



Tasmanian Industrial Commission

Industrial Relations Act 1984

T No. 7268 of 1997
[Now joined with:
T No 5998 of 1995
T No 6275 of 1996
T No 6278 of 1996]

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: Clause 8 - Wage Rates, section (3)
Engineering Production Juniors -
Unapprenticed and (5) Apprentices, by
the application of Supplementary
Payments to all wage rates as
prescribed

COMMISSIONER IMLACH

HOBART, 21 December 2001
Continued from 13 December 2001

TRANSCRIPT OF PROCEEDINGS

Unedited

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

HEARING RECOMMENCED 9.46am

COMMISSIONER: Are appearances the same as before? Thank you.

MR BAKER: On this side of the bench they are, commissioner, yes.

5 **MR M. WATSON:** I'm not quite sure, commissioner, but in any case
MARK WATSON for the Tasmanian Chamber of Commerce and
Industry today.

COMMISSIONER: Thanks, Mr Watson. Yes, Mr Baker?

10 MR BAKER: Thank you, sir. First of all I must apologise for being
late this morning. I had a schedule of events to do this morning and
unfortunately one of them didn't go quite according to schedule, so I
apologise to the commission for being late this morning.

15 I would hand to you a copy of a document which I understand my
office has electronically mailed to your office and likewise an electronic
copy of the document has in fact been also sent to the TCCI and I have
provided them with a further hard copy this morning.

COMMISSIONER: Yes. Did we mark that last time, Mr Baker?

MR BAKER: Yes, we marked the previous one, commissioner, B.1 I
think from memory. Sorry, AMWU.1.

20 COMMISSIONER: AMWU.1. Well we'd better mark this **EXHIBIT**
AMWU.2, I suppose. Thank you. Yes?

MR BAKER: Now when we were last before you, Mr Flood, on behalf
of the TCCI indicated there were a number of matters which he
believed needed addressing and there are a couple of issues that he
felt that they were not in a position to agree with.

25 Since that point in time, we have actually gone back through the
document again and amended the document where Mr Flood has
suggested that it ought to be amended. So those issues have been
attended to. There are however two issues which I need to address this
30 morning. One of those issues Mr Flood raised when we were previously
before you and that was the use of the phrase – sorry, the words – 'or
equivalent' where they appeared in the new proposed classification
table to classification levels 10 through to 7 and I agreed, subject to us
being able to come back in the new year and argue that position, that
35 in order for the document to proceed we would withdraw that phrase
from those classification levels and accordingly I've done so.

However, Mr Flood has also raised an objection to the inclusion of the
definition as it's contained at page 5 which defines what 'or equivalent'
means because currently in the award, commissioner, there are a
range of classification descriptors which in fact speak of 'or equivalent'

and they range literally from Classifications 14 through to 11 and from Level 6, 5, 4 and 3 in the new document.

5 I am advised this morning that the TCCI maintain their objection to having the phrase 'or equivalent' – so the definition of the phrase 'or equivalent' contained within the document – and in order to proceed with matters – in order to wrap this matter up I will actually withdraw the definition – that definition as it appears at page 5 of the document and I place on record that it will be our intention to make an application to the commission to argue for its inclusion in order that
10 people can actually find out what 'or equivalent' means, because in our view the award will be deficient – and is deficient – without the explanation of what the phrase means.

15 So I place that on record together with the issue of the introduction of 'or equivalent' for Levels 10 through to 7, we will be back in the new year to argue that.

20 The other issue which Mr Flood has raised via Mr Watson, who I understand will speak on it this morning, is in fact the transitional table – the transition table that appears on pages 1 and 2 of the document is in fact an oversight of what in fact has happened, that it's not a complete table. So what we need to do is actually proceed to actually draw up the transition table in its totality now that we've actually got all the clause numbers and the document itself complete and that needs to be attended to.

25 So other than that, sir, at page 5, where the definition appears – where it says: *Where it appears in these classification definitions, the phrase "or equivalent" means: . . . et cetera*, we will remove that clause. Likewise, sir, I think it's also found at the conclusion of the classification descriptors and that must be well into the document. No, actually I've taken it out from there as well.

30 No, I do beg your pardon, it's at the bottom of page 56 of the document, commissioner, the phrase *"or equivalent" means*. There is actually a definition of 'or equivalent' means. You'll see there under there under *A Principal Technical Officer* classification up the top on the second line it says: *who has complete a 15 modules or accredited training in addition to an Advanced Diploma or equivalent*. Now, as I
35 said, the 'or equivalent', what that means will come out for the time being and there will be a submission hopefully in late January to actually have it inserted into the award.

40 So with that amendment, sir, I would propose that the document, as presented to you form the basis of the award and we will undertake to prepare a proper transitional table so that it is in fact fully representative of the reformatting of the award.

Now subject to any additional comments from yourself, sir, I'd conclude my submission in respect of this matter.

COMMISSIONER: Yes. Mr Baker, this whole process is within the guideline of the commission for reviewing awards is it?

MR BAKER: Yes, sir. There has been no – let me stress, sir – there's been actually no changes to the documentation itself other than, if you like, for modernising the award. It was our intention to actually add a couple of things to it such as the 'or equivalent' provision, but given the opposition that the employer has raised in respect of that, we will not proceed. So all the other clauses as far as the document is concerned is indicative of the current practices and stands which apply in the commission. For example, the right of entry of union officials and the time and wages records now they represent the new terminology which is used within the commission. The superannuation clause has been rewritten so that it reflects the SCG levy and so forth. So those changes have been made and of course I suppose the biggest change has been the re-numbering of the classification table so that it actually reflects what is found in its federal equivalent, that is, the Metal, Engineering and Associated Industries Award so that we have a consistent classification table.

