

**TASMANIAN INDUSTRIAL COMMISSION**  
Industrial Relations Act 1984

T No. 5455 of 1995  
T Nos 6267 and 6585 of 1996

**IN THE MATTER OF** applications by the  
Automotive, Food, Metals, Engineering,  
Printing and Kindred Industries Union to  
vary the Automotive Industries Award

re restructuring of the conditions  
component of the award; variation of  
Division F by the insertion of special  
provisions for persons employed principally  
to sell motor vehicles; and deletion of  
Division G; insertion of supported wage  
system clause

PRESIDENT

HOBART, 17 October 1996  
continued from 20/8/96

**TRANSCRIPT OF PROCEEDINGS**

Unedited

PRESIDENT: Are there any changes in appearances?

**MR R. HALE:** Sir, I appear for the Australian Services Union, ROSS HALE.

PRESIDENT: Yes. Thank you, Mr Hale.

5 **MS J. THOMAS:** JENNY THOMAS, for the Tasmanian Chamber of Commerce and Industry. If it pleases.

PRESIDENT: Thank you, Ms Thomas. Okay. Mr Baker.

MR BAKER: Thank you, sir.

10 PRESIDENT: Just before you do start, the supportive wage system application has been mentioned. What do the parties feel about that? Should it be joined with the other applications?

MR BAKER: I think it would be appropriate, sir.

PRESIDENT: What do you think about that, Ms Thomas?

MS THOMAS: No objection to that.

PRESIDENT: No?

15 MS YILMAZ: No objection.

PRESIDENT: No? Thank you. All right, we will join that application. Okay, Mr Baker.

MR BAKER: Thank you, sir.

There are a couple of things we may be able to sort of deal with before progressing to the submission proper this morning.

20 In relation to the application of 6267 in relation to Divisions G and F, so far as Division G is concerned which dealt with the deletion of that division of the award, I am able to report to you, sir, that that matter is now by consent and Division G can, in fact, now be deleted altogether out of the award.

25 Insofar as Division F is concerned I have prepared a draft order but I inadvertently forgot to send that out to the parties and they received that this morning, or a rewriting of, in fact, the exhibit which I tendered at the last proceedings.

PRESIDENT: Is that the document you forwarded to me on the 9<sup>th</sup> of October?

30 MR BAKER: Yes, sir, it is, and that's in relation to the special provisions of persons employed principally to sell vehicles, as defined; and so there is a draft order circulating for that.

But I have written it in a manner consistent with what we shall deal with in Matters 5454, so it may be appropriate to see how we proceed with that issue, otherwise I may in fact have to prepare another draft order.

PRESIDENT: I thought you said you weren't going to do another one.

35 MR BAKER: Well, we will see how we go this morning.

PRESIDENT: Yes. All right.

MR BAKER: So I just offer that as a -

PRESIDENT: Does anybody want to comment on those initial statements by Mr Baker? No? All right. So there is consent to the removal of Division G?

5 MS THOMAS: Perhaps the only comment I would like to make, and it is a bit difficult for me coming into the proceedings at this stage without having the benefit of the transcript from the last day this matter was before the commission.

10 But I understand from the previous hearing that the question of a superannuation fund applying for K-Mart employees was an issue, and a draft provision was going to be drafted to be included in the occupational superannuation clause which would protect the interests of existing employees at K-Mart.

I don't know whether that has been done or not?

PRESIDENT: So, can you -

MS THOMAS: And I think Ms Yilmaz was going to draft that particular provision, if I am correct.

15 PRESIDENT: All right. Ms Yilmaz.

MS YILMAZ: Mr President, perhaps I can respond in that situation. My understanding of the last hearing before this commission was that we looked at preparing draft orders in the event that we needed to maintain the protection of the appropriate superannuation fund for those employees employed by K-Mart in the event  
20 that we were take the cautious approach of not deleting in effect in total Division G.

