



Tasmanian Industrial Commission

Industrial Relations Act 1984

T No. **9732 of 2001**

IN THE MATTER OF an application by
The Australian Workers' Union,
Tasmania Branch to vary the
Silviculture and Afforestation Award

Re: increase rates of pay and
allowances in accordance with the 2001
State Wage Case

PRESIDENT LEARY

HOBART, 3 September 2001

TRANSCRIPT OF PROCEEDINGS

Unedited

(WOULD PARTIES PLEASE READ THIS TRANSCRIPT CAREFULLY)
(ANY QUERIES SHOULD BE DIRECTED TO THE COMMISSION WITHIN 14 DAYS)

HEARING COMMENCED 9.03am

PRESIDENT: Could I take appearances, please.

MR R. FLANAGAN: If it pleases the commission, FLANAGAN R., for the Australian Workers' Union, Tasmania Branch.

5 PRESIDENT: Thank you.

MR M. WATSON: May it please the commission, MARK WATSON. I appear on behalf of the Tasmanian Chamber of Commerce and Industry.

PRESIDENT: Thank you. Mr Flanagan, it's your application?

10 MR FLANAGAN: Thank you, president. President, this application seeks to vary the Silviculture and Afforestation Award to give effect to the State Wage Case of this year in terms of the safety net adjustment and work related allowances. I would seek to tender a copy of both the State Wage Case and an amended schedule of variation.

15 PRESIDENT: Thank you.

MR FLANAGAN: If I can take you, firstly, to the amended schedule of variation at Silviculture and Afforestation Worker Grade 5. The rate now appears as \$514.60. In the application filed with the commission it originally identified that rate as \$414.60, which was -

20 PRESIDENT: It was a typographical error, was it?

MR FLANAGAN: A typographical error, yes. On the following page, we now vary the first aid allowance by 3.05 per cent and that had been omitted from the original application.

PRESIDENT: So, that's now \$1.79 per day?

25 MR FLANAGAN: That's correct, yes. If I can explain the schedule of variation, at Silviculture and Afforestation Worker Grades 1, 2, 3 and 4, the application seeks to increase those rates of pay by \$13.00 per week as those rates of pay were at the level which attracts the \$13.00 and likewise Level 5 and Level 6 is increased by \$15.00 per week.

30 On the following page, the industry allowance and leading hand allowance and first aid allowance are all work-related allowances and are increased by 3.05 per cent, again, in accordance with the State Wage Case.

35 If I can take the commission to the decision, it indicates in paragraph 2 on the first page that:

Wage rates in private sector awards be increased by the safety net adjustment of \$13.00 for wages up to \$490.00 per week and \$15.00 for wages over \$490.00 and up to \$590.00.

40 In our submission, variation one, is in accordance with that requirement.

On the following page, it indicates in the second paragraph still at point 3, that existing allowances relating to work or conditions be increased by 3.05 per cent from the first full pay period on or after 1 August 2001.

45 Again, that percentage is consistent with the schedule which is before you.

If I can take the commission also to page 3 of the decision at paragraph 14, the decision says:

50 *That any variation to the Silviculture and Afforestation Award and the Business Services Award arising from this decision will be subject to separate application to the commission.*

And that is the basis upon which the application is before you.

I must indicate, president, that the union was surprised by that appearing in the State Wage Case. There was no submissions nor were
55 the parties asked to address the commission on that issue.

PRESIDENT: I think it was put there because they weren't listed with the others.

MR FLANAGAN: Yes, there seems to be something.

60 PRESIDENT: There's been some internal - I was going to say, misdemeanour - that's not the word. The word that I want to say I can't really say on the record but I think you know what I mean.

MR FLANAGAN: Yes. Certainly, what it has done is, there have been discussions between the union and the TCCI. We are of the view that the appropriate date was 1 August for this variation to have effect. The
65 TCCI have indicated to us that in their view, it could be argued that given that it is a new award, it hasn't had the full 12 months as required for other awards of this commission. We have agreed on a compromise position, president, and that is, that the variation which we seek today take effect from the first full pay period on or after
70 October this year, however, that is contingent upon the agreement of the TCCI to support this award being brought into line with other awards of this commission at the next State Wage Case variation.

PRESIDENT: I understand what you're saying.

75 MR FLANAGAN: In those proceedings, the parties will make
submissions to you seeking that this award be brought into line at
that time with the other awards of the commission.

PRESIDENT: Can I just say, that it's my view and possibly my
responsibility, that these weren't listed with the State Wage ones. They
should have been listed. If there was a problem with operative date, it
80 should have been addressed at that time but they weren't and that's
why there's paragraph 14.

MR FLANAGAN: Yes. I understand what you're saying, president,
however, given that it is a new award and the discussions we've had
with the TCCI, we are prepared to make that compromise position in
85 seeking a consent variation of the award this morning.

PRESIDENT: Is there any actual increase to employees?

MR FLANAGAN: Yes, there would be.

PRESIDENT: There is, is there?

MR FLANAGAN: Yes. These employees are paid in accordance with
90 the award. There is not a situation in this industry of substantial over-
award payments so in those circumstances, it has a real cost effect.
There are a number of industrial agreements and indeed one or two
enterprise agreements which flow from the rates of pay which are
identified in this award so it has a real and meaningful effect to both
95 the employers and the employees in the industry.

Obviously, we're keen for the employees to receive the benefit of safety
net adjustments as they occur from year to year, which hasn't been
the previous history of employees in this industry until the award was
made.

100 In those circumstances, the parties, by consent, seek approval of the
variation as identified in the amended schedule, having regard for the
commitment of the TCCI in respect of future variations to the award. If
it pleases the commission.

COMMISSIONER: Thank you. Mr Watson?

105 MR WATSON: Thank you, president. I can confirm the submissions
of Mr Flanagan. We have reached an agreement in relation to the
safety net adjustment for this award and I guess it's part of a process
to bring this award into line with the rest of the awards if next year's
State Wage Case results in a common operative date, then we have
110 indicated that we will support this award being varied with the rest of
the awards next year.

However, it was our view, as Mr Flanagan said, that perhaps 1
January would have been the appropriate date on the basis of the rule

115 book, so to speak, however, I think, based on the circumstances and
based on the fact that the union has been prepared to compromise,
we're quite happy with 15 October as the operative date and I think
that's a fair compromise for both parties and on that basis we consent
to the variation. If it pleases.

120 PRESIDENT: Thank you. It could be, or it may still be an interesting
argument as to what the operative date should be. There are some
interesting aspects of that. On the basis that it's now an agreed
matter, I'll vary the award in terms of the draft order, the second draft
order, the one tendered by Mr Flanagan today, and the award will be
varied in accord with that and the operative date will be the first full
125 pay period on or after 15 October 2001 and that award will be dealt
with along with all other awards, presuming there is a next State Wage
Case.

The matter is adjourned.

HEARING ADJOURNED 9.13am