

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T. No. 3929 of 1992

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

re minimum rates adjustment and
restructuring of award

COMMISSIONER GOZZI

HOBART, 21 December 1994
continued from 22/11/94

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER GOZZI: Any changes in appearances this morning?

MR A. FLOOD: ANDREW FLOOD, Mr Commissioner, for the Tasmanian Chamber of Commerce and Industry, previously represented by Mr Paul Targett, if it please you.

COMMISSIONER GOZZI: Thank you, Mr Flood.

5 MR FLOOD: Thank you.

MR G. COOPER: If the commission please, I appear on behalf of the AWU-FIME Amalgamated Union - Tasmania Branch - COOPER, G.

COMMISSIONER GOZZI: Thank you, Mr Cooper. Now who is going to go first? Mr Joyce?

10 MR JOYCE: Commissioner, first and foremost, commissioner, on behalf of the parties, we thank you for the opportunity this morning to have an informal discussion amongst ourselves. On behalf of the TACC we acknowledge that it's because of that that we've been able to come to a largely a consent agreement today.

MONITOR: Excuse me, Mr Commissioner, could Mr Joyce stand closer to the microphone.

15 COMMISSIONER GOZZI: Right, thanks.

MR JOYCE: Commissioner, what I'd seek to do at the start is to hand up an exhibit which is a further amended draft order.

COMMISSIONER GOZZI: Right. I think that will be J.3.

20 MR JOYCE: Commissioner, from the outset I would stress that the parties have been working long and hard to make sure that this matter has been done as quickly and as consensually as possible. The draft you have before you this morning, commissioner, has been largely agreed by the parties. Commissioner, I'd seek your guidance about what you'd like me to do; it's a 28-page document. Would you like me to walk you through page by page or to provide you with a summary of what's happened?

25 COMMISSIONER GOZZI: Well perhaps if we could just go through it page by page -

MR JOYCE: Yes, commissioner.

COMMISSIONER GOZZI: - then, you know, in broad terms.

MR JOYCE: Right.

COMMISSIONER GOZZI: Yes.

30 MR JOYCE: Commissioner, what we've sought to do is by agreement is to see if it's possible to introduce a - the national classification structure into this Tasmanian award. At the moment the one in front of you has a framework of eight positions. The parties come to you today with consent on the first six, and what we'd be requesting, commissioner, is that we have further discussions amongst the party on level 7 and 8 and if appropriate we
35 would requesting that perhaps sometime - mid January or late January - once again come before you and see if we could resolve level 7 and 8.

40 Commissioner, going through the classification structure, it starts on - on the first page. You'll note that there's an inclusion with the level 1 on the second paragraph there. What we've sought to do, commissioner, is to create a document which is - is accurate and is concise and has some relevance to employers and employees currently in the industry.

5 What we'll - what we've done, commissioner, is we've created a situation where it's possible for the employer and their employees to have a - an understanding of how the classification structure works, and as previously foreshadowed by the parties, it may well be sometime in '95 that the parties come to you with a consent document to see if it's possible to actually, I will say, review the entire Automotive Services Award, commissioner, so we can make sure that it is actually kept up to date with the actual award provisions.

10 What we seek to do, commissioner, is moving through the document, it has a number of levels. Perhaps the important starting point is if I could ask you to turn to the paper that sets out the relativities - that appears on page 25 - and that perhaps will give you an idea of how it fits into the scheme of things. It's effectively - the trade level is at 100% of the national and we'll have five underneath the trade and effectively two above the trade. This is consistent with what has occurred in the federal award.

15 Commissioner, what we've sought to do is to make sure that the relativities match as evenly as possible to the existing classifications in the Tasmanian award. We have had discussions amongst the parties to make sure that no employee has been disadvantaged from the translation from the existing classification structure to the new classification structure.

COMMISSIONER GOZZI: Yes, now just jot it at me again - does this relate to Division A only or more?

20 MR JOYCE: The lot, commissioner.

COMMISSIONER GOZZI: The lot. All divisions.

25 MR JOYCE: Yes. Yes, commissioner. You might recall that a number of Tasmanian awards over time have been segmented by divisions. The parties informally have had discussions. They've said there may be some benefit if it's possible to remove those divisional - those divisions and perhaps to review it by just having an award for the industry.

COMMISSIONER GOZZI: Alright. And part of that being looking at the divisions is to delete the clerks from it.

30 MR JOYCE: No, commissioner. The actual clerical classifications are an integral part of this award and they've actually been incorporated into this classification structure.

