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TRANSCRIPT OF PROCEEDINGS

O/N 72492

TASMANIAN INDUSTRIAL COMMISSION

COMMISSIONER J.P. McALPINE

T No 13079 of 2008

TEACHING SERVICE (TASMANIAN PUBLIC SECTOR) AWARD

Application pursuant to the provisions of section 23(2)(b) of the Industrial Relations Act 1984 lodged by the Minister administering the State Service Act 2000 to vary the above award re Part III, clause 3 0 – Definitions and Part II – Teacher Registration

HOBART

2.15 PM, TUESDAY, 22 JANUARY 2008

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

THE COMMISSIONER: Can I have appearances please?

MR M. WATSON: May it please the Commission, Mark Watson, I appear on
behalf of the Minister administering the Tasmanian State Service Act and with me is
5 SHARON HAAS.

THE COMMISSIONER: Thank you.

MR C. BROWN: Mr Commissioner, if it pleases the Commission my name is Chris
10 Lane, I represent the Australian Education Union in this matter.

THE COMMISSIONER: Thank you. Mr Watson, it's over to you.

MR WATSON: Thanks, Commissioner. First of all, Commissioner, I really
15 appreciate the fact that the hearing has been brought on at short notice.

THE COMMISSIONER: Well, we really had to change our busy schedule to get it
on, so you're very fortunate we could do that.

MR WATSON: Thank you. Commissioner, the application before you today is in
20 two parts. The first is seeking an amendment to the award in relation to what are
called uncertified guidance officers and the second part of the application goes to the
issue of teacher registration. The background to the first proposed amendment in
relation to uncertified guidance officers is that the award as it currently reads
25 provides for a classification of uncertified teacher. We have guidance officers that
are employed, some with teaching qualifications and some without qualifications.

This amendment is really, I suppose, a bit of a tidy up to make it clearer that an
30 uncertified guidance officer is a person, as it says there, who is registered as a
psychologist within Tasmania, but doesn't actually possess the teaching
qualifications. There are no changes to conditions of employment - - -

THE COMMISSIONER: Sorry, so a lack of certification refers to the teaching not
35 the principal capability?

MR WATSON: Yes, that's right, Commissioner. So this application, as I say,
doesn't change the conditions of employment for these employees, but simply makes
it clear that we're talking about uncertified guidance officers, and there's very little
changing to the wording except for the title. The other issue, Commissioner, is that
40 the amendment to the award we've requested an operative date of 12 December
2007. The reason for that is that we wanted to make it clear that these employees are
employed in this classification on the day before the State Service Commissioner's
moratorium for conversion to fixed term – permanency comes into play.

45 THE COMMISSIONER: Yes.

MR WATSON: So there can be no issue in terms of conversion for these employees, because we have a number that will be eligible to conversion to permanency.

5 THE COMMISSIONER: Yes. How does he feel about that?

MR WATSON: I don't know, Commissioner, but I think in facilitating the ability to make recommendations for permanency I'm sure he would be okay with that. The second amendment, Commissioner, is in relation to teacher registration. In short the
10 background is that each year we have a small number of teachers who actually commence teaching but are not actually registered under the Act. Now, we're not talking about the ones that do everything within their power to get registered, but there are a small number that don't take it, or make the effort to actually make sure their registration is current.

15 Under the provisions of the State Service Act particularly, the only option to the employer is to apply to have them suspended from duty, which is a long-winded process and probably in our view unnecessary. So the amendment that we seek is to actually provide words in the award to say:

20 *Except in circumstances beyond the employee's control, where a teacher is not currently registered then they won't be paid until their registration is issued.*

25 Under the Teacher's Registration Act which I would just like to table section 11, Commissioner.

THE COMMISSIONER: Thank you. We'll just call this A1 for clarity.

30 **EXHIBIT #A1 COPY OF SECTION 11 OF TEACHER'S REGISTRATION ACT**

MR WATSON: Okay. Now, Part III, section 11 Applications, it states:
35

A person must not teach at a school unless the person is registered, has been granted provisional registration or has limited authority or is under the direct supervision of a registered teacher.

