

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T Nos 5188, 5189 and 5190 of
1994

IN THE MATTER OF applications by the
Australian Liquor, Hospitality and
Miscellaneous Workers Union - Tasmanian
Branch to vary the Licensed Clubs Award,
the Hotels, Resorts, Hospitality and Motels
Award and the Restaurant Keepers Award

re classification rates and supplementary
payments

COMMISSIONER IMLACH

HOBART, 28 February 1995
continued from 22/2/95

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER IMLACH: I see no change in appearances.

MR GATES: No, only that Mr Johnson is not present at this point in time, sir.

COMMISSIONER IMLACH: Thanks, Mr Gates. Now who is going?

5 MR GATES: Thank you, commissioner. If I can put up a proposal for this morning, what I'd like to do first of all is to call witnesses and go through the witness evidence and after the witnesses have finalised, then we proceed through the closing submissions so as to minimise the time for the witnesses being spent at the commission.

COMMISSIONER IMLACH: Suits me, Mr Gates. Alright with you, Mr -

10 MR GATES: If I could call the first - sorry - if I could call the first witness - Mr Mark Geeves - Mark Anthony Geeves.

MARK ANTHONY GEEVES, sworn:

15 MR GATES: Thank you for that. What we'll do this morning, Mr Geeves, is I will just ask you a series of questions in which provide as truthful answer to them as possible, and then my colleague, Mr Mathewson will ask you some further questions and then I may have the opportunity to come back and ask you some more questions at the end of that.

If we could just start off: what is your present position ?... I'm a restaurant manager of Mure Upper Deck.

20 And what does Mures Upper Deck - what type of service do they provide ?... A la carte restaurant service.

How long have you been in the industry for, Mr Geeves ?... About 15 years.

25 Okay. You've been in the industry for 15 years - what have you been doing in that time? What range of positions have you been in ?... I really started off as a waiter and then built myself up to restaurant manager and then I went into hotels and the highest position I attained was food and beverage director with Radisson Hotels in Sydney.

Right. And how long have you been acting in the capacity as a manager ?... In my whole career?

30 Yes ?... Oh, for about the last 10 years.

Right. It's a substantial amount of experience you have there, Mr Geeves; have you been responsible at any time during your career for the recruitment and training of new employees ?... Yes.

What sort of time period would you allocate to that ?... To training employees?

35 Training and recruiting of employees ?... Well I do all the hiring for Mures - for the Upper Deck. That probably - I hired last week so I'd spend, you know, a good week working on that at any time we need staff.

Right. And what about the training of new employees ?... It depends on what experience they've already had, but on a new employee we may spend up to 100 hours training them if they haven't worked in the industry before.

5 Right. Okay. Well if we can look at the amount of training which you provide when we asked you the questions for it, what type of positions have you been putting those personnel to? What work have they been doing ?...Have they been doing? Either food waiters or beverage staff.

Right. Do they do both food and beverage ?... They do, yes.

10 Right. Okay. If we turn to the particular types of employees that you've engaged or provided training to, have you ever engaged employees who have had absolutely no previous industry experience ?... Yes.

Have you ever engaged employees that have possessed formal training ?... Yes.

15 For example, through Drysdale? Have you ever engaged any employees that have worked in the industry but not in the particular position you're appointing them to, and as an example, for example, a kitchen hand going to a waitering position ?... Yes.

Have you engaged employees who have been out of the industry for a period of time and have then come back and re-entered the industry ?... Yes.

Right. Thank you. In your experience have all of these new employees that have been engaged - have they required training ?... Yes.

20 What would happen if you didn't train them ?... They wouldn't have a job with us.

Right. Would they be able to perform the job ?... Not necessarily.

25 Right. If we turn to how much training is required to be given to new employees, before they achieve a level of competence of other Level 2 employees - and we'll just look at how many hours' training is actually provided to them. For an employee who has been in the industry before but has never worked in your specific position and a previous example was a kitchen hand going to a waitering type position, how many hours would - how many hours training would Mures or would you provide to that employee when they came when they started at Mures ?... At least probably 60 hours.

Does that fluctuate at all ?... It does.

30 Would you have - in your experience would you have a bracket of hours at all? The - a good employee and a bad employee ?... It really depends on the individual and how they pick up what they're doing.

Right ?... So, you know, we can extend the period if the person - we feel the person needs more training.

35 Right. Okay. If we then turn to an employee who has been out of the industry for a period of time, and I'll put as an example 2 years, then that employee would have some experience - some previous experience and then, for example, coming back to a waitering position, do you find that you have to train those people as well ?... Yes.

40 As indicative of the hours which you have to provide as training before they're competent as other Level 2s, how many hours training do you provide to them ?... We'd probably spend 2 weeks.

Right. Okay. If we said that you provide 2 weeks training to them, can we convert that back into hours?... Probably again around the 60 hour mark.

5 Right. So how many hours a week would they work?... What we try and do with people that are just coming in, is they'll work as much as we can possibly give them so that they get the idea of how everything works.

Right. So is it important to provide training - consecutive training -?... Yes.

10 - rather than training which may be staggered over a period of time. If we then turn to employees who have got formal training but don't necessarily have any experience, for example, someone who is fresh out of Willson College or Drysdale and they joined your organisation with simply that paper qualification, how many hours training on average would you provide to that person before they are as competent as other Level 2 employees. And I can go - I'll rephrase the question if you wish?... No, no. No, it would still be around the 60 hours mark.

15 Right. Okay, you've given us a figure of 60 hours for all three; how have you come up with 60 hours for each of those people and what is it based on?... It's based on what we do with all new employees, is they come into us as what we call trainees, so they go through two things: they have a formal indoctrination into the company and then the rest of the time is basically spent teaching them basics which a lot of the time they don't learn in the institutions. So, you know, we spend a lot of our time basically
20 totally retraining them from what they've already learnt.

Right. So am I correct in saying then that you're providing training to them in specific in-house or company-specific training -?... Mm.

- but also in training them in generic industry skills?... Yes. Probably the greater part of it is generic skills.

25 Right. So those are skills which if that employee left you they could then take to other employers in the industry?... Yes.

Okay. Could you give us an example of those type of skills?... Quite - some of it is quite basic. I mean half the time they come out of the institutions they can't even carry three plates -

30 Mm?... - which is, you know, a fairly necessary prerequisite, so we have to teach them how to carry three plates, we teach them the basics of order taking, we teach them all the different types of spirits, we teach them wine appreciation - so all those things are things they can take away - you know, they're things for us, but you know, it works in the whole industry.

35 Right. What about customer service - do you teach them in that?... Yes, a lot.

Right?... And upselling and yes, relations, telephone technique - all that sort of thing.

40 Right, that's fine. If we looked at - I mean we've said it takes us a period of time - it takes us approximately 60 hours for those employees to gain a level of competence and we've said this is how we've come up with that, how - how do you train them? I mean do you train them, for example, after hours or do you double up on staff, do you use them during quiet periods?... We have two ways of doing it.

Yes?... When they first join us we give them what we call 'Mureisation' which is about our own company, so that's when they're put on and then straight after that they come into the restaurant and they usually go with a senior staff member, so it's either a manager, a supervisor or one of our senior waiting staff -

5 Yes?... - and they will spend the rest - probably 2 weeks with that one person and they just work with them.

10 Right. So do they serve customers straight away?... Not straight away, no. To start with they watch and, you know, they're taken around and they're given jobs to do, but they don't have direct customer contact and then they'll start to take orders as time goes by but they've got somebody with them all the time watching what the order is, and you know, explaining things.

Okay. So am I correct in then saying that for a period of time they're under direct supervision?... Yes.

Thank you. And do you also do doubling up of staff?... Yes.

15 Right. Why do you - why is there a requirement to double up on staff for new employees?... Because you can't just let them go blindly onto the floor so the best way to achieve the level of competency that we require is to put them on with somebody who really knows what they're doing and they pass on their knowledge. **6186**Right. So when a new employee starts with you are they as competent as other level 2 employees
20 that you have there? I mean, can you just let them in and say, 'Okay, you are a waiter, off you go'?... No.

Okay. So, a level 2 or one of your other level 2 staff can manage far more clients, if you call them that, guests, and can provide better service than a new employee?... Yes.

25 Am I also correct in saying that after that training period, which we have said is approximately 60 hours, would you then expect that person to be as competent as other level 2s?... I would expect them to be reaching a fairly high level of competency.

Right. Thank you, Mr Geeves.

COMMISSIONER IMLACH: Thanks, Mr Gates. Mr Mathewson?

MR MATHEWSON: Thank you, commissioner.

30 Is it all right if I call you Mark rather than Mr Geeves?... Yes, that is fine.

How - you are familiar with the award that covers meals - Restaurant Keepers - to a degree?... Yes.

The use of the introductory level in the award structure, how often do you use that actual level?... Level -

35 MR GATES: Commissioner, this is hardly relevant. The introductory level is said to be for employees who are new to the industry. They are questions which were directed to him. You can't use the introductory level for them.

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COMMISSIONER IMLACH: Well, it is fair enough to enquire what happens. It may be we might hear something, Mr Gates, we didn't expect.

MR MATHEWSON: Do you use the introductory level much for people who are new to the industry?... Yes.

5 And how many people would that be?... Is it a percentage of my total staff?

Yes?... Probably about 20%.

Right. Are they making careers in the industry usually or are they just people that are passing through on their way to somewhere else?... Usually people that are making a career in the industry.

10 Right. When you talk about kitchen hands going to waiting duties how often does that occur?... Quite regularly.

Right. So a normal step for a kitchen hand is to come in and work in the kitchens and then move up to waiting duties?... Not necessarily, but it happens.

15 Right?... What we do is we try to promote from within house. That's a thing that we really try to do in our business because we think it is good for the staff. So if we have somebody with talent who we know is going to fit into the restaurant they are given the opportunity to move from the kitchen into the restaurant.

Right. And how long, say on average, do they work in the kitchen before they go to waiting?... Oh, it would vary, but usually it would be a fair period of time.

20 Right. So, a year?... It could be up to that.

So it would be fair to say by then they would be fairly familiar with the industry?... No. Not waiting, because they have no exposure to that whatsoever. I mean, basically washing pots.

25 Well they are actually shut in the kitchen and not allowed out?... Well they don't come out on the floor.

Not even after people have left?... Oh, they would after the guests have left, but I mean they are not seeing the place actually operate.

So if a person decides to move from that area to waiting, are they eased into it over a period of time and still undertaking their kitchen hand duties?... No, it stops.

30 It stops. How many people would you have that have been out of the industry for a long time, say, 2 years?... At the moment, probably four or five.

And what is the average age of your staff?... Of my staff?

