



Tasmanian Industrial Commission

Industrial Relations Act 1984

T No. 9940 of 2001

IN THE MATTER OF an application by the Shop, Distributive and Allied Employees Association, Tasmanian Branch to vary the Hairdressers Award

Re: 2nd minimum rates adjustment

T No. 9947 of 2001

IN THE MATTER OF an application by the Hairdressing Federation of Tasmania to vary the Hairdressers Award

Re: Principle 12 (Award Review Process) of the Wage Fixing Principles

COMMISSIONER IMLACH

HOBART, 10 January 2002
Continued from 20 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 2.02pm

COMMISSIONER: I'll take appearances.

MR P. GRIFFIN: Thank you, Mr Commissioner. I appear on behalf of the Shop Distributive and Allied Employees Association, Tasmanian Branch,
5 GRIFFIN, P., and I appear in both matters.

COMMISSIONER: Thank you, Mr Griffin.

MR A. FLOOD: Thank you, commissioner. ANDREW FLOOD, from the Tasmanian Chamber of Commerce and Industry.

COMMISSIONER: Thanks, Mr Flood.

10 **MR F. IRELAND:** If the commission pleases, FORBES IRELAND, appearing for the Hairdressers Federation of Tasmania and appearing with me, MR TONY STEVENS.

COMMISSIONER: Thanks, Mr Ireland. Yes, Mr Griffin?

15 MR GRIFFIN: Thanks, Mr Commissioner. In previous discussions with my colleagues here, we thought it might be appropriate that we move, probably initially, to adjourn proceedings just at this stage and go into conference with yourself and just bring you up to speed in respect of where we've got to in both these applications, at this point.

COMMISSIONER: All right. Everyone agreeable to that?

20 MR FLOOD: Yes.

MR IRELAND: Yes.

COMMISSIONER: All right. We'll adjourn into conference.

INTO CONFERENCE 2.04pm

HEARING RESUMED 2.43pm

25 COMMISSIONER: Thanks for that, gentlemen. Who is going to report?

MR IRELAND: If the commission pleases, I've drawn the short straw, commissioner. The applications that are before the commission, namely T9940 of 2001 and T9947 of 2001, being applications in the first instance from the SDA with regards to the second minimum rates adjustment and in the latter
30 application, an application by the Hairdressers Federation with regards to award review.

Just briefly, commissioner, by way of background because this matter has occupied commission time and the parties time over the last 12 months in a

35 minor state of confusion, I'm pleased to say that that confusion has now been
unravelling to the point that we are able to present you with a rational outcome.

Back in December of 2000 the SDA did apply for the application of the \$15
safety net adjustment, which came into effect from 1 January 2001. The SDA
in application 9650 applied for the application of the first minimum rates
adjustment to the Hairdressers Award, which operated from 1 July 2001 and at
40 that point the parties agreed that the issue of the application of the 2001 Safety
net adjustment be deferred along with the second minimum rates adjustment,
pending an appropriate review of the award and in particular, the award
classification structure so that the minimum rates adjustments and the Safety
net adjustments could be applied on an appropriate classification structure.

45 That resulted in the applications that are before you today, to apply the second
minimum rates adjustment and indeed to review the award.

The parties at the previous hearing date on these matters agreed to join both
applications and as well, the parties have agreed in conference to incorporate
into the discussions, the 2001 safety net adjustment so that the agenda
50 confronted by the parties was to consolidate under the award review process
the restructuring of the award, the modernising of the award, the reformatting
of the award along with the application of the second minimum rates
adjustment and addressing the 2001 safety net adjustment.

That provides you with the background as to where the parties have come from
55 in this matter. I'm able to report that the parties have worked together
cooperatively to review the existing award. This has resulted in the
presentation, or will result today in the presentation before you of a
consolidated document incorporating all those issues that I've mentioned
earlier. It's contended that the modernised award more accurately reflects the
60 current classification structures of hairdressing and the health and beauty
industries and will be capable of being easily applied and understood in both
industries.

From the employer party's point of view, commissioner, the hairdressing
industry and the health and beauty industry have been widely consulted in
65 regard to these matters and as well, the current training packages, indeed the
current national training packages that apply to both industries, have been
examined carefully and where practical, incorporated into the new modernised
award.

70 Just as a reference point, the parties did utilise the recently installed Business
Services Award as a reference point for formatting terminology, et cetera.