25 However, since that time I have been able to confirm with K-Mart Auto that all of the employees in Tasmania are, in fact, covered by a federal award and I have confirmed that with the AMWU, and they have given me authority to put on the record today that Division G can be deleted in total and those employees - as they are covered by a federal award - would have to adhere to those provisions which also have superannuation provisions under the federal award.

If the commission please.

PRESIDENT: Yes. So their rights now transfer where they were originally under a federal award and superannuation no longer is an issue in respect to that?

30 MS YILMAZ: It no longer is an issue.

PRESIDENT: Does that satisfy you there, Ms Thomas?

MS THOMAS: Yes, it does. I think it is important for the record to show that.

PRESIDENT: Yes, I agree with that. All right. Mr Baker.

MR BAKER: Thank you, sir.

35 Well, since this matter was last before the commission I have done some work pursuant to preparing a document which we, in fact, amalgamate the remaining divisions of the award into one; and that document has been circulated to the parties. I have, in fact, circulated a draft copy to yourself - sorry, a drop copy to yourself - and  
40 I'd like to sort of enter that document as an exhibit insofar as the proceedings are concerned.



PRESIDENT: Can do. Can you tell me what exhibit number we might be up to? This will be in relation to 5455. Do you know how many exhibits you have tendered so far, Mr Baker?

MR BAKER: I believe - I think this might be B.2, actually.

5 PRESIDENT: That's what our records would seem to indicate. Yes, all right, Exhibit B.2.

MR BAKER: Just for the record, I should indicate that I have in fact circulated the document not only to the commission but to the VACC, the TCCI, and the other respondent organisations to the award, namely the Hospitality Miscellaneous Workers' Union, the Australian Services Union, the National Union of Workers, the Ship  
10 Distributive and Allied Employees Association, the Transport Workers' Union, and the Australian Workers' Union. I think that is a list of all those organisations who are respondent to the award.

PRESIDENT: You did say the Transport Workers' Union?

15 MR BAKER: Yes, sir.

PRESIDENT: Yes. I notice from Clause 6 - Parties and Persons - that there are other employer organisations.

MR BAKER: Yes. I don't ever recall seeing them at a hearing.

20 PRESIDENT: I don't think that matters too much. We had better send - can you make sure that copies go to the others?

MR BAKER: Yes, I will. I undertake to send them a copy.

PRESIDENT: Good.

MR BAKER: The basis of the application before you today arises out of what we perceive to be some difficulties with the operation of the award as it stands at the  
25 present time; and, indeed, there are many and varied things which really make this award in some respects almost inoperative in parts.

If you look at the existing structure of the award to commence with in Divisions A and B, Division A talks about service station and garage proprietors and then there are separate conditions for employees in Division B who are mechanics and/or body  
30 makers and/or assemblers, and I pose the question: if you are a mechanic who works in a service station or a garage does Division A apply or does Division B apply? No doubt somebody more competent in such matters would be able to provide an answer.

PRESIDENT: I am pleased nobody has asked me.

35 MR BAKER: But it does beg the question as to whether or not which section of the award applies.

But if you progress through the award there are some glaring situations that need attention.

For example, in clause 15 of the award which relates to gear and equipment there is a proviso that talks about the provision of tools, which makes the comment that, 'The  
40 employer shall provide all equipment and tools'. Where he doesn't provide the tools a tool allowance of \$4.50 shall be paid.

In clause 8 of the award, which was amended some 12 months ago now by consent, we included a new tool allowance of \$9.00.

5 Now I must admit I must accept the responsibility for that oversight for the provision that the second proviso that appears in the award but, again, we have this double standard applying as far as the award is concerned.

So there is that issue of the tool allowance under clause 15 applying.

10 Insofar as the occupational superannuation is concerned in clause 22, as we are aware the provision perhaps one may argue is no longer consistent with the act and needs a revision. It also contains a reference to a superannuation scheme that no longer exists. So that is in urgent need of some address.

