

PRESIDENT: Could I have appearances, please.

**MRS H.J. DOWD:** If the commission pleases, I appear on behalf of the Australian Municipal Administrative, Clerical and Services Union, DOWD, H.J.

PRESIDENT: Thank you, Mrs Dowd.

5 **MR K. O'BRIEN:** If the commission pleases, I appear on behalf of the Australian Liquor, Hospitality and Miscellaneous Workers' Union, Tasmanian Branch.

PRESIDENT: Very good. Thank you, Mr O'Brien.

**MR S.J. GATES:** If it pleases the commission, GATES, S.J., from the Tasmanian Chamber of Commerce and Industry appearing in this matter and appearing with me  
10 today is **MS J. THOMAS**.

PRESIDENT: Thank you, Mr Gates. Mrs Dowd?

MRS DOWD: Thank you, Mr President. The application before you today is to vary  
15 the Shipping Award for the third \$8.00 arbitrated safety net adjustment and we refer to the wage fixing principles of the Tasmanian Industrial Commission under T5214 of 1994, a decision of the full bench in December 1994 and amended under T6284 and 6305 of 1996, on 24 July 1996.

The main principle relating to the third arbitrated safety net adjustment is principle  
20 7.3 and in relation to the award level, it is 7.3.2. Mr President, this award - the Shipping Award, was varied to reflect the first safety net adjustment on 28 February 1994 under T4916 of 1994 and the second safety net adjustment was reflected in the award on 26 July 1995 under T5556, T5615, T5604 and T5617 of 1995.

It can thus be seen from those variations to the award that 7.3.2.1 is satisfied and  
25 also that 7.3.2.2 is satisfied because there is now a period of over 12 months which has elapsed between the granting of the second safety net adjustment and also the application today for the third safety net adjustment.

The Australian Services Union gives a commitment to the principles, particularly in  
30 relation to 7.3.2.3 and that we agree to the review of the award. Mr President, I believe that the Australian Maritime Officers Union and the Australian Institute of Marine and Power Engineers, both organisations with registered interest in this award, have actually forwarded to the commission the required documentation relating to the principles.

PRESIDENT: Yes, I have letters from those two organisations indicating a  
commitment to review of this award.

MRS DOWD: I actually have copies if Mr Gates would like to view those.

35 Mr President, following discussions with Mr Gates from the TCCI late Friday afternoon, I actually wish to amend the draft order that was forwarded to the commission. I have actually given a copy to your associate this morning in relation to the amendments.

PRESIDENT: Yes, I have a copy.

40 MRS DOWD: Thank you. And that was to remove the page in relation to clause 13 and clause 31 and also to amend the figures in clause 33 from - on the last page of that draft order, Mr President - it actually amends the second line in 33(a) from 7.6 to 8 cents and in the second line in (b) from 21.65 to 22 cents.

Now, the draft order has been checked and confirmed by the TCCI and our draft order seeks to delete the existing Clause 8 - Wage Rates and insert in lieu a new clause reflecting the third safety net adjustment and also the 5.75 percent increase in allowances. It also seeks to delete Clause 33 - Special Rates and insert a new clause  
5 reflecting the increases in the allowances and again, Clause 46 - Shipwrecking or Stranding, by deleting that existing clause and inserting a new clause, again to reflect the allowances.

Mr President, we seek ratification of our application for the third safety net arbitrated adjustment and we would also seek the operative date as of the first full pay period on  
10 or after today's date. If the commission pleases.

PRESIDENT: All right. Thank you, very much, Mrs Dowd. Yes, Mr O'Brien?

MR O'BRIEN: Mr President, we endorse and support the submissions of Mrs Dowd in this matter. In relation to principle 7.3.2.3, my organisation gives a commitment in accordance with the principles and asks the award be varied in accordance with the  
15 amended draft order, operative from the first pay period commencing on or after today's date.

PRESIDENT: Very good. Thank you, Mr O'Brien. Mr Gates?

MR GATES: Yes, thank you, president. I just raise a technical point at this point in time and that's with the authority from the Australian Institute of Marine and Power  
20 Engineers. Mr Gordon, who's the president, commits his organisation. Now, I'm happy to hear your views on it but my understanding would be, it's the organisation which commits itself, not a person from the organisation.

PRESIDENT: Yes. It's a pretty technical point I think, Mr Gates. I would have read that to mean that the organisation was committed. Somebody at some stage or  
25 another has to stand up somewhere and say, yes, the organisation's committed. So, it's really a matter of the way it's been expressed but that's what it means.