I'd now like to take you through the specific changes to the existing
Hairdressers Award. It results from the review process and the minimum rates
adjustment and has taken that adjustment into consideration.

75 COMMISSIONER: Yes. If I could just interrupt for a second, Mr Ireland.
We're speaking from document I.1?

MR IRELAND: Yes. The one that I provided you with? I.1.

COMMISSIONER: We'll call that **EXHIBIT I.1**. While I remember, these
changes that you're going to advise me of, Mr Ireland, the significant or the
appropriate ones, really need a table attached to the award. That's the standard
80 practice in these matters.

MR IRELAND: Right. I can certainly do that.

COMMISSIONER: Yes. My associate will be able to provide you with an
example so that you don't have to add superfluous items.

MR IRELAND: I have no problems with that. A learning curve.

85 Working through the changes, commissioner, the most obvious change first up
is the title of the award. The current title of the Hairdressers Award has now
been changed to Hairdressing, Health and Beauty Industry Award, to
specifically reflect the coverage of this award. The index has obviously been
upgraded to current formatting style.

90 Clause 3, on page 3 – Scope, has gone under some significant reformatting and
those changes are designed to ensure that the hairdressing and health and
beauty industry, the tasks, involved in those industries are covered by the scope
clause by referring to the national training packages and we've made reference
there to the accessibility of those training packages from the Wholesale, Retail
95 and Associated Personnel Services Industry Training Board.

This is designed to ensure, in particular with regards to health and beauty, that
the tasks that might be specified as were specified in the existing award in
some cases are now illegal to be performed by beauty therapists, such as aroma
type therapy situations. So, it's felt far more advisable and indeed, safe, to
100 ensure that only those tasks that are catered for by the national training
packages in both industries are the tasks that relate to the industry.

Date of operation – the parties have agreed that this will come into effect from
the first full pay period commencing on or after 1 January 2002. There has
been little change to the award interest. That's just reformatting, including of
105 course the Hairdressers Federation of Tasmania, a recently registered
organisation.

Part 2 of the reviewed award, or the new award, if you like, is again consistent
with recent changes to award structure and in this case, following the same
style adopted in the Business Services Award and again the existing definitions
and employment categories have been utilised. There's been no change to that
110 on page 4. It's just reformatting. There has been a change, again, picked up
from the Business Services Award, with regards to clause 3(d) on page 5 under

the heading, Probationary Employees. This has been considered important by the parties, again, as a safety mechanism as much as anything else. The industry considers it essential for employers to be able to assess new employees, particularly those who have fast-tracked their qualification and this was the issue of some debate between the parties during the course of negotiations but it is recognised that hairdressers in particular can fast-track qualifications. They may arrive from interstate with a certificate 3 that they've attained in 18 months and the probationary provision just gives the employer the opportunity to ensure that they are actually able to perform at the appropriate level. It's just a protection for both sides.

The terms of engagement and termination are consistent with existing provisions in the award.

We come to a major change with regard to wages and allowances and related matters, Part III on page 6. In so far as the existing award has both the health and beauty industry and hairdressing industries roped in under the one classification, Structure. This has caused a great deal of confusion with regards to the new national training packages and the way that the actual job definitions apply in the workplace. So, the parties considered it appropriate to set aside in separate divisions, hairdressing, with regards to classification descriptions and wage rates and Division A depicts hairdressing and Division B depicts health and beauty.

Commencing with Division A on page 6, classification descriptors for division A have been changed significantly to those definitions that existed in the existing award and, again, these classification levels depict the existing and current training package requirements for qualification progression and also identify two new classifications in the award, again, classifications that are used quite commonly within the industry but essentially have been paid under another award.

The hairdresser level 1 is the certificate 3 level; hairdresser level 2 relates to certificate IIV and hairdresser level 3 is the diploma level. In each of those circumstances, it's recognised that at certificate 3 an employee, no matter how long it's taken them to attain certificate 3, they will be paid at the one hundred per cent level. Clarification has been put in there at level 1 to make sure that it doesn't cover an apprentice. In other words, someone currently undergoing a training agreement, which is provided for separately in the award.

The new classifications of salon coordinator and salon assistant, as I have said, do reflect what has been applying in the industry for some time. It just needs to be contained in the award and I am able to indicate to you that with salon coordinator, there will be additional words on the second line after, client services – (other than any hairdressing tasks) to clarify what client service actually means.