15 But some of the more extreme provisions are, for example, the overtime provision. There is currently four overtime provisions in this award - one of which we have probably just deleted as a result of comments made to the commission this morning - but that leave three provisions - sorry, that leaves five provisions, I am sorry - and there are still four provisions left in the award: clauses 23, 44, 51 and 61. Four separate provisions relating to the application of overtime.

In the two principal provisions between clauses 23 and 44 relating to persons who work in service stations and/or the mechanics there are four separate - the differences one could argue are almost minimal.

20 And, for example, in clause 44 there is a provision relating to maintenance employees in respect of the 5-hour break where you could exceed the 5-hour break if engaged in a maintenance function. In clause 23 you can't.

There is a break, for example, in clause 44 before an employee commences overtime. No such provision exists in clause 23.

25 There is a provision in clause 44 for the transport of employees after overtime, even though it is provision which is drawn from antiquity, because it is one of those provisions that was basically around when employees actually walked home from work.

30 But - and then again, of course if you tie those provisions into the hours provisions, you know, we have, for example 4 hours provisions in clauses 17, 43, 50 and 60 - all basically saying the same thing. There are some minor amendments to them, but it is interesting, of course, when you look at particularly clause 50, for example, in subclause (e) where it talks about clerical employees being dressed for work.

35 Now I am not too sure whether clerical employees actually turn up stark naked in the morning, or what it is, but I find the provision quite quaint. You know, they are required to be dressed for work.

40 And there are other provisions out of the hours of work which translate back into the overtime provisions - different provisions - provisions in the clerical and spare parts areas, for example, that relate specifically to the old shop trading hours for Saturday morning, and one could argue today that, you know, not only are they no longer relevant but they are really anachronistic as far as the award is concerned. But they sit there.

45 And, of course, you can have an employer who is bound by this award employing a motor mechanic, an assembler, a spare parts person and a clerk who is bound to observe this award and is bound to observe four different overtime provisions, bound to observe four different hours of work.



I am not sure how they do it - well, I do know how they do it - they observe one provision and ignore the other three.

5 Even if you look at the simple things like rest periods there are three rest period provisions in this award. Two them make reference to the fact that the employee has to work 4 hours before the employee is actually entitled to a rest break.

10 Tea money. We have three provisions for tea money, two of which I'm not too sure what they mean. There's a third one which talks about, you know, if the employee is destitute, the employer shall actually make a payment of the five - or the \$9.25 before - before the employee commences overtime. I'm not sure how the employee ascertains that the employee is destitute for payment.

There are other provisions which have simply ceased to be of any relevance at all. There are provisions in both the clerical and spare parts areas in relation to the estimation of service which became redundant provisions on the 1<sup>st</sup> January or thereabouts in 1995.

15 The special rates, their applicability - where they actually sit in the award - in clause 46 as they relate to persons - motor mechanics - and this comes back to the issue of whether a person employed in a service station is actually covered by Division A or Division B. Their applicability and indeed their value and they need to be - there needs to be an examination of those - those allowances as to whether or not they ought to be  
20 continued within the award, and if they are to be continued in the award then there should be an examination of the amount which is paid in respect of those rates.

25 As I've indicated, there is - there's also differences insofar as Saturday and Sunday work is concerned. There are different provisions applying to different categories of employees. As to the operation of the award, the same applies to holidays as well And of course then there is the expense and accommodation provisions and we have several of those as well.

There's a quaint provision in the provision which relates to commercial travellers about restricted parking. It seems to me that's another provision that goes back to when parking meters were first introduced into - into the local district.

30 So, sir, I'd say that as background, and it's certainly not, I don't say, an exhaustive list, but I think it's an indication that this award is really in a mess, and of course it's only been recently that the separate provisions for females were removed from the award and I'm not going to make the comment about how the TCCI actually opposed that application, but I shall proceed.

