

**TASMANIAN INDUSTRIAL COMMISSION**  
Industrial Relations Act 1984

T No. 6472 of 1996

**IN THE MATTER OF** an application by the  
Minister for Public Sector Administration to  
make the Professional Employees Award

PRESIDENT

HOBART, 3 April 1997  
continued from 4/11/96

**TRANSCRIPT OF PROCEEDINGS**

Unedited

COMMISSIONER WATLING: I'll take appearances please.

**MS A. WATT:** If it pleases the Commission, ANITA WATT, appearing on behalf of the Minister for Public Sector Administration.

COMMISSIONER WATLING: Good. Thank you.

**MS S. STRUGNELL:** If the Commission pleases, SUE STRUGNELL, appearing for the Community and Public Sector Union.

COMMISSIONER WATLING: Good. Thank you.

**MR D. PYRKE:** If the Commission pleases, DARRYL PYRKE, appearing on behalf of the Association of Professional Engineers, Scientists and Managers Australia.

COMMISSIONER WATLING: Good. Thank you.

**MR C LANE:** Mr Commissioner, my name is CHRIS LANE, I appear in this matter on behalf of the Australian Education Union, Tasmania Branch.

COMMISSIONER WATLING: Good. Right. Ms Watt, will you lead?

MS WATT: Thank you, Mr Commissioner. If the commission pleases, I wish to seek leave to make amendments to the original application. A copy of relevant amendment has been provided and discussed with the CPSU, the AEU and APESMA.

The changes contained in these amendments go to wording and structure of the draft order only and do not alter the intent of the original application.

Just this morning I've noticed one error that is contained in that too; the 'T' number on the front cover is incorrect; if everyone can just take note of that.

COMMISSIONER WATLING: Yes, we'll fix that up.

MS WATT: The amendments which I'd like to tender now propose variations to matter number T.6472.

COMMISSIONER WATLING: Right.

MS WATT: Thank you.

COMMISSIONER WATLING: Right. There's no objections to amending the applications? No objections? Leave granted then. We'll mark this W.1. Good. Thank you.

MS WATT: If I may, Mr Commissioner, I propose to the major amendments in this document in contrast with the original application that was lodged with this commission.

COMMISSIONER WATLING: Yes - although that if you feel that it - you don't have to because you've now amended the application -

MS WATT: Okay.

COMMISSIONER WATLING: - so this is the document I'll be dealing with and I'll be working off that, if you like.

MS WATT: Okay. Thank you. If the commission pleases, I wish to tender a summary of decision that I will refer to in my submission, and a copy of the full bench decision - T.6502 and others.

COMMISSIONER WATLING: Good. How would you like me to mark these exhibits? I'll give them separate numbers and then you can refer to them.

MS WATT: Thanks.

COMMISSIONER WATLING: I'll just wait till the others get theirs.

MR LANE: Thank you.

COMMISSIONER WATLING: Now it will be exhibit with the title 'Exhibit - Summary of Relevant Decisions' we'll mark W.2. And the decision of the full bench we'll mark W.3. And then you can deal with them in any order.

MS WATT: Thank you, Mr Commissioner. The first decision that I will be referring to - if I may just take you through exhibit W.2 -

COMMISSIONER WATLING: Mm.

MS WATT: - T.5741 of 1995 - this decision was an implementation of the parties agreement to vary the Administrative and Clerical, the Technical and Scientific Employees Awards to accommodate three streams, that is, the administrative and clerical stream, the technical stream and the professional stream. Sorry - I've got the wrong one written down there - and various offsets in conditions of employment.

T.6130 of 1996: this decision was a flow-on of the decision in T.5741 into other relevant awards of the Tasmanian Industrial Relations Commission.

T.6143 of 1996: this application was a variation to the General Employees Award to bring into effect the operational stream.

And T.6502 of 1996: these applications varied nominated public sector awards and also rescinded some including the Administrative and Clerical Employees Award, the Technical and the Operational Employees Award to reword, reformat them, in a consistent manner and to implement the annualisation of recreation leave allowance into the four streams.

COMMISSIONER WATLING: That was a full bench matter too, wasn't it?

MS WATT: Yes.

COMMISSIONER WATLING: Any of the others full bench matters?

MS WATT: T.5741 of 1995. I believe that's all, Mr Commissioner, from the top of my head. If anyone else has any other thing else to add there.

COMMISSIONER WATLING: Thank you.

MS WATT: The Professional Employees Award will enable the preservation of the translation process for employees translating to the professional stream and consolidate some conditions for professional employees into one award. The majority of clauses contained in this award are based on the clauses put to the full bench of this commission in T.5741. These clauses have been varied in the same way that the awards before the full bench in T.6502 and others.



The adoption of these clauses is in line with the parties intention to establish and maintain consistency where possible in the state service awards.