MR GATES: I mean, it could raise the question, whether there's authorisation to commit his organisation to it and the award requires the organisation commit, not a  
30 person commit. I don't see that as being a sticking point but my preferred position would be a further letter from Mr Gordon, simply stating that his organisation commits to the review. I don't see that as prejudicing the operative date but simply for completeness sake.

PRESIDENT: Yes. I'm not altogether certain that it's essential but I'll take it up with Mr Gordon.

35 MR GATES: Thanks.

PRESIDENT: I'm satisfied that this document means that the organisation is committed to take part in the review and I don't, for the life of me, know how they can avoid it.

MR GATES: No. I just don't want to see any problems come up at a later stage.

40 PRESIDENT: Just while we're on this subject, what sort of problems might you see coming up?

MR GATES: That the organisation never gave their commitment to it and that the -

PRESIDENT: So what -

MR GATES: - the branch secretary was acting -

PRESIDENT: What would happen then?

MR GATES: They could simply say, we're not going to play any part at all in the review process.

5 PRESIDENT: And what would happen then?

MR GATES: Then we'd lodge a claim with the industrial commission.

PRESIDENT: Thank you. Yes. Look, I understand what you're saying and it is -

MR GATES: It's simply by way of clarification.

10 PRESIDENT: Yes, it is. It would be the best thing if we had more certainty on that point but I don't think a lot turns on it.

MR GATES: I'm not going to swing on it but I would appreciate it if you would raise it with Mr Gordon.

PRESIDENT: Yes. I will do that. You might care to do so yourself.

15 MR GATES: Yes. As to this particular application before you, we consent to the amendment of the application - amendment of the draft order. What had appeared in the original draft order was that some of the expense related allowances had been increased and so we've taken those out from the draft order and simply inserted -

PRESIDENT: So changes only to the wage related -

20 MR GATES: Yes. And the only other increase to the draft order was the changing of two allowances in clause 33, in Special Rates from -

PRESIDENT: Part of a cent?

25 MR GATES: Part of a cent to a complete cent. For the purpose of ease of use in the industry. So, those are the two changes to it. We believe the application is in accordance with the Wage Fixation Principles and the unions have given their commitment as required pursuant to those Wage Fixation Principles. We also are of the opinion that more than 12 months has elapsed since the granting of the second \$8.00 safety net adjustment. Subject to errors and omissions, we consent to the application -

30 PRESIDENT: Excuse me, Mr Gates - please don't put that to me. Has it been checked?

MR GATES: It has been checked.

PRESIDENT: And is it right?

MR GATES: Well, my opinion is that it is right but if the commission goes through it and finds a technical error, then that would come under errors and omissions.

35 PRESIDENT: All right. We'll let you win that point.

MR GATES: Thank you. The operative date would be the first full pay period on or after today's date. As to parental leave, president, I note there has just been a consolidation of this award. Will a consolidation be re-issued?

PRESIDENT: This award obviously will be under review.

MR GATES: Yes, but I might clarify it - from today's proceedings, will a consolidation of the award be issued?

PRESIDENT: I suspect not.

5 MR GATES: No.

PRESIDENT: I suspect it'll - because the last award - the last order printed in May 1996 was a consolidation and this will just be a - well, we've got to amend clauses 33 and 46. I'll take advice from my drafting person. What do you think, Mrs Geer? Do you think there'll be a consolidation of this award?

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PRESIDENT: Probably not this time, Mr Gates.

MR GATES: I see. Well, the parties can then front that up as part of the review process.

PRESIDENT: Yes.

15 MR GATES: Thank you, president.

PRESIDENT: Thank you very much. Any other comments on that point?

MRS DOWD: The only comment I'd like to make, Mr President, is that it is not easy actually getting some sort of commitment from some of the unions, particularly the unions that are actually based on the mainland. I was actually able to get the commitments from the Australian Institute of Marine and Power Engineers. The president believed that he did actually have the authority to commit his organisation and if you look at the commitment given by the Transport Workers' Union, which again is a very, very difficult commitment to get - in the previous hearing in relation to the Automotive Industries, it again says, I, Ken Bacon, on behalf of the Transport Workers' Union commit my organisation. That was accepted by the president for the previous hearing. I don't believe there should be any pre-conditions set in relation to the actual drafting of these letters. As long as the commitment is actually given. If the commission pleases.

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30 PRESIDENT: Yes. All right. Thank you. Well, having heard the parties, I don't think there is any impediment to the approval of the application to amend the Shipping Award - vary the Shipping Award in the manner sought, with effect from the first full pay period to commence on or after today's date. Thank you.

**HEARING CONCLUDED**