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## **TRANSCRIPT OF PROCEEDINGS**

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O/N 9876

### **TASMANIAN INDUSTRIAL COMMISSION**

**PRESIDENT P.L. LEARY**

**T No 11064 of 2003**

#### **ENTERTAINMENT AWARD**

**Application pursuant to the provisions of  
section 23(2)(b) of the Industrial Relations Act 1984  
by the Australian, Municipal, Administrative,  
Clerical Services Union to vary the above award re wage  
rates**

**HOBART**

**3.30 PM, MONDAY, 27 OCTOBER 2003**

**HEARING COMMENCED**

**[3.30pm]**

PN1

MR I. PATERSON: I appear for the Australian Municipal, Administrative, Clerical Services Union.

PN2

MS J. THOMAS: I appear on behalf of the Tasmanian Chamber of Commerce and Industry Limited.

PN3

THE PRESIDENT: Thank you. Who would like to speak to the application?

PN4

MR PATERSON: If I may?

PN5

THE PRESIDENT: Mr Paterson?

PN6

MR PATERSON: A couple of minor matters before we go on. The statement of particulars in fact had a minor error in them, where it refers to, in the last paragraph, step three.

PN7

THE PRESIDENT: Yes.

PN8

MR PATERSON: Draft order number (3). It should read:

PN9

*Draft order number (3) gives effect to a second minimum wage adjustment.*

PN10

And I will provide you with a copy of that. The other omission in the application - I seek leave to incorporate these into the application - was that whilst we were adjusting the wage rates to incorporate a minimum wage we didn't actually include the minimum wage clause in the application so - - -

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THE PRESIDENT: There is no objection to that, I take it?

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MS THOMAS: No.

PN13

THE PRESIDENT: No.

PN14

MR PATERSON: That being the Division E to come after the Division D supported by each and whilst you - the other variation is to remove from clause 14, hours, the reference to a 40-hour week as this first step that we are doing with this draft order number (1) is to give effect to what on a close inspection

was shown to be a 40-hour week even though there is only the, I think, one classification with a weekly rate of pay.

PN15

THE PRESIDENT: Oh, was it?

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MR PATERSON: All the other - - -

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THE PRESIDENT: But it computed to a 40-hour week?

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MR PATERSON: But it was computed on the 40-hour week and that was one of the conundrums we uncovered when trying to develop this position. So that I seek to incorporate, that statement of particulars, and the Division E and the variation to hours clause in the application.

PN19

THE PRESIDENT: Right. I take it there is no objection to those amendments?

PN20

MS THOMAS: No, that is fine.

PN21

THE PRESIDENT: Okay, thank you.

PN22

MR PATERSON: And I understand from talking to Ms Thomas that we are proposing - I am agreeable to this - that the order issuing from today's proceedings will be draft order number (1) and that we will make fresh applications for each of the two subsequent steps to the Commission, particularly given that the third order in all likelihood would have a safety net increase prior to that.

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THE PRESIDENT: Oh, yes, quite likely.

PN24

MR PATERSON: So the first - the outcome of today's proceedings would be to give effect to step one, the draft order number (1) which is in effect doing an adjustment to convert the 38-hour week, which I think from memory is about a 5 per cent increase in wage rates for that adjustment. The movement of the wage rates in this award, some of them are quite low compared to most other awards and given that some of them were so low it would have been quite a considerable adjustment to have the minimum wage adjustment in a single step.

PN25

THE PRESIDENT: Yes.

PN26

MR PATERSON: And we have agreed on two steps. Those were, from memory, where the increase was, I think, from my calculations less than 5 per cent, the full effect was given in one step and where the increase was more than 5 per cent the effect was given in two equal steps.

PN27

THE PRESIDENT: So it is phased across the period?

PN28

MR PATERSON: So it is phased to where the increase is a larger amount.

PN29

THE PRESIDENT: Is there any - I don't know whether you would know - but are there any real increases, if I could put it that way, where payment will in effect have to be made or are most of these people covered by an over-award of payments or some sort of agreements or you don't know?

PN30

MR PATERSON: I really don't have an idea of the incidence of the application of the award. It has some most peculiar classifications and rates.

PN31

THE PRESIDENT: It does indeed.

PN32

MR PATERSON: And I have no - I imagine that it would be relied on for some of the employees, juniors at football grounds and the like.

PN33

THE PRESIDENT: Yes.

PN34

MR PATERSON: I could well imagine that they would be used and relied on.

PN35

THE PRESIDENT: Yes, some of them are pretty easy to comprehend but some of the others are not.

PN36

MR PATERSON: And it may well be that these other rates that are relied on in terms of roller skating rink employees and the like and we wouldn't imagine that they are highly profitable businesses paying over award.

PN37

THE PRESIDENT: No, you may be right.

PN38

MR PATERSON: But I do not know whether we in fact still have spruikers and chief commissioners and parade stewards and the like and whether they are paid - - -

PN39

THE PRESIDENT: Yes, mainly it is scratching clerks, scratching board attendants.

