

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T No. 3522 of 1991

IN THE MATTER OF an application by
the Federated Clerks Union of
Australia to vary the Insurance
Award

re New classification structure
and minimum rates adjustment

COMMISSIONER IMLACH

HOBART, 4 December 1991

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER IMLACH: I'll take appearances.

MR D.J. FRY: If the commission pleases, I appear on behalf of the Federated Clerks Union of Australia, Tasmanian Branch, FRY D.J.

COMMISSIONER IMLACH: Thanks, Mr Fry.

MR T.J. EDWARDS: If it please the commission, EDWARDS T.J. I appear for the TCI. With me appear **N. HUTTON** and **C. WILLIAMS**.

COMMISSIONER IMLACH: Thank you, Mr Edwards. Mr Fry?

MR FRY: The parties, sir, have agreed to the introduction of a new career structure to this award, sir. At this point I would indicate to you that the structure that is going there comes with 100% compliance with the union. However we do, for the record, indicate, sir, that we see it as an interim measure. We do believe that the career structure that we are developing before this commission, and the Clerical Administrative Employees Award goes before the president later this month for an insertion of a structure there for a trial period of at least 6 months.

But I do indicate to you that we have agreed to this structure and whilst we treat as an interim, there is no indication from the employers that they're going to agree to any variation at a later time. We do this with our eyes open, we are aware of what is contained within the award, but at this stage is primarily an employers' structure that is being inserted.

We have had an opportunity with both the major organisations to input and vary as we went along. We have spent a long time putting together the fine detail of it, but for the presentation of the documentation to you I believe it's more appropriate today - and Mr Edwards has agreed prior to it - that he will take you through the proposal, sir.

COMMISSIONER IMLACH: Thanks, Mr Fry. Mr Edwards?

MR EDWARDS: Thank you, commissioner. Commissioner, when the parties were before you on 16 November last year in securing the second structural efficiency adjustment, Mr Fry put before the commission two exhibits. They were identified at that time as exhibits F.3 and F.4. Exhibit F.3 was a set of new classification definitions that were intended to be placed into the new award at a future date and Exhibit F.3 gave a schedule of minimum rate adjustments designed to achieve the end point relativities that had been agreed between the parties.

Since that time the parties have been through a trial implementation of that structure and have, as Mr Fry said,

fine tuned the structure to some extent and, in fact, made some quite significant changes to our original proposal. In that regard, commissioner, I will table an exhibit which is a list of classification definitions for the Insurance Award.

COMMISSIONER IMLACH: Call that Exhibit E.1.

MR EDWARDS: Exhibit E.1, commissioner, is a document which contains the new agreed classification definitions which would be - we see being inserted in clause 7 of the Insurance Award and deals with two streams within the insurance industry, those streams being the pure clerical and administrative stream and the other stream being what is called an assessor stream.

The assessor stream, sir, by way of brief explanation, is employees within the medical and health insurance societies who assess claims and thereby determine levels of money to be paid to clients. The structure is an integrated structure so that there is no separate pay rates listed for either the clerical or administrative stream. We've come up with a straight line classification structure which consists of some five grades.

I don't intend, unless the commission requires me to, to take you through the classification structure. It is fairly well in the now standard format that is presented to the commission on many occasions and, as Mr Fry has indicated, that from the FCU point of view it is an interim structure. We don't see it that way. Whilst we acknowledge Mr Fry's right to call it that and to indicate that his agreement is on an interim basis, we believe the structure that has been devised has been specifically developed in respect of this industry and is therefore appropriate.

And it would not, in our view, necessarily be appropriate to simply slavishly apply what may be developed as the general clerical and administrative structure into this industry if it doesn't fit. However that will be a matter to be negotiated between the parties following the proceedings that Mr Fry alluded to, before the president later this month.

The only one issue that probably does require any comment in the document, sir, is found on the third page, on the page headed, 'Clerical/Administrative Officer Grade 2, (a) Assessor Stream'. And the progression clause at the bottom of that page, it indicates that:

Progression to a higher position in the stream will be on the basis of the Trainee acquiring the required skill and competency standards -

It is, in fact, agreed - notwithstanding the document doesn't reflect it, nor should it, in our view - it is agreed that someone moving from an assessor at C & A Officer Grade 2 would move automatically to the next highest point in the assessor stream, which is found at C & A 3 after a reasonable period of service, and we've nominated 3 months. In other words, the Clerical and Administrative Officer Grade 2 in the assessor stream is very largely a trainee-type position which would see the translation of people normally from the pure clerical and administrative stream to the assessor stream. Is that clear, commissioner? You seem to be fumbling with the pages.

