

AUSCRIPT AUSTRALASIA PTY LTD
ABN 72 110 028 825

AUSCRIPT

Suite 25, Trafalgar Centre 108 Collins St HOBART Tas 7000
Tel:(03) 6224-8284 Fax:(03) 6224-8293

TRANSCRIPT OF PROCEEDINGS

O/N 3403

TASMANIAN INDUSTRIAL COMMISSION

COMMISSIONER J.P. McALPINE

T No 12807 of 2006

**TASMANIAN STATE SERVICE
NATIONAL TRAINING WAGE AWARD**

**Application pursuant to the provisions of
section 23(2)(b) of the Industrial Relations Act 1984
lodged by the Minister Administering the State Service
Act 2000 for the making of a new award**

HOBART

9.30 AM, TUESDAY, 24 OCTOBER 2006

**This transcript was prepared from tapes recorded
by the Tasmanian Industrial Commission**

HEARING COMMENCED

[9.30am]

PN1

MR P. BAKER: I appear on behalf of the Minister Administering the State Service Act 2000.

PN2

MR K. MIDSON: I appear for the AWU.

PN3

MS K. JACKSON: I appear on behalf of the Community and Public Sector Union, State Public Services Federation Incorporated.

PN4

MR T. KLEYN: I appear on behalf of the Health Services Union of Australia, Tasmania No 1 Branch.

PN5

THE COMMISSIONER: Thank you. Okay, who is going to kick this off?

PN6

MR BAKER: Thank you, Commissioner. Commissioner, this application arises as a consequence of what we currently have in place. As you may be aware, in the mid '90s a decision was taken through an application by the ACTU at the time to create a National Training Wage award. That initiative was mirrored in this Commission and subsequent to that an agreement was made to cover employees in the public sector. That agreement has been updated each year by a replacement agreement and that has continued literally for a decade.

PN7

As a consequence of the introduction of the WorkChoices legislation earlier this year, the automatic adjustment to the wage rates in the agreement that arose from the safety net adjustment in the Full Bench each year is no longer there. It was then decided that rather than relying on the rates being adjusted each year on an annual basis by way of the national safety net adjustment, then we should look to our own jurisdiction and the decisions of this Commission.

PN8

In doing that, we also looked at this annual agreement-making process that occurs each year and we decided that that was really a waste of resources, it was a waste of energy, and what we should be doing is conveying the current agreement into an award and reflecting the minimum wage adjustment that was made in the Full Bench here recently of this Commission into this document. So, as a consequence of that, you now have - or what we propose to do today - is to make an award that covers the public sector generally. It will have effect throughout.

PN9

Now, there are only, apart from some unnecessary amendments that have been made to the document by way of changing it from an agreement format

into an award, the only change that we have made is at page 10 of the document, which I have supplied to the Commission, and at 44 I have included the line, "have effect on an anniversary date, being 1 January in each year". I have added that - that line actually appears in the Private Sector Award. It doesn't, for reasons which escape me, appear in what is the current Public Sector Agreement. We have inquiries each year from agencies as to when does the next year commence, so we have actually put that in there so it clarifies when the next year commences for a trainee.

PN10

The other thing I have done at the suggestion of Mr Kleyn is to add a list of relevant awards, which is the appendix A at the back of the document. That list is drawn from the Public Sector Union and Wages Agreement of 2004 less the legal practitioners and apprentices at law, and also the professional employees, as we don't see that there will be any trainees employed in either of those two areas - and we have added the AWU Tasmanian State Sector Award as a consequence of the jurisdiction change in relation to those employees.

PN11

THE COMMISSIONER: Yes.

PN12

MR BAKER: The only other thing we have added - I have skipped a point. We have actually added what the relevant award is in the definitions provision. So we have tidied that up. We have added "relevant union" under definitions on page 3, which means a union pay this award and which is entitled to enrol a trainee as a member. So we have added that which is also derived from the Private Sector Award. So for all intents and purposes, we now have two awards which are literally identical in their scope and application to either the private and/or the public sector.

PN13

Now, there is just one matter, sir, that I would just seek some guidance on, and that is in relation to the AWU Tasmanian State Sector Award. Currently, that award contains a provision which is entitled Appendix A AWU Tasmanian State Sector Training Wage Agreement which is, in fact, a mirror of the Private Sector Award within it as an appendix. Now, the creation of this new award, of course, will supplant the provisions in that award.

PN14

Now, I seek just some clarification, indeed, some direction from the Commission as to whether or not it would be appropriate if we were actually to file and application to delete that appendix out of the award altogether.

PN15

THE COMMISSIONER: I think that is sensible, yes.

PN16

MR BAKER: Yes.

