

DEPUTY PRESIDENT: I'll take the appearances please for the ASU.

MR PATERSON: If the commission pleases, Ian Paterson, appearing for the Australian Municipal Administrative, Clerical and Services Union.

5 DEPUTY PRESIDENT: Thank you Mr Paterson. For TCCI.

MS THOMAS: Jenny Thomas and can I apologise for my late arrival, both to you Mr Deputy President and to Mr Paterson, if it pleases.

DEPUTY PRESIDENT: Thank you Ms Thomas. The world being what it is, those things happen to all of us. Mr Paterson?

10 MR PATERSON: If the commission pleases, I believe that this matter can be dealt with fairly quickly. This is an application to give effect to the full bench decision in T numbers 6296 and 6441 of 1996, being the full bench decision on inserting carer's leave provisions into state awards.

15 This application seeks to vary the Public Vehicles Award to give effect to that full bench decision. The provisions in the draft order, which I will present shortly, differ from the model clauses in that decision only to the extent that it's necessary to customise it to fit the Public Vehicles Award, and also to give effect to provisions for part-time
20 employees.

If the commission pleases, I'll present a new draft order, which I believe reflects the consent position between the parties. The only matter that is not consented to is the matter that in unpaid carer's leave there are provisions that refer to the entitlements of casual
25 employees, it's in a shaded box, that aspect of the draft order is not agreed and that is therefore to be deleted from the consent order.

However, it was part of the negotiation process but we were unable to reach agreement on that. The TCCI and the ASU, through these 14 applications that we've put up to vary awards to include carers leave,
30 have agreed that that matter will have to be further discussed, probably between the TTLC, the unions and the TCCI. I've provided Jenny Thomas with a copy of the order.

There are some last minute hand-written changes to it which were just errors in my drafting of the draft order. This variation is complicated
35 because the award has three divisions. The first variation is to Division A, it inserts the carers leave provisions in a standard form consistent with the model clause, that's on pages 2 to 3. It inserts within Clause 19 - Hours, the facilitative provisions for make-up time and rostered days off. It inserts within Clause 21 - Overtime provisions for time off
40 in lieu of payment of overtime. It inserts in clause 33, provisions for flexible taking of annual leave, and where there is no variation particularly to annual leave clauses within this award, it is because

the parties have agreed that the flexibility that would have been provided by the facilitative clauses, is in fact, already in the award.

5 On page 8, it adds carers leave to the general conditions of Division B, thus extending the provisions to Division B in general, it then proceeds on page 9 of this draft order to amend the hours clause to provide for make-up time. There's no provision for rostered days off in this variation because the award as it stands provides that 8 hours a day over 5 days must be worked. The overtime provision, however is varied at clause 39.

10 In respect of Division C, pages 11 to 16, in effect insert the carers leave provisions, in the Division C - Clerks, of this award. In this case you'll note the hand-written annotation Contract of Employment - Clause 44, is in fact titled Contract of Employment, not Part-time Employees. This variation extends part-time employees entitlements of
15 up to one week of current or approved sick leave entitlement.

It details the entitlement by virtue of saying, where part-time employees hours are not constant, the entitlement is based on their average weekly hours over the preceding 12 months, or the actual period of service if less than 12 months. And similarly, for those part-
20 time employees who are in receipt of a loading in lieu of entitlements it extends an entitlement to a maximum of one week unpaid carers leave on a similar basis.

The facilitative provisions in Division C are in respect of the hours, clause 47, make-up time and rostered days off, and in respect of
25 overtime, the parties believe and have consented to a position that says that the overtime provisions of the award already include time in lieu and it's only the subclause that's identified here as going into the award as subclause (f) that is required to give effect to the full bench decision and the model clauses.

30 The operative date sought is the first full pay period commencing on or after today's date.

If the commission pleases, it's the union's submission that this application, by giving effect to the full bench decision is, in effect, in
35 the public interest and in no way offends the public interest. It is consistent with that full bench decision and the directions contained within it and, as I mentioned, we seek an operative date of the first full pay period commencing on or after today's date. If the commission pleases.

40 DEPUTY PRESIDENT: Thank you Mr Paterson, perhaps out of an abundance of caution I should confirm the handwritten amendments to the draft order in relation to clause 47, as they appear on pages 13 and 14, which appears to be simply a deletion of a reference to Clause 30 - Time and Wages Book.

MR PATERSON: It was drawn to my attention, that in fact, that clause does not apply to Division C, and there is no time and wages book referred to in Division C, therefore that clause is amended to provide that the relevant arrangements are recorded in a relevant time and wages book. I'm not sure whether - on page 13, just to make sure that I have it correctly done it with each of the copies that have been provided, the deletion is the words *as prescribed in Clause 30 - Time and Wages Book, of the award* - and on page 14 the deletion is, *as prescribed in Clause 30 - Time and Wages Book*.

DEPUTY PRESIDENT: Yes thank you, Mr Paterson. Ms Thomas?

MS THOMAS: Yes, just very briefly, Mr Deputy President, this is a consent matter, the final draft order placed before you today is a consent order to vary the award, and I support Mr Paterson's submissions in full, if it pleases the commission.

DEPUTY PRESIDENT: Thank you Ms Thomas. Having heard the parties, and having had a chance to peruse the original draft order as submitted, and on hearing the explanations of Mr Paterson in connection with the draft order submitted today, I am satisfied that the order meets the requirements of the model clause provisions, as determined by a full bench of this commission, save and except the necessary changes to reflect the nature of the award in question.

In those circumstances, I am satisfied that the variation meets the principles currently in force, that there is nothing in the application, in terms of the public interest provisions of section 36 of the Act, that suggest that I should do otherwise than approve this variation. Accordingly I do approve it, and will vary the award in terms of the amended draft order submitted this day. That order will come into effect from beginning of the first pay period to commence on or after today's date.

That concludes the hearing of matter T6829 of 1997.

HEARING CONCLUDED