since that point in time but it simply indicates the phasing-in arrangement.

PN93

Mr Cameron does reserve the right to check the figures and the award for any errors. Having said that on the last occasion we were here you will recall that the last impediment to the matter going forward dealt with issues that arise from clerical structure. The union has worked through that with the Australian Services Union and the TCCI and consistent with that on 3 July this year the union forwarded to both Mr Paterson and Mr Cameron a total new document incorporating what the AWU understood to be the necessary changes to give effect to the issues arising from the clerical structure.

PN94

Subsequent to that Mr Paterson on 7 July provided the AWU with some further comment which has been incorporated into an amended document which I will be providing the Commission with this morning and then an electronic copy of that will be provided to Mr Cameron. It does nothing other than pick up the changes proposed by Mr Paterson which are not changes of substance but merely changes to properly bear out the agreed arrangements.

PN95

Again, Mr Cameron reserves the right to check those changes in the electronic version to the document which was provided on 3 July, so with that background in mind I would seek to tender an amended schedule to the application.

PN96

THE COMMISSIONER: That will be AWU3.

### **EXHIBIT #AWU3 AMENDED SCHEDULE TO THE APPLICATION**

PN97

MR FLANAGAN: Now, if I can actually start with AWU3 at the back, Commissioner. If you turn to the last three pages, in fact it is page 51 of the amended schedule, you will see that there is a table which identifies the previous numbering of the clause and where that clause appears in the new award, the proposed new award, and any alterations which have been made to those clauses. I think the other two issues which are important is, if I can take the Commission to page 3. If you go to date of operation the parties have agreed that the operative date will be the first full pay period to commence on or after 1 August.

PN98

THE COMMISSIONER: So the rates include the 1 August safety net increase?

PN99

MR FLANAGAN: They do, Commissioner, yes. It was considered from an administrative perspective to be appropriate to have the same operative date as the safety net adjustment. The second issue which I need to draw to the Commission's attention appears on page 9 and at the bottom of that page there

is a reference to this year's State wage case but it does not incorporate the T number but should.

PN100

THE COMMISSIONER: And it has got the new minimum wage and the \$60 for the - - -

PN101

MR FLANAGAN: Yes, that is right.

PN102

THE COMMISSIONER: And the 12.30 for the meal allowance>

PN103

MR FLANAGAN: That is correct, yes. That has all been incorporated, Commissioner, so that what we have is a reformatted up-to-date award which applies not only to the safety net adjustment but also the minimum rates adjustment process. Now, if I can take the Commission to page 7 which deals with the rates of pay you will see that the figure of 448.40 appears for the processing and transport employee level 1 and also level 2 and that, in fact, has occurred as a consequence of the minimum rate so that what will occur in the second and subsequent MRA applications which come before the Commission, is that level 2 will move ahead more than level 1.

PN104

In fact, level 1 substantially has had its full MRA as a consequence of the application of the minimum wage, so I think that is a point that needs to be made. The clerical structure has been taken as a direct lift from the Clerical and Administrative Employees Award and the relativities and structure of the clerical occupations within this award reflect the arrangements in the Clerical and Administrative Award. So in those circumstances I think, Commissioner, I would simply submit that the award has been reformatted consistent with the Commission's principles.

PN105

The minimum rates adjustment process is consistent with the Commission's principles. There is no issue in terms of the Commission being required to satisfy the public interest, there is clearly no difficulty there given that the Commission is acting in accordance with its own established principles and given that the matter is by consent the union would seek that the Commission approve the application in the terms of AWU3 and that that should take effect from the first full pay period on or after 1 August 2003. If it pleases the Commission.

PN106

THE COMMISSIONER: Thank you. Just a few matters that were raised by the TWU in their correspondence of 2 October last year but they have all been dealt with and incorporated. I mean in that letter they consented, I guess broadly, but they raised just a few things.

PN107

MR FLANAGAN: I wish I could recall what the correspondence said, Commissioner - - -

PN108

THE COMMISSIONER: Okay.

PN109

MR FLANAGAN: - - - but look, this has been a very much - - -

PN110

THE COMMISSIONER: Well, I will just double check though. They were mainly things - you know, typographical and arrangement issues.

