

**HEARING RECOMMENCED 10.35am**

COMMISSIONER: No alteration to appearances. I think we'll start by just having a short conference, just to check a couple of matters and then we'll go back on the record to enable you to put your case.

5 **OFF RECORD 10.36am**

**ON RECORD 10.50am**

COMMISSIONER: Mr Pyrke, I understand that you wish to place submissions in respect of your application, which was amended on the last occasion to take account of principle 16.

10 MR PYRKE: Yes, thank you, commissioner. Following the hearing on the earlier occasion which was 9 February, the application now reads that we want to vary the award to give effect to Principle 16 - Award Review Process of the current Wage Fixation Principles.

15 Having consulted the most recent principles which were promulgated in matters T8413 of 1999 and T8483 of 1999 by a decision of this commission on 21 July 1999, Principle 16 - Award Review Process asks the parties to take account of the following:

- (i) consistent award formatting;*
- (ii) removal of discriminatory provisions;*
- 20 *(iii) removal of obsolete or amendment of inaccurate award provisions;*
- (iv) updating Clause 6 - Parties and Persons Bound;*
- (v) re-writing of the award in plain English;*
- (vi) the appropriate use of facilitative provisions;*
- 25 *(vii) the inclusion of an appropriate enterprise flexibility clause.*

Just working our way through those sequentially but leaving award formatting until last, I can say in terms of removal of discriminatory provisions that the parties found none and therefore under the changes which have been made go to that question.

30 In terms of removal of obsolete provisions, we've removed a previous reference to translation which arose from when the award was created in 1996. These matters have been highlighted in the summary of changes which is before you.

35 In terms of updating Clause 6 - Parties and Persons Bound, we've made no changes to the parties as such but we have updated it to reflect the requirements of the commission as promulgated in its circular

circular memorandum of 5 February 1998.

5 In terms of rewriting the award in plain English, there's been a number of things that we've done there including, for example, getting consistent language in terms of penalty rates. We've now deleted that particular phrase and replaced it with penalty payments.

In terms of facilitative provisions, this award was created in 1996 and therefore reflected modern thinking on these kinds of matters and we believe it's meeting the commission's requirements.

Ditto in relation to an appropriate enterprise flexibility clause.

10 In terms of the formatting - I'm moving back to the question of formatting. As I've indicated, the commission issued a circular on 5 February 1998 and it had a number of points over and above the ones I've already addressed. In the first place, there's a requirement that the clause through the scope clause should stand alone and be able to be  
15 read without reference to the definitions. We've addressed that by moving the definition of retail pharmacy industry into the scope clause.

20 It's another requirement that the definitions clause should contain general definitions only and we've addressed that by moving the number of definitions to elsewhere in the award and the details there are summarised in the summary of changes to the Retail Pharmacy Award.

25 The title for the definition of classification standards, descriptions, et cetera, should now be described as, classification descriptors, and we've now done that and those descriptors are to be found in Part III, clause 3.

Award interest and parties bound clause to be as per the Meat Retailing Award. On that account, I believe we've met the commission's requirements there.

30 All the categories of employment to be included in Part II - Employment Relationship and Associated Matters and we've done that by including definitions of casual, part-time and full-time in Part II, Clause 2 - Employment Categories.

35 The supersession and savings clause to be replaced by a new standard and we've done that, as I understand it, to the commission's requirements.

40 There are two more points I need to address you in terms of formatting. The commission's circular of 5 February 1998 required that bereavement leave be the new standard heading for what was previously compassionate leave and the formatting also required that

the supported wage provisions be contained in a separate clause and again we've addressed that.

5 In terms of the process, I've given copies of a new draft of the award to the other parties to the award and I've also given the parties a copy of the summary of changes to the Retail Pharmacy Award. As I understand it, those documents have the support of the other parties. In terms of the public interest, this matter has been done in accordance with the Wage Fixation Principles which clearly have regard to the public interest. It's my submission that the application is  
10 consistent with the public interest.

In terms of date of effect, I'm proposing we have two dates of effect. There will be an Appendix 2 for supported wage with an operative date being 1 February this year. In terms of the balance of the new award, I propose that the date of effect be the first pay period commencing on or  
15 after today's date.

Commissioner, on the basis of that submission, I think it's open to you to vary the award as sought and if you agree with me, I ask that you do it from those dates. If the commission pleases.

COMMISSIONER: Thank you, very much. Mr Dilger?

20 MR DILGER: Thank you, commissioner. I concur with the submissions of Mr Pyrke. I believe we've complied with all the requirements of the commission and I believe it complies with the requirements of the Wage Fixing Principles, in particular principle 16 and the documents relating to the drafting process and I too  
25 recommend that the award be varied in accordance with those directions. If it please.

COMMISSIONER: Including the operative dates?

MR DILGER: Sorry, commissioner, yes, I agree with, obviously, Appendix 2, the supported wage rates as at 1 February 2000 and I  
30 agree with Appendix 1, the operative date for the Retail Pharmacy Award to be the first pay period on or after 22 February 2000.

COMMISSIONER: Thank you. Having heard the submissions of the parties it's my intention to vary the award in the manner sought and I'll hand down a decision and orders to that effect in due course.

35 This matter is now concluded. Thank you.

**HEARING CONCLUDED 10.57am**