COMMISSIONER IMLACH: I am.

MR EDWARDS: I just wanted to ensure that you were following me, sir.

COMMISSIONER IMLACH: Good point, Mr Edwards. I'm still coping with this clerical/administrative stream, (a) - I'll just go over it with you.

MR EDWARDS: Certainly, commissioner.

COMMISSIONER IMLACH: Quite correct. Clerical/Administrative Officer - this is on the first page - Grade 1, C/A 1.

MR EDWARDS: Yes, sir.

COMMISSIONER IMLACH: (a) Clerical and administrative stream, and over the next page, Clerical and Administrative Officer Grade 2, (a) Assessor stream.

MR EDWARDS: It's probably unnecessary to have the '(a)' on each of those subheadings, commissioner. It's really done just to identify them because once you get to grade 3, you will find (a) clerical and administrative stream and (b) - on the next page - assessor stream.

COMMISSIONER IMLACH: Yes.

MR EDWARDS: But it's two streams within the one grade.

COMMISSIONER IMLACH: Yes, but in -

MR EDWARDS: And, indeed, that continues on through the document.

COMMISSIONER IMLACH: Does that mean the assessor doesn't appear in C/A 1?

MR EDWARDS: That's correct, commissioner, the lowest position in the assessor stream is found at C/A 2.

COMMISSIONER IMLACH: And no C/A -

MR EDWARDS: There is no clerical and administrative stream of people at level 2, at grade 2.

COMMISSIONER IMLACH: C/A 2.

MR EDWARDS: So progression for the clerical and administrative stream is from 1 to 3, and for the assessor stream is commencement at 2, progressing to 3.

COMMISSIONER IMLACH: Yes, right. And then -

MR EDWARDS: They are at different levels, in our view, of skill and therefore we have assessed them appropriately, and I'll go to the various percentage relativities in a moment, commissioner.

COMMISSIONER IMLACH: Yes. Now having got me straight on that, am I behind?

MR EDWARDS: Just a fraction, commissioner.

COMMISSIONER IMLACH: Perhaps if you could bring me up then, please.

MR EDWARDS: The observation I was making, commissioner, is that at Clerical and Administrative Officer Grade 2 it will be noted that an employee at that level will be provided with up to 3 months' structured training in the assessor stream. That's at the top of the page. Moving to the bottom of the page under the progression clause, it indicates that a progression to a higher position will be on the basis of a trainee acquiring the required skill and competency standards, and on being selected on merit for a position when one becomes available.

Notwithstanding that that's the way the award reads, I'm indicating to the commission that there is, in fact, agreement between the two major companies, which are the Medical Benefits Fund and St Lukes, that progression after the 3 months to the next level in the assessor stream will be automatic. In other words, the Clerical and Administrative Officer Grade 2, assessor stream, is a trainee-type position where employees will translate from having previously, I guess, been in the clerical and administrative stream to the assessor stream where they will be taught assessing, to put it in its Is that now a little clearer? Is the mist lifting, sir?

COMMISSIONER IMLACH: I think it is. I hope so, Mr Edwards.

MR EDWARDS: Commissioner, the parties have negotiated on the question of appropriate relativities and a minimum rate

adjustment process which will achieve those end point relativities and if I could table another exhibit, sir.

COMMISSIONER IMLACH: Exhibit E.2.

MR EDWARDS: Exhibit E.2, commissioner, is put together in essentially the same format as the document previously before you on 16 November last year, which was identified as Exhibit F.4. It's been revised to take account of the changed structure that the parties now place before the commission for inclusion in the award. You will note the relativities have been struck as a percentage of \$417.20, which is the old \$407.00 increased by 2.5%.

We have listed the current rates and the minimum rate adjustment that would be applied across four equal instalments, roughly equal instalments, to those figures shown under the fourth MRA column, being the final line-up of the percentage relativity with the \$417.20. These have been provided to Mr Fry in advance of the proceedings and, indeed, to the two major employers and no-one has yet raised any problem with the mathematics. I won't put it any higher than that because I think Mr Fry did indicate he hasn't yet had an opportunity to check them correctly.