COMMISSIONER GOZZI: I see.

MR JOYCE: Yes.

COMMISSIONER GOZZI: Okay.

35 MR JOYCE: Okay. And indeed the translation of the clerical classifications actually start occurring at level 3 of the document that they start coming in.

COMMISSIONER GOZZI: Yes, I saw that, thank you.

40 MR JOYCE: Commissioner, with a number of these things, what the parties have sought to do is to have a document which is, as I said before, concise, and in plain English and certainly to assist employers and their employees to utilise and maximise the benefits of the classification structure. What we've sought to do is to have the classifications up to six incorporate relevant skills and competencies that are currently being used in the industry.

45 What we'd seek to do, commissioner, is that a lot of these modifications have occurred during this morning's discussions and perhaps of greater relevance are the points occurring - perhaps starting on level 6 and that starts occurring at the base of page 7 - that is, the trade rate of 100% and also Clerical Officer, Grade 3.

COMMISSIONER GOZZI: Right.

MR JOYCE: There will need to be some additions, for example on page 8. There will be need to insert an automotive parts interpreter above the existing automotive electrician on page 8.

5 COMMISSIONER GOZZI: Mm.

MR JOYCE: With - on page 10, commissioner, this is the last descriptors for the clerical classification, we note that under the heading of Information Handling Skills, skill level 3, that a number of those - it starts off maintain circulation, indexing and filing systems for publications - commissioner, it would appear that those matters are perhaps more
10 appropriately dealt with under a wage group level 7 and the same with business and financial skills, and what the parties would seek to do, commissioner, is that in the very near future provide you with an updated document for skill levels 1 to 6 and that would effectively be the draft order which we'd seek to have agreement on today.

With - I do stress, commissioner, that the matter before you today is - is by consent. The parties have worked very hard to - to come to this agreement. We note that with the fact that the competencies for seven and eight have not yet been developed, it would not be possible or able as of now to currently move people into the classifications of seven and eight.

Commissioner, if I could just as an aside - as this matter is by consent and as the retail motor industry is currently having discussions with the ASU at the federal office, we would like to keep these two matters separate and distinct and we do not believe that is an impossible task - we believe that is relevant and consistent with the approach we've contained throughout these proceedings.

That would be the end of my preliminary comments. With respect to the skill levels, seven and eight, we have requested if possible we could come before you perhaps in mid to late January '95 to see hopefully by consent we can introduce seven and eight. With respect to operative date for levels 7 and 8, TACC considers it to be appropriate to have that date as a date of consent that it comes before you.

That would be the end of my preliminary comments, commissioner.

30 COMMISSIONER GOZZI: Well just a couple of points of clarification, Mr Joyce, I didn't follow you when you were talking about keeping the ASU discussions apart from - from this - what did you actually mean?

MR JOYCE: Commissioner, just perhaps as a - to take a sept back, on the national front the Federal Industrial Council of the Retail Motor Industry are seeing if it's possible to actually create clerical classifications into the federal award. These discussions have been ongoing with the Clerks Union over I think about 10 years they've been on and off and we're just trying to make sure that these two matters are - are isolated so that it will not prejudice either the ASU's position nationally or our position nationally with the clerical classifications.

40 COMMISSIONER GOZZI: Well what happens nationally - what those discussions are really doesn't interest me all that much.

MR JOYCE: Indeed, commissioner.

COMMISSIONER GOZZI: What you're saying to me in respect to this particular award though, is that it will cover the clerical grades that are currently contained in
45 the award?

MR JOYCE: That is correct.

COMMISSIONER GOZZI: I assume you're saying that at some stage further down the track that the clerical positions may be subject to a federal award?

MR JOYCE: Yes, that is correct.

5 COMMISSIONER GOZZI: Right. Okay. Now, that's one point of clarification. What are you saying then about the operative date?

10 MR JOYCE: Operative date, commissioner, when the proposal was before you previously, there was consent the operative date for grades 1 to 6 of 22 November. I would just, once again emphasise for the record, commissioner, this matter has been by consent and certainly the parties hope that if possible an operative date for the first six grades could be 22 November.

COMMISSIONER GOZZI: Right. And 7 and 8 from date of consent, whenever that may be?

MR JOYCE: Before yourself, commissioner. That would be the Chamber's position, yes.

15 COMMISSIONER GOZZI: And you hope to roll all this up into one document with the changes you've got here?

MR JOYCE: Yes, sir.

