

**TASMANIAN INDUSTRIAL COMMISSION**

Industrial Relations Act 1984

T. Nos 5188, 5189 and 5190 of  
1994

**IN THE MATTER OF** applications by the  
Australian Liquor, Hospitality and  
Miscellaneous Workers Union - Tasmanian  
Branch to vary the Licensed Clubs Award,  
the Hotels, Resorts, Hospitality and Motels  
Award and the Restaurant Keepers Award

re classification rates and supplementary  
payments

COMMISSIONER IMLACH

HOBART, 11 November 1994  
continued from 26/10/94

**TRANSCRIPT OF PROCEEDINGS**

Unedited

COMMISSIONER IMLACH: Any change in appearances? No. Well who is kicking off? Mr Gates?

5 MR GATES: I'll start. Yes, Mr Commissioner, the parties have had substantial discussions since we last were before yourself and we are pleased to come back before the commission with an agreed list of proposed establishments to do a site inspection and with an approximate timetable for which we'd seek to do those inspection. I believe you have a copy of two documents before you, commissioner, one being -

COMMISSIONER IMLACH: Yes. Are we going to mark them, do you think, Mr Gates or not. What do you want?

10 MR GATES: If you wish, commissioner.

COMMISSIONER IMLACH: I think it always helps. Have we got any already?

MR GATES: I think I've lost track of -

COMMISSIONER IMLACH: Not from - all right. Well, we'll - which one do you want to be number one?

15 MR GATES: Minimum rates case as one, please.

COMMISSIONER IMLACH: G.1, and the other one G.2. Yes, Mr Gates.

20 MR GATES: Just briefly, commissioner, you will see on G.1 which is the proposed list for site inspections, we have divided those up into three categories, the first being licensed clubs which the parties agree we visit Glenorchy RSL Club and the Masonic Club, both of those being based in Hobart - the greater Hobart and the time frame allocated for those visits is from the 21st to the 25th of November.

25 The second category is hotels and we have listed there the Wrest Point Casino which is under a federal award, the Travellers Rest Hotel, again it's under a federal award. That has now been withdrawn to simplify the list or to rationalise them. There is also the Cooleys Hotel which is based at Moonah. That again, to my understanding, is also under a federal award; the Kingston Hotel, that's at Kingston, that I also believe is under a federal award.

COMMISSIONER IMLACH: What's that mean, we cross them out?

30 MR GATES: No, no, no, we keep those in. That's the federal awards for your information.

COMMISSIONER IMLACH: Right. Yes.

35 MR GATES: And Cradle Mountain Lodge, that's a state award. The dates we've set aside for those are from 28th November to the 2nd of December. The rationale for the federal ones, because the federal and state awards are so similar and the union is seeking to fly in the federal decision, then we don't believe it will jeopardise anyone's case to do a site inspection at those and they will be adequate for the purposes.

COMMISSIONER IMLACH: Well so long as the parties accept them as evidence of what's going on, that's all right with me.

40 MR GATES: Yes. The third category is restaurant keepers. Now for those we've got the Atlas Cafe which is in North Hobart; Spotless Catering which is at ANM Boyer. We'd seek to remove ANM Boyer again for the purposes of rationalising the list. And the second one is Douglas Parker Rehabilitation Centre, certainly we still will go there.

5 Mike Edwards Catering-Fitzies Hobart, - sorry, Fitzies Restaurant in Hobart. Now he also does the Launceston one, so that will be beneficial. The Fosseys Restaurant in Hobart, Mures Fish Centre, again that's in Hobart, Sisco's Restaurant which is in Hobart and the Cat and Fiddle Food Hall, we'd seek to withdraw that from the list, again for the purposes of rationalisation.

COMMISSIONER IMLACH: Tell me, Mr Gates, in the item (b) hotels, you withdrew one or two of those, didn't you?

MR GATES: Just the one, that was Travellers Rest, sir.

COMMISSIONER IMLACH: Travellers Rest, right. And the - is Cooleys a federal - no?

10 MR GATES: As I understand it they would be a member of the AHA would bring them under a federal award.

COMMISSIONER IMLACH: Cooleys and the Kingston?

MR GATES: Yes.

COMMISSIONER IMLACH: But not the Cradle Lodge.

15 MR GATES: No.

COMMISSIONER IMLACH: Thank you.

MR GATES: The - whilst we have bracketed the dates at this point in time, we'd just seek that we come back to the commission with confirmed dates and times. The rationale for that being that we will get in touch with the employers and give them a bracket for which they meet - sorry, bracket a date which - and they can then pick out the one which is most suitable to them and then they notify us and we'll see if it's convenient for us. If that being the case we'll then get back to the commission with a list of dates and times.

G2.

25 On the second document which is titled 'Issues for Site Inspections - TCCI List', in essence, this list is some of the primary reasons of conducting the site inspections and some of the major points that we'd seek to look at and ask pertinent questions during the site inspections.

