

**TASMANIAN INDUSTRIAL COMMISSION**

Industrial Relations Act 1984

T No. 4014 of 1992

**IN THE MATTER OF** an application by the Health Services Union of Australia, Tasmania No. 1 Branch for the making of the Community and Health Services (Public Sector) Award

T No. 5376 of 1995

**IN THE MATTER OF** an application by the State Public Services Federation Tasmania to vary the Community and Health Services (Public Sector) Award

re salaries and conditions of employment

COMMISSIONER WATLING

HOBART, 16 February 1995  
continued from 20/4/94

**TRANSCRIPT OF PROCEEDINGS**

Unedited

COMMISSIONER WATLING: I'll take appearances please.

**MR T. KLEYN:** If the commission pleases, appearing on behalf of the Health Services Union of Australia, Tasmania No.1 Branch, TOM KLEYN.

COMMISSIONER WATLING: Thanks, Mr Kleyn.

5 **MR P. MAZENGARB:** If the commission pleases, PAUL MAZENGARB representing the State Public Services Federation Tasmania.

COMMISSIONER WATLING: Good, thank you.

**MR A. KELLY:** If the commission pleases, ADRIAN KELLY representing the minister for Public Sector Management; with me, **MR JAMIE BONE.**

10 COMMISSIONER WATLING: Thanks, Mr Kelly. Right, well I have quite a large file here on this matter and I think we're up to exhibit HSUA.14 and I understand, Mr Kleyn, you may wish to seek at this stage to vary your application.

MR KLEYN: Yes, I do, commissioner. The original application for this award was lodged in - well it was lodged on the 25th September 1992, I believe and it was then  
15 amended on the 4th October 1993, so I now wish to amend our application again and amend it in the manner that I have handed a copy up. So the amendment that I have - that I seek today goes to cover all the clauses after title and scope. So covers clauses 3 through to 41. I can refer the commission to page 4 of the document and under the heading - or clause 3 - Arrangement - that subject matter defines, I suppose, the - the  
20 amended application that I am seeking today.

COMMISSIONER WATLING: Right. Well is there any objection to the application being amended?

MR BONE: No, Mr Commissioner.

COMMISSIONER WATLING: Mr Kelly? No? No, objections, well leave is granted.

25 MR KLEYN: Thank you.

COMMISSIONER WATLING: So I will just give this amended application a new number and I'll call it HSUA.15 - 14 - sorry. And the application from the SPSF of Tasmania is in a like manner, I understand. Mr Mazengarb?

MR MAZENGARB: Yes, if I may, Mr Commissioner, yes, that is correct.

30 COMMISSIONER WATLING: Right.

MR MAZENGARB: An identical application.

COMMISSIONER WATLING: So these are given identifications now and in terms of the minister's application, do we need - is that in line with the other applications, Mr Bone - do you know?

35 MR BONE: I believe, so, Mr Commissioner.

COMMISSIONER WATLING: Right. So the three applications before me today are in identical terms in terms of the subject matter.

MR MAZENGARB: Just by point of clarification, Mr Commissioner, I'm not trying to be difficult, but what number are you referring to with regard to the minister's application - I just haven't got them in front of me, that's all.

COMMISSIONER WATLING: 4014 of '93. Oh, sorry - sorry - it's not the minister's.

5 MR MAZENGARB: No, that's -

COMMISSIONER WATLING: No, I haven't got - yes - I'm getting mixed up with the

MR KLEYN: Yes, that was with my amended - first amended application.

10 COMMISSIONER WATLING: Yes. That's right. Yes. Right, so we've got two before us - I'm sorry; 4014 is the third application I have here - it's only the second file on the HSUA'S application.

MR KLEYN: It's been a long and eventful process, commissioner.

COMMISSIONER WATLING: Yes, do we vote now on that then?

MR KLEYN: I beg your pardon?

COMMISSIONER WATLING: Do we vote now?

15 MR KLEYN: I would have thought that would be by consent.

COMMISSIONER WATLING: Right. Well how do you wish to proceed today, Mr Kleyn?

20 MR KLEYN: Well, commissioner, I'd take your advice on that, but I thought that I would provide some brief - a brief submission on the actual award and I suppose how we've not so much in a great deal of detail, but how we've come to where we are, the sum contents of the award, what our view of the process has been, et cetera, and then later on the proceedings - well we have another application to be dealt with today to rescind a couple of awards and hopefully we'll be able to deal those matters today as well. And I suppose as part of this, looking at this original application and looking at  
25 this award, to deal with the supersession of a number of awards that will no longer have application in the agency.

COMMISSIONER WATLING: Well you can lead off then, thank you.

MR KLEYN: Okay, thank you.