COMMISSIONER GOZZI: At our next hearing.

MR JOYCE: Before the next hearing of 1 to 6 and 7 and 8 at the next hearing.

20 COMMISSIONER GOZZI: Yes, all right. At the next hearing is probably not all that inappropriate, given the negotiations that have taken place this morning. What I meant by that is, I'm not sure whether you're negotiating before the date of the hearing or not.

25 MR JOYCE: Commissioner, our aim would be to have the matter finalised before the day of hearing.

COMMISSIONER GOZZI: Thanks, Mr Joyce. Mr Flood, anything you want to add at this point?

MR FLOOD: No thank you, Mr Commissioner. I would support the submission put by the TACC.

30 COMMISSIONER GOZZI: Thank you. Mr Baker?

MR BAKER: Thank you, sir. It is some sort of historical day today.

COMMISSIONER GOZZI: Is that why you've got your special tie on?

MR BAKER: That's right, sir.

COMMISSIONER GOZZI: What's the historical day today?

35 MR BAKER: I think it's almost 2 years since I had the first hearing on this award -

COMMISSIONER GOZZI: Almost?

MR BAKER: Almost 2 years, and I know that we had a hearing this time last Christmas and it is nice to be able to come along and see the fruits of some of that work has finally come about where people in this industry will, at long last, receive some recognition for the skills that they operate in the industry.

5 As Mr Joyce has indicated, there has been some extensive discussions both prior to and during this morning to try and get the document into some final shape and Mr Joyce has indicated that that document now will represent wage groups levels 1 to 6 and we will concentrate on wrapping us levels 7 and 8 prior to a hearing in January. The only thing that does remain for us then is to tidy up the balance of the award as
10 far as the conditions of employment are concerned.

COMMISSIONER GOZZI: When do you hope to do that?

MR BAKER: I am hopeful we can do that in a very short space of time. I believe if the parties actually sat down and could find a couple of days, it wouldn't be too difficult to knock it off because otherwise, unfortunately, these exercises do tend to drag on where
15 people say, I've got to go back and have a chat with somebody, or I need to think about it and that is the sort of situation that develops.

COMMISSIONER GOZZI: Mr Baker, I haven't gone to the trouble of reading the award in respect to all the different conditions that apply to the various divisions, but looking at just the arrangement part of the award, rationalising the conditions may not
20 be that straightforward.

MR BAKER: I think, sir, you'll find that it is straightforward, the exception of motor vehicle salespeople and travellers, which have a unique range of situations. For example, sir, many of the other conditions are simply repeats of an earlier clause within the award and some of them are varied only by a more recent addition as far as
25 the author of the clause is concerned.

COMMISSIONER GOZZI: All right, so when you look at annual leave, that repeats itself over and over again in the award, does it?

MR BAKER: Right through.

COMMISSIONER GOZZI: Compassionate leave, contract of employment?

30 MR BAKER: Yes. It really gets down to motor vehicle salespeople and commercial travellers, those sorts of people which have special allowances for travelling and so on and for working on weekends and so on. The others, as I said, is an exercise which can be done and could be done with no great deal of difficulty, I believe. As I have made the point to both yourself, sir, and to the previous commissioner who was involved in this
35 matter, at the end of the day we would come to you with a package. If there was anything outstanding as far as those issues between us, we would simply say to you this is what is agreed and we give the rest of it over to you and after due discussion and comment, to make a decision one way or the other as to how it was to go.

COMMISSIONER GOZZI: Yes, fair enough.

40 MR BAKER: Sir, I would commend the document to you and the operative date of 22 November, the first pay period on or after 22 November as the agreed starting point.

COMMISSIONER GOZZI: All right, thanks, Mr Baker.

MR BAKER: Sorry, it's the 22 November, not the first pay period. I've lost a fortnight.

COMMISSIONER GOZZI: Mr Noonan?

MR NOONAN: Yes, Mr Commissioner, we support the submission before you, J.3. There are a couple of cosmetic touchups there and one was in relation to the automotive parts interpreter, which would go into - automotive parts salesperson would go into level 5 and the automotive parts interpreter will go into level 6, which is in the document before you. At the back of that document the comparative schedule of old classifications, new broad banding of wage groups. That is on page 26. Those two classifications will need to go in there but they will be tidied up for you at the next hearing with a new submission on that basis. In other words, the parties have agreed that that take place.

