

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T. Nos 3788, 4115 and 4181
of 1992

IN THE MATTER OF applications by the
National Union of Workers, Tasmanian
Branch and the Australian Municipal,
Administrative, Clerical and Services Union
to vary the Wholesale Trades Award

re definitions and wage rates; inclusion of
integrated classification structure;
classification and minimum rates
adjustment for clerks

COMMISSIONER WATLING

HOBART, 25 November 1994
continued from 19/10/94

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER WATLING: I'll take appearances please.

MR P RICHARDSON: If the commission pleases, RICHARDSON, P, appearing for the National Union of Workers, Tasmanian Branch, and appearing with me is **STRICKLAND, D.**

5 COMMISSIONER WATLING: Thank you.

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

COMMISSIONER WATLING: Good. Thank you.

10 **MR B HANSCH:** If the commission pleases, HANSCH, B.J, appearing for the Transport Workers Union of Australia.

COMMISSIONER WATLING: Good. Thank you.

MR P E TARGETT: Thank you commissioner. TARGETT, P. E. I appear on behalf of the Tasmanian Chamber of Commerce and Industry.

15 COMMISSIONER WATLING: Right. Good. We might just go off the record for a minute and look at how we're going to proceed today.

OFF THE RECORD

COMMISSIONER WATLING: Well, who wants to lead off? Righto.

20 MR RICHARDSON: Commissioner, the parties have had the opportunity since this matter was last before you to discuss further the application of my organisation, and also the application of the ASU. Essentially those applications have gone to the question of the form of a classification structure to be inserted within the Wholesale Trades Award as it relates to clerical employees, employees engaged in driving functions, employees engaged in warehousing work and manufacturing work.

25 The commission would be aware that some two years ago the Wholesale Trades Award was varied to reflect the structural efficiency principle as it related to store workers and warehouse workers and employees who are engaged in the manufacture of various grocery items.

30 Despite those variations, the structure as it relates to clerical employees and driving employees has remained unchanged and has not been varied to reflect the structural efficiency principle in its entirety from the 1989 State Wage Case decision.

I tender to the commission a one page document which summarises the proposed variations.

COMMISSIONER WATLING: We'll make this exhibit R.1.

35 MR RICHARDSON:....Exhibit R.1 summarises the variations that are proposed and agreed to by the parties in respect of the various occupations covered by the award with the exception of commercial travellers where, I am advised, discussions are ongoing.

40 Firstly it is proposed to amend the definition of the classification Warehouse and Store Worker Level 1 to insert three additional indicative tasks or duties. The first of those is the task or duty of being able to operate a small delivery vehicle. The second relates to the task or duty of being able to load and unload vehicles, and the third relates to the

performance of clerical duties that are associated with the operations of the warehouse.

5 The second variation proposed is to amend further the warehouse and storeworker definitions this time at Level 2, to provide for the ability to amongst the indicative tasks operate a truck up to six tonnes, and also to perform clerical duties of a level higher than Level 1 that are associated with the operation of the warehouse.

In respect of both items one and two of the proposed variations -

COMMISSIONER WATLING: Does that mean within the warehouse?

MR RICHARDSON:....Within the warehouse, yes, commissioner.

10 COMMISSIONER WATLING: So it is not general clerical operations that may be operating in a warehouse, it's clerical duties within the warehouse itself.

MR RICHARDSON:....That's correct, commissioner. And perhaps if I direct your attention to item 4 where it is proposed to insert a clerical classification structure, and my understanding, and Mrs Dowd will make submissions to you on this, is that that structure would be consistent, or broadly consistent, with the structure the ASU has sought for some period of time. That structure would relate and apply to persons who are engaged in what I would describe in very loose terms as persons performing solely clerical and administrative work. So, for example, within an operation that perhaps employed receptionists, secretaries and the like, or payroll officers, then the clerical structure would be the structure that applies. But the performance of incidental or peripheral tasks that are within the warehouse or the distribution and manufacturing operations of the companies that apply this award, those duties would be contemplated in the variations proposed at items 1 and 2 in respect of clerical persons, or clerical duties.

25 COMMISSIONER WATLING: Right.

MR RICHARDSON:....Having covered in a broad sense item 4, if I could turn back to item 3 where it is proposed that the minimum wage rates for the clerical classifications within the Wholesale Trades Award would be varied to reflect the agreed minimum rate adjustment, and again I understand that the ASU and Mr Targett will make some submission to you on what the agreement is as to how those minimum rate adjustments should apply, given that none has applied to date.