155 Turning to the wage rates for hairdresser, there are, as mentioned, classification descriptors, three levels, certificate 3 – level 1 is one hundred per cent, level 2 is 105 per cent and level 3 is 110 per cent. In this particular case the application of the wage rates, commissioner, is in two stages as depicted in the award on page 7 under schedule 1 and schedule 2. Schedule 1 picks up the second minimum rates adjustment and part of the 2001 safety net adjustment.

160 Schedule 2 which will apply three months after schedule 1 picks up the remainder of the 2001 safety net adjustment. So, as from the first pay period on or after 1 April 2001, hairdressers, salon coordinators and salon assistants will be in receipt of the second minimum rate adjustment and the full 2001 Safety net adjustment application.

165 The parties have agreed in conference with yourself to recast schedule 1 and schedule 2 with regards to the columns to make the presentation clearer in so far as the application of the second minimum rates adjustment and the replacement page will be available to the commission in the very near future, along with a chart outlaying the application of the full minimum rates
170 adjustment of four instalments.

This consolidated award will include the first and second minimum rates adjustment which will be shown in total under a column headed, minimum rates adjustment, in lieu of the existing column before you of, supplementary payment.

175 Moving right along, trainee hairdresser – the changes that have been made to trainee hairdresser really are to bring the existing apprenticeship provision under the Hairdressers Award in line with current terminology which follows from the Restaurant Keepers test case, if you like, to ensure that trainees undertaking a training agreement under the Act will be paid an appropriate
180 percentage of the hairdresser rate, the certificate 3 rate.

I should point out that the parties have agreed to remove the first six months component of the existing apprenticeship levels so that it now is a four year table with percentages commencing at 42 and culminating in 90 as opposed to the existing first six months and second six months breakdown under the
185 existing award. So, that's an improvement.

The juniors will reflect percentages of the appropriate adult salon coordinator and salon assistant rate. The salon coordinator, as indicated, is a new classification as is the adult salon assistant but there is an existing provision under the award for a junior salon assistant. This replaces that provision by
190 reference back to an adult classification, so there is now provision for both adult and junior salon assistant to be utilised if need be.

Division B, Health and Beauty, follows along the same format as the hairdressers. Classification descriptors in this particular case vary quite significantly to the existing classification structure in the Hairdressers Award
195 but do reflect in much more clarity the actual application within the industry of

the various job definitions that line up with the training regime. Level 1 we have beauty consultant which is the certificate 2 course level and these people are employed as consultants in stores like Myer or what have you who advise on how to make you better than perhaps you are in real life. Level 2 Beautician is the certificate 3 course and this the parties have agreed to line up with the hairdresser certificate 3, so the beautician level 2 under Health and Beauty and the hairdresser level 1, both certificate 3 equates to one hundred per cent. If you like, that's the trade point.

Then we move into the classifications of beauty therapist and in this particular situation we have the existing beauty therapist classification being a single level classification only divided into two levels, two classifications, beauty therapist level 3 or level 3 beauty therapist relates to those who have achieved a certificate 4 and that will be at 105 per cent and the beauty therapist level 4 relates to those who have successfully completed a diploma course, again from the national training package.

With regards to the diploma level, and I should have referred back to this in the hairdressers, for the hairdresser and the beauty therapist who have attained a diploma, it's also on the understanding that the actual employee utilises that qualification in the course of his or her duties. Salon coordinator is a new classification for beauty therapy. There is no need for a salon assistant in this particular division. The submission I made with regard to wage rates for hairdresser stands for health and beauty in that the columns will need to be changed to more accurately reflect, or more clearly reflect the application of the minimum rates adjustment and the replacement schedules will be provided to you but I can indicate that the wage rates for health and beauty are on a level structure.

Level 1, as I mentioned, beauty consultant, being 75 per cent of the beautician which is the 100 per cent figure which in turn equates to the hairdresser certificate 3, so that those two figures will line up because there is no reason for them to be different. The beauty therapist at 105 per cent level 3 will equate to the hairdresser level 2 and the beauty therapist level 4 will equate to the hairdresser level 3 at 110 per cent.

The parties have agonised over these percentages and amounts and there's been a bit of juxtaposition to work out and arrive at rates that are equitable and reflect what's actually happening out there in both industries.