30 Well, commissioner, I don't think it is necessary to go into a great deal of historical detail as to how we've arrived at this point. I consider this enough history and enough public record for those people who are interested in industrial history and who like to read transcripts of commission hearings.

35 I would like to make some comments on the award itself however. The award we have created will replace , I think it's - believe it's 17 or 18 awards in the agency Community and Health Services. When the decision is made to create this - or to finalise this award there'll be just four awards in an agency covering some 11½ thousand employees. This award alone will cover 6,000 employees. So, in our view, that is going streamline the administration in the agency significantly and benefits will flow to the agency and to the community as a result of that.

40 Commissioner, as you're no doubt aware, this award represents many years of hard work on behalf of a number of people and some of those people are no longer involved

in this process and I think that the public record should show that their contribution has been recognised and has been valuable.

5 This award also represents the outcome of a process which has involved significant workplace reform across the agency. In - right across - right throughout the state there has been significant work redesign, organisational change, position descriptions rewritten and an enormous amount of work and energy has gone into it from all employees to create an environment - working environment - which is in keeping with the 1990s.

10 The award will incorporate the four classification streams which were handed down by a full bench of this commission in November 199... and with some minor adjustments the wage rates that were included in that decision.

The Community and Health Services agency and the unions involved have implemented that full bench decision and as far as I'm aware, commissioner -

15 COMMISSIONER WATLING: Well they'll probably enter - that full bench decision doesn't really apply in this matter does it, because -

MR KLEYN: Well we've taken the model.

COMMISSIONER WATLING: Yes, because I've already a decision on the streams -

MR KLEYN: Yes, that's true.

COMMISSIONER WATLING: - so that's already there.

20 MR KLEYN: Yes.

COMMISSIONER WATLING: So it's -

MR KLEYN: I suppose the point I'm making, commissioner, is that we have adopted that - that - or we've taken the contents of those awards or - and that decision and have applied them to this particular industry.

25 COMMISSIONER WATLING: With -

MR KLEYN: With some modifications, yes.

COMMISSIONER WATLING: Yes. And certain areas probably significant modification.

MR KLEYN: Yes. But certainly I think the general thrust of that decision has been incorporated. And I would say -

30 COMMISSIONER WATLING: Well that would have - that - can I just get the record straight here, because -

MR KLEYN: Certainly.

35 COMMISSIONER WATLING: - because we must keep in mind that what you're talking about here is my earlier decision on the four streams, not the full bench matter, because the full bench matter was across the state service abandoned.

MR KLEYN: Yes.

COMMISSIONER WATLING: However, it did have some pertinent comments to make in relation to dealing with applications for an agency award.

MR KLEYN: Yes.

COMMISSIONER WATLING: However, that has been run and won when you got the decision out of me on - on the four streams.

MR KLEYN: Oh, that's right, yes. Yes. In February last year.

5 COMMISSIONER WATLING: Yes.

MR KLEYN: Yes, that's correct.

COMMISSIONER WATLING: Unless you're seeking to make amendments to my decision -

MR KLEYN: No, no, I'm not, commissioner, I'm certainly not.

10 COMMISSIONER WATLING: Well -

MR KLEYN: I was just - I suppose I was just boasting in a sense and saying that we are one of the - probably the only agency that has embarked on an award restructuring program as extensive as this. And we have looked at that full bench decision and the decision that you made in February and we have embraced that and implemented it.

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Commissioner, the Community and Health Services (Public Sector) Award is a stand alone award, that is, the wages and conditions in the award will apply to all employees covered by those four classification streams in the award. Only medical practitioners, nurses, dentists and ambulance employees will not be included in this award. So as I said earlier, the award will cover some 6,000 employees.

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The award is structured in such a way as all the conditions are in the one award. There is no reference to other awards of the commission. This also will deliver significant efficiencies to the agency in that they will have one award for, well, four awards in total, but one major award to deal with.

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I should also make mention, commissioner, of the wage rates in the award. The wage rates are rates effective as from the 1st January 1995. So in effect they include the increases granted under the state service wage arrangements which was the subject of a section 55 registered agreement back in - I think it was '92 - '92.

COMMISSIONER WATLING: So - we might just go off the record for a moment.

30 **OFF THE RECORD**

COMMISSIONER WATLING: Right. I think there is going to be a slight alteration, as I understand from our off record discussions to exhibit HSUA.14 in relation to the wage rates only - or salary rates. Mr Kleyn?

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MR KLEYN: Yes, commissioner. With respect to the salary rates, the wage rates as set out in the HSUA.14 should be disregarded and in their place the wage rates as per the commission's decision of the 25th February 1994 inserted in their place.

COMMISSIONER WATLING: Good, thank you. Any objection to that?

MR BONE: No, Mr Commissioner.

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COMMISSIONER WATLING: No objection from the employer. No objections from any other union?

