

**TASMANIAN INDUSTRIAL COMMISSION**  
Industrial Relations Act 1984

T Nos 6317, 6384, 6319 and  
6411 of 1996

**IN THE MATTER OF** applications by the  
Australian Workers Union, Tasmania  
Branch and the Australian Municipal,  
Administrative, Clerical and Services Union  
to vary the Butter and Cheesemakers  
Award and the Concrete Products Award

re clause 8 - third \$8 arbitrated safety net  
adjustment

T No.6321 of 1996

**IN THE MATTER OF** an application by the  
Australian Workers Union, Tasmania  
Branch to vary the Farming and  
Fruitgrowing Award

re clause 8 - third \$8 arbitrated safety net  
adjustment

PRESIDENT

HOBART, 15 August 1996

**TRANSCRIPT OF PROCEEDINGS**

Unedited

PRESIDENT: Appearances please.

MR COOPER: We're doing - in terms of all three matters that have been called, Mr President, I understand there was also an application by the Australian Services Union in respect to butter and cheese - was that - that was 6384 of '96 I understand  
5 as well.

PRESIDENT: Six -

MR COOPER: Three eight four of 19 -

PRESIDENT: That was called.

**MR G. COOPER:** Sorry, Mr President, I was asleep. If the commission pleases, I  
10 appear on behalf of the Australian Workers Union, Tasmania Branch, in all matters.

PRESIDENT: Yes, thank you.

**MRS H.J.DOWD:** If the commission pleases, I appear on behalf of the Australian Municipal Administrative, Clerical and Services Union in matters T.6317, 6384, 6319 and 6321 and the name is DOWD, H.J.

15 PRESIDENT: And what about 6411?

MRS DOWD: No, Mr President, we do not have any interest in that particular award.

PRESIDENT: So that's not your application?

MRS DOWD: My apologies, Mr President, we haven't got an interest in 6321 but we do have an interest in 6411.

20 PRESIDENT: Right. Okay, thank you very much.

**MR M. WATSON:** May it please the commission, MARK WATSON and I appear on behalf of the Tasmanian Chamber of Commerce and Industry in relation to all three matters - Butter and Cheesemakers Award, Concrete Products Award, Farming and Fruitgrowing Award - and with me is **JENNY THOMAS**.

25 PRESIDENT: Thank you, Mr Watson.

**MR K.J. RICE:** If it please the commission, RICE K.J. I appear on behalf of the Tasmanian Farmers and Graziers Employers Association. I appear on behalf of the Butter and Cheese - T.6317, 6384 and the Farming and Fruitgrowing Award - T.6321, sir.

30 PRESIDENT: Very good. Thank you, Mr Rice. Who is to lead off? Mr Cooper?

MR COOPER: Mr President, in terms of this one we'll deal with butter and cheese first as I understand.

PRESIDENT: Certainly.

MR COOPER: In terms of that award, Mr President, we do have a draft order so I'll  
35 hand it to the commission.

PRESIDENT: This award will not - will involve consolidation if it's approved.

MR COOPER: It will, sir? If that's the case, Mr President, I'd seek leave of the commission to amend the application to allow for a variation in the parental leave clause, and that variation would seek to amend Part D - Part-time Work - subparagraph (m) - Replacement Employees - placitum (iv) and that would be to delete  
5 the roman numeral five and the word 'hereof' where appearing after (a) and add the following words: Definitions: Continuous service, in bold, of this part.

PRESIDENT: Yes, thank you, Mr Cooper. Any objection to that application?

MR WATSON: No, Mr President.

PRESIDENT: No. No.

10 MR RICE: No, Mr President.

PRESIDENT: No, Mr Rice. Thank you, very much. Well that application is granted.

MR COOPER: Thank you, Mr President. In respect to that then, dealing with the \$8 first, if I may, in terms of that draft order that has been provided to the TCCI, it has been checked and it has been agreed to. As with our previous applications, there are  
15 a number of allowances in this award that have been moved and they have been moved for - now for all three safety net adjustments that are available, and that's cumulative amount and they appear in - and I hope I don't miss any - they appear at page 2 of the draft order in roman numeral two; there's an amount of 6.30 there. They appear at  
20 roman numerals three - there's an amount of 12.90. They appear in clause 3 - Engine Drivers and Firemen and roman numeral three - Leading Driver in Charge - an amount of \$16.80.