35 Moving to item 5, in a similar sense it is proposed to increase the wage rates for the carters and drivers classifications, again to reflect the agreed minimum rate adjustment process and in that respect I would understand that Mr Targett and Mr Hansch would make some submission to you.

In respect of an overall structure for drivers or carters and drivers it is our submission that the variations proposed to Level 1 and Level 2 of the warehouse and storeworker classifications pick up those duties that are directly related to the distribution functions of the companies covered by this award. However, we would contemplate that there would be ongoing discussions both with the TWU and between the TWU and the TCCI in respect of those persons who are fully engaged as drivers, for example semitrailer drivers and the like, and an appropriate classification structure for them, and Mr Hansch may make some submission to you on that.

45 Finally, there will be a necessity to make a series of amendments which we would describe as consequential simply to reflect the first five items contained in exhibit R.1. We would say that the variations proposed are of consent; they have been the subject of considerable discussion between the parties, that discussion has a history going

back some years and I understand the commission is apprised of that history and that the variations proposed are consistent with the wage fixing principles and specifically the structural efficiency principle. And accordingly, subject to the provision of draft variations in the detail required, we would seek the variations as proposed. If the
5 commission pleases.

COMMISSIONER WATLING: Is it anticipated that there will be an integrated structure, something similar to that which was done for the Metals? Putting in the various, say, warehouse and store worker as defined and allowing the definition to do the work?

10 MR RICHARDSON: Yes. The structure contemplated within exhibit R.1 is perhaps not integrated in the sense that I understand the metals award to be, however it does provide for - for scope for integration at least in terms of providing for a set of - or ultimately providing for a set of generic classifications, but within those generic
15 classifications recognitions of the skills are training and duties specific to the various occupational groupings that have historically been covered by this award.

COMMISSIONER WATLING: I am very interested in the form of the order because the commission is embarking on a program to make awards more easily understood and if we have a huge range of classifications and classification structures in the award, I don't think it makes for easy reading and so I'd ask the parties to give some
20 consideration to the form of the order. I'd have to say prima facie I'd be - I'd be looking along the lines of the new metal and engineering industry that has integrated transport and ASU people. But anyway, you might have a look at it, but I just think we've got to try and make awards easier for the people out in the field and we are in the process of reviewing awards to that end at the moment and the commission is
25 running a number of conferences with the parties to try and simplify them. Anyway, that's a passing comment.

MR RICHARDSON: If the commission pleases.

COMMISSIONER WATLING: Good. Mrs Dowd?

MRS DOWD: Mr Commissioner, in relation to the document that has been put
30 forward by the National Union of Workers, in relation to No.1, where it says, Clerical duties associated with the operations of the warehouse, I believe the agreement is that they are incidental and peripheral to the main tasks of the employees in the warehouse, and exactly the same with point No.2, Clerical duties of a higher level than level 1 associated with the operations of the warehouse - again incidental and
35 peripheral only. In relation to the minimum rates adjustment for the clerical employees, it has been agreed between the parties that there will be two minimum rates adjustments when the award is first varied and the second one after that will be in 6 months' time and a further one in another 6 months' time.

COMMISSIONER WATLING: So you can -

40 MRS DOWD: And documentation will be forwarded to the commission in relation to that.

COMMISSIONER WATLING: So the first two - you're dividing it into four.

MRS DOWD: It will be divided into four but the first two will be paid in one.

COMMISSIONER WATLING: Right. Good.

45 MRS DOWD: If the commission pleases.

COMMISSIONER WATLING: Thank you. Mr Hansch?

MR HANSCH: Yes, Mr Commissioner. Commissioner, the TWU supports 'in principle' the position as put by - by the National Union of Workers because that will be subject to some - some clarification in relation - an example - in 1), it operates a small delivery vehicle. Well I think that will need further clarification. I don't want to come back at some or another arguing what is a small delivery vehicle. Well I think that will need further clarification. I don't want to come back at some time or another arguing what is a small delivery vehicle. And likewise, in point 2 - operates truck up to 6 tonnes. But they are further discussions that we will have.

10 I don't think there's any problem, it's just a matter of making it quite clear what we're talking about and - because that will be reflected in any amended draft or document which comes to the commission.

COMMISSIONER WATLING: Right. So you think that it operates a truck up to 6 tonnes is not clear?

15 MR HANSCH: Well no, commissioner. As most awards do state at this point of time, I mean whether it is carrying capacity or a gross vehicle mass, whether it is rigid, et cetera, et cetera, and I think we need to make those points clear.

COMMISSIONER WATLING: Right. But in all other respects you support the program.

