

**TASMANIAN INDUSTRIAL COMMISSION**  
Industrial Relations Act 1984

T No. 5316 of 1994

**IN THE MATTER OF** an application by The Australasian Meat Industry Employees Union, Tasmanian Branch for the making of the Meat Industry Award

T No. 6552 of 1996

**IN THE MATTER OF** an application by the Tasmanian Chamber of Commerce and Industry Limited to vary the Meat Industry Award

re title and scope

COMMISSIONER WATLING

HOBART, 7 November 1996  
continued from 4/10/96

**TRANSCRIPT OF PROCEEDINGS**

Unedited

COMMISSIONER WATLING: I'll take appearances please.

**MR J.E. SWALLOW:** SWALLOW, J.E., AMIEU.

COMMISSIONER WATLING: Good, thank you.

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

COMMISSIONER WATLING: Good, thank you.

**MR T.J. EDWARDS:** If it please the commission, EDWARDS, T.J., I appear for the Tasmanian Chamber of Commerce and Industry and the National Meat Association, Tasmanian Division. If it please the commission.

COMMISSIONER WATLING: Good, thank you. Right. The plan for today will be to deal with the Meat Industries Award. Then we move to the Meat Trades Award, then we'll move to the rescission of Abattoirs and Poultry, Game Products Award - both applications the FIME - AWU-FIME one and the AWU one. So have we got any comments on how we proceed today, or do you think we'll get that far?

MR COOPER: Commissioner, if I may -

COMMISSIONER WATLING: So we'll deal with the first one first; we're talking about the meat industry.

MR COOPER: Yes. In respect to that matter, there is an application -

COMMISSIONER WATLING: Or two matters.

MR COOPER: - well the Meat Industry Award - yes - in terms of that award, there is an application in to vary the title and scope of that award. It's our view that that will be able to be dealt with today. In terms of the development of that award, since we last met, a draft has been prepared by the AWU and supplied to the meat workers and we have discussed that briefly and we have had several attempts at meeting with industry but there has been some developments that have made it difficult for that to occur, one of those being the absence today of Mr Flynn who has since left that organisation. He was coordinating those meetings, so we tried to organise them on our own but every time we did that one party wasn't available. So it's made it a little bit difficult for us to proceed in the development of that award to an agreed position.

So in terms of that process, commissioner, what we'd be suggesting today is that we do proceed to vary the scope in the manner that is agreed between the parties and then we would seek some advice from yourself about blocking a date for finalising the processes that you outlined in terms of Meat Industry Award, Meat Trades and rescission of the other two. We are still obliged to do that and we are committed to that process but we're not in a position to tidy it all that up today as we had anticipated and it's unfortunate but events that are beyond our control have overtaken us and held things up a little bit, so we do apologise for that. But we are in a position to get the scope tidied up this morning. If the commission pleases.

COMMISSIONER WATLING: Right - is that your understanding, Mr Swallow?

MR SWALLOW: Yes, sir.

COMMISSIONER WATLING: Mr Edwards?



MR EDWARDS: That's also my understanding, commissioner. It's an unfortunate set of circumstances which has resulted in us not being in a position to proceed with 5316, and Mr Cooper has dealt with that and I don't intend to go back over that ground.

The reality at this point in time is whilst there is a draft that's been prepared, it hasn't yet been provided to the employer respondents to the award because it's yet to be squared away completely by the union respondents to the award, and we need to get around a table and talk through a broad range of issues that will arise from that as a result of the changed strategy away from a single meat industry award to meat industry awards.

So with that in mind, I'd agree with the proposal that Mr Cooper has put forward, and that is, that we would ask the commission to proceed to hear T.6552 being the TCCI application to vary the title and scope of the Meat Industry Award; that the parties then be directed to confer further and if it's practical to set aside a date in approximately mid-December when the parties could come back with a reasonable degree of surety that the matters between them will be finalised and an agreement reached.

I'm very confident that it will be an agreed document but I think we need to give ourselves that much time otherwise we'll be continually coming back and upsetting the commission's program and our own programs unnecessarily and I think we should just give ourselves enough breathing time to do it properly. If it please the commission.

COMMISSIONER WATLING: Right. Well, for the record then, application T.5316 of 1994 is adjourned sine die and we'll look at some dates later.

In respect of application T.6552 of 1996, I'm prepared to hear from the parties today. So who wants to lead off? Mr Edwards?

MR EDWARDS: Thank you, commissioner. I think this matter would be one that we can deal with reasonably briefly. It's a matter that's been dealt with very extensively in private conferences within the precincts of the commission and outside of the precincts of the commission. The last time we were - or the time before last that we were before the commission, we laboriously went through the scope clause of the Meat Industry Award that was made by the commission, as currently constituted, and the Meat Trades Award and the Abattoirs Award with a view to moving away from the previous intention held jointly by the parties that there only be one award in the meat industry, that being the Meat Industry Award.

As the commission would be aware, there are a lot of complications that arise by trying to put together with the meat processing side of the industry, that segment of the industry that deals primarily in the retailing or wholesaling of meat. Those complications amongst others involve the question of the 38 hour versus 40 hour working week and questions of that nature and it was felt by the parties that little, if any, progress would be able to be made if we continued with the single award concept. We therefore met privately and agreed to divide the industry into two parts, at least on a pro tem basis, where we would have a meat processing award on the one hand, and a meat retailers award on the other hand. That Meat Retailers Award concept is before the commission by way of an application by the TCCI - that's application T.6547 which I note is listed for a little later this morning. It's not one we will be able to process, I feel, because of other factors. But I just mention that it is there; it's ready to be proceeded with at the appropriate time.