PN40

MR PATERSON: And the other matter, very briefly, that we did discuss which we would probably give effect to in draft - in the third step is to actually collapse the classifications and rates into something simpler, so - - -

PN41

THE PRESIDENT: Yes, I was going to suggest that that may be a worthwhile exercise.

PN42

MR PATERSON: Whether there is a need to keep the - maybe just to express it perhaps as, for instance, a single rate and then with a listing of who it applies to.

PN43

THE PRESIDENT: Yes.

PN44

MR PATERSON: We would probably need to keep the detail of the who it applies to, given that it - - -

PN45

THE PRESIDENT: Well, if they are classifications we are not familiar with I suggest we don't try to play around with them, but it may be an easier way to set them out.

PN46

MR PATERSON: And certainly when you go to what is here as the third draft order there is a \$10.80 rate which would encompass far and away the majority of the classifications so it would be just a matter of expressing the rate once and saying, "This rate shall apply to the following persons."

PN47

THE PRESIDENT: To these classifications, yes.

PN48

MR PATERSON: Yes.

PN49

THE PRESIDENT: Yes, that may be a way to go.

PN50

MR PATERSON: So we haven't had that detailed discussion yet about how best to do that but we have discussed that as part of the future process.

PN51

THE PRESIDENT: Well, you have done pretty well to get to this stage.

PN52

MR PATERSON: Yes, it has been a while.

PN53

THE PRESIDENT: It has indeed.

PN54

MR PATERSON: And yes, it has been a collaborative - and the difficulty has been that it is sourcing the origin of the rates and then arriving at a reasonable way in which to do it and then, of course, having been caught with timing issues around State wages cases. So the first - or the order issuing from today's proceedings we are seeking that that be effective from the first full pay period on or after 1 December 2003 and the parties are agreed and that further applications will be made to give effect to the draft order number (2) in April 2004 and the draft order number (3) in December next year.

PN55

THE PRESIDENT: And what you are proposing is that there be a formal proceeding for each of those?

PN56

MR PATERSON: A separate application for each of those matters.

PN57

THE PRESIDENT: Yes - no, that is - - -

PN58

MR PATERSON: Each of those variations.

PN59

THE PRESIDENT: That is not a problem. All right, thank you. Ms Thomas?

PN60

MS THOMAS: Yes, I rise simply to consent to the variation of the award as set out in order numbers (1) through to (3) but obviously today's proceedings relate to the implementation of the 38-hour week which is reflected in agreed order number (1) and that is supplemented by the subsequent variation to the hours provision as well so that needs to be incorporated.

PN61

THE PRESIDENT: At the minimum wage?

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MS THOMAS: Well, the minimum wage I see coming in at order number (3) once that minimum wage process has happened - - -

PN63

THE PRESIDENT: All right.

PN64

MS THOMAS: - - - and been concluded.

PN65

THE PRESIDENT: You are happy with that, so that will be the December 2004.

PN66

MS THOMAS: Yes. Yes, and the application is, of course, consistent with the wage-fixing principles and we have been pleased to be involved in this process and it is always desirable if the parties can work these things out

themselves I think. So thanks to Mr Paterson for all his work. He has done most of it and I have done all the stressing, so if it pleases the Commission.

PN67

THE PRESIDENT: Well, seeing as you are both now so expert we will try and find you some more awards that need similar attention just so you don't lost your touch. The only question that I wanted to raise - I don't know, and you maybe don't know either, how many or who is covered by this award?

PN68

MS THOMAS: We have some members who subscribe to it and I am - - -

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THE PRESIDENT: Some?

PN70

MS THOMAS: Yes, and I am aware of an Australian workplace agreement where this award forms the basis for the no-disadvantage test so - - -

PN71

THE PRESIDENT: But could there - there could well be other people that are not members of yours, may not be - - -

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MS THOMAS: That is right, yes.

PN73

THE PRESIDENT: Yes. My only concern - I don't have any difficulty with what you have done. What I was thinking because these are significant changes perhaps to people covered by it, I think what we did in respect to another award where we changed things in a similar fashion we made a public notice and what I propose is we do the same sort of thing with this one, just saying that these are the proposed variations, if anyone has got anything to say. If perchance there is no response as there was on the last occasion we don't need to do anything about it.

PN74

It is just that I think because these are common rule awards and we don't know who is party to them or who applies them they should be at least given an opportunity to make some submission or representation. But chances are, as I say, there will be nothing that is forthcoming but I will get that arranged as soon as possible so that the first increase which is due in December of this year can go through without any difficulty.

PN75

All right then, on that basis I have no difficulties with the application and the proposed draft order number (1) including the variation in respect to clause 14, Hours, an order will issue in respect to that and the variations will come into effect from the first full pay period on or after 1 December this year subject to there being any representation from any party who applies the award and of course if that happens both of you will be advised to hear or see whatever it is is presented in that way.

PN76

On that basis this matter will adjourn and subject to the orders going through unhindered in December we will see you 12 months after that date or thereabouts - six months after that date isn't it? Yes. All right, thank you.

**ADJOURNED INDEFINITELY**

**[3.40pm]**