20 MR HANSCH: That is correct, commissioner. That is correct - yes.

COMMISSIONER WATLING: Now what about the minimum rates adjustments for your - for those people?

MR HANSCH: Yes, the minimum rates adjustments - well we'd need to have - in fact we have received some documentation from the - from the employers in relation to a proposal which includes the minimum rates adjustments but I would - just 'in principle' we support what's being proposed.

25 COMMISSIONER WATLING: So is there a suggestion that you're getting the first two out of four minimum rates adjustments first up?

MR HANSCH: I would hope that would be the case, commissioner, yes

30 COMMISSIONER WATLING: But you don't know yet?

MR HANSCH: Well I believe that is, but I need to speak further to get a better understanding.

COMMISSIONER WATLING: Right. Well, looks as though the ball is in your court, Mr Targett.

35 MR TARGETT: Thank you, commissioner. We supplied a document to - to the unions and I believe it also afforded a copy to the commission for information purposes as to the way we -

COMMISSIONER WATLING: I have received a copy and it's - it's a letter dated the 16th November.

40 MR TARGETT: That is correct - yes.

COMMISSIONER WATLING: Right.

MR TARGETT: The document that we supplied to the unions on the 16th November reflected what we believed to be an appropriate structure to insert into the award to adequately take care of the requirements of the warehouse employees. In addition we also wanted to ensure that those people that we believe are clerical employees - solely clerical employees were also catered for and we utilised the structure which was contained in the Clerical & Administrative Officers (Private Sector) Award to account for that, and also to take into account those people that we believe are solely drivers and for those purposes we utilised the Transport Workers (General) Award and imported into the Wholesale - or proposed - to import into the Wholesale Trades Award those classifications and wages so that people working within the wholesale industry and performing either clerical or driving functions would not be disadvantaged by being under a different award to the clerical or the transport award.

COMMISSIONER WATLING: - reinvent the wheel.

MR TARGETT: Absolutely. In addition to that we also put forward a proposal in relation to what should happen with commercial travellers as appropriate wage rates are concerned. The document that's been provided by Mr Richardson this morning to the commission contains what I believe to be appropriate variations to the award in relation to the documentation that we have provided. In relation to point 1 the addition of the three dot points into the definition of a warehouse and store worker level 1, accepting what Mr Hansch said about perhaps clarifying what a small delivery vehicle is, but certainly I don't have any problems with the inclusion of those three dot points in that definition.

In relation to point 2 of Mr Richardson's document, once again I don't have any difficulties with including the two points addition - two additional points into the definition and once again I accept the point made by Mr Hansch for clarifications purposes, I believe it is appropriate to clarify what is a 6 tonne vehicle. In relation to point 3 we - from the TCCI's point of view, the insertion - to increase wage rates for clerical classification to reflect agreement on rate adjustment, our position is that we would insert into the award the clerical and admin structure from that Clerical & Administrative Officers (Private Sector) Award and put in place a minimum rates adjustment process in line with that mentioned by Mrs Dowd which are four MRAs, the first two being paid on the first operative date, the third being paid 6 months subsequent to that and the fourth being paid 6 months subsequent to the third.

The point 4 of Mr Richardson's document - insert clerical classification structure with a proviso with the effect of - as he's mentioned in his document, I believe for the purposes of insuring clarification in the field and the operation of the award that such a proviso would be appropriate. And certainly, it goes to the point raised by Mrs Dowd of ensuring that the clerical award - or clerical work mentioned in points 1 and 2 of his document are incidental and peripheral. I haven't quite come to grips with what particular part of the award we'd put that into as yet but I certainly believe that it does need to be inserted for clarification purposes and ease of operation.

Point 5 - increased wage rates for carters and drivers to reflect minimum rates adjustment - once again, as I've already stated, we believe it appropriate to import into this award the structure and wage rates from the Transport Workers (General) Award and I don't believe there are any difficulties from Mr Hansch on that particular point, because as I said earlier, we believe that is the appropriate level for - what I believe - what I call sole drivers should be entitled to, and the minimum rates adjustment process once again, as I've stated, for the clerical employees should be split into four components, the first two adjustments being paid from the operative date of the variations, the third being paid 6 months subsequent to that and the fourth being paid 6 months subsequent to the third.

In relation to consequential amendments, I haven't had a look at what consequential amendments may as yet be required and obviously if there are any I would see that the only variations being consequential variations and not an attempt to make any gains by the unions in any other areas than those which we have specifically addressed in this particular proposal.