35 And so with all that in mind, I set my mind to the task of trying to repair a document in the first instance of trying to bring together all the provisions as they currently stand within the award to give effect to having a document that is at least one can actually apply in the workplace. And out of that I would then view the issue of us setting to and rewriting the document so that we have a modern award which people  
40 can easily read and can easily find a provision which applies to them, and unfortunately at the present time I don't think that is the case. And indeed, in some areas of the award it's quite confusing as to which clause applies, how it applies and to whom it applies.

45 And to that end, as I've indicated, I've circulated to the parties an - the now exhibit B.2 which I would like to sort of take you through and indicate to you what I've done as far as the document is concerned. And what I've simply done, if you like, sir, is I've taken the conditions for employees in Division A - Service Station and Garage Proprietors, and then attempted to fit the balance of the award into Division A. Obviously of course, at the end of the day, Division would cease to exist, but for the purposes of



that, I have attempted to do that. And if you - you can see, sir, there on the second page of the document which is headed 'Conditions for Employers in Division A - Service Stations - Service Station and Garage Proprietors, I've listed all the current clauses in Division A and I've made references to them.

- 5 And you'll see, sir, that as far as annual leave is concerned, and compassionate leave, contract of employment, damage to clothing and tools and deductions of wages, there's been no change.

The extra rates not cumulative - a new clause 14 - I've added from Division B, but there's no change to the actual clause extra rates not cumulative.

- 10 The first aid provision remains unaltered.

- As far as the gear and equipment clause is concerned on - as far as 16 - clause 16 is concerned - I've varied - I've made a change to that and under 9(b) where it used to prescribe an allowance of \$4.50, I've added the words: 'Where an employer does not supply tools, a tool allowance as prescribed in clause 8(c) shall apply. And 8(c) of course, sir, is the tool allowance.
- 15

The hours of work provision - there's no change.

The holidays with pay - no change.

- Holiday work - we've made a proviso in relation to the clerical and part - and part sellers concerning minimum payments which talks about : For all time of duty on the holidays mentioned in clause 16, holidays with pay hereof, payment shall be made at the rate of double time and one half provided that clerical employees, sellers of motor vehicle replacement parts and accessories shall receive a minimum payment as for four hours worked which is the current provision which relates to clerical and sellers of spare parts at the present time in the award.
- 20

- 25 Insofar as the implementation of the classification structure - clause 20 - there's no change.

Mixed functions, notice boards - there's no change.

- So far as the occupational superannuation provision is concerned - I'm suggesting that a new provision go in at clause 23 to give effect to changes which are reflective of the act. And indeed, this current provision which I propose here was in fact taken from the Shipbuilders Award which was inserted earlier this year and it deletes the reference to Vista and is replaced by the Superannuation Trust of Australia which took over the running of the Vista scheme.
- 30

- The overtime provision - as I've indicated, I've taken clause 24 and I've replaced it with clause 44. As I've indicated there, it's a more encompassing provision and there's also a further provision which relates to sellers of spare parts and motor vehicles because they have a peculiar provision which relates - not peculiar - I'll rephrase that - there is a separate provision which relates to the working of overtime after five - after 6:00pm of a Friday afternoon - although perhaps - so that's - that's there. So that's a separate provision and would simply be translated from its current position in the award into the overtime provision.
- 35
- 40

The parental leave and the payment of change - the payment of wages - there's no change.

The piecework provision - is simply added from Division B - the new clause 27.

The posting of the award - there's no change.

- 5 The rest period - as I've indicated there, the proviso for clerical employees to Division - to have worked four hours before a break is available. I haven't transposed that from Division C. I just think that perhaps that's something which, you know, if we're going to clean the award up it may be one of those things that need to be sort of looked at.

The right of entry provision - I've simply rewritten that consistent with the state legislation so far as that's concerned.

Saturday work - again, there is a proviso in relation to a minimum payment for clerical employees from Division C.

- 10 Special rates - I've added those from Division B and would form a new clause 32. Again, there is no change to the provision.

Settlement of disputes, sick leave, structural efficiency - again, there's no change.

For Sunday work - again there is a proviso added for a minimum payment for clerical and spare parts sellers for work of a Sunday.