MR ....: No, Mr Commissioner.

COMMISSIONER WATLING: Right. Thank you. You can proceed.

5 MR KLEYN: Okay. Commissioner, the conditions in this award have been, as you are aware, the subject of lengthy and sometimes difficult negotiations. In the main they reflect the existing conditions but every attempt has been made to modernise the language, remove gender specific language and also to delete clauses that are - no longer have any relevance to the industry.

10 Commissioner, every attempt has been made to make this award a user friendly document. It has been the intention of the parties to the award that employees with no industrial experience at all can read and understand. Now obviously that will be tested in due course, but I'm reasonably confident that this award will be significantly easier to read than its predecessor. There are probably still clauses in the award that will need to be reconsidered in the future for either modifying or rewording, but in the main we believe that a genuine attempt has been made to modernise this award. As I  
15 said, there's no doubt that this award is a vast improvement on the award that - this award will hopefully will - will replace.

20 Commissioner, we believe that award restructuring is a continuing process and together with the enterprise bargaining in the future there will be further examinations of this award to ensure that the wage rates and the conditions are kept up to date and the award will provide the agency with a modern up to date award and will provide employees with appropriate protection.

25 We believe that the - this award restructuring is consistent with the wage - wage fixing principles that were in operation at the time that this award commenced, or this - the making of this award commenced and we believe it's consistent with wage fixing principles since that date.

30 In particular we've created career paths for employees with the only barrier to progression now being skills and qualifications. We have eliminated barriers to multiskilling with the four streams. We've created appropriate relativities and we have removed all discriminatory provisions and we believe we have ensured that the agency can deliver its services in an efficient and an effective manner whilst providing appropriate conditions of employment for the employees of the agency.

35 It is the view of the - it is the view of the HSUA that this award restructuring outcome will deliver substantial benefits to the agency and to the people of Tasmania.

Before I conclude, commissioner, I would just like to make one point the number of awards that this particular award will supersede and I have a list here but - which I will tender -

COMMISSIONER WATLING: Right.

MR KLEYN: - or if - preferably just read it onto transcript if I could.

COMMISSIONER WATLING: Well in fact I've got the list here -

40 MR KLEYN: You've got a copy? Yes.

COMMISSIONER WATLING: - so we'll mark that HSUA.15.

MR KLEYN: So this award will supersede all those awards. Commissioner, we believe that the award as presented should be endorsed by the commission with the operative dates set out as in clause 4 - Date of Operation.

If the commission pleases.

COMMISSIONER WATLING: Good, thank you. Mr Mazengarb?

5 MR MAZENGARB: Thank you, Mr Commissioner. I've got nothing substantial to add to the comments made by my colleague, Mr Kleyn, other than to say I support the submissions he's put before you this afternoon. Thank you, Mr Commissioner.

COMMISSIONER WATLING: Thank you. Mr Kelly or Mr Bone - who is it? Mr Bone?

10 MR BONE: Thank you, Mr Commissioner. Mr Commissioner, we'd like to concur with comments made by Mr Kleyn and Mr Mazengarb and we would reiterate the further comments made about the work that's been involved in this process. We'd also like to point out that while a number of these conditions of employment have been looked at in length there may be still room for some tidying up, but therefore we are quite happy with comments made by our union colleagues. If the commission pleases.

15 COMMISSIONER WATLING: Right. And you have no submission to put to me on the public interest - you don't see this as being against the public interest to ratify such an agreement?

MR BONE: Yes, we do believe that this award has been negotiated and presented to this commission with the public interest -

COMMISSIONER WATLING: In mind - right. Right. Any further -

MR BONE: If the commission pleases.

20 COMMISSIONER WATLING: - any further submissions? No further submissions?

MR KLEYN: I'd just like to make the comment that hopefully that today sort of signals the - the end of a lengthy sometimes arduous productive process and that we will now have an award that everybody can use and that will be effective.

MR MAZENGARB: Thank you.

25 MR KLEYN: And I would like - I think - I think it's probably worthwhile saying thank you to everybody that's been involved in it.

COMMISSIONER WATLING: Good, thank you.

MR KLEYN: Including yourself, commissioner.

30 COMMISSIONER WATLING: Mm. Yes. I can just about take long service leave. Right. Well that really brings us to a conclusion of this matter. I indicate to you that I will hand down a written decision in due course with appropriate orders, but I can indicate to you that the document HSUA as amended this day will be endorsed by the commission and that leaves us to deal with other awards with which this award may replace and we'll deal with those in a minute, so I can .... this particular - these  
35 applications from the two organisations of employees and I can't give you a precise date for the written decision and the orders but we'll just have to work on them and get them out.

This matter is now concluded.

**HEARING CONCLUDED**

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