The same applies to the trainee beauty therapists. Again, this will be a new provision because there wasn't provision for trainee beauty therapist per se. The same applies with regards to the removal of the first six months rate under the existing award and also junior rates now prevail for health and beauty. In this case it only relates to a junior salon coordinator should one be utilised.

That particular division, or those two divisions, Division A and Division B covering wage rates, classification structure et cetera have occupied the parties

240 in significant discussions and it's been difficult to arrive at a satisfactory
outcome but I am able to indicate that the parties have finally been able to
245 resolve that issue. There's some tidying up to be done, as you are aware but
we're almost one hundred per cent compliant.

Next we move on to Division C which relates to related wages matter and
allowances which will apply to health and beauty and hairdressers as the rest of
245 the award does, so it's only Division A and Division B where there is a
separation. If you like, the remaining divisions or parts of the award are
generic and apply to both industries in the same manner.

The Savings clause remains as is, as does the Supported Wage System. No
changes there.

250 There have been some changes to payment of wages, which is clause 3 on page
13 and this has been discussed between the parties. The new provision does
provide flexibility and certainly provides an indication of regularity of pays. In
other words, pay day has been defined as Thursday in each week with flexible
application of cheque, cash cheque or direct deposit but the wages may be paid
255 on a Friday following consultation with employees, if the need arises and also
subject to consultation, pays may be made on a fortnight as opposed to a week.
That's a condensed clause and easy to follow and fair and equitable.

Also, there have been some changes to the Superannuation clause. As you
would expect, the award having not been modernised for some time, there was
a need to bring the award into line with current terminology, particularly with
260 regards to the reference to the federal superannuation guarantee legislation and
those changes are in line with prevailing superannuation terminology and
formatting. There has been a need to retain, at the end of the superannuation
clause, those firms that remain exempt from the award nominated fund and it
may be, in due course, that we can reduce and remove some of those we're not
265 able to identify at this stage whether they should stay or disappear.

Limitation of Duties is the same as is Equipment Allowance, subject to just
reference back to the appropriate terminology. Meal Allowance is essentially
the same but there is significant to Hours of Work in clause 1(c) on page 15
270 and I take you to subclause (c) under the subheading, Spread of Hours. I wish
to indicate to the commission that the wording has been changed subsequent to
the printing of this document and that reference to Monday to Friday appearing
in the indented column will now be changed to read, Monday to Tuesday, so
that the indentation will now read:

Monday and Tuesday 7.00am and 6.00pm

275 Wednesday, Thursday and Friday (any two evenings) 7.00am and 9.30pm

Saturday 8.00am and 6.00pm

COMMISSIONER: Sorry to interrupt there, Mr Ireland – any two evenings? It really means, doesn't it, otherwise to six o'clock?

280 MR IRELAND: Yes. They can't work Wednesday, Thursday and Friday evenings. They can only work two of those between 7.00am and 9.30pm.

COMMISSIONER: That's clear enough, do you think?

285 MR IRELAND: I think so. If there's ways of improving terminology, I'm happy to take them on board. The intention of the parties with this particular clause, commissioner, - this particular change, was to reflect the changes that have occurred in both the hairdressing and health and beauty industry since the award, I guess, was last revisited in a review basis. The fact of life now remains that salons are routinely opening on evenings. Interestingly enough, it seems to vary between north and south. Down here, Thursday and Friday evenings seem to be more popular than Wednesday and Thursday but we're
290 assured that in the north of the state, Wednesday is more popular.

The fact that we have Wednesday, Thursday and Friday does reflect the state-wide situation.

The parties considered the precedent had been set under the Retail Trades Award. It does provide for similar if not – with regard to Saturday, but almost
295 identical circumstances where retailers are opening during the evening during the week and also on Saturday on a routine basis and I think the thing that finally convinced the parties, there was an important need to do this. A lot of salons do operate out of shopping centres like Northgate or Eastside, or whatever it is up north, and they have no option, if the centre opens on Friday
300 evening or on Saturday, they have no option, they must open. So, they don't have the choice. This does cater for that situation in particular. It's, again, a freedom of choice situation as far as the employer is concerned as to whether they do trade or not but given the change in work patterns and other things, a lot of work is now done on Saturdays and evenings to cater for change in
305 patterns of work.