COMMISSIONER IMLACH: Has to go through a higher authority yet, doesn't it?

MR EDWARDS: Yes, indeed, commissioner. Yes, indeed.

COMMISSIONER IMLACH: On my right.

MR EDWARDS: I will bow to her superior judgement, sir. That then is the timetable that the parties have developed. I've deliberately not nominated a time span as to when each of those MRAs would be applied by way of a date, because it would have been perhaps a little presumptuous to do so for two reasons. The first is we must first get through the hurdle of having the commission accept this documentation this morning, the second is, of course, that the second, third and fourth MRAs are available by application so the dates may be not quite lined up.

We would however be asking the commission to include in the award effective from today's date, the first pay period to commence on or after today's date, those rates listed under the column headed, '1st MRA'. To that extent, commissioner, I have prepared a brief draft order which I'm sure also will be checked by the higher authority to which you referred earlier.

COMMISSIONER IMLACH: Exhibit E.3.

MR EDWARDS: Exhibit E.3, commissioner, as I indicated, a brief draft order deliberately not gone through a chapter and

verse exercise of saying 'by deleting and inserting' so far as each of the changes that is concerned. There is, of course, the definitions which were included in Exhibit E.1 but incorporated in clause 7 of the award.

The draft order deals with the change to Division B of clause 8 - Wage Rates of the Insurance Award wherein, I think from memory, the entirety of Division B of clause 8 - it'd be replaced by those issues that are listed in the draft order. The wage rates shown there line up, I believe, commissioner, with the rates shown under the first MRA column in Exhibit E.2.

I think the junior employees' scale may require some brief comment in that it's a little bit innovative in comparison to those that have previously been before the commission. We have sought to strike two different percentages junior employees, dependent upon the amount of schooling that has been achieved by the individual and that therefore allows them to bring certain additional skills into the company with them.

Scale 1 applies to a junior employee who's completed year 10 schooling and has met the minimum qualification standards of grade 1. Scale No. 2 applies to junior employees who have completed year 11 and/or year 12 schooling in a relevant discipline - that should read 'discipline' and not 'disciple'; my typing is still not what it ought to be - and/or who have completed a relevant traineeship, the AST traineeship provisions are, of course, already incorporated into this award, commissioner.

So we've sought to differentiate upon that basis. And again we believe that is consistent with the requirement of the wage fixation principles that people be rewarded in accordance with their level of training. So we see that replacing the entirety of Division B in the Insurance Award, commissioner, in clause 8.

COMMISSIONER IMLACH: Just to put me straight, Mr Edwards, what's the significance of Division A?

MR EDWARDS: I'm wondering whether I should make a diplomatic observation or a personal comment.

COMMISSIONER IMLACH: Whatever you like.

MR EDWARDS: Bearing in mind that we're on the transcript perhaps it ought to be a fraction diplomatic. The effect of Division A, commissioner, is simply that it picks employers in the fire and/or life insurance and accident and marine and general insurance industry and refers them to an award of the Australian - it says Conciliation and Arbitration Commission - which is the Insurance Officers Clerical and/or Staff Award and therefore adopts the terms of that award by reference.

And the same can be said for the wage rates area, they're the same - the conditions there, I'm sorry, were the same as done.

COMMISSIONER IMLACH: Thank you.

MR EDWARDS: It appears in a few awards of this commission, that sort of reference. I have always questioned its legality. I think it's the responsibility of this commission to make appropriate provisions in awards. However it's still there, it's a matter over which the parties should negotiate further as we continue our structural efficiency exercise which is not as yet at an end. There are many issues yet to be canvassed,.

COMMISSIONER IMLACH: Yes, well just on the fact of it, Mr Edwards, I would recommend that to the parties because I think the parties and the industrial relations area generally wouldn't take kindly if the commission acted of its own accord and did something about it.

MR EDWARDS: I've got a feeling we may have talked about that before, commissioner. We would ask the commission to vary the award in accordance with Exhibits E.1 and E.3 to incorporate the first minimum rates adjustment and the new classification structure with effect from the beginning of the first pay period to commence on or after today's date. In doing so we observe that, in our view, it is a continuation of the structural efficiency exercise upon which the parties have been working for some considerable time. It is not the end of that exercise. It is in accordance with the wage fixing principles of this commission and, further, in our view, it does no harm to the public criteria under section 36 of the Industrial Relations Act. If it please the commission.