Yes?... The total staff?

No, just meals upper deck, what's -?... The average age would be about 21.

35 Right. So, are you saying that basically these people start in the industry at a very young age then go out for 2 years, or -?... No, you asked me what the average age is - 21 - but I have probably five or six staff who are in their 30s.

Right. How many staff have you got all up ?... In the upper deck, about 28 waiting staff.

5 What is the breakdown of the type of employment that they are involved in, like, are they casual, permanent, part-time, full timers ?... The only people that are permanent are the management.

Right. so there are 28 casual employees ?... Mm.

Right. Of these 28 people, how many of these jobs are their first job? Like, this is taking into account people at university ?... Do you want to include the people at university in this is their only job?

10 No. Their other occupation or another activity is their major activity, as in university is their major activity ?... Going to university? Okay, so the people that are just hospitality people?

Yes, basically ?... Probably about 15.

So, approximately half of the staff is not career - ?... About half, yes.

15 - or I suppose at this stage you could say that is not their standard career. I just want to diverge a little bit but it is still in relation to what Stephen was talking to you about. You have been to various establishments in the hospitality sector. If you move to a new sector as a manager, or whatever, say to a new hotel in Sydney or Melbourne, with obviously different operational guidelines and so on, would you expect a degree of
20 workplace specific guidance when you got there ?... Yes.

Yes; which would include either your superior or another colleague spending time with you familiarising you with the workplace, even though you are an experienced person in the industry generally ?... In past experience you are usually hired because of the
25 current experience you have. You do really receive fairly little. I have in the past, anyway. You usually phone in.

You mentioned training quite a bit. Is that a mixture of on and off the job or basically most of your training on-the-job training ?... It's a mixture of both, but mainly on the job.

30 Right. What do you do as far as off-the-job training goes ?... As I explained before, we do what we call Mureisation, which is an introduction into the business, which is conducted by the directors and myself.

So it is basically some sort of induction briefing ?... Indoctrination, yes.

So as far as - when waiters get - how many level 3 food and beverage people have you got? Like the higher qualified waiters ?... Only my management.

35 Right, so there are no people that really go past food and beverage level 2 ?... We have had them, but at the moment - I have just had a girl go right through an apprenticeship and she has just finished and gone back to college, so I have just lost my level 3.

Right. What sort of a turnover have you got there as far as your staff goes ?... It is fairly low, actually.

5 What is stopping people from getting to food and beverage 3 then if they have been there for a certain time ?... It depends on what courses they have done. I mean, most of them are -

So are these courses in their own time are you talking about ?... Mm.

So, basically, if they want some formalised off-the-job training they have to undertake that in their own time ?... We train them to a certain level in the industry. If they want to go on and achieve much higher in the industry, well then that is up to them.

10 Do you use - have you a trained workplace assessor at Mures who assesses these people's skills and competence ?...

MR GATES: I'm not sure this is relevant, commissioner. Perhaps Darren can say where he is going.

COMMISSIONER IMLACH: What was that question again?

15 MR MATHEWSON: I am talking about use of workplace assessors to assess people's competence and skill so that they are applied to a certain level. It is in relation to basically Steven talking about competence continually and about whether people are competent, and I just wanted to see if there is any in-house mechanism for actually assessing that individual.

20 COMMISSIONER IMLACH: That's fair enough. I will allow that, Mr Gates.

MR MATHEWSON: Yes, so I will restate the question. As far as workplace assessors and recognition go within the wider industry, do you use workplace assessors that look at people's competence and skill, or - ?... I am a workplace assessor.

You are a workplace assessor - training workplace assessor ?... Yes.

25 So, basically you go through people when they come in and make them aware of what sort of competence level they're at ?... Mm.

30 Okay. At the start - so, assuming that a lot of people don't move on to level 3 - do you actually sit down with the employees when they come to your establishment and map out a career path, or it's basically induction training and then basically straight into it with a bit of guidance ?... It really would depend on the individual, on how far we went, because as I said, at least half the staff are casual, they are uni students, so really their life is not in the industry. For those people in the industry anybody who shows a wish to go on we would encourage as much as we possibly can, and we have just done this with one of our apprentices. She did a 3 year apprenticeship, qualified,
35 and chose to go on to further studies. Well, we would encourage that.

Okay. And, would you say that one of your responsibilities of your senior staff is to supervise new staff? One of their duties in, say, their job description ?... They would supervise all staff. New staff -

Guide new staff ?... Yes, guide new staff they would.

So that is basically one of the reasons you employ people at higher levels to do that ?...
No, generally all staff training is done by myself.

I am talking about on the floor direction ?... It's not necessarily the supervisors who would do that, it is senior staff, yes.

5 Right, but basically it is one of their responsibilities to do ?... Yes.

So when you talk about 60 hours - and I know that Steven did ask you this but I am very interested in the fluctuation that can occur in that 60 hours - because it is fairly important that there be some sort of basis for, you know, the figure 60 hours ?... All right, well let me explain to you. There would be no fluctuations under 60 hours at all.
10 Over, would be competence, really, and how, you know, you can't narrow it down to an absolute. We have a minimum of what we train them, and above that it could go up to 100 hours quite easily. It just depends on how quickly people pick up, you know, the way the industry is working around them.

Well, assuming that you talk about 2 weeks or 60 hours, what sort of hours can we assume that your casuals work ?... Some of my casuals would work anything up to 30 hours at least a week.
15

And what's the least number of hours a casual would work ?... The only people who would work fairly minimum hours would be those uni students who are on Aust Study, so they may only do 2 days a week, which may be about 14, 15 hours.

20 Right. So usually the minimum is around 14, 15 hours a week ?... Yes, but there would be very few people doing that.

Right. When you actually hire people do you look for people who will require the minimum amount of training to get them up to competence? Do you have some sort of hiring policy in that area ?... We do, but that doesn't necessarily always apply. We expect that they have had some experience - we'd like them to have some experience in the industry. It really depends on what we are employing for. I mean, if I was employing a trainee I'd look for somebody who not necessarily had experience in the industry. But the general waiting staff, we like them to have some experience, but that is not the only thing that motivates us to employ. It is very important to us that our staff members are ambassadors for the state, so, I mean we do look for certain things in people. So they may not have as much competence, but we know those people are going to be - you know, you have a gut feeling about people you are going to employ, so you know that that person has the aptitude to pick up what you want them to pick up.
25
30

Right. That's about it. One more thing. You mentioned trainees; now are they like just internally termed trainees or do you actually gain people on government subsidies or government programs like career staff, and those sort of - ?... No, no. Training to us is an apprentice.
35

Right ?... Like, we put on training apprentices.

Right?... I think we're probably the only other people besides Wrest Point that do.

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Right. Where does a waiting apprentice end up in the classification structure?... They go to - well, they go to level 3 when they are qualified.

Right. And, over how many years would that -?... Three years.

Three years. How many people have you gone through?... Two.

5 Two. Okay. Just one more question. The amount of people with no experience that you actually hire and those with formal experience as in Drysdale or one of those places, those that move up to waiting and those who have been out of the industry for a period of time, which would be the dominant group there they you hire? Those with
10 experience in the industry, those without experience in the industry, those with formal training, or internal promotions?... Probably those with some experience in the industry.

Right. So, when you are talking about some experience in the industry, they have worked in another restaurant or a hotel or a hospitality?... Yes.

15 So, usually if, for example, I move to a new job they go through specific workplace induction, but generally would you say their general skills would have to be to a certain level for them to work at another establishment? Depending on the establishment, obviously?... Yes. You'd be surprised how many staff come to us who can't carry three plates who have worked in the industry. So we do spend a lot of time teaching them industry skills that they should already know.

20 Okay. Thanks, Murray, for your time?... That's all right.

COMMISSIONER IMLACH: Mr Johnson, any questions?

MR JOHNSON: Yes, if I may. I am sorry I wasn't here at the early period.

How long have you had in the hospitality industry?... About 15 years.

And how long have you been a manager?... About 10 years.

25 Ten years. In the introductory level, that is one of the items that we have got to discuss, is the period of time that you need, in your opinion, to train a person in the introductory period? You said you have 28 casuals?... Mm.

That's a vast majority of your employees by a long chalk?... Mm.

30 Well, therefore, what's your views on putting a period of time that these people should - say, 3 months - or working hours 494. Which of those would you support in your view of the introductory period of people raw into the industry? Do you understand my question? A period of 3 months or 494, say, working hours. What would you support?... I think the working hours.

The working hours - 494?... Mm.

35 Thank you, Mr Chairman.

MR MATHEWSON: Can I just ask one more question after Minty here?

COMMISSIONER IMLACH: You are out of order, but I will allow it.

MR MATHEWSON: Thank you, commissioner.

5 Currently there is a provision in the federal award that allows an additional 3 months to be added to a 3 month period of service. Would you say that if such an additional 3 months could be served by employees that 6 months would be a fair amount of time for an employee new to the industry to catch on to what's going on?... No.

Six months is not long enough?... Because - you are talking about someone who has had no experience whatsoever? Yes? Are you?

10 Yes?... Well, most of those people would go to formal training, so I mean formal training is usually up to 3 years.

Yes, but I am saying before someone can actually serve people competently 6 months is not enough to get them to a level where they can actually serve customers?... I see what you are saying.

15 So, someone works at Mures for 6 months who is new to the industry originally, you would expect them to be serving customers at a fairly good level by -?... Oh, yes, yes.

COMMISSIONER IMLACH: Mr Gates?

MR GATES: Thank you, commissioner.

Just a few short questions, if you please. You said before that you are a qualified, or you are a trained workplace assessor. Is that correct?... Yes.

20 So you assess people's competence ordinarily. Would I be correct in saying that you have a very good understanding of what an employees level of competence is then?... Mm.

25 Thank you. We talked about recently 3 months versus hours - 3 months calendar service versus 494 hours actual service. As you are probably aware, the award will allow casual employees who work, say, 4 hours a day. If we took - or 4 hours a week. If we took that over a 3 month period on that basis, a casual employee would work approximately 48 hours actual service over 3 calendar months, and a full-time employee would work in excess of 450 hours actual service. In your experience, can that casual employee be as competent as the full-time employee with the difference
30 from, say, 48 to 450 hours actual service?... No.

35 Thank you. You also alluded to earlier that you sometimes move a kitchen hand through to a waiting classification. When you do that and when that employee ceases kitchen hand and starts waiting, what wage level do you pay him - level 2 - food and beverage service Grade 2?... They come in on level 1 and then would go to level 2. I'm not sure. I would have to - off the top of my head I am not sure.

I put to you that a kitchen hand is level 1 and a waiter who serves customers is level 2?... Mm.