PRESIDENT: Sorry -

MR COOPER: In (a) roman numeral three, under three -

PRESIDENT: Yes.

25 MR COOPER: - there's an amount of \$16.80 - that's been moved.

PRESIDENT: There is another one, is there, in the proviso - top proviso at - on the top of page 2 - 60 cents - holders of a boilers certificate.

MR COOPER: I'm not -

PRESIDENT: Has that been moved?

30 MR COOPER: I'm not sure whether the 60 cents actually picks up a movement, I don't think it does

MR ....: ....

MR COOPER: - because it's per week so it has to be in excess of six cents and I don't think it quite gets there.

35 PRESIDENT: So it's probably never going to move.

MR COOPER: It's probably never going to move, Mr President.

PRESIDENT: All right.

MR COOPER: There's more though. There are more allowances that appear at clause 6 - Leading hands. There's three amounts there that appear at (a), (b), and (c).

PRESIDENT: Yes.

MR COOPER: And there are additional amounts that appear in two juniors at  
5 subclause (c) - amounts per week - they've all been moved.

PRESIDENT: Yes.

MR COOPER: And there are also some allowances that appear in clause 33 - special rates and they've also been moved.

PRESIDENT: Okay.

10 MR COOPER: So we have tried to pick up all those up, Mr President, and I hope we don't miss any again. Now this award was last varied as a result of the national wage - state wage case for the second arbitrated safety net adjustment from the first full pay period on or after the 26th of the seventh, 1995, so twelve months has elapsed since  
15 this award has had the second arbitrated safety net adjustment. It is therefore consistent with the principles that it can be varied for the third arbitrated safety net adjustment and consistent with the requirement that - on the parties in matters T.6284 of '96 and T.6305 and others, the Australian Workers Union commits to the wage fixing principles that fell from that decision and that commitment is consistent with the requirement to allow for the third arbitrated safety net adjustment to flow.

20 And in terms of that variation, Mr President, I have provided one in an earlier case. Do you need another variation for parental leave in terms of this?

PRESIDENT: No. No. Certainly not, Mr Cooper. Thank you very much.

MR COOPER: Thank you, Mr President.

PRESIDENT: And that commitment of course includes the commitment to review the  
25 award as specifically mentioned in the principle.

MR COOPER: That's correct, Mr President, and we'd seek the first full pay period on or after today's date for this award variation. If the commission pleases.

PRESIDENT: Very good, thanks, Mr Cooper. Mrs Dowd.

MRS DOWD: Thank you, Mr President.

30 PRESIDENT: I didn't give you the opportunity to indicate whether you're happy with the application to amend the application.

MRS DOWD: Yes, I am happy to amend the application, Mr President.

PRESIDENT: Yes, I thought you would be. Yes. Okay.

MRS DOWD: Mr President, the Australian Services Union actually gives a  
35 commitment in relation to the principles, particularly in relation to principle 7.3.2.3. Maybe I better withdraw that, Mr President.

PRESIDENT: Did somebody's seat fall down or something, did it? Explode?

MR COOPER: I think they're just being silly.

MR WATSON: Sir, I'm sorry.

MRS DOWD: If Mr Watson has quite finished his antics we might proceed. The Australian Services Union actually does give a commitment in relation to the reviewing of the award. If the commission pleases.

5 PRESIDENT: Very good. And you've sighted the order and agree with its format and the amounts contained therein?

MRS DOWD: Yes, I do, Mr President.

PRESIDENT: Very good, thank you. Mr Watson.

10 MR WATSON: Mr President, we advise of consent to the application. We would advise that in our view the application is in accordance with the principles and we particularly welcome Mrs Dowd's commitment to principle 7.3.2.3, as do we welcome Mr Cooper's commitment to that particular principle. We advise that the public interest tests of the act are not offended by this application and we advise of the consent from the first full pay period on or after today's date.

15 PRESIDENT: Very good, thanks, Mr Watson. Mr Rice.

MR RICE: Thank you, commissioner, we support the submissions made by Mr Watson in this matter and we'll not oppose the increase, sir.

