



TASMANIA

Tasmanian Industrial Commission

Industrial Relations Act 1984

T No. **9898 of 2001**

IN THE MATTER OF an application by
The Association of Professional
Engineers, Scientists and Managers,
Australia to vary the Metal and
Engineering Industry Award

Re: Clause 20 – Motor Allowance

COMMISSIONER IMLACH

HOBART, 30 November 2001

TRANSCRIPT OF PROCEEDINGS

UNEDITED

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

COMMISSIONER: I'll take appearances.

MR D. PYRKE: If the commission pleases, DARRYL PYRKE, appearing on behalf of the Association of Professional Engineers, Scientists and Managers, Australia.

5 COMMISSIONER: Thanks, Mr Pyrke.

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

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

10 MR PYRKE: Thank you, commissioner. Sir, this is an application to vary clause 20 of the award, which relates to motor allowance and we're seeking to do two things here. Firstly, to insert a formula by which we can keep the award up to date and secondly, to vary the award in line with the agreed formula. The need to insert the formula
15 arises from what appears to be an omission when the award was created, basically. The award was created back in 1992, as I understand. Certainly the current figure was inserted in June 1992, the relevant matters there being T2757 of 1990 and T3736 of 1992, which gave rise to Order No 2 of 1992.

20 When I say, an omission, certainly the other awards with which I'm familiar include a clause which provides for them to be updated at a certain time of each year in line with the Consumer Price Index. My colleague, Mr Watson, tells me that some of the awards don't actually include that, so I'm perhaps now in two minds as to whether it is an
25 omission but whether it is or it isn't, basically the rates do remain out of date and so we need to certainly bring them up to date, in my submission.

The proposal is that we vary the award in September in each year in line with the transportation component of the Consumer Price Index
30 for the 12 months ending in the previous June. We've chosen this particular formula because it's one for which there's precedent in this jurisdiction. Basically, the Architects Private Industry Award and the Professional Engineers and Scientists Private Industry Award both contain similar provisions.

35 If I may, I'd like to tender now an exhibit which will help me to justify the numbers that we've chosen.

COMMISSIONER: **EXHIBIT P.1.**

MR PYRKE: Commissioner, there are two parts to this exhibit. One is a spreadsheet showing the calculations that I've used to arrive at the
40 proposed figure of 44.5 cents per kilometre and behind that spreadsheet are a number of extracts from the Consumer Price Index,

45 which is a publication of the Australian Bureau of Statistics. If we take the first part of that, the spreadsheet, you can see that we're starting with a figure of 35 cents in June 1992 and increasing it by 2.9 per cent, 2.8 per cent, 3.1, 4.2, 0.1, then a reduction of 0.9, a small increase of 0.1 and increases of 7.5 and 5.5 and if I could then take you to the ABS publications, I can show you how we arrived at those particular increases.

50 The third page of the exhibit is an extract from the Consumer Price Index for the June quarter 1995 and if you go to the lower half of the page, you can see that that's dedicated to the weighted average of eight capital cities and around the middle of the page you'll see a transportation column and within that column I've marked several points in the section, change from the corresponding quarter of the
55 previous year. In other words, the movement between June 1992 and June 1993 was 2.9 per cent and that's the number shown on the spread sheet. Are you with me so far?

COMMISSIONER: Yes, quite.

60 MR PYRKE: The next year, between June 1993 and June 1994 the number is 2.8 per cent and then between June 1994 and June 1995, 3.1 per cent. That's the extent of how far we can go in that particular publication. We go now to the one for July 1998 and again the transportation components in the middle of the page.

COMMISSIONER: Yes, I see those. No need to -

65 MR PYRKE: Okay. They're the numbers that we've chosen, commissioner, and they're factored into the spreadsheet and Mr Watson, as I understand it, has checked my maths and hence the numbers that we're proposing.

70 Sir, the application has been discussed, as I say, with the TCCI and I understand that it has their consent. I submit, the application conforms with the current Wage Fixation Principles, in particular principle 7 which deals with allowances. This being the case, I further submit that the application is consistent with the public interest. On the basis of this submission, I agree it's open to you in the terms set
75 out in the application. If you agree, I ask that you do so from the first pay period commencing on or after today's date. If the commission pleases.

COMMISSIONER: Thanks, Mr Pyrke. Yes, thanks, Mr Watson?

80 MR WATSON: Thank you, commissioner. I can confirm for the record that we do consent to the application. Mr Pyrke did provide a copy of the application together with his calculations prior to actually lodging it with the commission and we indicated our consent based on the calculations for the CPI and also the basis of the application itself.

85 Just one comment about the proviso that's in the application. I did
indicate to Mr Pyrke that it was perhaps 'a bit unusual'. However, he
does point out that even though those words are in the award, that the
onus is on the union to make an application prior to 1 September of
each year to in fact get the award varied in accordance with that
90 clause. So, I guess, if there's no application made then it would be our
position that there's certainly no retrospectivity. It would be from the
first full pay period on or after the date of the hearing but on that
basis, commissioner, we indicate that the application is in accordance
with principle 7. It doesn't offend the public interest and we advise of
our consent from the first full pay period on or after today.

95 COMMISSIONER: Thanks, Mr Watson. I'll indicate now, this
application will be approved and I congratulate the parties on reaching
the settlement in relation to it and also you, Mr Pyrke in the details
that you've put forward. It's certainly made it easier for the
commission and I presume, Mr Watson, you confirm that. Some times
100 we don't get it so easy but that's very good. I also make the point, a bit
on the facetious side nevertheless, you have seen me in a bow tie today
but I'm afraid that I forgot to put it on. The commission is conducting
a dress down day but I was allowed to dress up but I didn't, so I
apologise for that.

105 MR PYRKE: Commissioner, can I just make one comment before we
finish?

COMMISSIONER: Yes.

MR WATSON: I think your comments are pertinent because I think
there is a lot of value in parties discussing applications such as this
110 prior to the application being lodged and I do pay tribute to Mr Pyrke
for doing that because it has certainly allowed an easy passage.

COMMISSIONER: Thanks, Mr Watson. We all know from past
experience that that is the desirable perfect way - well, not perfect, but
the best way to do things and I agree with Mr Watson, Mr Pyrke.
115 Thank you. This matter is closed.

HEARING CONCLUDED 10.07am