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Can you recall whether you'd put that person through straight to level 2?... Yes.

Right. So you have got a level 2 person being paid level 2 rates who is undergoing at least 60 hours training, who is under direct supervision, and is for a period of time not actually serving customers?... Mm.

5 Thank you. No further questions.

COMMISSIONER IMLACH: Thanks, Mr Gates. Well that is all, Mr Geeves. You may stay or go, whichever you wish. Thank you.

WITNESS WITHDRAWN

10 Thank you. Mr Gates, before you go any further, that last point seemed to me to be pretty important, is it not?

MR GATES: Yes.

COMMISSIONER IMLACH: Just go over it again for me so that I don't forget it, please?

MR GATES: I am sorry.

15 COMMISSIONER IMLACH: Just to remind yourself and myself and anyone else who cares to listen.

MR GATES: From memory, commissioner, it was divided into several elements.

The first was that a kitchen hand is level 1 and a person who serves customers - waits on customers - obviously not a takeaway service attendant - is at level 2.

20 Therefore if they put that kitchen hand through to waiting duties and ceased those duties, then the company pays Level 2 which it is required to do by the award, even though that person is doing at least from Mr Geeves' evidence 60 hours' training and from his evidence is not serving customers and from his evidence further is under direct and higher supervision. I believe that was the content of it.

25 COMMISSIONER IMLACH: Yes. Perhaps we should have questioned him a bit further; 60 hours training but not serving customers. Just go off the record a minute please.

OFF THE RECORD

MR GATES: If I may call the second witness: Mr Tong.

30 **PETER TONG, sworn:**

COMMISSIONER IMLACH: Take a seat, Mr Tong.

35 MR GATES: There's some water there if you'd like some water at all through. If - what I'll do is, I'll ask you a series of questions, Mr Tong, for which please answer those as truthfully as you can. My colleagues, Mr Mathewson, will then ask you some questions and my associate, Mr Johnson, may then seek to ask you further questions, and then I have the opportunity to ask you any additional questions which may arise.

Mr Tong, if we could establish what's your present position at this point in time ?...
Actually I'm managing a food court - three outlet in the Cat and Fiddle Arcade.

Mm. And how long have you worked in the hospitality industry for ?... Since 1978.

5 Right. And what positions have you occupied since 1978, Mr Wong ?... I come to
Australia in 1976 and I working for - actually I working for the hospitality industry
since then but I had my own shop since 1978 - you know - I'm self-employed since
then so I running restaurant, bistros and takeaway shop - you know - since then.

Was that a licensed restaurant ?... Oh, licensed premises too.

10 Right. Okay. So is it safe to say that you operated a range of different types of
establishments in the industry ?... Yes.

In the time since 1978 have you been responsible for the recruitment and training of
new employees ?... Yes.

For how many years would you say you've been responsible for doing that - since 1978
?... Since 1978.

15 If you could give us just a brief overview as to what type of positions you appointed
those new employees to ?... Well all different positions because, you know, I'm self-
employed, you know, I'm my own boss and it depends on which shops I am in. If I'm in
a takeaway shop of course I employ people through takeaway position and in licensed
20 premises, you know, that's including people in the bar, in the kitchen, working, you
know, in all different places.

Is it waiting staff on tables as well ?... Waiting staff - yes - and kitchen staff and the
barmaid or -

25 Okay. If we just turn to what types of employees you've engaged, have you engaged
employees who have no previous industry experience - that are coming to you totally
new? How?

Have you engaged any ?... Yes.

Have you engaged employees who have received formal training through, for example -
?... Yes.

- Willson College ?... Yes.

30 Have you engaged employees who have worked in the industry that have not
necessarily worked in the specific position that you're going to appoint them to, and as
an example, a kitchen who worked previously in the industry is now coming to you as
a waiter ?... Yes.

35 Have you engaged employees who have been out of the industry for a period of time,
for example 2 years, and have then come back into the industry ?... Yes.

Thank you. In your experience, Peter, have all these employees required training by
you ?... Yes.

What would happen if you did not train these people ?... Oh well, that - I can't imagine

that, you know, I think that become disastrous.

Right. If we then turn to the question as to how much training these new employees require before they achieve a level of competency of other Level 2 employees - ?... Yes.

- and if we looked at three categories of employees - ?... Mm.

5 - and what I'd be after is a number of hours which you'd spend training these people so they can be as competent as other Level 2s ?... Mm.

- employees that have been in the industry before but have never worked in your specific position, for example, a kitchen hand going through to a waiting type position - ?... Yes.

10 - how many hours of training do you provide to them ?... It's various, you know, different people. You know, some people react a lot better than the others, you know, so it's ranging from - you know, some people can pick up in a couple of days, terms, you know, and some people take a lot longer than that, so it's ranging around about -
15 the fastest they can, you know, be competent in the job is probably 1 week, you know, if they can work well by 6 hours a day and the longest, you know, is up to 3 weeks, you know, that same time frame and if they still can't pick it up I think they have to go.

Right ?... So -

20 So if we said they worked 5 days a week at 6 hours a day - or train 6 hours a day - then that 1 week we'd come up with a figure of 30 hours, and with 3 weeks we'd come up with a figure of 90 hours ?... Yes - something like that, yes.

25 Okay. If we turned to an employee who has been out of the industry for a period of time, for example, 2 years and he may - or they may have been engaged as a waiter and they then come back to the industry and then seek a position with you, how much training - as a waiter - how much training would you provide to them before they're competent as other Level 2s ?... It really depends on the, you know, how they pick it up. You know, some people, you know, they might claim that they work in the industry before but they haven't got any training, they just come into work, you know, without any training and then they drop out, and after that we see that we give them a
30 lot of training. But if some people are genuinely working in the industry and they would pick up a lot faster - probably in 1 week's time.

Right, so that would be up to 30 hours ?... Yes - or less - you know, sometimes, you know, but it depends on the people.

35 If we then turn to the case of an employee who has received formal training, for example through Wilson College or through Drysdale, but hasn't got any industry experience - so has never worked in the industry - simply has this qualification - how much training do you find that you'd have to provide to those people ?... I think the same rules still apply, you know, to all the other people, you know, they might have
40 training but the lack of experience on the jobs is very critical and some people they are very good theory but they're not in practical jobs and then so - our - and again it all depends on people - some people pick up fast and some slow. So

But as a figure of hours ?... Probably the same as all the other people - they drop out of the industry and come back again -

Right, so - ?... - so they still got, you know, the knowledge but they have to pick up their act.

So it's about 30 hours which we said before - is that correct ?... Yes.

5 Thank you. If - we've said that an employee who has been in this - been in industry but has never worked in your specific position would take about 30 to 90 hours, an employee who has been out of the industry for a period of time takes about 30 hours training and the person who has received formal training but who has got no experience then it's about 30 hours again; how do you come up with that figure? I mean we've set it at 6 days ?... There is really -

10 - or six for 5 days ?... - it's really on the job experience that I have, that through the years that my experience tell me that, you know, that's what it takes to train a person and that's what I say.

And you've run your own restaurants so you'd have a - ?... Yes, yes.

15 How - how are those employees trained ?... I mean do you train them for example after hours or do you double up on staff, do you use quiet days ?... I took - when a new employee come to work I normally train them on the quiet date and normally I have a supervisor - that's myself - you know - rotating and changing because I can't have one person keep follow them all day - you know - that - it practically take two senior to train one new person. After work there's no practical experience, so I mean if people they - they come in with the knowledge I don't think I have to train them after work - you know - like they go to college. So I train them on the job. First of all I select it on the quiet date for them to come in and then they don't get nervous of you know having a big crowd of people in front of them. You know, some people just run back to the back door - and so it takes two people to actually train them, you know.

20
25 Right. Okay. And would that expend - extend - for a period of a week ?... Yes. You have to - you have to - gradually - you know - it's gradual we choosing the manpowers- you know - the - behind - behind - that new employee and at the end of the week probably have one supervisor to just keep an eye on them and then I just break away from that.

30 Okay. Am I correct in saying that your other employees would be rarely supervised or just generally observed whereas the new employee receives quite close supervision - ?... Yes.

- while they're training ?... Yes.

And then am I also correct in saying that then when they're confident the supervision goes to as it would be for other employees ?... Yes.

35 Okay. One further question; do you train them in generic industry skills as well as your specific requirements ?... A bit of both. Having to my requirement is more to suitable to me and across the range - you know - across the industry - you know - the skills that you have to tell them because you never know what they come up - you know - because the industry is changing all the time and you always have something coming up that you have let them know. On the job training - you know - everything is - I can tell them to do everything but something new might come up, so you know, a bit more knowledge have to tell.

40
So do you find yourself training them in such aspects as customer service ?... Yes.

And presentation and layout ?... Yes.

Cash or till operations ?... Yes.

Telephone answering ?... Yes.

Cleaning ?... Yes.

- 5 Would you say that those both - or that they are generic industry skills and also specific to your enterprise ?... I think it's genetics industry skill.

Mm. So what they learn from you then, Peter, is that they can then take to another employer when they leave you ?... Oh, yes, yes.

No further questions.

- 10 COMMISSIONER IMLACH: Thanks, Mr Gates. Mr Mathewson?

MR MATTHEWSON: Thank you. I've only got one question, Peter. Would you say that anyone who has worked in the industry that comes and works in a restaurant or shop that you run - ?... Yes.

- 15 - would, just as a matter of course need workplace specific training because they're suddenly working in a different work place ?... Yes.

So it would fit that, you know, if I was a clerk who worked in the council offices, say, and then I went to an insurance office - ?... Yes.

- 20 - but I was still defined as a clerk, I'd have to be - go through workplace specific training on their machines or whatever things that they do operationally different than the council offices ?... I think so. How's business ?... It's good.

Okay. Thank you.

COMMISSIONER IMLACH: Mr Johnson?

MR JOHNSON: Thank you. The number of casuals compared with your full-time employees, can you give me that quickly ?... The number of? Say again?

- 25 Casual employees compared with those that are full time ?... The number of casuals and full times?

Yes ?... So what do say about casuals? Are you talking about a couple of hours, a day, or something like that?

Yes, not full time. They don't work a whole week ?... I think it is 70/30 percent.

- 30 Right - one to four ?... Thirty percent is casual.

Yes, three to four. In people that you train coming into your organisation at the -

without any previous experience - the introductory level - a period of time to train these casuals, would you prefer a period of, say, 3 months or a period of hours for them to serve? What's your view?... Well this question how is - when I answer that you count by 3 months and it depends on how many days they work. You know, and how many hours they actually, you know. It is different if you go to learn to drive a car. You learn by how many hours you learn. You don't just say 3 months time and you only turn up one day. In 3 months time you have only got 1 days training. But it's how many hours you work and you gain experience through that many hours. That's more accurate instead of monthly terms. Do you agree?