As I said, this is based around the precedent under the Retail Trades Award and it's considered a major benefit for both industries and should certainly assist in improving the employment opportunities within both industries where salons are now able to more confidently employ people on the Saturday and
310 evenings without breaching the award, which I think many of them are doing inadvertently at the present time, simply because they don't quite understand the ordinary hours application.

Rostered Days Off and Make Up Time haven't changed, nor has Meal Breaks and Rest Periods but there is a new provision to clarify the application of, if
315 you like, the payment and application of the Saturday work and the evening work and again the precedent set in the Retail Traders Awards has been adopted in the Hairdressing and Health and Beauty Industry Award to allow for those employees that are working ordinary hours – and I emphasise that,

320 ordinary hours, Wednesday, Thursday or Friday evening, for any two of those evenings, they will receive a loading of 15 per cent where those hours extend beyond 6.00pm and up until 9.30pm and the same on Saturday, 8.00am to 6.00pm.

325 Subclauses (b) and (c) make sure that it is patently clear to employers in particular that those hours that are worked on the Thursday, Friday and Wednesday evening and Saturday can only be ordinary hours. If an employee is required to work beyond eight hours on a Wednesday, Thursday and Friday, they will not receive the 15 per cent loading but they will go straight onto the overtime payment and the same applies for Saturday, that if they work beyond the 38 hours in a week as a result of working on Saturday, then they are paid 330 the overtime rate and not the loaded rate. So, it's very clear that this can't be abused and that employers simply cannot work an employee for six days, for example, or 10 hours on a particular day without incurring a penalty over and above the loaded rate.

335 Again, as I mentioned, just to finalise that point, that those loading calculations have been taken from the Retail Trades Award.

That is really the most significant changes that the parties have made to the award but I should work through the remainder of the award because there have been some other reformatting, et cetera.

340 Part V, Holiday With Pay and Leave. There's been no substantive change to the provisions with regards to holidays with pay, annual leave or personal leave other than to bring the terminology up to current standards. I should add, there has been a change to annual leave on page 19 at clause 2(h) where the parties have agreed to clarify what confuses a number of people with regard to proportionate leave on termination of service. That has been clarified as to 345 what that means - for full-time employees and part-time employees who have been terminated or terminated their employment during a leave year. So, that clarifies that point.

350 Clause 3 – Personal Leave is in itself a new heading but merely brings under that particular heading, sick leave, which is the current entitlement, carer's leave, which is also a current entitlement and bereavement leave. So, under the heading, Personal Leave, we now have those three leave components and clause 3, Parental Leave, this is a condensed version of parental leave. In other words, a change to the existing parental leave provision which brings it into 355 line with other awards that have used this condensed version and I name the Business Services Award as one, the Produce Award as another, Wholesale Trades as another and there are probably others but those three I am aware of. This will make for easier reading and employees will not lose any entitlements as a result of the condensed version.

360 Parental leave does take up a few pages, so we need to move onto page 29, where we have Part VI – Dispute Resolution and Part VII – Uniforms and

protective Clothing and Part VIII – Compliance. Again, these provisions are essentially the same that exist under the current award and are in line with standards and formatting approaches taken under other recently reviewed awards.

365 Commissioner, that brings me to the end of taking you through the documentation. I do indicate to you that as is custom practice, I will be providing the commission with an appendix to this document which will detail the changes in specific breakdown, so it is clear to everyone just what has been changed as a result of this process.

370 COMMISSIONER: Thanks, Mr Ireland. Just a couple of questions, if you don't mind. This is a procedural matter for of all – the Safety net adjustment, I don't know whether that was part of a formal application or whether an application was amended but if it hasn't occurred on the record, are the parties seeking to amend the application, whichever one you like, 9447, to include
375 that?

MR IRELAND: I think it would probably be appropriate to amend Mr Griffin's application which was 9940, so he can apply for the second minimum rates adjustment and the 2001 Safety net adjustment and we'd have no opposition to that.

380 COMMISSIONER: Thanks, Mr Ireland. The beauty consultant, that classification, it was 75 per cent, page 9, I think you told me that was the sort of person – what was it, just tell me again?