The issue before the commission in 6552 of 1996 limits itself to varying the Meat Industry Award by varying firstly, the title of the award from the Meat Industry



Award to the Meat Processing Industry Award. And if it suits the convenience of the commission, I would propose that that attachment to our application in T.6552 of 1996 be treated as a draft order for the purposes of these proceedings and it was drafted with that in mind.

COMMISSIONER WATLING: Good.

MR EDWARDS: The other parties of course have a copy of that. The second alteration, commissioner, is to the scope clause: whereas I've indicated we have designed a scope clause which covers all those premises in the state that deal with the processing of meat, and meat in that context includes the broader definition which is found at proviso (b) where it talks about meat, meat products, game meats, poultry and pet food.

Now I specifically take the commission to that because that is an expansion on the previous coverage of the Meat Industry Awards as they might generically be known into the area covered by the Poultry and Game Products Processing Award which is a continuation of the strategy first commenced by the parties before yourself some two years or so ago, sir.

With that in mind, the document has been, as I've indicated, laboriously worked through by the parties and the commission, as currently constituted, and I think we're now at the position where all parties agree that this constitutes a scope clause which covers the processing side of the industry, and T.6547 -

COMMISSIONER WATLING: Six five four seven.

MR EDWARDS: - just got to make sure I get them right -

COMMISSIONER WATLING: Mm.

MR EDWARDS: - would, once processed, provide an appropriate title and scope and definition of the other segment of the industry - the retail/wholesale segment - if I can use the broad generic term. There is no impediment, in our view, to proceeding today with the Meat Industry Award matter because it doesn't have a direct application as yet because the body of the award has not been made whereas the meat industry - the meat retailing side of the business can't be processed because it does have actual application and would leave people in an award-free state which would be undesirable in some people's view - not necessarily mine.

COMMISSIONER WATLING: Mm.

MR EDWARDS: I don't intend, unless the commission requires me to, to go through in any detailed sense the content of clause 2 - Scope of this proposal. As I said, it has been worked through laboriously. We've checked, cross-checked, rechecked and double checked the actual application of it in terms of its comparison with the soon to be created Meat Retailers Award and I think now it's fair to say that all parties are happy that it does do what it's expected to do.

I might just say for the record that it's not intended that this award would prevent employers covered by the Meat Retailers Award, as it will be called, from making some butchers' smallgoods, for example, on their premises - sausages and the like - and that's adequately dealt within the definition of meat retailer and it's also dealt with by way of this award.

We've also incorporated into the proposal the standard proviso of the commission, that until the making of the award has been finalised in respect of rates of pay and conditions or until that proviso has been deleted, the following award shall apply,



and it goes on and lists the three currently prevailing awards so that all persons' rights are protected.

Unless the commission requires further detail, I wouldn't intend to take that submission any further except perhaps to indicate that the application is consistent with the principles of the commission, most particularly those going to structural efficiency and the requirement to update and rationalise awards and their coverage.

It further, in our view, is not in any way an impediment to the public interest tests required by section 32 - 36 of the act and we would therefore ask the commission to vary the award in the manner shown in the attachment to T.6552.

COMMISSIONER WATLING: Good, thank you.

MR EDWARDS: If it please the commission.

COMMISSIONER WATLING: Any further submissions, Mr Cooper?

MR COOPER: Commissioner, in respect to those submissions, we support them fully. I note that in that attachment there was one - one word missing - that was in the second proviso. I think that we actually agreed to put that in. I think after 'provided' it was supposed to be 'provided further' in between 'provided' and 'that'. We'd actually discussed that at the last hearing, I think. It's only - I know it's only a technical thing but it is consistent with the formatting that the commission has adopted.

MR EDWARDS: I'd have no objection to that suggested alteration, commissioner.

COMMISSIONER WATLING: No, we'd put it in the form of the commission's order.

MR EDWARDS: Thank you.

MR COOPER: Sir, and as Mr Edwards has said, this application is consistent with the intent of the parties in terms of the restructure process. In fact when we - when we get to the other award of the Meat Retailers Award, when we're in a position to deal with that, there was a simple test we were going to apply with that award which, you know, justifies the making of this award in the manner sought and that was, if you took away the manufacture of smallgoods from the retail/wholesale business, would the business survive as a retail/wholesale business. And in terms of that test obviously we'll be restating that when we make that other award. But this award is designed to cover all those elements that Mr Edwards identified and to pick up those elements that were previously covered by the Poultry and Game Meat Products Processing. And obviously when those awards are rescinded and the body of this is made, that will become very clear in terms of the classification structures and definitions and the like.

So we would - we would endorse the submissions of Mr Edwards and seek the commission endorse the variation in the manner sought with an operative date I suppose .... being today's date or - if that's appropriate.

COMMISSIONER WATLING: Mr Swallow, have you anything to add?

MR SWALLOW: Nothing further, Mr Commissioner.

COMMISSIONER WATLING: Mr Edwards?

MR EDWARDS: Just briefly to indicate on the record our consent to the proposed operative date that Mr Cooper has suggested. I don't think at this stage anything at

all swings on it, but we need to give it some operative effect otherwise it doesn't actually come into force.

COMMISSIONER WATLING: Well I can indicate to the parties I'll hand down a written decision in due course in favour of mending the title and scope of the Meat Industry Award as outlined in the attachment to the application and it will be operative on and from today

So that concludes that application thank you.

**HEARING CONCLUDED**