10 So you would support a number of hours to be worked instead of a period of time ?... Yes. Yes, because a period of time doesn't say how many hours you actually are on the job. Unless they are a full-time employee they have got to have, you know, 38 hours a week, or something like that. But that is a different story if you are talking about a casual. I mean, a casual definition is you work a couple of days a week.

15 Thank you.

COMMISSIONER IMLACH: Yes. My go, Mr Gates, first. Mr Tong, we won't talk about casuals and part-timers because we might get into difficulty, I think, but what about yourself? What's your background training ?... My background training? I work in Hong Kong before I come. I worked there for a couple of years and then I came here and then I work another, you know, 1.1/2 years before actually myself and do my own.

20 Yes, and you consider you have picked up all the skills in that time ?... No, no, I am still learning. The industry is such that it is changing all the time. But I sort of pick up all the basic skill during that time and then I am still developing because, you know, it is changing all the time.

25 Yes. And what sort of a food outlet do you actually run ?... I have a Chinese restaurant. I ran a bistro before. And at this moment I am running a fast food Asian outlet and a seafood shop and a pizza shop - a pizza and pasta shop.

So pretty well fast food ?... I had about five licensed restaurants before.

30 Yes, I understand that, but at the moment ?... Yes, this moment, yes.

At the moment it is fast food. And how many employees at the moment ?... At the moment round about 20.

And Monday to Friday ?... Monday to Saturday.

Monday to Saturday ?... Yes.

35 What times, please ?... What, on Saturday?

No - ?... Monday to Friday is 9 to 6, on Saturday is 9 to 2.00 o'clock.

So the employees would sort of come in for a time and then they would be relieved to fill the rest of the time, is that right?... Sorry, I don't quite understand.

40 Well, your employees, are they organised higgledy piggledy or do you have one person coming in, say, from 9 to 12 and another one from 12 to 5, 6 doing that same job? Is that right ?... Ah, yes.

That's generally the way it is done, is it ?... Well, normally the overlap, you know, some are 9 o'clock to 2 o'clock and one from 11 o'clock to about 5 o'clock or 6 o'clock, and at the peak time I always have enough people on the job, and then of course I find that most of the time I find that they can't really work that from 9 to 5, they get very tired.
5 So they knock off at 2 o'clock and it gives them time to come back tomorrow and be fresh.

Yes. All right. Thanks, Mr Tong. Mr Gates?

MR GATES: No further questions, Mr Commissioner.

10 COMMISSIONER IMLACH: Thanks, Mr Tong, you can stay or go, whichever your wish ?... No, I have to go to work now. Okay? Thank you.

WITNESS WITHDRAWN

MR GATES: Thank you.

COMMISSIONER IMLACH: Yes, Mr Gates.

MR GATES: Is it possible to have a short recess for a couple of minutes?

15 COMMISSIONER IMLACH: It is more than possible. I'm quite amenable. Is everyone else amenable? We'll adjourn for 5 minutes.

SHORT ADJOURNMENT

COMMISSIONER IMLACH: I understand you have got a proposition to put to me?

20 MR GATES: I wish I'd be in a position to report that Darren 700 hours, but unfortunately we are not.

COMMISSIONER IMLACH: All right. Press ahead.

MR GATES: First of all if I can thank the commission for taking that short adjournment. I am much relieved as a result of it.

25 As a result of the hearing which was before yourself last week I was requested to do a number of things. The first was to submit a new draft order reflecting some comments and some changes which I made note of in the last proceedings.

You have before you, commissioner, a new TCCI proposal re new minimum rates adjustments - a single page document. I'd simply seek that that replace the previous exhibit in G.3 put on the 22nd.

30 COMMISSIONER IMLACH: The first page, is it not?

MR GATES: Yes, that's correct.

COMMISSIONER IMLACH: Right.

MR GATES: The parties have a copy of that.

The changes to that, commissioner, is the previous one had delete, 'shall not accept a takeaway service attendant and a takeaway establishment'. Include 'service to customers' and insert. What I have done is taken out the first delete and put 'insert', which is wrong - no, no, that is correct - I don't know what she's done.

5 What it effectively means is that a takeaway service is still in at level 1, and it's been preserved there. But after that provision there's a new paragraph which is the provided thats and the provided further that.

10 Also what I did was, there was a reference in the provided further that to proceeding 2 years - I've changed that to preceding 2 years. It just essentially tidies that draft order up.

COMMISSIONER IMLACH: Right. You're just changing an exhibit, aren't you?

MR GATES: Yes.

COMMISSIONER IMLACH: How do we take that - that's your alternate proposal, is it, Mr Gates?

15 MR GATES: In TCCI proposal?

COMMISSIONER IMLACH: Yes.

MR GATES: What that is, that is my proposal or TCCI proposal as regards Mr Matthewson's draft orders and how we'd seek those be varied.

COMMISSIONER IMLACH: Yes.

20 MR GATES: It's not a draft order in itself, it is simply the proposed amendments to Mr Matthewson's draft orders.

COMMISSIONER IMLACH: Yes. We'll just go off the record for a minute please, Julie.

OFF THE RECORD

25 COMMISSIONER IMLACH: Right, well thanks, Mr Gates. At this stage we've received your replacement first page on G.3, which is part of your submission as to how the draft order or the order should issue.

MR GATES: Yes, that's correct.

COMMISSIONER IMLACH: Thanks, Mr Gates.

30 MR GATES: The other obligation or other undertaking which I took to provide to the commission was whether in fact the awards which were - or the extracts of the awards which were in the TCCI exhibit G.3 were, by consent or by arbitration as regards the hours, it is my understanding that they have all been by consent. But we'll look at that in further detail.

35 If we could - well as the closing submissions from my previous submissions, we've taken the step a bit further today than we did before. Before we had evidence which was before the commission going to a survey conducted across the industry of which a number of companies responded. Those results have been confirmed by witness

evidence led before the commission today and in particular there has been an - well a person who has had at least 10 years experience as a manager in the industry who has substantial experience and is a qualified assessor or a trained assessor of people's competence.

5 The other person who gave evidence before the commission commenced work in the industry in 1978. He has run a variety of establishments including five restaurants. He's presently engaged in managing three fast food outlets in the Cat and Fiddle. He is drawing in evidence substantial support from his experience, as is Mr Geeves with the 10 years experience.

10 Both witnesses have supported the concept of hours versus 3 months progression. Mr Tong gave the example of a person who was driving a car. He may have only driven a car once in 3 months and he would therefore not be competent to obtain a licence, whereas someone who may have driven it every day for 3 months is obviously competent. And he draw that as an analogy to a new employee.

15 There was also evidence led that what occurs when a kitchen hand goes through to a waitering position. And that evidence was that when there is that progression they cease being a kitchen hand, they then go to a waiter's position and they then receive training for a period of 60 hours, as was put and which may extend depending on the competence. That training can be provided by Mr Geeves, who is a trained assessor of
20 competence. He should, I submit, be in a position to know what it takes.

There is also evidence led before the commission that those employees, those new employees are undergoing a period of close supervision. I would submit that that is inconsistent with the definition of a level 2 Food and Beverage in the award. It certainly does not look at direct or close supervision.

25 COMMISSIONER IMLACH: Sorry to interrupt, Mr Gates. What's that mean exactly? What's the significance of that?

MR GATES: Level -

COMMISSIONER IMLACH: Can we just get that out?

MR GATES: Yes. I'll just go to the definitions.

30 COMMISSIONER IMLACH: Restaurant Keepers, we're looking at, aren't we?

MR GATES: Yes.

COMMISSIONER IMLACH: Level 2 grade 2, is that right?

MR GATES: Yes, that's correct: A Food and Beverage Grade 2 shall competently
35 undertake any or all of the below listed duties under routine supervision. The evidence was led that they are not working under routine supervision and it even goes so far as to say they're not competently undertaking all the duties which flows reasonably logically from it.

I mean direct supervision could be deemed to be, you know,, which is the level of
40 training being provided to them. And level 1 says, 'under supervision'. It doesn't go so far as to say direct, close routine, general, limited, none. But I would suggest it may be higher.

COMMISSIONER IMLACH: Yes. Now, lead me through this, Mr Gages. We have got,

as I understand it, a person who has just recently been employed.

MR GATES: Yes.

5 COMMISSIONER IMLACH: And we won't look at their experience, or whatever. The employer - I'm going on the witnesses today - has said they will need somewhere between 30 to 90 days.

MR GATES: 39 - well, I appreciate days, but I'll take 39 hours.

COMMISSIONER IMLACH: Hours, I am sorry, yes; good correction. Somewhere between that.

MR GATES: Yes, that's correct.

10 COMMISSIONER IMLACH: And without comment as to what I think or you think is the correct period, but somewhere between 30 and 90 hours, that person needs training and, I put it in the words 'supervision'.

MR GATES: Yes.

15 COMMISSIONER IMLACH: And, as I understand it, what you're putting is that in that context they can't possibly be paid at Grade 2.

MR GATES: Well I am saying that it is inconsistent with a Grade 2 employee who is competently performing their duties.

COMMISSIONER IMLACH: Yes.

MR GATES: In which case it would then be under routine supervision.

20 COMMISSIONER IMLACH: And what does that mean? That person, therefore could legitimately be paid Grade 1?

MR GATES: I wouldn't have thought so, because the duties are quite specific for No. 1 or 2.

COMMISSIONER IMLACH: Tell me, what's that?

25 MR GATES: Well if we took service to customers, level 1 would say:

... shall not (except a Takeaway Service Attendant in a takeaway establishment) include service to customers.

30 Now whilst they are undergoing their training period they are serving customers, and they may also be doing things such as undertaking general waiting duties which involves dealing with customers, taking orders.

COMMISSIONER IMLACH: Yes.

MR GATES: And general supervision in the seating and greeting of guests. They also undertake, as I understand it, the supply and dispensing and mixing of liquor. They would be receiving monies. They may engage in the receiving and storing and

distributing goods.

COMMISSIONER IMLACH: Yes, so can I jump in there and say so what you are saying to me is they can't be included in Grade 1 and they ought not be included in Grade 2? Is that right?

5 MR GATES: No, what I am saying is, if it came to a test before the commission I believe there would be a finding that these people are level 2 regardless of training - regardless of this supervision component.

COMMISSIONER IMLACH: In other words, regardless of what it says.

10 MR GATES: Yes. It would come as to a matter of fact. I would submit that they are - are they undertaking the duties of level 1? No. Are they undertaking the duties of level 2? The answer would be 'Yes'. And then it comes down to supervision.