20 PRESIDENT: Very good. Thank you, Mr Rice. Well the award will be varied in the manner sought to insert the third arbitrated safety net adjustment, adjust allowances and correct the parental leave clause effective from the first full pay period to commence on or after 15th August 1996.

The next matter, I believe, is concrete products.

25 MR COOPER: Mr President, just before we go on to that one, Mr Watson didn't seek it, but I understand the Transport Workers Union have corresponded with the commission in terms of their commitment.

PRESIDENT: Yes. Yes. Yes, before we go, quite right, it should be put on the record that the Transport Workers Union have indicated their agreement to a review of the award in accordance with the principles, specifically the butter and cheesemakers. Thank you.

30 MR WATSON: Mr President, I was aware of that particular commitment and I knew that that letter was with the commission -

PRESIDENT: Yes.

MR WATSON: - so therefore I took it as read -

PRESIDENT: Yes.

35 MR WATSON: - that the TWU had committed.

PRESIDENT: It's nobody's fault other than mine. I should have read it into transcript. Yes. Thank you. We'll proceed to the next matter.

40 MR COOPER: Mr President, in terms of the Concrete Products Award, again in this matter, draft orders have been prepared - have been provided to the TCCI, have been checked and I understand are correct.

PRESIDENT: AWU.1.

MR COOPER: Again, as with other awards, Mr President, that we've brought before you, we have sought to increase the allowances where they do appear in the award and I hope I've underlined them all. The first one appears at page 2, down the bottom  
5 - 2 - Forklift Operators in 'note' - there's an amount of \$3.10 there.

PRESIDENT: Mm.

MR COOPER: At page - I think it's page 4 of the draft order under the heading 2 - Leading hands, there are a number of allowances that are contained there. They've all been moved.

10 PRESIDENT: By the 5.75?

MR COOPER: That's correct, Mr President, yes. In subclause, the disability allowance, that has been moved as well.

PRESIDENT: Yes.

MR COOPER: In Division B, carters and drivers, there are a number of allowances  
15 that appear under subclause (1) -Wage rates, and they appear in the paragraph commencing 'motor' - there are two allowances there that have been moved.

PRESIDENT: Yes.

MR COOPER: In the next paragraph there are two allowances there that have been  
20 moved, and the additional monies - amounts for collecting money, they have been moved as well, and given that they were rounded off to the nearest 10 cents, the parties agreed that they would be weekly allowances, therefore I think it sees all but the 60 cent move, Mr President, in terms of that.

The next allowances are contained in Division C - Clerical, and that's under subclause  
25 (3) - Additional payments. There are a number of allowances there that have been moved. And the other allowances are contained on the last page of the draft order and they appear in clause 9 and clause 17.

PRESIDENT: Yes, very good.

MR COOPER: And they have all been moved and I understand that they're okay. In  
30 terms of the Concrete Products Award, Mr President, it was last varied for the second \$8 effective first full pay period on or after the 26th of the seventh, 1995 and therefore it is available in our submission for this award to be varied for the third arbitrated safety net adjustment and that's exactly what AWU seeks to - AWU.1 seeks to do. We would seek to have that effective from the first full pay period on or after today's date. And consistent with the principles that came out of decision T.6284 of 1996 and  
35 others, the Australian Workers Union commits to those principles as is a requirement to allow for the third arbitrated safety net adjustment to be processed, Mr President.

PRESIDENT: Very good. Thanks, Mr Cooper - which includes the commitment to review of this particular award.

MR COOPER: It's an inclusive commitment, Mr President, yes.

40 PRESIDENT: Very good. Before you - before we hear from the other parties - no, perhaps I should hear from Mrs Dowd first - yes.

MRS DOWD: Thank you, Mr President. The Australian Services Union supports the application and submission put forward by Mr Cooper, also the draft order that has been forwarded and we would also seek the operative date to be from the first full pay period on or after today's date.

5 The Australian Services Union gives commitment to the principles particularly in relation to 7.3.2.3, the fact that we will agree to a review of the award and is this award supposed to be - or looking to be a consolidation in the near future?

PRESIDENT: No, I don't believe, so, no.

MRS DOWD: Right.