- 15 Suspension of employees - there's no change, together with the time and wages book and training provision remains unaltered.

The travelling allowance in clause 40 - I've deleted it and replaced it with what I would consider to be clause 47 which was more encompassing which talks far more about and is clearer in its operation than clause 40.

- 20 And I've also added a provision relating to the use of motor vehicles by commercial travellers which in fact is consistent with the use of vehicles as was agreed insofar as for the sellers of motor vehicles which we'd - previously been the subject of discussion between the parties.

- 25 And I've also added a proviso insofar as the special allowance is concerned for commercial travellers who are required to be away from home of a weekend and they receive a special allowance of \$5.40, which probably needs some revision as well.

- 30 Insofar as the issue of traineeships are concerned, they currently only apply in Divisions - I should know those off by heart - C and D - clerks, and the sellers of spare parts. And what I would simply indicate is that I think that we should just simply transfer that to the body of the award and note that as at the 1<sup>st</sup> January next year, that provision - that proviso - will cease to exist as the - as we aware there will be no - well there are no new traineeships being taken out in that area as such. They're covered by the National Training Wage agreements and that provision will cease to apply after January next year.

- 35 And then if you look at the following page - a document that I've handed up - and I've made the following comments: What has happened to the balance of the award, if you go through all those clause numbers there, I've listed precisely how I've envisaged that they - what will happen to them.

- 40 In Division B, adult premises - clause - adult apprentices, I should say - clause 40 - that's now found in clause 8 - wage rates, where it is now - there were actually two adult apprentice provisions that applied in the award, and of course we couldn't ever write two of the same, so they're both different, but they mean the same thing - but they're different.

The extra rates - we've transferred that to the main body of the award.



General conditions - of course is not applicable.

The hours of work - it's now encompassed by Division A.

Overtime - clause 44 - replaces clause 23 - and is now part of the award proper.

Special rates - the same.

- 5 And the travelling time allowances abort - clause 47 replaces clause 29.

In Division C, I propose the following:

Estimating service - that clause 48 is deleted. It is no longer relevant following the introduction of the new career structure which went into the award from January of last year.

- 10 The general conditions - again it's no longer applicable.

The hours - it's encompassed by Division A - subclauses (d) and (e) deleted - not relevant in the award.

- 15 And they're the provisions which I indicated to you earlier on - talking about the employee being dressed and ready and willing to go to work and all the rest of it. They almost remind me of the old provisions - some of the old provisions that used to appear in the public service handbooks on what employees had to do before they sort of started the day's work, and I think that's - and if we're going to have those provisos, that's where they belong. They don't belong, in my submission, in an award. I know why they went in there. I don't know - well I know why they went in there but whether  
20 they should have ever gone in there is a matter of some discussion.

- The ratio of juniors to adults - I've said there it's deleted - it's no long relevant. I discussed the issue with the secretary of the ASU and she was in concurrence that the proviso of two juniors for one adult bizzo is really again is something which is no longer relevant and indeed the real issues these days of course is actually getting  
25 juniors into the workplace. And so it's - again it's a non event.

The rest periods - as I've said - it's encompassed by Division A.

The Saturday work the same. Sunday work.

The tea money proviso contained in the overtime provision and the traineeships would be added to Division A.

- 30 In Division D, again we have that estimating service provision and again my comments made in relation to Division C are equally as relevant as far as that clause is concerned.

- The general conditions in clause 59 - again is not relevant, and the hours provision in clause 60, as I've indicated there it's incorporated in Division A, and again, those dress  
35 standard provisions and being ready, willing and able to work again have been deleted.

The overtime provisions have been encompassed by Division A and the traineeship has been added to Division A.

- Insofar as Division E is concerned, is the commercial travellers, the expenses and accommodation - I've incorporated that into Division A by the inclusion of the current  
40 clause 47.

General conditions not applicable.