MR IRELAND: All training, or the majority of training for health and beauty is done in-house, so to speak, within the major salons around the state as
385 opposed to TAFE where most hairdressers go through. Health and beauty can be done in stages and an employee can stop at a particular stage. So, if you come out with a certificate 2, you become a beauty consultant, so to speak. In other words, you can do nails –

MR STEVENS: Do you want me to help you?

390 MR IRELAND: Mr Stevens has indicated that he would be happy to elaborate on that point because he knows more about it than I do.

COMMISSIONER: Thanks, Mr Ireland.

MR STEVENS: Commissioner, there are two certificate 2s, if you like, under
395 the national beauty training package. One leads to certificate 2 in nail technology and the other leads to certificate 2 in retail cosmetics, so there are two avenues and from either of those you then go onto certificate 3.

COMMISSIONER: I was just thinking of the retail cosmetics in a retail store. We're really talking about these same people in a hairdressing salon, aren't we?

400 MR STEVENS: In a beauty salon or still at the beauty salon registered training organisation because often these students go through a registered training organisation which is also a salon and then operate there for a while and go on and do certificate 3 at the same time.

COMMISSIONER: Right. Thanks, Mr Stevens. A couple more, Mr Ireland.
405 The payment of wages where it can be changed to a Friday or whatever, on consultation?

MR IRELAND: Yes.

COMMISSIONER: That implies, if they don't agree it won't happen. Is that correct?

410 MR IRELAND: Absolutely correct.

COMMISSIONER: Days off together. I'm not all that sharp in relation to what's here and the Retail Trades Award but my reading of it is that that's what normally happens.

MR IRELAND: Sorry, say it again.

415 COMMISSIONER: Days off together. There are not single days off as I read it. Can you answer that one, Mr Ireland? I'm talking of the concept of two days off together.

MR IRELAND: Yes. I must admit, that we actually didn't really change the Hours of Work clause situation because as you know many awards with
420 regards to Hours of Work don't actually specify whether it's taken as two –

COMMISSIONER: Page 14.

MR IRELAND: Yes, I know where it is. I'm just trying to see if there's any – that's a fairly standard hours of work provision. I would suspect Mr Flood might be able to perhaps use his more general knowledge on awards to assist
425 us in this process, but we haven't changed the existing award coverage.

COMMISSIONER: Well, if you haven't changed the existing, then that's fair enough.

MR IRELAND: Yes, we've left it exactly as it is.

COMMISSIONER: Thank you. The final one, page 19, proportionate leave,
430 are you saying that probationers won't get any if they've done a month's employment, (h)(ii) – is that what that says?

MR IRELAND: This proportionate leave on termination of service is the current provision with those two dot points added for clarity in particular, because it is an area of great confusion and basically what that says is, that if
435 you leave during a leave year, say, after six months and if you were a full-time

employee you get 12.67 hours for each completed month of service and if you're a part-time employee, you get a different calculation which relates back to the ordinary weekly hours of work of the part-time employee because if you actually think about it, the part-time employee does get a significant advantage.

440 They might have worked, say, 22 hours and get the same calculation as the full-time employee when they work less hours. That's what it's designed to do, it's to create parity but if the probationary employee has served more than one month, then that's the case. This provision in subclause (ii) which is probably
445 the one you're talking about, that is the same thing that exists under the current award, it relates to trainees and apprentices. It doesn't relate to, say, an adult employee or a qualified hairdresser who might be on a probationary period. It only relates to trainees. As I understand it, trainees, if they're under a training agreement, are under a three month probation. I think I'm correct on that.

450 COMMISSIONER: Does that mean they don't get an annual leave entitlement until they've done three months, pro rata?

MR IRELAND: The answer to that is, yes, under that. Again, the award hasn't been changed.

COMMISSIONER: It's already in the award?

MR IRELAND: As I understand it but I can still tell you.

455 COMMISSIONER: Anyway I've raised it.

MR FLOOD: Commissioner, if I can be of assistance. I've looked at my award and I've got to say, I can't see it.

MR IRELAND: I'll have to plead temporary ignorance, not insanity, commissioner.

460 COMMISSIONER: Can I just leave it – it seems to me –

MR IRELAND: Yes. I'll come back to you on that because I can't answer that off the top of my head.

465 COMMISSIONER: If that's what it means, I find it rather strange. Everyone else gets entitlement after one month, I can't see why trainees shouldn't get the same. That's all, thanks, Mr Ireland.

MR IRELAND: Thank you.