10 PRESIDENT: No, not on this occasion. All right, thank you. Look, both, I think your organisation, Mrs Dowd, and the forebear or one of the earlier forebears of the AWU - AWU-FIME- had uncompleted applications in the commission going to structural efficiency and 2.5s and things; can somebody tell me what's happening with them?

MR COOPER: Mr President, if I could go first on that.

15 PRESIDENT: Certainly.

MR COOPER: There were two applications there. They were before Commissioner Gozzi, as I understand it.

PRESIDENT: Yes.

20 MR COOPER: They were old applications. They were subsequently withdrawn and then new applications were put in and during that time the TCCI also changed advocates and there were a number of discussions that went on with this award. The last time it was before the commission the parties did seek to introduce a restructured award. Those negotiations are still going on and the draft orders and everything have been prepared. It is simply a matter of getting agreement on that for it to proceed.

25 Now another couple of things that did happen with this award, and that is that the majority of the employers that were respondent to it have subsequently become prey of the federal system and the urgency that the AWU had in terms of tidying the award up has somewhat declined and that has - that's one of the major reasons why there's  
30 that, there have been discussions between ourselves and a representative of the TCCI. Those discussions have been positive and they have been as recent as the last three weeks, Mr President, if I can report that.

35 It would be intentions of the parties then to bring to conclusion the minimum rates adjustment that still has not been proceeded with in this award and the other structural efficiency increases that are available under this award. That includes the 2.5 as well.

PRESIDENT: Yes.

MR COOPER: So we do seek to continue with that process and hopefully I can advise the commission it won't be too long before that matter is brought on.

40 PRESIDENT: Yes.

MR COOPER: And obviously when that comes before the commission though, there's another wage - set of wage fixing principles that will impact on the parties and

it may be that they take that opportunity to introduce some of those measures that are contained in the current wage fixing principles.

5 PRESIDENT: Yes, well the opportunity is there for everybody to pursue at the moment to get a cleaner award out of - out of it all. Yes, and of course if it's not worth the candle, let's rescind it.

MR COOPER: I take those comments on board, Mr President.

PRESIDENT: Okay. Right. Mr Watson.

10 MR WATSON: Thanks, Mr President. We would advise of consent to this particular application. We would say that the application does meet the tests of the wage fixing principles in relation to the third arbitrated safety net adjustment. We welcome Mrs Dowd's commitment to review the award. We also welcome Mr Cooper's commitment to review the award and on that basis we advise of consent from the first full pay period on or after today's date.

15 PRESIDENT: Very good. All right, thank you for those contributions. The award will be varied in the manner sought effective from the first full pay period to commence on or after the 15th August 1996. Yes, Mr Watson?

MR WATSON: Mr President, just before you close off on that particular one -

PRESIDENT: Yes.

MR WATSON: Could I be permitted to have a two minute break.

20 PRESIDENT: Yes.

MR WATSON: I really do need to, Mr President.

PRESIDENT: I think that's a fine idea. We might even have a longer break than that - 10 minutes. All right, we'll adjourn.

### **SHORT ADJOURNMENT**

25 PRESIDENT: Well, where were we?

MR COOPER: Mr President, we were at 6321, which is an application to vary the Farming and Fruitgrowing Award.

PRESIDENT: Correct. Okay. Thank you.

MR COOPER: Mr President, if the commission pleases, I do have a draft order.

30 PRESIDENT: Thank you. If you'll just bear with me a second, Mr Cooper. I'll just make sure I haven't lost a particular application. Okay. Thank you.

35 MR COOPER: Thank you, Mr President. In terms of this award, the exhibit AWU.1 seeks to vary the award by the amount of the third arbitrated safety net adjustment and contained in that draft order is also movement of the allowances as is consistent with our applications in previous matters. Those allowances appear at clause -  
40 subclause (4) of clause 8. Firstly, they're work related allowances in terms of leading hand. There are several there. There is some other allowances that appear in clause 9 in subclause (f) and (g) and they are contained at the last page of the award. So they are now up to date in terms of what's available for the third - the three safety net adjustments, Mr President.

PRESIDENT: Thank you.