COMMISSIONER IMLACH: Yes, thanks, Mr Edwards. Just one point, it all seems in order to me. Is there any precedent at all for this classification structure you've put forward?

MR EDWARDS: No, it's totally innovative, commissioner. It's been drawn from scratch by the parties. I guess the precedent, if any, is that the format of it is consistent between most awards that are coming before the commission. The verbiage is not all that inconsistent with some of that contained in Mr Fry's preferred position, in the Clerical and Administrative Award. We have taken account of the current documentation we have in respect of that award, but other than is a classification drawn specifically for this industry by this industry in consultation with the union.

COMMISSIONER IMLACH: Yes, thanks, Mr Edwards. Mr Fry?

MR FRY: Just for the record, sir, I do draw your attention to the fact that at page 8 of my document, which is No. 1 of

1991, there is a subclause (5) which deals with additional payments. They have, by this order, been deleted from the award as well. They are now incorporated as part of the ongoing rate.

COMMISSIONER IMLACH: Now, No. 1 of 1991?

MR FRY: Yes, I have.

COMMISSIONER IMLACH: Page?

MR FRY: Page 8.

COMMISSIONER IMLACH: Page 8.

MR FRY: There's a heading, point (5) - Additional Payments. They are deleted from the award as a result of this new structure. Sir, the only other comment I have to make is that the union is in agreement with the proposal as outlined by Mr Edwards, but for the record, sir, I do indicate that at the bottom of page 2 of E.1 - and it goes to this question of progression again. And I'm dealing with a Clerical and Administrative Officer Grade 1, C/A 1, at the bottom it says:

Progression

Progression to Grade C/A.3 will be in the basis of a C/A.1 having the required skill and competency standard and on being selected on merit for the position when a position at Grade C/A.3 becomes available.

Again it is not included in the award but there is an understanding that in normal circumstances, in fact, it would be the exception that after 12 months the high probability is that that person would, in fact, move to the level of C/A 3. It's an understanding that we have reached with MBF and St Lukes and whilst it's not an automatic right, there would be extraordinary circumstances really before we could claim it to be an automatic right. But there would be extraordinary circumstances which would prevent someone from moving to that Other than that, sir, we would recommend the documentation to you.

COMMISSIONER IMLACH: From the same operative date, Mr Fry?

MR FRY: If the commission was so inclined, sir, to hear an argument as to retrospectivity for 12 months we would be happy but, knowing the track record and given the fact that I recognise your right-hand is a lady and so presumably she is not the son of God she must be at least the Holy Spirit, we will leave it to her hands to fix the details, sir.

COMMISSIONER IMLACH: I see, I shouldn't have asked that question.

MR EDWARDS: I really do wish you hadn't, sir. Mr Commissioner, if I might just make a brief observation in respect of Mr Fry's comments on Exhibit E.1 in respect of the Clerical and Administrative Office Grade 1, I can advise the commission for the sake of the transcript that both MBF and St Lukes have agreed to implement a system of performance appraisal reviews. In the case of a C & A Officer Grade 1 that review would take place after 12 months in that position and, indeed, it has been agreed that it would be the exception rather than the rule that an employee would be retained at level 1, they would rather progress to level 3.

It is not an automatic progression, as I'm sure Mr Fry understands, but subject to the performance appraisal review being positive then there would be no reason to hold them back at C/A 1. However the structure of the award has been devised for more than two companies, there are, of course, other health insurance companies in the state and therefore we must devise an award which suits everyone. So whilst two companies have agreed to that the award, of course, does not reflect that because that would have been inappropriate. But we do record our agreement to the observation Mr Fry made with those couple of contextual remarks.

COMMISSIONER IMLACH: Yes, thanks, Mr Edwards. Well I indicate now that these agreed matters, the structure and the new classification scale commencing at the first minimum rate adjustment, I indicate now that that will be endorsed operative from that agreed operative date, subject to any serious aberration that I might find on reading through this E.1, which I doubt very much that I will come across but I hope the parties appreciate it's impossible - I'm not going to take the time to read it now, but I will read it through. Subject to that, as I say I'm confident I won't need to recall the parties, this matter will be endorsed. Thank you.

HEARING CONCLUDED