COMMISSIONER: Mr Griffin?

470 MR GRIFFIN: Thanks, Mr Commissioner. What Mr Ireland has taken us through is certainly how the process has developed over a period of time and his steps that he took through in respect of the document which you have

before you is, as I understand, what we agreed to during our discussions leading up to today.

There is one issue I'd just put on notice which Mr Ireland wouldn't be aware of just yet and Mr Flood and I have been discussing it and he raised it with me –

475 MR FLOOD: Don't blame me for a \$2 increase.

MR GRIFFIN: If we look at the actual tradesman's rate across all awards that has been set down of \$507.20 and under this process here we will find that it will be when the MRAs and the implementation of the current safety net increase has been implemented, will come to a total of \$505.20, which is \$2
480 less. I don't believe that that's been dropped off from the safety net increase and I think, amongst the parties ourselves, we will have a look at that as to whereabouts that \$2 should come in, but I just put it on record, that we will be looking at that in order for that replacement page that Mr Ireland spoke of.

COMMISSIONER: Right. Thank you. Nothing else?

485 MR GRIFFIN: Other than that, there's nothing else I need to add.

COMMISSIONER: Yes. The operative date – I should have asked Mr Ireland this, Mr Griffin, but we can settle it now. The operative date for the new award, apart from the wage increases, will be the date of decision, shall it?

MR GRIFFIN: No. The operative date is from 1 January.

490 COMMISSIONER: For all matters?

MR GRIFFIN: For all matters, Mr Commissioner, yes.

COMMISSIONER: The first full pay period commencing on or after?

MR GRIFFIN: 1 January 2002.

COMMISSIONER: 1 January?

495 MR GRIFFIN: Yes.

COMMISSIONER: And pay rises, the first full pay period?

MR GRIFFIN: The first full pay period.

COMMISSIONER: Right. It's good to know that.

MR GRIFFIN: It usually is the process we take.

500 COMMISSIONER: Nothing else, Mr Griffin?

MR GRIFFIN: No, I think that just about covers it all, Mr Commissioner.

COMMISSIONER: Thanks, Mr Griffin.

MR GRIFFIN: Thank you.

COMMISSIONER: Mr Flood?

505 MR FLOOD: Thank you, commissioner. In general, I've got to say that we
support the submissions made by the Hairdressing Federation. There's a rider
with that of course and that is that those amendments that Mr Ireland
mentioned during his submissions are made, particularly in relation to the
510 minimum rates adjustment column and so on. In relation to the operative date
which you've just raised, commissioner, I wasn't going to raise the operative
date but rather leave that to the other parties.

The operative date does cause us some concern, not so much with the wages
which is simply a matter of money but other conditions of employment where
employers may be operating on the assumption that they are having employees
515 work hours correctly, have their breaks correctly and all those sorts of things
and then find out that they're not. I'm not sure that that's going to cause a
problem. I would hope that we will resolve this, that this award will be
determined in the very near future and maybe that's not going to be a huge
issue.

520 In relation to varying application 9940, commissioner, just for the sake of the
record, we would consent to the SDA making that application to increasing the
safety net adjustments.

One final thing, commissioner, which I have raised with Mr Ireland is, this
proposed new award introduces wage rates for trainees. The existing award
525 doesn't have rates for trainees and those rates of pay come from the National
Training Wage Award. If this award proceeds as proposed at the moment will
have rates of pay under two separate awards which is obviously not the correct
way to do things so I have spoken to Mr Ireland about my concerns about this
issue and our consent to the exhibit I.1 is conditional upon the Hairdressing
530 Federation making application to this commission to remove the Hairdressers
Award from the schedule attached to the National Training Wage Award.

COMMISSIONER: Yes. That particular item, is that not an unknown
process, Mr Flood, do you know?

MR FLOOD: I'm sorry?

535 COMMISSIONER: That process.

MR FLOOD: In my experience, commissioner, it's unusual for individual
awards to have trainee rates in them. Most awards these days tend to rely on
the National Training Wage Award for rates of pay for trainees.

COMMISSIONER: This award is nominated in that award?

540 MR FLOOD: It's named in the schedule to the National Training Wage Award, yes.

COMMISSIONER: Yes. All right. We'll talk about that in a minute.