COMMISSIONER IMLACH: Well, can I -

MR GATES: But I still -

15 COMMISSIONER IMLACH: - can I put it to you on your argument you can't answer yes the second time because they are not competently undertaking all the duties.

MR GATES: Well if we are going to have a finding that those people would then be award free for that training period -

COMMISSIONER IMLACH: No, no. I'm trying to understand what you are putting to me so that I amend the award possibly as you say.

20 MR GATES: What I am saying is, the award in its present context does not allow the training of somebody in level 2 duties.

COMMISSIONER IMLACH: Yes.

25 MR GATES: And that's one element of it, because the award says, 'routine supervision to perform those tasks' and competently undertake any or all of those duties.

Now a person in training does not competently perform those duties and operates under different levels of supervision.

COMMISSIONER IMLACH: Yes. Can I just jump in, Mr Gates?

MR GATES: Yes.

30 COMMISSIONER IMLACH: Sorry. So what you're submitting is that on the strength of what's in the award now we change Grade 1 to allow these employees to be paid at Grade 1 whilst they are in the training period?

35 MR GATES: Yes. It's a facilitating provision which would enhance career progression. So, in the case of a kitchen hand going to a waiter, it would be he hasn't had experience in the relevant duties of Grade 2, that being waitering or pouring beverages, so therefore he can train up through level 1 and then after completing 60 hours or 30 hours then sit down at level 2, and then, prima facie, he would be competently undertaking the tasks and he would be operating under routine supervision. So I don't wish to change that.

COMMISSIONER IMLACH: No.

MR GATES: I'm simply trying to insert a facilitative provision which will assist career progression in the industry, and to correct an anomaly as it presently exists.

COMMISSIONER IMLACH: Thanks, Mr Gates.

5 MR GATES: And which will be further fostered by the federal order in its current form.

10 In summary, the TCCI submissions have looked at redressing various difficulties, deficiencies and anomalies which may be realised and may presently exist in the industry, and will be further fostered if the federal consent order is installed unmodified in Tasmania.

The modifications in the TCCI proposal, re new minimum rates adjustments, are simple, they are clear and their effect equitable in operation.

If we turn to the first amendment, and I'll just summarise my arguments, the first amendment which was sought was hours versus months.

15 I would submit that this change is essential as it removes outdated references. It moves along with changes to the industry, that is, changes in the nature of work.

20 Hours-based progression applies more equitably. That is, it recognises somebody's competence and if you are a casual, if you are a part-timer or if you are a full-timer it will apply the same across the board, and it recognises the basic fact that you need to achieve that period of hours to achieve that level of competence.

The reference to months is best, to say the least, discriminatory and inequitable in its operation.

Further, it penalises employers in the operation.

25 That is, if a casual employee, for example, only works 48 hours in a 3 month period they may not be competent, and yet the award would say they have to progress to level 2 based on their duties.

Now, evidence has been led that 60 hours training is required, and that's for someone who has been in the industry before but hasn't performed the duties.

30 It will therefore follow that somebody who is absolutely new to the industry is going to take more hours to train, more hours to bring to a level of competence.

Therefore, if we had a casual employee who worked 48 hours in 3 months the employer will find that he is then gone to level 2 and he is in fact still training that person.

35 So the employer is being penalised because he simply wants to pay this person a level 2 rate but he wants that person to perform competently the duties of level 2.

And I will suggest and draw inference that from the evidence presented before the commission that person would not be competent, and therefore is costing the employer money.

Let's just forget the example which was given earlier which demonstrates the practical

operation of months based progression.

That was, casual employee 4 hours per week does 48 hours in a 3 month period. A full-time employee conversely, 38 hours per week, would in the introductory level do in excess of 450 hours.

- 5 Now let the union be honest about it. They wish to penalise and discriminate against full-time employees.

They may not say as much, but that is the practical effect of the introductory level.

- 10 They wish, although I shouldn't like to hear them say it, to have potentially incompetent employees walk away from a training level into the fray. They are laughing - this is a great joke they say. We do 48 hours and get a wage increase and are not competent. This is excellent. Now look at that full-time employee. He has had to stay there for in excess of 450 hours. This is great.

Additionally, it is not reasonable for the union to say these casuals are as competent as full-time employees. It simply defies logic and practical reality. How can they?

- 15 The example of the person driving the car for an hour in 3 months versus someone who may have done it for 100 hours is truly applicable. They just can't.

The fact is, if a casual is not competent after 3 months then the employer is forced to incur additional costs in training and paying higher remuneration for no reward.

- 20 So, as regards hours versus months, what is it for the commission to do? Do we perpetuate discrimination and inequity, or do we move with contemporary realities in the industry? Do we accept that what we may have had before was not the best system?

I would suggest that hours-based progression is not new, nor is it unprecedented.

- 25 The concept is already found in other awards with high casualisation and, for example, we drew you to the Retail Trades Award.

Now we are not saying that they are arbitrated cases, but we are saying that it reflects a trend in industrial relations. That is, hours-based progression applies equitably across the board no matter who you are, and that it recognises competence, as regards the second amendment.

- 30 The second amendment was a series of three provisions to be inserted into level 1 which targets the employees who have been in the industry before but haven't got experience in the relevant duties of Grade 2 and, for example, it has been tossed up that a kitchen hand going to waiter would fall into that category.

- 35 The next one was an employee who has worked in the industry previously but has been out for a period of time, then they would fall into that category.

And the third one was an employee who has received training but has not worked in the industry.

That's all we are seeking to cover, and it is not an unreasonable expectation.

It won't penalise the employees presently there.

For example, an employee working in a hotel down the road could just as easily go from that hotel to another hotel and still maintain his rate of pay. We're not seeking to penalise them; all we are seeking to do is to redress what isn't a normal situation.

5 The three categories that have been inserted in our proposed amendments to the draft order of the union is designed to facilitate career progression.

It is designed to reward employees for skill acquisition, rather than restricting progression and penalising employers.

What we have put in there in our time-based progression of 60 and 30 hours reflects an average of the time required for certain employees to achieve competence.

10 Now the witness evidence which was led today gave both, well in the first instance, it gave a minimum of 60 hours across all three up to, for example, 100 hours; the second witness gave evidence that it may be in the 30 to 90 hours and it may be from 10 to 30.

15 The survey which was distributed across the industry, across various establishments which are covered within the scope of the hospitality awards, reinforces that there is a span of hours to achieve competence and that within that span there is an average which apply equitably.

20 It is envisaged that a person having completed those hours would then be competent to perform the duties of a level 2, under routine supervision, and therefore be paid accordingly.

25 The rationale for such changes is, I would submit, undisputable and fundamentally simplistic for it says in essence such employees are not competent to perform the duties; that remuneration is based on skills utilised; that without training the employee could not competently perform the duties; that such training increases the relevant cost to employers; that employers are discouraged from employing such employees because of that cost.

And, finally, that therefore employees will have a limited career progression.

30 Let's hypothesise for a moment. If you were an employer and you were faced with two options: Option A, will you engage a level 1 kitchen hand who is presently working with you up to a level 2 waiter and face the fact that you will have to pay that employee at level 2 duties during the intervening period plus up to say 60 hours training - which, consequently, includes doubling up staff, close direct supervision, out of hours training, and so on.

35 Or, Option B: would you engage a present level 2 employee who is experienced in the relevant duties that you wish him to perform - simply engage him and pay him as such.

Then the employer is not forced to incur additional expenditure.

I submit the answer lies with Option 2, the qualified employee. It makes sense to me.

40 The document tendered in G.3 titled, 'Comparison of the ALHMWU Variations Versus TCCI Variations' clearly depicts the effect of both proposals.

That is, it depicts the effect of the federal consent award coming across unchanged into our state into this commission's jurisdiction of which a consent order, federally, is I suggest not of binding effect.

5 And the TCCI proposal which shows what will happen at the end of the day should the draft order be modified.

That's not a great change, but again at the end of the day the option open to the commission is clear: if we adopt the union proposal which simply says in essence that if you do these duties you shall be paid this amount.

10 In which case where you will perpetuate the progression for employees and will continue to penalise employers.

15 Or, Option 2: we'll adopt the TCCI proposals and modify the order and we'll then recognise competence of employees, we will remunerate them accordingly, and we'll recognise the fact that the employer incurs cost during training. Thereby we facilitate and encourage employers to provide career paths for their staff; which I would submit is the purpose of a broadbanded classification structure.

Let's try and give employees career progression, because the award in its current form would penalise them.

20 The third variation was simply to delete attending snack bar or counter, and the basis for that was that it would create confusion out in the field, and I personally cannot see the difference between the two and how it applies in reality.

But, having said all that, at the end of the day I don't wish to disturb what is presently in level 1, and that is a consent arrangement between the union and ourselves that a takeaway service attendant remain at level 1.

I think the comment to me was that is what employers wanted. Well, we have got it.

25 The last area which I would like to briefly close is that of the MRAs.

We'd submit, well we have had evidence led before the commission earlier on the 22nd, that the increases flowing are not inconsequential.

For example, at level 2 which is the main operating classification in the industry, the increase is in the vicinity of \$25.00.

30 \$25.00, and I should add that the increases in other classifications except level 4, is of a similar magnitude - around the %20.00 mark.

Those increases could be said to be no more than increases previously awarded in MRAs given on a broadbanding.

35 We therefore seek, as it will be an impost to the industry to pay these increases, that there be four instalments 6 months apart.

We would submit that this is consistent with the wage fixation principles enunciated by the commission at Point 5 in T.No. 5214 of 1994, which is the wage fixation principles.

We would submit that it should not be less less it fall outside those principles.

In the alternative, and we certainly do not prefer this option, rather we prefer four instalments over 6 months, then alternatively that the adjustments be no less in effect than that in the federal phasing in, which Mr Matthewson is seeking.

But I'll point out that we certainly do not advocate for those.

5 COMMISSIONER IMLACH: Certainly no less or no more than the federal?

MR GATES: No more beneficial to employees and no less disadvantageous to employers.

And that, sir, closes my submissions. I will hand across to my colleague, unless you have any questions?

10 COMMISSIONER IMLACH: Yes, I think I have one, Mr Gates, thank you. What's your - just confirming - what's your submission on the other two awards?

MR GATES: That they reflect these variations.

COMMISSIONER IMLACH: And, just off the cuff, that's pretty obvious, is it?

MR GATES: That is stated.

15 COMMISSIONER IMLACH: I mean, is it obvious when you go to those awards the amendments that are required?

MR GATES: That amendments are required?

20 COMMISSIONER IMLACH: The amendments that are required. If I - say, for example, I accept what you have put here in the Restaurant Keepers - inserted in the Restaurant Keepers - when I go to the Licensed Clubs it is pretty obvious what's required, is it?