5 Locomotion - we've added a new provision to the travelling and board provision of clause 47, which, as I've previously indicated, is consistent with what was agreed so far as the sellers of new motor vehicles or - sorry - the sellers of motor vehicles is concerned.

The special allowance - and I made a comment there that - which I've previously made - that that's been included into clause 47, but the amount certainly would probably need some form of review.

10 Division F - we would simply delete all of that and simply replace it with the new provision which has been the subject of some discussion between us.

15 Division G - we would delete that altogether and the proposed interim arrangement within the award would be - you would have a series of clauses, 1 to 41 - and I'm not sure what happened there - typist error I assume - and the special provisions for persons employed principally to sell motor vehicles as defined would be clause 42 and that would be the content of the award in its totality.

I don't propose that the document which I've handed up to you today is perfect but I hand it up on the basis of trying to bring this award into the 20<sup>th</sup> Century at long last and I would like to sort of see the document used as a serious basis of progressing the matter further so that we finish up with a composite document.

20 PRESIDENT: So what - tell me what you really intend to do with Division F? You've circulated a draft order -

MR BAKER: Yes.

PRESIDENT: - based on clauses 67 to 77.

25 MR BAKER: It would be - there would just be one clause - my submission would be that there would be one clause - it would be clause 42 for argument's sake and there would be - that would be the whole - the whole clause and then we would have 42(a), (b), (c), (d), (e), (f), (g). So as far as the -

PRESIDENT: For sellers of vehicles?

MR BAKER: Yes. So there would only be the one clause.

30 PRESIDENT: Yes, I think I follow. Is there any reason why it just has to be one clause?

MR BAKER: It's just the way I thought I'd do it.

PRESIDENT: Mm.

35 MR BAKER: And I really think it was probably that we had - the award generally would apply to everybody, and then I thought, well if we put it like that and if you sort of set it out so that it applies to everybody except, then there would be justice provision that would apply to these people with a series of provisions which would apply to them.

40 But I mean if people are sort of saying to me, well look, they're going - people are going to get hung up about or anything else, well we'll just simply list the clause numbers. I mean I - you know, it's -



PRESIDENT: All right.

MR BAKER: - it was just -

PRESIDENT: Anyway, you'd see the proposed Division F coming in as clause 42 and thereafter?

5 MR BAKER: Yes.

PRESIDENT: Yes, okay. Well I think that's a fair summary. I think it gives enough - gives people enough to comment on. Okay, thanks, Mr Baker. Mr Cooper.

10 MR COOPER: Mr President, in respect to the draft, we did receive that as advised by Mr Baker and we agree with the submissions that have been made that it is a good - that it's a good start. It does perform - it does provide the parties with a basis in which to work. Everyone was clear in the intention that we should have one award with single conditions, but obviously someone has to do that work that has been now performed and we have received that. I must comment that we haven't had a chance to go through it in detail and I agree with the comments of Mr Baker as well that it would  
15 be prudent to then look at that and develop it further into a modern award and in that respect we're in a position to support the comments that have been made and we are a willing participant in tidying that up to a standard where it could become an order of the commission.

20 PRESIDENT: Very good. And you'd see - and you have no problems with Division G being deleted and working towards a new Division F as an interim arrangement?

MR COOPER: I have no problems with that at all, Mr President.

PRESIDENT: Oh, okay. Good. Mr Noonan.

MR NOONAN: Yes, Mr President, we received a copy of exhibit B.2 and I've already spoken to Mr Baker in relation to that document. There is one problem as I see -

25 PRESIDENT: Mm.

MR NOONAN: - the existing award, in Division D it refers to Saturday work and it's been omitted from exhibit B.2. What - there is a cross-reference presently in the award in relation to Division D stating that people working on a Saturday, be they clerical employees which is included in this document but it also has a cross-reference to  
30 sellers of spare parts.

Now I've raised that with Mr Baker but nothing has been mentioned about it this morning, so I see that there is a serious omission there.