PN17

THE COMMISSIONER: I think that is sensible, so that you have only one overriding award. Unless you guys have got any comment on it? I mean, it would clean it up and then we wouldn't end up having an argument at some stage over interpretation. So I would be very keen to see that.

PN18

MR BAKER: Well, I do have an application with me this morning which I will file. That would also be our intention, of course, that this award would be updated - the wage rates in the document would be updated each year as the state minimum wage is adjusted, which would save us coming back here on an annual basis to do this. The only other thing I would add, sir, is that we would seek that it apply from the first full pay period on or after today.

PN19

THE COMMISSIONER: Fine by me. Comments?

PN20

MR KLEYN: Commissioner, I would confirm the comments made by Mr Baker. It is more sensible to make this into an award now. It does really reflect the National Training Wage (Private Sector) Award to an extent. The concerns that we raised earlier in the piece have been resolved. That was that, one, to make sure that employees who worked in the state sector as trainees also drew their conditions in employment from the relevant award; say, for example, a trainee working in the Department of Health and Human Services will also draw their conditions from Community and Health Services (Public Sector) Award.

PN21

That has been resolved by the definition of "relevant award". Also, there is a clause, subclause (h) of clause 11 refers to all other terms and conditions of the relevant award that are applicable to the trainee, or would be applicable to the trainee but for this award are to apply. And the awards are there, so we are happy that this is now cleared up and, as Mr Baker said, we won't have to keep coming back every year. It is now up to the Commission to do the work, I guess, after we have done the State Wage case.

PN22

THE COMMISSIONER: We did all the work for this, so it doesn't make any difference.

PN23

MR BAKER: Well, I just take that point. I would like to thank Mrs Devine publicly for her assistance in pointing out where I omitted to change the relevant clause numbers and/or other bits and pieces.\THE
COMMISSIONER: That is good. Just on that: so, really, the relevant award takes precedence and we fall back on this for trainees; is that right?

PN24

MR KLEYN: Well, my understanding of it is that this deals with the training conditions and it deals with the wage rates for trainees. But, for example, when you look at sick leave or, you know, rosters, or anything like

that, then you would go back to the award that applies in that workplace, yes.

PN25

THE COMMISSIONER: Back to the parent award. Yes, no problems.

PN26

MR KLEYN: So we confirm our support for this application and agree that it should be approved and effective from the first full pay period after today.

PN27

THE COMMISSIONER: Thank you. Ms Jackson, anything?

PN28

MS JACKSON: Commissioner, the CPSU consents to this order and is happy for it to go ahead on the first full pay period from this date.

PN29

THE COMMISSIONER: Thank you. Ms Midson?

PN30

MR MIDSON: Similarly, Commissioner, the AWU supports the application by Mr Baker and the comments that my colleagues over here have said. Thanks, Commissioner.

PN31

THE COMMISSIONER: Excellent. We don't need a vehicle to get this considered each year for the wage increase, do we? it would naturally be part of - - -

PN32

MR KLEYN: It would naturally fall - well, that is an interesting point because, in general, Commissioner, the minimum wage cases have always dealt with private sector awards.

PN33

MR BAKER: Yes. One of the issues which my office is looking at at the present time, which has been the subject of some open debate between the benches on occasion and our officers in relation to the state of a number of the public sector awards, it will be our intention to bring those awards up to date so that they actually reflect a proper safety net and, hopefully - and I haven't had this discussion with Mr Lynch as yet, but, hopefully, what will happen is when the Unions Tasmania seek to vary the minimum wage, they will also lodge an application to vary the relevant public sector awards - and this being one of them - they will be automatically indexed.

PN34

THE COMMISSIONER: Yes, all right. So, really, up to the TTLC to incorporate this with the general private sector wage increase.

PN35

MR BAKER: Yes, and whatever other awards that we agree on between us between now and then to do.

PN36

THE COMMISSIONER: Sure. Well, we have got almost a year to get it right - and, I mean, it really is something that is quite important. We don't want to be straggling next August with bits and pieces.

PN37

MR KLEYN: No, and have this one omitted from the list. Yes, you are right.

PN38

THE COMMISSIONER: Yes, and then we all have arguments about who should get and who shouldn't. I mean, you are the people who have raised it, so the ball is in your court to bring it forward. All right, well, since everyone is in raging agreement, I am comfortable to approve this from the first full period after 24 October. Well done, everybody. That has really brought a lot together, tidied a lot of things up - and thanks to Carol for actually doing the work.

PN39

MR KLEYN: Yes.,

PN40

THE COMMISSIONER: Thank you. I will adjourn.

PN41

MR KLEYN: Thank you.

ADJOURNED INDEFINITELY

[9.55am]