MR GATES: Because the structures are essentially those of the federal award, they are very similar, and what is changed in one can then flow across to the others with a minimal variation.

25 COMMISSIONER IMLACH: Well, if we come to that decision I might ask the parties to submit the draft orders and have a discussion about them - if we get to that.

All right. I think that's all, Mr Gates. Just a minute, to make sure. And you told me about operative date, did you?

30 MR GATES: No. If there - we would seek that it be the same as was given in the penalty rates case, which was in effect a month from the decision, to give the industry time to adjust both to the new classification structure and to the wage rates.

COMMISSIONER IMLACH: One month from decision.

MR GATES: Which is essentially that of the penalty rates case before yourself.

COMMISSIONER IMLACH: Right, thanks, Mr Gates.

35 MR GATES: Thank you.

COMMISSIONER IMLACH: Mr Matthewson?

MR MATTHEWSON: Thank you, commissioner. Basically this is the union's closing submission in response to the arguments of the TCCI. The TCCI has voiced basically to consent to relativities to flow from the federal decision of Commissioner Merriman. However expressed dissatisfaction with the subsequent changes to the classification structure, particularly in the food and beverage stream, as per our draft orders H.1A, B and C.

This dissatisfaction, we assume, is based on, firstly, the TCCI role as representing employers in the industry and, secondly, related concerns of members stemming from this role. Specifically this point would be the survey and the witnesses.

With regard to representation, it is worth pointing out to the commissioner that, firstly, the majority of hotels covered are covered by a federal award, leaving only four or five covered in the state jurisdiction. Secondly, a substantial portion of licensed clubs represented by the Registered Clubs Association, who have reached an agreed position with the union, in exhibit H.11. Thirdly, the TCCI submissions depend basically on members from the restaurant and catering associations or work places covered by the Restaurant Keepers Award. Their numbers I don't really know.

Whilst not questioning the role of the TCCI as a representative of employers, we do question their ability in this case to accurately represent and convey the interests of the entire hospitality industry covered by the three awards. This conclusion impacts on the credibility of the TCCI proposal, exhibit G.3, that apparently reflects industry concerns. If their partial representation and survey results are anything to go by, we submit that the proposal is not in the interests of the wider industry in Tasmania, let alone employees in that industry.

From the survey, firstly, the survey at the back of exhibit G.3, let us look at the figures. There was a 22 per cent response rate from 54 surveys which equals basically 10 to 11 work places. In these work places there was 851 employees which suggests that one of those work places was a very large employer. And assuming this, 706 or 82 per cent of employees were placed at Food and Beverage Grade 1. The conclusion we can all make from that, I suppose, is that this is an international fast food chain. Now I confirmed this with Mr Gates that it was, in actual fact, McDonalds.

Well, an accurate representation of industry concerns, I don't think we can say it is that. Mr Gates even argues that the TCCI amendments reflect reality and Tasmanian circumstances. Well Mr Gates, you don't get any more Tasmanian than McDonalds. We have to amend the classification structure for the Restaurant Keepers Award based on those findings, and for the Licensed Clubs Association, on the word of the employer representative, representing much fewer clubs than the association that has agreed with the union. You'll have to excuse the cynicism of the union in thinking there was a degree of fabrication in the TCCI proposal.

MR GATES: I reject that. Are we saying that - that I've lied through them or purely a fabrication of my imagination

COMMISSIONER IMLACH: Well just rephrase that please, Mr - unless you really mean it. I'd prefer you did.

MR MATTHEWSON: Did mean it or rephrase it?

COMMISSIONER IMLACH: Rephrase it.

MR MATTHEWSON: Oh well, what's another word?

COMMISSIONER IMLACH: Just read it out again please.

MR MATTHEWSON: You'll have to excuse the cynicism of the union in thinking there was a degree of fabrication in the TCCI proposal.

5 COMMISSIONER IMLACH: No, well I won't accept that.

MR MATTHEWSON: Okay.

COMMISSIONER IMLACH: Delete it?

MR MATTHEWSON: Yes.

COMMISSIONER IMLACH: Right.

10 MR MATTHEWSON: Mr Gates, not satisfied there, went on to argue that don't direct
nexus existed between the Restaurant Keepers Award and Licensed Clubs Award and
the Federal Hotels Award in question. Well this is very convenient. May I remind the
commission of exhibit H.6, which is transcript from the recent penalty rates case,
15 where at the bottom of page 2, the TCCI advocate, Mr Stuart Clues, stated: Essentially
the primary justifications for the variation is that there's always been argued that the
state hospitality industry awards have a direct nexus with the Federal Hotels Award.

Well how do you explain to hospitality workers that the nexus is only relevant when employers have the opportunity to reduce conditions? We wouldn't not even expect the commission to even entertain such an argument.

20 In dealing with the new minimum rates, Mr Gates highlighted that increases would be
substantial. Well so were the reductions in penalty rates substantial. Just ask a
casual reliant on weekend work. To many casuals even after the final - the full
increases are realised they are still no better off.

25 This brings us to phasing in arrangements. Exhibit H.11 reflects our agreement with
the Registered Clubs Association on the Licensed Clubs Award with phasing of four
increases over 18 months, 6 months apart. This arrangement takes into account
specific circumstances governing the operation of licensed clubs, for example, their
subscription system and subsequent financial constraints.

30 In addition, previous consent matters, specifically the original minimum rates process,
recognise this and delayed the original implementation of the process. We submit that
the phasing in of the new minimum rates to the Restaurant Keepers Award and the
State Hotels Award, should be as per the federal arrangement of three increases over
12 months, 6 months apart.

35 An interesting statement from the TCCI representative in the last hearing, was that
level 2 Food and Beverage was the main operational level for the industry. However in
the survey results, 82 per cent are at level 1 Food and Beverage. In addition to this, to
set the record straight, we understood exhibit G.1, which we apparently agreed with -
which we did agree with, was a list and a time frame for site inspections and not a
hearing - an overall timetable.

40 Continuing on, let us turn to the TCCI proposals and get specific. Mr Gates has put up

this proposal under the following points. Firstly, that it reflects reality. Well we would say: Whose reality? A minority of members dominated by a fast food chain reflected in the survey. Secondly, he says we need to appreciate the Tasmanian situation. Well his evidence here has been ambiguous. There's been nothing specific about Tasmania.
5 Thirdly, he says that it benefits employees. Well we don't think so, and we'll go on to prove that it's disadvantageous and discriminatory, and have done so before. Fourthly, he says he would bring evidence - witnesses - to support these arguments.

Well, firstly, the site inspections I can only say were vague and unorganised.

10 Apparently these members who understood the concerns really didn't understand what we were talking about.

The submissions were full of rhetoric and lacked substance.

The survey, as we have shown, lacks credibility.

Now, coming on to the witnesses, specifically Peter Tong from the Cat and Fiddle, and Mark Anthony Geeves from Mures.

15 We would say they are hardly representative of the whole industry.

We ought to take a point also from the witnesses that the possibility of being employed for 4 hours or even 8 hours a week was very unlikely, as in Mark Geeves put forward that the minimum is usually 15 hours, and this is only in a very few cases.

20 I'd also submit that it would make no sense for workers to commit themselves to 4 hours a week work.

This isn't based on reality, someone working for 4 hours a week.

We also submit that on Mark Geeves' evidence that people who are going from level 1 to level 2 will actually have a degree of time where they are not serving customers, and possibly still paid at level 1, anyway.

25 The other interesting point from Mark was that there are 28 casuals at Mures, which is basically nearly their whole workforce.

So to say, as Mr Gates has, that we are discriminating against full-timers, well all I would say is, where are the full-timers?

30 Another thing worth pointing out is Mr Gates talks about direct supervision and the routine supervision that is mentioned at level 2.

Well I will read something out of the Restaurant Keepers Award that goes on from that point. It says:

35 *Shall competently undertake any or all of the below listed duties under routine supervision and shall be responsible in ensuring the quality and accuracy of their own work but may be still training in aspects of the duties.*

So Food and Beverage Service Grade 2 recognises that people will still be training in duties.

We submit there is no capacity for people to be put at Grade 1 for they are not undertaking the same duties as they would be undertaking at level 2.

5 The basic issues that came out of the witnesses, in the union's opinion, are that it should be taken into account that even though casuals can work a lower amount of hours a week they are usually at some sort of a minimum and fair time of engagement.

The other thing that was made clear was that employers preferred the hours concept to months.

10 Well, they were also unaware of what we are proposing as far as the introductory level that flows from the federal jurisdiction, and that is that there is then a 6 months option. If the person is not competent after 3 months, then that may be extended to 6 months.

So Mr Gates in putting forward that introductory level only deals with full-timers isn't actually correct. The extension for 6 months recognises the casual nature of work in the industry.

15 Mr Geeves actually said that he would expect someone who is new to the industry not to take any more than 6 months to become competent.

It would be useful to point out at this time that they survey and the witnesses were all information given from the employer side, so that must be seen in context.

20 Using all these points, Mr Gates seeks to question our draft orders and the applicability and the relevance of the federal consent order. Well, if Mr Gates cared to read the arbitrated decision of Commissioner Merriman which is Exhibit H.7 he would realise that in the decision are specific instructions, an audit, to assist in formulating the consent order to his requirements.

25 For example, in the decision - and if we look at Exhibit H.7 at the bottom of page 2 - he actually gives the introductory level definition that is to be used.

So in inferring that the introductory level that is in our draft orders simply flows from the federal consent order is not actually correct. It is part of Commissioner Merriman's arbitrated decision and it is at the bottom of page 2 in that decision.

30 He also specifies that Food and Beverage 3 and 4 duties are to be combined to a new Food and Beverage 3, which are clear instructions that say that all the duties are to have some sort of impact on the final definition.

The consent order that was put together by the parties within the federal jurisdiction merely repeats the introductory level definition and gives a new Food and Beverage 3 according to Commissioner Merriman's instructions.

35 And it may be useful to point out also that these are the only definitional changes to the food and beverage stream contained in our draft orders.

Mr Gates has simply expanded the degree of definitional change and questioned the usefulness of the consent order in this jurisdiction.

40 The TCCI proposal deals with the introductory level which came from the arbitrated decision, not the consent order.

Has additions and deletions which were untouched by the decision, except for the

wage rates movement, and untouched by the consent orders, and the definitions contained in our draft orders remained the same as they were previously in the award.

Amendments to Food and Beverage 3 were also dealt with in the arbitrated decision.

5 Therefore, in response to Mr Gates the areas that he deals with were dealt with by Commissioner Merriman in the arbitrated decision, and the further changes he proposes are not part of either the decision or the consent order and reflect a tit for tat mentality.