40 So Commissioner if we do have a situation where a teacher is teaching without registration then we're all in breach of the Act, which is not a good situation. So what we're proposing is the amendment as you see before you today. It will – we would imagine that it would apply to very few people and we would hope that it actually doesn't apply to anybody, if everyone does their bit as a teacher to make
45 sure that they're registered.

THE COMMISSIONER: But surely even in exceptional circumstances beyond the employee's control, if they're not registered it's still against the Act.

MR WATSON: That's true, Commissioner, but what happens is that sometimes there may be a hold-up within the Teacher's Registration Board where the teacher has done everything they possibly can to get their registration approved, and it may not have been issued. So in discussions with the union we've agreed to those words
5 to provide that – I suppose that element of reasonableness to the amendment.

THE COMMISSIONER: Or a point we can argue around.

MR WATSON: Well, that's true, but the circumstances giving rise to the
10 application have been a couple of isolated incidents where unfortunately the teacher has not been interested in getting registered, and that's been our issue. I don't intend to go into any details or circumstances, but - - -

THE COMMISSIONER: No, no.
15

MR WATSON: So Commissioner subject to hearing from Mr Lane we understand that the amendments are by consent and we would ask that you vary the award from the dates nominated. It doesn't offend the principles in our view, nor the public interest. Thank you very much.
20

THE COMMISSIONER: Thank you. Mr Lane?

MR LANE: Thank you, Mr Commissioner. Mr Commissioner, the union does support both these applications to amend the Teaching Service Award. As far as the
25 uncertified guidance officers are concerned, Mr Commissioner, we support it because we believe that these people at the moment are being denied a right to permanent employment. We also support it because we do have an agreement with the department that the whole issue of guidance officer employment, their career structure and so forth, will be reviewed over the next 12 months and we are hoping
30 that as part of that review, this whole question of the qualifications of guidance officers - which we hope to call school psychologists - will be looked at.

And perhaps even the people who are referred to as uncertified guidance officers, they are in fact certified psychologists but not certified teachers - we're hoping they
35 can be given full entitlements to a range of salaries above what is envisaged in this application. But in the short term we support this move to get these people their right to ongoing and permanent employment within the State Service. With the question of teacher registration, I must admit we do have some concerns about teacher registration, but quite frankly we can foresee no valid reason to oppose this
40 application as it is in this case.

Our concerns with teacher registration are for us to take up with the Teacher Registration Board and not this Commission. The fact is though, Commissioner, we did ask that where it was beyond the control of the teacher they failed to get
45 registration, what we ask for is they continue to be paid even though they can't actually teach. They can be given some other work in the department while that's being sort if needs be, but where it is obviously beyond the employee's control, there may have been a hold up with something to do with the police check, or some

process within the Teacher Registration Board itself and we don't think it would be fair or reasonable if it can be shown the employee has taken every step possible to get registration, and through no fault of their own have failed to get it, we believe it's only fair that they should continue to receive some payment during that period of time.

However, we are aware of teachers who deliberately decline to put in their application and we are aware in those cases that the department for the moment is obligated to continue to pay them regardless of the reason and quite frankly we can't see that that position is justified. Therefore we support the applications as put before you and ask that the award be amended as requested by Mr Watson and then I can go and make sure I don't get booked with my car parking.

THE COMMISSIONER: Very quickly then. I agree with Mr Watson that certainly it doesn't offend the public interest and actually I think it's in the public interest and it's certainly not inconsistent with the wage fixing principles. Just to confirm you want it from 12 December 2007?

MR WATSON: That's in relation to the guidance officer amendment, Commissioner, and the second amendment is from 12 February 2008 which is the first day back for teachers in the north and north-west of the State.

THE COMMISSIONER: All right, then in saying that then I'm happy to agree that we amend the award so that the teacher's registration will be from 12 February 2008 and the amendment to the uncertified guidance officers as of 12 December 2007. Okay, comfortable?

MR WATSON: Thank you.

THE COMMISSIONER: Adjourned.

MATTER ADJOURNED at 2.25 pm INDEFINITELY

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