PN111

MR FLANAGAN: Well, I believe they would have been picked up at the time. It has been very much a work-in progress for a very long time and various comments have been incorporated from time to time so I would imagine they have been picked up but we can check that to make sure.

PN112

THE COMMISSIONER: Well, we will be checking the electronic version as well and we will cross-reference it to the TWUs comments. They are a party to the award obviously.

PN113

MR FLANAGAN: Yes.

PN114

THE COMMISSIONER: Okay, thank you.

PN115

MR FLANAGAN: Okay, thank you, Commissioner.

PN116

THE COMMISSIONER: Mr Paterson?

PN117

MR PATERSON: Thank you, Commissioner. I would like to tender the document that I have provided to Mr Flanagan which is effectively the minimum rates adjustment process for the clerical and administrative structure.

PN118

THE COMMISSIONER: Okay, well, that is - - -

PN119

MR PATERSON: I will just quickly talk to this. There are some lay-out issues in terms of pages that will need to be pulled apart probably to be able to be read easily.

PN120

THE COMMISSIONER: Okay. Well, we will identify that as ASU1.

**EXHIBIT #ASU1 MINIMUM RATES ADJUSTMENT PROCESS FOR  
THE CLERICAL AND ADMINISTRATIVE STRUCTURE**

PN121

MR PATERSON: The first page which has at the top of the left-hand column is the first MRA. That contains, as you see, base rate MRA. It is in a weekly and with the relativity - the relativity is the relativity on completion and the three right-hand columns on the front page of ASU1 reflect the final rates as the result of the adjustment process. The second and third pages are the second and third minimum rates adjustment and the final page has the relativities, the base rate prior to the implementation of the fourth MRA. The fourth MRA - and there is a mistake there. That word "first" should be fourth on that last page.

PN122

And assuming that we follow the pattern that we have in other applications the fourth MRA will actually just include the outcome of the whole process so for the fourth MRA the award would probably reflect the final base rate, the safety net and the weekly adjusted for whatever rate increases occur over that time. This document was prepared prior to the State wage case so it is actually not reflected in ASU3.

PN123

THE COMMISSIONER: So there is another \$17 to go, for example, at the first one. - - -

PN124

MR PATERSON: The consolidated document that Mr Flanagan has put up takes this and adds the 2003 safety net and incorporates that outcome into his document. I did note while Mr Flanagan was talking, a previous oversight in the appendix which I will have to attend to and advise the parties. If you go to page 50, the comparative schedules of old classifications to the new broadbanded wage groups, the clerical classifications will have to be amended in that. That related to an earlier proposal where the clerical classifications were incorporated into a wider broadbanded structure.

PN125

It is a standard and established translation that goes back probably to 1991 with the standardisation of the clerical classifications and I will provide that to the parties electronically later today. As I say, both for the - it relates to the accountant or chief clerk, the clerk in charge and responsible for five, three to four or two employees and a clerk's first, second, third year experience so I will need to provide an amendment to the parties to reflect that and I don't believe there will be any issue with that, given that it is a standard of - and has been reflected in many variations of the Commission to incorporate the generic seven level structure.

PN126

Apart from that the issues that I raised with Mr Flanagan that he has addressed substantially went to errors and omissions and substantive issues, some minor formatting and word change lay out in some cases, and using - oh, the other matter that I should reflect on is that because of the peculiar pattern of - the peculiar pattern of the safety net increases over the last few years there are some points where the safety net drops from 125 to 123 so I drew those to Mr

Flanagan's attention. That has been incorporated as well as the outcomes of the supported wage and other matters before the Commission recently. Apart from that amendment to the translation schedule I have no other issues and commend the document and the outcome to you.

PN127

THE COMMISSIONER: Thank you. Well, very pleased that this matter is finally almost complete and I indicate to the parties that subject to checking the correction of any errors or omissions and confirmation from Mr Cameron that he is satisfied with the final document, that the award will be varied in the manner sought with an operative date of the first full pay period on or after 1 August 2003 and a written decision will follow.

PN128

MR FLANAGAN: Thank you, Commissioner.

**ADJOURNED INDEFINITELY**

**[10.25am]**

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