Firstly, the introductory level: the TCCI propose to insert 494 hours for 3 months, plus an additional 494 hours by mutual agreement, instead of 3 months.

10 We believe that this is, firstly, unfair to the dominant worker in the industry, which is the casual worker; is unsuitable to the industry; thirdly, is not necessary and, fourthly, has no firm basis.

Firstly, a time when casualisation is a problem and the trend is to create flexible part-time arrangements with job security, this would be a step backwards.

15 With casual workers making up approximately 70% of the workers this proposal would be irresponsible.

We need to work towards a career workforce, a strong skills base and flexible modern provisions, not take the easy way out and encourage casualisation.

20 Secondly, the exhibits in G.3 from other Tasmanian awards must be seen in context. These are the exhibits with regard to nursing homes, medical people, diagnostic services in the Retail Trades Award.

Firstly, as Mr Gates pointed out so well with regard to the federal decision, these are not arbitrated decisions but consent arrangements.

Secondly, they deal with a different industry.

25 Mr Gates submitted that retail is a high casual industry. Well, that may be the case, but their profile differs.

30 Firstly, in the hospitality industry casuals work through the 7 days of the week. In the retail there is a strong weekly full-time base of employees with casuals topping up especially for weekend work and on a seasonable basis around high shopping times such as Christmas.

On top of this he failed to mention that the Retail Award has higher relativities.

35 Secondly, the health industry. Well, speaking to my colleagues within the union movement at the health - within HASCU - I found that basically a nursing home profile would be - reflect a permanent part-time worker - so, therefore the hours concept would measure out more equitably.

40 With regard to diagnostic services, this is basically an award that covers full-time professionals so therefore there is an equitable base for an hours concept. Another point, hospitality has more career casuals therefore people that work in the industry and have been casuals for many years. The exhibits he put forward resulted from specific circumstances and, as I mentioned before, were consent arrangements. These

awards deal with different occupations, higher relativities and different skills base.

5 Going on, we feel that it is not necessary that introductory level - we feel that the introductory level hours concept proposed by Mr Gates is not necessary because the introductory level contained in the draft order allows by mutual agreement an additional 3 months. This is a recognition of casuals in the industry. It is not simply drafted for full-timers.

10 Another point worth noting is in induction level, a familiarisation, not there to develop specific skills, but rather general understanding in generic skills. The basis for the proposal on introductory level seems to be based on Mr Gates' rhetoric consisting of: these people aren't competent. Why, if competency is such an individual thing and can be self paced, can he make such a general statement? How does he know when his members hardly ever use intro level - and this may be a general statement as well. But what sort of research base are we talking about? Why is it unfair to full-timers when casuals dominate the industry? What sort of amount of full-timers have we at introductory level? What sort of amount of casuals do we have at introductory level? No figures have been put forward.

20 The second part of the TCCI proposal inserts new levels or sub levels into level 1 to address competency requirements. In our view, a major problem with this is not only that duties aren't there to cover these people, but it seems there is a gradual erosion of the importance of customer service in this industry as a higher duty. If people are undertaking the same duties, are experienced in the industry beyond introductory level, why should they be paid different amounts? There is an internal relativities argument here that we should all be aware of.

25 Mr Gates, in submitting his proposal, said that it assisted career progression and gave the following example. A kitchen hand classified as a Food and Beverage 1, who became a bar person as a Food and Beverage 2, would not have the competence of a bar person of 10 years, thus creating an unfair situation. Well all I can say is, what a sad reflection on the promotional prospects in the industry. Food and Beverage 3 is a training and experience level and would pick up that person before such time elapsed, we would hope. However surely by that time they would be operating a TAB terminal at least.

35 Work places in the industry generally take on experienced people who usually need specific work place induction, like any job. Those new to the industry can be placed at introductory level and trained. Mr Gates mentioned the expenditure employers had to outlay to train people to Grade 2. Well it is no wonder this country couldn't support a Training Guarantee Act with the apparent avoidance of the responsibility to train people. Training costs aren't overbearing and there has been no concrete evidence from the TCCI to show that they are, rather simply rhetoric.

40 According to Mr Gates, employers put on experienced Grade 2s instead of progressing Grade 1s. Where does this happen? Well apparently it happens at Mures, but I would suspect it wouldn't happen at MacDonaldis because they're mostly Grade 1s anyway. What we forget is this classification structure must suit large hotels to small restaurants, therefore the career path from Grade 1 may be less visible in smaller establishments where ... are not common. When the structure was created it was recognised that all grades may not be used in one establishment. Many of the examples put forward referred to counter or bar service - this was in the previous hearing of the 22nd. However there are few hotels under the state award and licensed clubs are mainly represented by the Licensed Clubs Association, who we have an agreed position with. This leaves restaurant catering et cetera, which is an area that

he didn't really highlight, other than put in a survey that covered a fast food chain.

5 In addition, the additional time the TCCI proposed people serve at Food and Beverage Level 1, discriminates against casuals and, more specifically, women. For in the industry there is a high percentage of women. If a woman goes out of the industry for 2 years to have a family, she has to come back at a lower wage rate. It seems to me to be slightly unfair. How you can discriminate against someone for wanting to have a family.

10 Now to the suggestions for change to level 3 to make it apparently less confusing. Well this is all very interesting considering the changes Mr Gates wants to make to level 1 which apparently wouldn't be confusing.

15 TCCI want to take out the lower duties from the new level 3 definition to eliminate doubling up. The two sets of duties are there for a reason, as Commissioner Merriman explains on transcript in exhibit H.4: Basically workers may take on duties from the second higher group therefore being trained as they are still performing the first set of lower duties. This is a training level easing the employee into new responsibilities. It also causes least disruption to national training arrangements - which I will discuss later, and Mr Gates has completely ignored.

20 The TCCI mentioned the duplication of duties between Food and Beverage Grade 2 and 3, specifically with regard to the receipt of moneys and delivery duties. Well I seek to differ with Mr Gates. The level of complexity may be higher in level 3. Apparently Mr Gates can assess the level - can't assess the level of complexity when he is in the commission, but can automatically assess a worker's competence. Truly a marketable skill.

25 Following detail on the TCCI proposal, Mr Gates followed up with a neat summary of dissatisfaction on our draft orders. Firstly, that it caused confusion and contradicts previous consent arrangements. In putting this forward, Mr Gates was talking about the duplication of takeaway service at level 1 and counter and snack bar service at level 2, which he wants to take out. Well firstly, it is worth mentioning that as we pointed out earlier, the level 1 and level 2 definitions have not been amended in any of 30 the awards by our draft orders so that arrangement has been in place since previous consent arrangements between obviously ourselves and the TCCI. So we don't actually contradict previous consent arrangements, for these are the previous consent arrangements.

35 In response anyway, these can be seen as distinctive levels of service. For example, at level 1, Fast Food Service Small Takeaway involves five second relationships with no preparation and a receipt of moneys. For example, McDonalds. At level 2 we then look at Snack Bar and Counter Service. If I may remind the commissioner with the ice-cream bar at Fosseys, which was seen by the Human Resource Manager, Connie Perry, as the most difficult area involving a long relationship with a customer, machine 40 knowledge and food preparation. Well it seems here that in putting forward that this doesn't reflect reality, Mr Gates, it actually does reflect reality.

45 Pushing these people lower, for example, the snack bar and counter people at Fosseys, would be counter productive, where internal relativities are already not equitable. For example, the restaurant workers, including snack bar people, under the Restaurant Keepers Award being paid - and I am only reminding the commission of Connie Perry's comments - approximately \$30 less per week than the takeaway section covered by the Retail Award. Certainly this inequitable situation in any work place must have some sort of impact.

In continuing his summary, Mr Gates criticised our insertion of Keno which we cleared up in the last hearing and previous hearings away. Thirdly, he said it was not equitable across classes. Well this would hold water if all classes of employment were equally represented. Interesting to encourage fair treatment of full timers whilst encouraging their demise. Such a kind gesture. Next he went on to say that competency is not recognised in pay, or as outlined earlier, skilled and experienced service people would - should be advanced to level 3, not as Mr Gates would have us believe that they stay at Level 2 and less experienced people actually move backwards. Even one of his witnesses, Mr Mark Geeves, said that promotion to Level 3 was difficult. Well I think the industry probably needs to start looking at itself and opening up career opportunities in that area.

Next he went on to speak about the costs of training. Well as discussed earlier, no concrete evidence has been produced only hearsay. No figures and vague, ambiguous examples.

Experienced people require little training. Usually specific workplace instruction. Problems may occur with those new to the industry and that is what introductory level is for. For example, Wrest Point - they take on new people, they train them at introductory level for three months in whatever duties they have to perform and then put them up. So that is what introductory level is for. It is not our fault that the wider community of employers choose not to use it.

Now to Mr Gates' survey to his members. I will deal with some random points as examples and continue to confirm its lack of credibility. The survey form - if we have a look at it, which I think everyone's got a copy of -

COMMISSIONER IMLACH: Tell me where it is, Mr Gates.

MR MATTHEWSON: It should be part of G.3 shouldn't it?

MR GATES: No at the cessation of the last hearing.

COMMISSIONER IMLACH: Where is it?

MR GATES: Oh, at the conclusion of the hearing on the 22nd - it was copied after the hearing.

COMMISSIONER IMLACH: Oh.

MR GATES: That's the form itself.

COMMISSIONER IMLACH: We didn't get a copy did we? Survey form - yes, I've got it.

MR GATES: Yes.

COMMISSIONER IMLACH: Do you mean to say we didn't mark it? Gosh. Well -

MR MATTHEWSON: If we turn to question 12, for example, and we look at the options he's got underneath his answer, 30 hours is the minimum option. Why no less - why wasn't there 10, 20 hours? Why was the only minimum option there?

Question 14 - Do you find staff who have worked previously in the industry required further in-house training? Now the options there are: Always, often, seldom, never. Well there's no middle ground there - there's no sometimes. There's either always, often or seldom or never which is two polar points. Other results were not - with

withheld.

Question 10 for example would have been useful - where people were trained - the percentage of people that were trained formally.

5 Question 18: Do you use introductory level for your employees? Surely that would have been useful information.

On top of all this there was no definition of training given so that the respondents could respond with some sort of accuracy and general understanding of what was being talked about.

10 As our last point, we'd like to make the commission aware - and Mr Gates has constantly talked about the training and competency and on-the-job training and so on, but left a huge black hole in his argument. Training - Mm - he's failed to define it and failed to describe it's relationship with the classification structure. All he's put up is a simplistic proposal for a vague on-the-job component of training to get people up to a competence level, but completely ignored the complex arrangements for the industry with regard to training.