MR COOPER: In terms of this draft order, Mr President, the last time the Farming and Fruitgrowing Award was varied was the 26th of the seventh, 1995 as a result of the second arbitrated safety net adjustment, and so we submit to the commission that  
5 consistent with the current wage fixing principles the 12 months has elapsed since the award was last varied so that's now available for that award to be varied, consistent with the full bench decision, T.6284 of 1996 and others, the Australian Workers Union commits to the wage fixing principles as - that arise from that decision and that  
10 commitment is consistent with - with a need to allow the award to be varied for the third arbitrated safety net adjustment and unless the commission seeks to consolidate the award, we would seek that the draft order AWU.1 take effect from the first full pay period on or after the 15th which is today's date. If the commission pleases.

PRESIDENT: Yes, all right. Thanks, Mr Cooper. And your commitment to the principles specifically includes the commitment to review the award?

15 MR COOPER: That's correct, Mr President.

PRESIDENT: Very good. Thank you. I should perhaps at this stage before you go, Mr Watson, is to indicate just for the purpose of the record that the Transport Workers Union has given a commitment to the review - or a review of the award and that I have received - and I don't know whether you've been provided with copies - a letter from  
20 the federal secretary of the Woolclassers Association of Australia indicating a commitment to review - to a review of the abovenamed award being the Farming and Fruitgrowing. Mr Watson.

MR WATSON: Thanks, Mr President. We were advised that we are agreeable to this application. We would say that the application meets the tests of the wage fixing  
25 principles and on that basis we refer particularly to Mr Bacon's commitments to review the award as per his correspondence to you of the 8th August 1996 and we also refer to Mr Cooper's commitment to vary - to review the award as advised today. The application doesn't offend the public interest test of the act and we would consent to the application from the first full pay period on or after today's date.

30 PRESIDENT: Yes, all right. Thank you very much. Mr Rice.

MR RICE: Thank you, Mr President. I support the submissions made by the TCCI in this matter and we would not oppose the increase being granted, sir. Did you - have you indicated whether or not this is going to be consolidated, Mr President?

PRESIDENT: No, it's not a consolidation.

35 MR RICE: There is - oh - well that's - there's just one matter in it that when the government printer has printed it, it's got the - it goes page 21, 23, 22, 24 -

PRESIDENT: Does it?

MR RICE: - in their book and it really throws people trying to look at it - they won't know where they are with it -

40 PRESIDENT: Really.

MR RICE: - in that particular one.

PRESIDENT: Okay. Yes, well that's -

MR RICE: It may be something you need to consider, Mr President.

PRESIDENT: Is it - can I - can we go off the record for a moment please?

**OFF THE RECORD**

PRESIDENT: So, Mr Rice, you're -

5 MR RICE: There was a matter that I raised regarding the government printer printing this award, Mr President. I don't see that it's a matter that's going to be of great concern; it's just the pages are out of sync at the present time and we need to keep in mind that when we review the award we'll seek to do that at that time.

PRESIDENT: Yes. All right, thanks, for that, Mr Rice. Mr Cooper.

10 MR COOPER: In respect to this award too, I omitted to say that we had had discussions with the wool classers and I noted your comments in respect to their correspondence. I think it's also appropriate to say that we have had discussions preceding this application with the principal employer group in this award - that is the TFGA and that discussion has evolved around the relevance of some clauses in the award and applications will flow from that discussion which will seek to vary the  
15 award in the context of a number of matters that apply in the field. So the parties are actively pursuing those matters with this award and I think it's important the commission note that as part of the principles that we are - we've actually preceded the new principles in terms of that commitment. If the commission pleases.

20 PRESIDENT: Good. Yes, thanks, Mr Cooper. And on that point, you mentioned the Woolclassers Association of Australia; I should indicate to you - and I'm absolutely positive that this is not going to be offensive to the organisation concerned, but Mrs Wright, the federal secretary indicates that her organisation really has no interest in this award and will be seeking to remove the organisation from it.

MR COOPER: That's correct, Mr President. That's right.

25 PRESIDENT: Yes - which will be another review action. Okay. Well no further comments or submissions in relation to this award, it will be varied in the manner sought with effect from the first full pay period to commence on or after the 15th August '96. Thank you.

Now we go to our next group.

30 **HEARING CONCLUDED**