If the commission pleases, I now intend to explain some of the clauses contained in this award.

Clause 1: we propose that this clause be named 'Content'. This is consistent with the proposal ratified by the full bench in T.6502 and others.

Clause 3 - Scope: we believe that the current scope clause needs refining to properly reflect the intended application of this award. We are therefore seeking to insert the reference to work of a professional nature. We believe that this change will assist in confining this award to employees whose positions require the application of knowledge gained initially through the completion of an appropriate tertiary qualification.

If I may go onto clause 5- Supersession and Savings. The intention is that this award supersedes the awards or parts of awards listed in this clause. The wording in this clause has been adopted also from T.6502 and others.

We propose that the clause reflecting award interests be named 'Award Interest'. This is consistent with the proposal that was also ratified by the full bench and the orders that were issued subsequent to the decision in T.6502 and others.

COMMISSIONER WATLING: Yes. Of course we'll have to change that to bring it up to date in light of a few decisions in the last day or so.

MS WATT: What are those decisions, Mr Commissioner?

COMMISSIONER WATLING: I thought you would have done your home work; it's giving other organisations an interest in the award.

MS WATT: Oh, yes - oh yes. I forgot - I didn't put that in there - sorry.

COMMISSIONER WATLING: I noticed in the other matters that came out of the technical and clerical, it refers to award interest and parties bound.

MS WATT: Well which decision are you referring to, sorry?

COMMISSIONER WATLING: Well, I think the Technical Award and the Admin and Clerical Award.

MS WATT: The new orders that have just been issued?

COMMISSIONER WATLING: Yes.

MS WATT: Can I check that? I was just not aware of that.

COMMISSIONER WATLING: Anyway that's a drafting thing for the commission, I think, anyway. We will be consistent.

MS WATT: The ones that I have say award interest.

COMMISSIONER WATLING: But have you got the orders or - ?

MS WATT: The orders - yes. The recent orders issued as a result of T.6502 with the Scientific Employees, Admin and Clerical, Operational -

COMMISSIONER WATLING: So have you changed that recently?

MS WATT: Yes, we changed that in T.6502.

COMMISSIONER WATLING: Right.

MS WATT: There may be subsequent ones that perhaps it has been altered.

COMMISSIONER WATLING: Yes, anyway, don't worry, I'll - we'll - whatever it is, it will be consistent with the others.

MS WATT: Thank you, Mr Commissioner.

COMMISSIONER WATLING: It's just that I must say that I've personally seen one award that says 'award interest and parties bound'. I've sighted it with my own eyes.

MS WATT: I believe you.

COMMISSIONER WATLING: So it may have been changed after that, especially if there was a decision just of recent days but I don't know. Okay, thank you. If I may proceed.

COMMISSIONER WATLING: Yes, go for it.

MS WATT: Clause 7 - Definitions: the definitions contained in this clause mirror those adopted by the full bench in T.5741 in the professional stream that was inserted in the scientific employees award for formatting which has been changed into subclauses.

Clause 8 - Salaries: three columns have been included into the salaries clause. The rates contained in these columns are identical to the salary rates that have already been implemented in the professional stream through the Scientific Employees Award.

Subclause (c), I believe in the original application was clause 14 or 15. This has been moved to a subclause of clause 8. This is consistent with what has been done with the classification standards being contained in this clause, ie, centralising all matters relating to the determination of an employee's salary and application of this award into one clause.

The proposed clause preserves the qualifications that are currently required under existing awards of the commission that cover professional work.

Clause 9 - Conditions of Employment: this clause is identical with one change to that clause that has been adopted as a result of T.6502 and that change being a reference to the Engineers 4% Second Tier Agreement as they had a separate one in subclause (b).

And clause 14 - Translation -

COMMISSIONER WATLING: Just a query on that; what would happen if one party at some stage of the game gave notice to withdraw from that agreement - because it's expired hasn't it?

MS WATT: It has, yes.

COMMISSIONER WATLING: So at maximum it would - from where I sit, it would only be there for 30 days?



MS WATT: Well if that were to occur, I mean the intention of the parties in relation to conditions of employment in the state service generally is that they will be rationalised and consolidated, and in respect of these agreements the intention is that they will be consolidated in other places over a stage. I mean the adoption of this award and other variations that are currently going on in all of the state service awards are removed towards consolidating all conditions of employment and if someone were to put in an application to withdraw I guess we'd put in an application to do something else to put those conditions in another place. But at this time it hasn't been determined exactly what is going to be done to those yet. But it is the intention of the parties to maintain that commitment that was adopted as a part of the streaming process.

COMMISSIONER WATLING: Right. I only bring it to your attention because within 30 days it could be gone from where I sit.

MS WATT: Yes, we are aware of that, thank you.

COMMISSIONER WATLING: Yes. Good, thank you.