Going to the issue that you raised, commissioner, as to the integration of the wages structure to in general terms reflect that which has been put into the metals award, we - the TCCI did in fact undertake a process of having a look at that particular issue and the difficulty that we were confronted with and the reason we actually set the document out in the form that we have provided and the covering letter on the 16th November, is that because of the range of pay points based on relativities we actually ended up with, it was either 27 or 28 separate pay points.

Now the principle of that integrated wages process as in metals, I have no difficulty with and I accept that it is in fact a simpler process. The concern we had was that there was such a large number of pay points, whether it in fact didn't become even more confusing. Where there a smaller number of pay points I agree with the commission's view that it is a nice simple approach.

If the commission was of a mind that despite the substantial number of pay points it was still a better process to undertake, I'm happy to go down that path. But that was the reason in fact that we provided the documentation in the form that we have. The -

COMMISSIONER WATLING: The only - the only thing I raise even in the documentation that's been forwarded to me, even though it doesn't form part officially of this hearing, even the lead-in to each of the classifications - for example - when you start off in (a) you talk about, adult employees shall be not be paid a rate less than that set out below, but when you get to clerical streams you don't have that introductory thing and you don't have the introductory thing in drivers and things like that, you see.

MR TARGETT: But -

COMMISSIONER WATLING: And a lot of those introductory things could be covered and could be removed from the award by just one covering the whole lot.

MR TARGETT: Look, commissioner, I really don't have any problem with any suggestions which would simplify it and I certainly pick up the point that you raise in relation to that introduction. And as I say, if - if it is believed that the full range of pay points being inserted into that integrated wage grouping system used in metals is a preferable one, I - I'm happy to - to go down that path. It's certainly not an attempt by me to -

COMMISSIONER WATLING: No.

MR TARGETT: - impose any particular form or any particular view.

COMMISSIONER WATLING: Well I'm fairly open myself but I - I just don't - I haven't done the physical exercise myself -

MR TARGETT: Yes.

COMMISSIONER WATLING: - to see what it looks like. But we're ranging from relativities from about 72% I suppose - or 78% up to, what, 124 or something.

MR TARGETT: Yes, and I mean we have situations for example in the warehousing stream Grade 4 - it's 100.9%. Normally you would expect that it would be 100. Now I'm

happy to reduce it to 100 but I guess I'd have some difficulties with others if I attempted that process. So we then end up with a pay point of 100% and then the next pay point being 100.9% -

COMMISSIONER WATLING: Point nine.

5 MR TARGETT: - and it just keeps going and going. And that's why we ended up when we did the exercise of putting it together that way, we ended with something - it was either 27 or 28 separate levels which, as you can appreciate, commissioner, was an enormous number of - number of levels within the - within well what would be clause 8 - wage rates.

10 But, as I say, that was the only reason we didn't utilise that same system because I concur it is a simpler system. But I'm certainly open to go back to that if everybody believes it is a

COMMISSIONER WATLING: Anyway, you might just have a look at it - that's all I'm saying.

15 MR TARGETT: But on that basis, commissioner, I believe, based on the submissions from - from union colleagues, the - there is agreement to what this award should look like following the restructuring process. I agree with Mr Richardson that we provide to the commission draft orders reflecting the agreed position as we've put to you today. I accept that the commission will be unable to issue a decision until such time as draft
20 orders are provided and I have no difficulty with that.

- and on that basis I would ask that the operative date be the date that the draft orders are provided to the commission for the introduction of the minimum rates adjustment process for the clerical stream and for the drivers stream, and obviously for all of the variations to the award that would be the same operative date, even
25 though the actual consequences in the field are minimal. If it please the commission.

COMMISSIONER WATLING: Righto. Any further submissions or comments, Mr Richardson?

MR RICHARDSON: Only to clarify, commissioner, the comments of Mr Hansch. Certainly there is a need for some further discussion between us on the definitions.
30 That arises simply, I think, from the fact that the discussions that occurred between my organisation and the Transport Workers' Union occurred at the level of the respective national offices and so I think whilst we might use one term in one state, it might mean another thing here and we just need to be cognisant of that. If the commission pleases.

35 COMMISSIONER WATLING: Thank you. No other comments? Well, I can indicate to you that I will hand down a written decision in due course and prima facie it will be in support of what you are trying to do, however, I just don't want to shut the door on myself before I see the rest of the documentation, but - how long do you think it might be before I would have a look at what - ?

40 MR TARGETT: Probably about a week, by the look of it, commissioner.

COMMISSIONER WATLING: Yes. Righto. Anyway, we'll now close this matter and hand down a written decision in due course. Thank you.

HEARING CONCLUDED