You may recall, sir, I did make the reference on the last occasion that these days everybody refers to the trade level as the C10 rate, so we believe that it was imperative for us to actually bring the award into line so that it actually reflects that consistent view across the industry, because even in workshops where the state award applies, people still refer to people at the C10 level and not at Level 7 as proposed by the current award.

So other than that, sir, there have been no changes to the award. It's probably set out a little differently but other than that there have been no clauses which have been added which either increase or alternatively decrease employee entitlements.

With those comments, sir, I would suggest to you that it is consistent with the principles of the commission, and secondly, sir, of course that it meets the public interest test in so far as it will provide to both the employers and the employees a long overdue rewriting of the award which I understood was last done in 1996 and prior to that there was a very hurried – hurried together document which formed the basis of today's award which was put together back in 1991, I think it was from memory prior to Mr Brotherson leaving the TCCI.

And I recall that we had to get it finished because he was leaving. So it goes back. So this is probably the first proper rewrite of the document that has occurred since it was formerly the old Mechanical Engineers and Founders Award.

COMMISSIONER: Right. Thanks, Mr Baker. What do you say about all that, Mr Watson?

MR WATSON: Commissioner, I guess what I would say initially is that first of all I'm not making any criticisms of anyone in my submission, simply to say that the award review process is very time consuming and it's probably something that parties – or all parties
5 from both sides of the fence perhaps don't have a lot of time to commit to. However, I'd have to say to you that this document as presented to you today is not acceptable to go forward.

First of all, the issue of the transition table; it's fine to have the numbers of the old clause and the new clause – and that's fine, but it
10 does need to say in the right-hand side, as per all the decisions of the commission with award review exactly what's changed in the particular clause. So therefore if anyone picks up the award after award review they can see exactly what was changed through this process and it does have a history that you can track back through
15 rather than just simply a document which is ratified by the commission or put up by the parties by agreement with no summary as to what's changed. So I think that certainly needs to happen.

In terms of the 'or equivalent' issue, Mr Baker has addressed you on that so I don't wish to go to that any further. The only other issue that
20 Mr Flood has advised me of is the superannuation clause. The position, commissioner, is so long as the superannuation clause is the same as AMWU.1 – that exhibit, AMWU.1 – then we don't have a problem with that. But I guess I would simply say that – or what I would suggest is that from this point that we get a proper transition
25 table and then, certainly from our side of the fence on the basis that we only received this document last night by e-mail and then a hard copy this morning, we would then like to give it a final check and then send it through to you as a consent document. I don't think we necessarily need another hearing for this matter, but because it's
30 incomplete today, I can't support it going through as a reformatted award because I think there is a bit of work that needs to done.

So I don't wish to hold it up any further, commissioner, but we must get it right and therefore I'd suggest that if Mr Baker can provide us with the transition table as per the standard that's been issued by the
35 commission in other awards and we can also have a final check of the award from cover to cover and present it to you as a consent document hopefully early in the new year. If it pleases.

COMMISSIONER: Yes, thanks, Mr Watson. Just one thing, that 'or equivalent', is that something out of the blue or is it in the federal
40 award or what?

MR WATSON: I don't know, commissioner. I haven't been involved in this process for probably a couple of years now because Mr Flood has been carrying it for our organisation. Because of the shortness of
45 today's hearing obviously he hasn't travelled down from Launceston, but he has advised me that the position that we've taken is that that is not agreed. But unfortunately I can't give you any more detail on that

but as Mr Baker has said, he does intend to lodge a separate application to deal with that matter and I guess all the arguments will be put at that time.

5 COMMISSIONER: Yes. Thanks, Mr Watson. Anything else, Mr Baker?

MR BAKER: Just in relation to your question, sir, the definition of 'or equivalent' actually is taken – derived from – the federal award and that's where it is found.

COMMISSIONER: Right.

10 MR BAKER: And the only change that I actually made to the definition was to actually include the local or the Tasmanian Industry Training Board as part of the classification or the reclassification provisions which apply in the award. Nationally there is the MERSITAB – the Metals and Engineering and Related Industries ITAB
15 and here in Tasmania I've added the Automotive and Engineering Industry Training Board.

COMMISSIONER: Thanks, Mr Baker. Well, gentlemen, I will close this matter but subject to the matters that have been mentioned, in other words, the provision of a complete transition table, the
20 references to 'or equivalent' provisions in the draft will be removed on the withdrawal by the union. I'll check the superannuation clause and I'll await to hear – I've got cheque here – that won't be right – the final check by the chamber and until I hear that confirmation from the chamber the amended award will not be issued, but once I do – and
25 after the commission has checked it – it seems as though it's agreed and those steps having been taken it will be issued if they are all satisfied and operative date from the date of issue Mr Baker?

MR BAKER: Yes, sir, that will be find.

COMMISSIONER: Good. Acceptable to you too, Mr Watson?

30 MR WATSON: Yes, commissioner.

COMMISSIONER: Thanks, Mr Watson. Well, it's been a protracted exercise and I think all of us will be pleased to see the end of it, in particular Mr Baker, but let's hope that when it is complete that the award is at least at that stage up to date and equivalent to the federal
35 award as it ought to be. By that I mean adjusted to fit the Tasmanian scene. Thank you, gentlemen.

HEARING ADJOURNED 10.05am