MS WATT: Clause 14 - Translation. Mr Commissioner, you will note that we have inserted a table into this clause and attached additional annexures to this award than was in our original one. This variation is consistent with the orders of the full bench of this commission issued as a result of T.6502. The annexures for the translation of all awards currently existing but are to translate to the professional stream have been attached to the Professional Employees Award where possible - sorry - where appropriate.

Wherever possible these tables have been amalgamated into one. For example, Annexure B contains the translation tables for the Agricultural Officers Award, the Inland Fisheries Commission Award, the Tasmanian Dairy Industry Authority Staff Award, the Scientific Employees Award and the Foresters Award.

This amalgamation has been done to attempt to simplify the process and to limit the number of tables to be attached to the Professional Employees Award.

We request that the date of effect of this application be on and from the 7<sup>th</sup> March 1996. This is necessary to facilitate the translation of employees as at 7<sup>th</sup> March 1996 but - and specifically in this case the audit employees and to rectify an existing problem contained in all awards that have employees translating.

The wording of current translation clauses only provides for people occupying positions as at the 7<sup>th</sup> March 1996 to translate to the four streams. This is deficient in that technically there are no formal provisions for current employees to progress incrementally for new employees to be appointed to or derive salaries from the four streams awards.

Technically, new employees should be deriving salaries from the old salary scales contained in awards that have been varied to date in T.6130 by flowing on the translation process. But this application seeks to rectify that problem that is currently existing. We therefore propose that this application needs to be operative from the 7<sup>th</sup> March 1996 to provide for the incremental progression of employees, appointment of new employees to positions under the new salary structure and translation of employees in the Tasmanian Audit Office as detailed in Annexure A.

These applications seek to implement previous decisions of the commission. It was determined that they were in the public interest at that time. Establishing consistent award formatting, removing obsolete provisions and rewriting awards in plain English



is consistent with the wage fixing principles and this order is attempting to adopt those things that have been implemented in previous awards of the state service.

It is intended that upon the establishment of this award a number of professional awards will be rescinded. Reviewing and simplifying awards is in the public interest and is not contrary to the Wage Fixing Principles.

The proposed award variations do not result in a reduction in ordinary time earnings or the commission's standards of annual leave with pay. Reviewing and simplifying awards is in the public interest and is not contrary to the Wage Fixing Principles.

The annualisation of recreation leave loading is not contrary to the public interest as an existing condition of employment is only being mirrored in another manner and this is consistent also which is with what has been established in our awards and indeed has already been implemented into the Scientific Award in the professional stream. If the commission pleases.

COMMISSIONER WATLING: Yes, I take it that all this is part of the structural efficiency program for - but in the public sector in this state.

MS WATT: Yes, Mr Commissioner.

COMMISSIONER WATLING: Right. I suppose the only thing I do have a query is on the operative date because it's going to raise its head when we get to the rescission of other awards rising out of this. But anyway, I'll have to deal with that when we get to the other matters because what it would mean - we might just go off the record for a moment please.

#### **OFF THE RECORD**

COMMISSIONER WATLING: Right. Further submissions from employee organisations.

MS STRUGNELL: If the commission pleases just simply to reiterate in relation to Ms Watt's submission, and again, I congratulate her for the work she has done on this, that we see this as a finalisation of a massive task of rationalisation of awards - or nearing completion of that, and we fully support the minister's application as presented this morning. Thank you.

COMMISSIONER WATLING: Good. Thank you. Mr Pyrke.

MR PYRKE: Thank you Commissioner. Sir, we support what Ms Watt has put to you regarding the context of the application, the content of the proposed new award and the impact that it will have which is on place value negligible in terms of the impact of employees for certain.

She has also addressed you on the principles and public interest. We support what she had put to you on those matters and we also support the application. In coming to that position we are mindful that Ms Watt has agreed that clause 6 should reflect the union's interest which was determined last week, and we are also mindful that she has been prepared to discuss the preservation of time off in lieu of overtime, that's an impact of the reference in clause - yes that's a reference of the - sorry the impact of the reference in clause 9 - to matter T.1287 of 1988. That's what we are seeking to achieve there, access to time off in lieu of overtime.

And also my .... the situation of existing employees. That also has been addressed through the clause which writes the qualifications - I think it's 8C from memory. Yes 8C.

So on that basis sir, we support the application, if the commission pleases.

COMMISSIONER WATLING: Good. Thank you. Mr. Lane.

MR LANE: Mr Commissioner, very briefly, I wish to just put on record that the Australian Education Union, Tasmanian Branch endorses the comments of my colleagues and supports the application.

COMMISSIONER WATLING: Good. Thank you. Nothing further. Well I can indicate to the parties that I will hand down a written decision in due course and advise you now that it will be in favour of the application to complete the making of the professional award and the operative date will be as requested by all parties.

That concludes this matter. Thank you.

**HEARING CONCLUDED**