PRESIDENT: All right. Well you've put that on the record. Otherwise -

MR NOONAN: But other than that -

35 PRESIDENT: - you're prepared to participate?

MR NOONAN: - otherwise - yes, I am - we are, Mr President.

PRESIDENT: All right, thank you. Mr Hale.

MR HALE: We've - we received Mr - I mean, I received Mr Baker's document fairly late due to the departure of the state secretary and that the ASU wishes to participate  
40 and supports Mr Baker's draft.

PRESIDENT: All right. Very good. Thank you, Mr Hale. Ms Yilmaz.

MS YILMAZ: Well, Mr President, the TACC commend the attempt by the AMWU to streamline the provisions of this complex award whereby removing a significant number of duplications and hopefully removing a significant amount of confusion.

5 I think that the draft order being in the form of exhibit B.2 demonstrates how difficult the task can be, particularly in terms of the cross-referencing that is common in this award, and certainly from our point of view, those are the issues that need to be addressed on a significant level. There's quite clearly in the past and to date, looking at  
10 at times that those things are left often not in a very clear state where the cross-referencing often is incorrect, and so on.

I might just add for the record that I did in fact receive the exhibit B.2 late on Tuesday afternoon, so I haven't had a significant period of time to properly go through the document although I have had the opportunity to go through it briefly at least.

15 We note that it is an amalgamation of all the division which we consent to. The removal of Division G which we have already consented to is indicated in this document.

20 Subject to the checking of this document we would consent to a variation to go through in this format, in particular we would like to check the cross-referencing in more detail as well as the overtime provision which we note that there is some variance between the various divisions. We note that there's been a change to the right of entry provisions and the superannuation provisions in particular and I might just also add whilst I was going through the order, that in the overtime provision that there may have been an omission with - in terms of call back provisions.

25 Now I'm not putting on the record whether or not that is in fact the case. I haven't had the chance to properly go through it but my quick reading of it seemed to appear that there may have been an omission there, but certainly that's not a significant issue which obviously the parties could consult on and resolve quite quickly.

30 In my discussions with the union we have raised the issue of commercial travellers - whether they are still appropriate to the award. I have had some discussions with members and there seems to be a situation where commercial travellers in the industry are often doing a mixed function, if you like, so they have coverage under the award regardless, but I think brief discussions with some members is not significant enough for us to ascertain whether or not we should keep that provision within the  
35 award, so I would like the opportunity to get further instructions on whether or not - within the motor industry, particularly from our point of view, it's still appropriate and I'll endeavour to look at that as soon as possible and come back to the union on that particular issue.

40 I think I might leave it there, unless the commission has any questions. If the commission pleases.

PRESIDENT: No. I think that's a reasonable starting point. Thank you, Ms Yilmaz. Ms Thomas.

45 MS THOMAS: I think the comments from the persons present at today's hearing reveal that we're all interested in furthering the review of this award and updating it so that everyone can use it at the work place. We have had a look at exhibit B.2. I have advised Mr Baker that we would like to discuss with him further, a number of provisions in that document. I don't think the concerns we have are so great that they



can't be resolved, but in saying that too, I think it is important for the parties as a group to go through the document and assess the impact of some of these provisions.

5 My main concern is that whilst some provisions were limited to a single division in the award, they now have general application and also in relation to - in particular the overtime clause and travelling allowance clause. One clause has been nominated now to apply to the award in total and we would like to assess the impact of those provisions and perhaps even obtain instructions from our members.

10 I am concerned that if after today's hearing we adjourn into discussions, the question of Division F in terms of what is reflected in the award today, remains unresolved. I understand we have consented to an operative date for the increase to those allowances in Division F, which is now some - .... in the transcript. Others may correct me but Mr Edwards and Ms Yilmaz consented to those increases to the allowances from the first full pay period to commence on or after 30 August.

15 Now the increases are significant and if that is the case, then I think the commission - it's appropriate for an order to be issued that would delete Division G and that the allowances in Division F be increased to the agreed amounts and then we can look at the general review of the award and the document that Mr Baker has prepared.

