

TASMANIAN INDUSTRIAL COMMISSION
Industrial Relations Act 1984

T No. 5998 of 1995

IN THE MATTER OF an application by the
Automotive, Food, Metals, Engineering,
Printing and Kindred Industries Union to
vary the Metal and Engineering Industry
Award

re insertion of new clause

COMMISSIONER IMLACH

HOBART, 15 August 1996
continued from 17/2/96

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER IMLACH: Any change in appearances?

MR G. COOPER: If the commission pleases, I appear on behalf of the Australian Workers' Union, Tasmania Branch, COOPER, G.

COMMISSIONER IMLACH: Thanks, Mr Cooper. Well, Mr Baker?

5 MR BAKER: Well, sir, we've had some discussions, that is, between the TCCI and ourselves concerning the implementation of this provision into the award and we've exchanged - well actually I've forwarded to the TCCI a draft order which they quite rightly pointed out to me, has in fact been overtaken by events at the national level, where the classification, reclassification clause which we were in fact seeking to insert
10 into the award has in fact been somewhat made redundant and indeed there is a new provision, which I inadvertently overlooked.

As a consequence thereof, we do have the new provision pertaining to the provision that applies in the federal Metal Industry Award and to that end a subsequent draft order has in fact been prepared. Unfortunately, as I was advising your associate and my colleagues here this morning, and Mr Watson, that unfortunately our computer wasn't feeling too well this morning and has transposed half the new draft award into - quite frankly, God knows where.

We do need to actually sit down and come to a position as far as the draft order itself is concerned. Both Mr Watson and I have agreed - we have an agreement as far as the introduction of the provisions are concerned. We have an agreement which I believe
20 will see the standards operate from 1 September of this year with full implementation to occur as from the end of March of next year.

There are a couple of things which we need to attend to, as I indicated. One is, to ensure that transposing the federal provision into the state award finishes up with a provision that indeed does make sense and is of relevance to the parties. Secondly, as
25 you are aware, sir, the current classification structure in the federal award is of a 14 level structure and in Tasmania we have a 19 level structure and that is brought about by the introduction of an integrated clerical structure together with the engineering classifications. There is also - we need to have a look at how that will apply. That is an issue which Mr Watson and myself need to address and there is also, sir, the appendix
30 - the new appendix which will become part of the award.

There is an implementation manual which was published by the industrial parties to the award federally and that document will have to form part of the appendix to this award. Mr Watson has indicated to me this morning and no doubt he will explain it to
35 you that he believes that in fact there's been some changes to that documentation, which I'm afraid I'm not aware of. So, we may have to do a little more work as far as that is concerned.

So as far as we are concerned this morning, it would be our intention to do one of two things: either, a) to seek the approval of the commission in so far as this matter is
40 concerned, subject to the parties providing to you appropriate draft orders, or b) the matter being adjourned for seven to 10 days in order for the parties to finalise the draft orders and give them to you in order that we can have this matter proceed from 1 September of this year with the full implementation occurring at March 1997. That really is my submission, sir.

45 COMMISSIONER IMLACH: Thank you, Mr Baker. Has anyone from the union side got anything to add to that?

MR PYRKE: Thanks, commissioner. Commissioner, I have to say, with due respect to my colleague, Mr Baker, I've got absolutely no idea what's proposed as far as it affects

our members. Indeed, what is proposed, we are willing to act with what's already there in terms of classification of people. So, my submission would be that if we have to decide the matter today, I'd be strongly opposed. So, in those circumstances, I'd certainly support the adjournment and would encourage the parties who have made the application to provide us with information before the matter comes up for final determination because our position would have to be the same at that stage we haven't had a chance to, a) find out what's proposed and, b) work out what the implications are. If the commission pleases.

COMMISSIONER IMLACH: Thank you, Mr Pyrke. Mrs Dowd?

MRS DOWD: Thank you, Mr Commissioner. The Australian Services' Union is in exactly the same position as Mr Pyrke's association and we would actually seek the adjournment so that we can have the opportunity to view the draft orders and actually make an assessment. If the commission pleases.

COMMISSIONER IMLACH: Thank you, Mrs Dowd. Mr Cooper?

MR COOPER: Mr Commissioner, with respect to the submissions of Mr Baker, we understand the complexities of the issue. It is an issue that does need to be truly understood by the parties and we accept that. We support in that respect, Mr Baker's suggestion for an adjournment to allow the draft orders to be developed. We also support though the submissions that have been made, that we should abide by those operative dates because the matter is one that is happening and it is evolving and as Mr Baker said, during the course of that evolution of the national scene things have overtaken us here in terms of draft orders.

Now, we accept that. So we would support the application, or suggestion, for an adjournment to allow the draft orders to be prepared and agreed to by all the parties because it is inevitable that this system will come in place and it would be better to have it done by agreement. So, in that respect we support the application for an adjournment.

COMMISSIONER IMLACH: Thanks, Mr Cooper. Now, what do you say to all that, Mr Watson?

MR WATSON: Commissioner, I must say initially that Mr Baker and myself do have an understanding in relation to this matter and that is that in effect there is agreement in relation to what Mr Baker is seeking to do in varying the state award, which is a direct flow-on from what has happened with the federal Metal Industry Award. So on that basis, there's no difference between the parties.

I suppose the problem is that we don't actually have a document in front of us in its final form which can be put before you and on that basis and based on the submissions of all the other parties here, I think probably the best course of action is that we - or Mr Baker convenes a meeting within the next week or so to go through the finalised draft order and then we come back to you at some stage in the future for another hearing to actually seek approval of the final draft order.

COMMISSIONER IMLACH: Yes. Thanks, Mr Watson.

Before I give you the final say, Mr Baker, I certainly endorse these points. One is, it is good to see there is an understanding between the parties, but I think - it is my view that before the commission endorses anything formally, the parties will have to return, as one or two of the advocates have said, with an approved draft order - an agreed draft order, before the commission will entertain endorsing the matter and of course I think that embraces the concept of all parties meeting together to reach that end in the meantime.

What I propose to do is to give you a final word, Mr Baker, or anyone else on the union side, if they wish, but in particular Mr Baker and then adjourn the hearing for these meetings to take place and I'll be ready to bring on another hearing to, hopefully, endorse what's been agreed as soon as you like thereafter. I don't like fixing a time
5 now. I'd like you to have the meeting first and then tell me that you're ready.

What's your reaction to all that, Mr Baker?

MR BAKER: I think that's, in the circumstances, is the way to proceed. I'm not too sure if I can deal with Mr Pyrke's objection, either now or in the long term and that may have to be a matter to be resolved before the commission. But in so far as the
10 other parties are concerned, it would be my intention to convene, if you like, a drafting conference as soon as practicable and return to the commission with an agreed document. I think, as Mr Watson's indicated, there is no disagreement about the thrust of the proposal. It's the actual proposal itself that is posing the problem.

COMMISSIONER IMLACH: Yes. In detail, that's right, Mr Baker.

15 MR BAKER: Well, the detail. I beg your pardon, yes.

COMMISSIONER IMLACH: Now, anyone else? No. Well I think, so far, so good, shall we say and in that context I will repeat what I've said. This matter will be adjourned. I won't fix any particular date for resumption but I advise the parties that once they have met and come to an agreement on the matter and a draft order, that I'll resume
20 the hearing as quickly as possible, or very quickly and in that context I'm not worried about the operative date, so long as they're agreed. Thank you.

HEARING ADJOURNED