10 COMMISSIONER GOZZI: All right. Thank you, Mr Noonan. Mrs Dowd?

MRS DOWD: The Australian Services Union actually support the document that has been presented to you as J.3. The one area that has been omitted from this document is the tool allowance and I thought Mr Baker was actually going to bring that area up. It has been agreed that it will be inserted in the new draft that will be presented to you. On the last page, page 28, there is a translation schedule for clerical classifications, that also has to be tidied up. All the hieroglyphics that are on there are mine and I am probably the only person who understands them. It will actually be retyped with the correct wage levels in it and we will be back before you, hopefully early January, mid January, with consent position in relation to levels 7 and 8.

20 COMMISSIONER GOZZI: Thank you, Mrs Dowd. Mr Cooper?

MR COOPER: Mr Commissioner, with respect to this application, I have come into this rather cold. Mr Long has been handling it for our organisation. We have been involved in the discussions and do advise of our consent to the document that has been handed up as exhibit J.3. There is only one thing that has exercised itself in my mind and it is something I haven't had a chance to discuss with the other parties, is that the award is set out, as you quite rightly pointed out, in a number of divisions, and those divisions do, as Mr Baker said, contain similar conditions so I suppose in the interim while we are developing the new award the conditions that would apply or otherwise apply by classification to employees, would continue to apply through the old translation schedule, I would imagine.

COMMISSIONER GOZZI: Well, yes, I would say so. Just discussing that with Mr Baker a moment ago, just looking at the conditions clauses, they cross-reference simply by clause number, so what he said is quite correct, that in the main it appears that they are mentioned once in respect of one particular division and then referred to by clause number later on in other divisions. So, if you're asking the question, do the conditions apply to the translation I guess they would.

MR COOPER: It is just something you need to be clear of because that is how I would certainly see it happening, so I would not like to be back here between now and January when we have the majority of a final package in terms of classifications with a dispute over what clause of estimating services applies for the person classified and that's the only reason I raise it in that context.

COMMISSIONER GOZZI: Yes, and I think it's important that somebody undertakes to do the exercise, to look through the conditions and where there are differences well they're thrashed out between you before you get into the situation here.

MR COOPER: I support the submission of Mr Baker, but in the main there isn't much difference between what does apply, it's just that the parties do have to understand that in replacing several divisions with a more simplified and relevant structure that is fully integrated for the purposes of serving the industry, we have to recognise that the conditions that will apply will have to apply initially by the translation - that's the only point I make.

5 We also support, sir, the operative date being the 22nd November and that shouldn't offend the commission as the principles do allow for a consent operative date being earlier than the date of the hearing where there are circumstances that the parties have agreed to that. So I don't think there's anything in this document that does offend the principles. In fact I think everything in this document enhances them. It does make a truly industry relevant structure that is fully integrated and it should assist industry and our members too by allowing them to be recognised for the skills that they do have and appropriately award them in terms of wage rates.

10 Now I understand, sir, that you've already discussed the process where I'm going so I don't intend to labour that any more other than to add our consent to the position that's been put this morning.

COMMISSIONER GOZZI: Yes, thanks very much, Mr Cooper. Mr Joyce, anything further you want to add at this point?

MR JOYCE: No, commissioner.

15 COMMISSIONER GOZZI: Mr Flood?

MR FLOOD: No thank you.

20 COMMISSIONER GOZZI: No - right. Alright, well look, just a couple of observations. Fundamentally I have no problem with the operative date of the 22nd November 1994. I'm not going to go any further than that at this point to see what actually comes up with the consent document when we next meet. I recognise that the Industrial Relations Act provides for retrospectivity in those sort of circumstances. As far as the amended document is concerned - the new proposed draft order - I think you probably need to take account of the State Wage Case decision that was issued yesterday to see how that impacts on it and I should know, but I don't, whether this award has been varied for the December '93 -

25 MR BAKER: It has, sir.

COMMISSIONER GOZZI: It has?

MR BAKER: Yes, sir.

30 COMMISSIONER GOZZI: Well that makes it a bit easier then. So it would be just formatting as far as the award is concerned. So you should take account of that decision. And with respect to the conditions - well if you do the exercise, any irregularities between the divisions you can sort out beforehand. I don't expect there would be apart from the section you mentioned - there wouldn't be any problems there.

35 Well we'll go off the record and set a resumption date.

OFF THE RECORD

COMMISSIONER GOZZI: Alright, well these proceedings are adjourned to the 27th January 1995 and I wish you all the best for the festive season.

MR BAKER: Likewise, sir.

40 **HEARING ADJOURNED**