PRESIDENT: So, you're saying that - when you're talking about Division G in terms of - were you talking about Division G in terms of the allowances?

20 MS THOMAS: No, Division F.

PRESIDENT: Division F.

MS THOMAS: The commission could now issue an order that deletes division G -

PRESIDENT: Yes.

MS THOMAS: - and increases the allowances in Division F to the agreed amounts.

25 PRESIDENT: Do you think there's any great delay likely in coming to agreement on Division F in terms of what Mr Baker has circulated to you already and why can't we do that all at once?

MS THOMAS: It's just - by the time that happens, we could be looking at three months down the track.

30 PRESIDENT: Why? I thought you had a draft order with you at the moment on Division F.

MS THOMAS: Yes, but I'm saying - well that, as I see it, forms part of exhibit B.2. That actually becomes clause 42.

35 PRESIDENT: Well, that was the question I was trying to clarify with Mr Baker and it was my understanding that Division - the draft order to vary Division F would take place at the earliest opportunity together with the deletion of Division G.

MS THOMAS: Yes.

PRESIDENT: And that would pick up the new allowances in the allowance rates and be effective 30 August.

40 MS THOMAS: Yes. Well, I'd have to say I've only seen this document today and I would have to ask the commission for an opportunity to go away and have a look at it.

PRESIDENT: Well, how long do you think it might take?

MS THOMAS: Well, it would take maybe the balance of the week to have a look at it. I've had a quick look today.

5 PRESIDENT: So, if I could get it back by the end of the week then an order and decision could be released next week.

MS THOMAS: Yes.

PRESIDENT: If the parties are agreeable to that. I'll do my best to expedite it. I think that would be the cleanest way for us to go.

MS THOMAS: Yes.

10 PRESIDENT: Get Division G out, fix up Division F and put it in on an interim basis, knowing that it's going to sit at the end of the award, or it's proposed that Division F will sit at the end of the award.

MS THOMAS: Yes, I think that should happen today so that operative date doesn't become too extreme for our members.

15 PRESIDENT: Yes. I think everybody would be content with that. No objection to that proposition?

MR BAKER: None at all.

MS YILMAZ: No.

20 MS THOMAS: We certainly are prepared to further discuss this draft with Mr Baker. As I said, I don't think the differences are so great that they are insurmountable and we would also, at the same time, like to discuss the draft with the other parties to the award, as a group.

PRESIDENT: Okay. Well, thanks for that, Ms Thomas. Very good.

#### **OFF THE RECORD**

25 PRESIDENT: Thanks. That's been a very useful few minutes discussing how we will proceed with these applications. We will reconvene on 31 October at 2.15 for the purpose of actually resolving into conference for the purpose of drafting the new composite award. Parties are to exchange with each other their views on specific points that need to be addressed on that day and those exchanges are to occur by close of  
30 business on 25 October and the parties are free to meet here at 11.00 a.m. on the 31<sup>st</sup> for the purpose of entering into preliminary discussions.

The supported wage application which was mentioned earlier is to be incorporated in the draft which is currently exhibit B.2 and we will endeavour to deal with that at the same time.

35 In respect of the other application dealing with Division F and Division G, the draft order to vary Division F is currently with the parties and I would expect to have notification from the parties by close of business on Friday 18 October as to whether or not they object to the draft order. If there are no objections, the draft order amending Division F, or varying Division F and deleting Division G, will be issued with  
40 effect from the first full pay period to commence on or after 30 August and I think that just about wraps up all the issues we've been discussing this morning. So, if there are no questions - Mr Baker?



MR BAKER: Sir, if I may just hand to the commission for your information a copy of the draft order which has been the subject of some discussion this morning.

PRESIDENT: Yes, that'd be helpful. Very good. We'll mark that exhibit B.3. Thank you. That's the document I'll expect comments on by Friday 18<sup>th</sup>. Very good. We'll adjourn now until 31 October.

**HEARING ADJOURNED**