30 Very briefly, I'll just run you through them. The first point is that - and I'll - is that new employees to the industry who serve customers go straight to level 2, that's, say, if they didn't have any experience the employer puts them at level 2 because there's no provision elsewhere.

35 The second being that the persons in (1) are not a level of competence required of other employees engaged at level 2. So that, in effect, means that if a new employee come in with no experience and is placed at level 2 then he is not as competent as somebody who has been there for, say, 10 years.

40 The third point that the persons in (1) undergo training over a period of time to reach a level of competence of other employees at level 2. That simply says that - well it backs up (2) by saying that a new employee doesn't necessarily have the competence for someone who has been in that establishment for a period of time and that the employer will train that person in some form over a period of time to reach a level of competence of that of other level 2s.

The fourth one is that persons in (1) are not as productive as other employees at level 2 and the employer incurs costs to bring that employee to a level of competence of

other level 2 employees. Now we would look at such things as doubling up on shifts, .... close supervision, those sort of areas.

5 The fifth point, that employees who have not worked in the industry for a period of time lose their skills and/or persons commencing in a new establishment with previous industry experience require training supervision and instruction and are not at a competence level of level 2. And that simply goes - what that is saying and what we are seeking to look at is that if somebody is away from the industry for a period of time and they come to a new establishment or even to their old establishment, then certain elements may have changed in there, such as - well certain elements may have changed and they won't be as knowledgeable or won't have a level of competence of someone who has worked there for a period of time, say, for example, they won't know what the menu comprises, how each meal is made, what the wines are on the menu list, what the wines taste like, those sort of areas.

15 The sixth point is that employees achieve a level of competence via hours actually worked not a period of calendar service. That goes to the introductory level in the present award which a period of 3 months and a further 3 months that you can .... on the introductory level. What that simply says and which I will seek to demonstrate by our site inspections is that calendar months is inappropriate in the industry and therefore it should be expressed as hours.

20 The last point is just a coverall and is designed to protect any further arguments which I may submit during hearings or the site inspections and simply says such other points may be used, submitted or relied upon based upon or not based upon site inspections. What I'd seek to do, commissioner, that if I am seeking to rely on other points during site inspections, then I'll endeavour to notify the parties before those site inspections where possible so that they can ask pertinent questions.

25 The list there is certainly not all inclusive of all the points that we wish to raise during proceedings before the commission after the site inspections. I would say at this point that some of those areas won't necessarily be added to because of a site inspection. That is something which just can be - have submissions put on it and not necessarily be seen.

30 Finally, Mr Commissioner, just on the survey of the industry, save to say that we've completed the drafting of it at this stage and waiting for it to be sent out. Just a report back on that.

COMMISSIONER IMLACH: Thanks, Mr Gates.

35 MR MATHEWSON: If the commission pleases, as Steven said or Mr Gates said we agree on the proposed list that's in front of the commission. The only other issues obviously they are a list of issues for site inspections which is or own prerogative. We'd only like to say at this stage in reiterating our arguments of the previous hearing that these issues really don't address what would be Tasmanian specific circumstances. They merely look at changing relativities and we would have thought that the site inspections and the huge submissions put in in the federal case would have found something different than what was contained in the decision if there was in fact a problem between the customer service in level 1 and level 2, food and beverage. If the commission pleases.

40 COMMISSIONER IMLACH: Yes. Thanks, Mr Mathewson. Thank you. Anyone else?

MR CROSSIN: Nothing else, Mr Commissioner. We just go along with our friend from the TCCI.

COMMISSIONER IMLACH: Thanks, Mr Crossin. All right. Well I commend the parties for reaching this stage by agreement and so on and I presume that when you mention you will speak to the employers - the establishments and settle the exact dates, that will be cooperation of my associate, Mr Gates, and Mr Mathewson, so we will all know exactly what we are doing. Is there anything else?

MR JOHNSON: Could I mention one thing, sir, to help the clubs as we are only going to be affected by the clubs not really the hotels and the restaurants. We can virtually fix a date right now if it's suitable to you, sir. The question I ask, how long do you think the inspection would take so we can advise the clubs accordingly?

COMMISSIONER IMLACH: Yes. Just a minute. We'll just go off the record, thanks, Julie.

**OFF THE RECORD**

COMMISSIONER IMLACH: All right. Well thanks for that, gentlemen. We'll commence inspections on Monday the 21st of November at 1.00 pm at the Glenorchy RSL and then once we have completed there we will go to the Masonic - what do we call that, Mr Johnson?

MR JOHNSON: The Masonic Club of Tasmania.

COMMISSIONER IMLACH: The Masonic Club of Tasmania in Macquarie Street, timed to start at 2.30. Thank you, gentlemen. I look forward to seeing you then.

**HEARING ADJOURNED**