MR IRELAND: Just a couple of points that have come up, commissioner, that obviously require some response. First of all, if I can clarify that
545 proportionate leave on termination of service – I didn't think I was going quite gaga at this stage. Under the existing award the provision of annual leave under clause 9 provides, at subclause (h) proportionate leave on termination of service and I'll just read from it:

*If after one completed month of service in any qualifying 12 monthly
550 period an employee lawfully leaves the employment, or the employment is terminated by the employer through no fault of the employee, the employee shall be paid at the employee's ordinary rate of wage as follows:-*

*12.67 hours for each completed month of continuous service. This
555 service shall be in respect of which leave has not been granted, providing that the provisions of this subclause shall not apply to probationary apprentices for whom the qualifying period of service before entitlement shall be 3 months.*

So, it really is just bringing forward what's the current provision. Now, whether
560 the provision is right is another thing but just to indicate that it actually does have its genesis from the existing award.

COMMISSIONER: And your reading is that they've got to do three months?

MR IRELAND: Again, I don't quite know why but my understanding is that apprentices under training agreements do have a three month probation period.

565 COMMISSIONER: If they leave, say, after two months, they don't get anything?

MR IRELAND: I've got a feeling it's something to do with their training agreement but I can't answer that specifically.

With regard to the other matters so assiduously raised by my learned
570 colleagues on the right, the question of the calculation of the trade rate or the hundred per cent rate will need to be looked at because there was no intention on the parties to arrive at a different rate. It may mean just adjusting figures to arrive at the same rate. I'm surprised that that's been missed because I thought we did our calculations last year to get to that figure but still, we will make
575 sure that that is correct.

The issue of operative date raised by Mr Flood, the parties have been well aware of the importance of implementation of this particular new award

580 process, or revised award and Mr Steven will certainly be making sure that his members promptly get information on new wage rates and any application that could impact on retrospectivity or replacing employers in any possible or potential award breach scenario. We don't have a particular problem at this stage with that, although the point is well made by Mr Flood, so we're quite happy with 1 January in that particular situation but that relies very much on getting information out to employers quickly.

585 The final issue that was raised by Mr Flood, again is one that I'm aware of with regards to particular – the existing award makes provision for apprentices so we've continued that particular situation on. What the existing award doesn't do is make provision for trainee beauty therapists. That's the change. Mr Flood is quite correct, that we will have to look at doing something with the National
590 Training Wage Award to remove the Hairdressers Award or the new award from that list, if that's the appropriate way to go but the Hairdressing Federation is not, I don't think, doesn't have award interest in that particular award so we'd have to defer it to our friends in the TCCI to help us out on that matter, I suspect.

595 MR FLOOD: A good point.

MR IRELAND: That's just by way of clarification. I think that was all the issues that were raised by Mr Flood and Mr Griffin.

COMMISSIONER: Thanks, Mr Ireland. Mr Griffin, for the record, you are seeking to amend to include the safety net adjustment?

600 MR GRIFFIN: Yes.

COMMISSIONER: That's application 9940?

MR GRIFFIN: Right.

605 COMMISSIONER: Well, that application is approved or agreed, the other parties having indicated their consent to that application to include the safety net adjustment. We'll just go off the record for a moment, thanks.

OFF RECORD 3.37pm

ON RECORD 3.41pm

610 COMMISSIONER: Thanks for that, gentlemen. I congratulate the parties on reaching the final resolution of all these matters, in particular the classification scales and the rates and so on and on receipt of the amended classification scales and rates, I'll seek to issue the complete consolidated review award as soon as possible with the conditions operative from 1 January and the pay rates operative from the first full pay period commencing on or after 1 January and I will say, Mr Ireland, that that will be not absolutely contingent but very much

615 contingent on that chart being added to it. I'm anxious that I get a hand on that so we all know where we are.

I hope I haven't missed anything – plus the other amendments that have been mentioned. My final point is, no doubt you will confirm these changes with the other parties first.

620 MR IRELAND: Yes, if the commission pleases, that will be the case and if I could just ask the commission with regards to a procedural matter, I guess – I have this document on disc. How does the commission operate with regard –

COMMISSIONER: Only too pleased to receive it.

MR IRELAND: I will in due course provide the disc to the commission.

625 COMMISSIONER: Thanks, Mr Ireland. Thank you, gentlemen. This matter is closed.

HEARING CONCLUDED 3.44pm