15 Well let me make the commission aware, that basically the three hospitality awards contain the classification structure that flowed from award restructuring in the Federal Hotels Award. In picking this up they adopted a national training reform agenda and an overall national approach to the industry. The appropriate level of training is defined in the award. The training is recognised by the Tasmanian State Training Authority on advice from, and according to the guidelines of Tourism Training Tasmania, the Tasmanian branch of Tourism Training Australia.

20 These guidelines are reviewed by the Australian Hospitality Review Panel and it's worth bringing to the commission's attention this document which is restructuring our future which was basically produced by the Classification Structure Working Party made up of the Liquor Trade Union, the Australian Hotels Association, the Department of Industrial Relations and Tourism Training Australia. Now Mr Gates has not mentioned this - much to our dismay. This document gives detail on the classification structure and its operation with training arrangements. The career paths and classifications have an intricate link with training and skills with appropriate national accreditation.

25 Now at this point in time I'd just like to make - give the commission an exhibit that basically is a brief summary of the relevant parts of the Restructuring Our Future document. Now this excerpt from the actual full document contains the -

30 Now this excerpt from the actual full document contains the -

COMMISSIONER IMLACH: Just a minute -

MR MATTHEWSON: Yes?

COMMISSIONER IMLACH: - what should I call that, Mr -

MR MATTHEWSON: It would be H.12. H.12, commissioner.

40 COMMISSIONER IMLACH: Right, H.12 it is. Proceed.

MR MATTHEWSON: This excerpt contains an introduction which basically outlines the relationship between the classification structure and training; the second part of

the document describes the training system and then there is the brief overview of the food and beverage stream and how it assists career progression, et cetera.

5 In restructuring the award the parties agreed to this - to greater award flexibility, the reduction of casual employment with a view to encouraging full time employment. This is reflected in this document and mentioned constantly. The structure and training arrangements were to provide opportunities for women, to provide stable career choices and encourage training and skill development. Again that is all in this document - reinforced continually.

10 The remaining part of this document that is not included in this except involves definitions which have attached to it required modules deemed essential for movement to new levels plus optional modules specific to operation - operation types. For example, if a person wants to work in a bar or a restaurant, so the modules will deal with bar service or fine dining. So therefore the Federal Hotels Award has application to or three state awards.

15 To depart from the classification structure would undermine training arrangements finely tuned to that structure. Basically this guide tells how the structure operates. Mr Gates has not even mentioned this, yet he has consistently mentioned training, competency and career paths. In addition to this guide there is the black book which is this document - which I won't pick up - sitting in front of me which provides the
20 curriculum for the training modules that fit with the classification structure.

This black book attests to the fact that training is an integral part of the award structure and definitions. The TCCI's proposal recognises and in fact ignores these arrangements preferring to destabilise the huge amount of work put into, to get to this point with regards to training.

25 Ignorantly Mr Gates has discarded the training issue and the implications his proposal may have on this system, that is, the black book and the agreed restructuring agenda.

30 The departure of the Tasmanian hospitality industry away from the national training agenda would be disastrous to training delivery and skills development and the national portability of skills. Competency in the industry can be attained by completing accredited modules including on-the-job training and assessment and therefore being assessed through that training structure. Destabilising this with vague on-the-job training levels would encourage employers to leave this system that is so valuable to the development of employee skills and confidence.

35 Going on to what Mr Gates mentioned today in his close, he put forward that basically his results were confirmed by his witnesses, that is, the survey results. Well, I fail to see that. His witnesses also supported the hours concept, but as I previously mentioned did not understand that 6 months was available; when they did, Mr Geeves put forward that they would be competent in that time.

40 As I have outlined, the award does allow for training. The training arrangements underpin the award. We have entered that system. It is a national system. Mr Gates talks about the anomalies that presently exist; well these have existed for quite some time now, because as I pointed out, the arbitrated decision and consent order only changed the Level 1 - the Introductory Level and Food and Beverage 3 Level definitions. The rest of the structure remains in tact as per previous consent
45 arrangements which were with the TCCI. He also made the point that witnesses said that either 30 hours - 30 to 90 hours to 100 hours was needed for training. Well at times with people that had some experience in the industry, I believe Peter Tong said it

was 30 hours or less.

Further, Steven went on to say that the consent order is not binding on the commission. Well as I have shown, the arbitrated decision deals with the areas that Steven has in fact put at issue and Grade 1 and 2 were untouched. He went on to claim that the union has some sort of problem with full timers, in fact discriminates against them Well what an interesting accusation. Well, all we say is that we cater for our industry which at the moment is a casual industry; we're spending time drafting flexible part time provisions for enterprise agreements to encourage job security, to change the profile of the industry. He puts forward that the current structure limits career progression. Well I put forward that possibly the only people that limit career progression are employers at the moment. He also put forward that after 3 months at Introductory Level of someone new to the industry, that the employer will incur costs from higher remuneration. Well that is in fact not true. If that person is not competent at that stage and is assessed as not competent, either by a workplace assessor, by an industry assessor or by the employer and the employee through informal discussions, then another 3 months may be put in place. So that is in fact true.

In conclusion we submit that the arguments of the TCCI cannot be supported, lack satisfactory evidence and credibility and in fact destabilises the push for permanent employment and are ignorant of a finely tuned training system.

Having obtained agreement with the Registered Clubs Association on the Licensed Clubs Award, we reiterate a phasing-in arrangement of four increases over 18 months, 6 months apart for this award. For the other two hospitality awards, and we submit that they should be - they should go through three increases over 12 months, 6 months apart, as per the federal arrangement.

In showing our good intentions to the Registered Clubs Association, who prefer the first of the month with regard to wage increases and no retrospectivity, we would see an operative date of the 1st April 1995 as appropriate pending a decision. This hopefully will give employers further savings from the penalty rates reductions which came through on the 1st December. We're not an unreasonable party.

Mr Gates contended that the commission, under section 20 of the Industrial Relations Act have the power to effect changes from a federal decision to be relevant and practical in Tasmania - in the use of his words. Well there is nothing specifically Tasmanian about Mr Gates' proposal and he has completely ignored the national identity of the industry. We submit that our application and our subsequent draft orders satisfy public interest and are consistent with the wage fixing principles of the commission.

In conclusion, we'd like to point out that Mr Gates' proposal expands on the changed definitions from the federal decision dealing with unrelated issues. It could be dealt with at a later stage through a separate application.

We consider that such proposal should be put aside, researched more extensively and discussed with the relevant parties especially those in the training field such as Tourism Training Australia, who have no knowledge other than what I have discussed with them, of such proposals and are horrified of a possible departure of Tasmania from national arrangements. It is not constructive for proposals to simply satisfy tit-for-tat negotiation processes. The party should be committed to modernising and keeping awards relevant but this must be done in an informed measured way with wide consultation . If the commission pleases.

COMMISSIONER IMLACH: Thanks, Mr Matthewson. Mr Johnson, did you want to say anything.

MR JOHNSON: Just a few words, if I may, Mr Commissioner. We did agree with the union on their submission that went forward originally but since then of course Mr Gates has put other submissions up. We did agree that the period of the payment be over four payments - for two over an 18 months period. That has now been changed by what I heard from the union rep to commence from the 1st April which we would agree with. The other thing that I would like to mention is the witnesses that came forward today were only from the restaurant field and it's my personal opinion, and I think the members of our committee that there is not the number of casual employees as has been given through the witnesses today in the Clubs Award. Therefore we are of the opinion and support the encouragement of full time employees at least in the Clubs Award and therefore support the union's submission of this period of 3 months instead of the 494 hours. The rider that was given that there is the blanket clause that if there is not satisfaction with the 3-month period, say a person does work casual and doesn't complete the satisfactory work to the employees - employers - approval then this 3-month period is - can be extended with approval.

I am disappointed; my two left hand and right hand corner men did with consent pull out the Keno section - terminal. Now, sir, we have people employed already in this situation. When are they going to be paid? Now we submitted it originally and then through consent behind perhaps without consultation with us they've now agreed to pull it out. I'm disappointed in that. It's only adding to discontent where I thought both parties were looking for the employee/employers views on the matter. We have an unsatisfactory situation as far as the Keno terminal operators.

COMMISSIONER IMLACH: Yes. Thanks, Mr Johnson.

MR GATES: Is it possible to briefly respond to Mr Matthewson - some of the points that were raised -

COMMISSIONER IMLACH: Well I don't know that it is.

MR GATES: - may have been new points.

MR MATTHEWSON: We would oppose that, commissioner.

MR GATES: Well I'm certain that this hasn't been tendered as evidence before, it wasn't something which I've raised.

COMMISSIONER IMLACH: Yes, I think I'll allow it, Mr Matthewson -

MR MATTHEWSON: Yes.

COMMISSIONER IMLACH: - as that is an exhibit brought up at the last minute. And before we go to that, as I understand it, the - the employer representative of the TCCI is seeking an operative date 1 month from the day of decision - that's across the board?

MR GATES: Yes, sir.

COMMISSIONER IMLACH: And the other MRA periods - and the union is seeking the 1st April across the board -

MR MATTHEWSON: Yes, commissioner.

COMMISSIONER IMLACH: - with the federal implementation in periods for the MRA.

MR MATTHEWSON: Yes, but the two awards the Licensed Clubs.

COMMISSIONER IMLACH: Yes. I'm sorry - just - excuse me, Mr Gates, go over that again please, Mr Matthewson.

5 MR MATTHEWSON: Yes.

COMMISSIONER IMLACH: Licensed Clubs operative date?

MR MATTHEWSON: 1st April.

COMMISSIONER IMLACH: Yes. The others?

MR MATTHEWSON: The 1st April.

10 COMMISSIONER IMLACH: So there's no difference?

MR MATTHEWSON: No.

COMMISSIONER IMLACH: What about the MRAs - the same?

MR MATTHEWSON: No, the Licensed Clubs is four increases over 18 months, 6 months apart, and the other two are three increases over 12 months, 6 months apart.

15 COMMISSIONER IMLACH: Alright. So the clubs really are separate - we've probably heard this before, but I'd better get it down here.

MR MATTHEWSON: Yes. They've been dealt with differently -

COMMISSIONER IMLACH: Yes.

MR MATTHEWSON: - as well in the previous original

20 COMMISSIONER IMLACH: So the others have the federal -

MR MATTHEWSON: Yes.

COMMISSIONER IMLACH: - prescription whereas the clubs have the four over 18 months?

MR MATTHEWSON: Yes, commissioner.

25 COMMISSIONER IMLACH: Alright, thanks, Mr Matthewson. Now you'll be brief, Mr Gates.

MR GATES: Certainly, commissioner - sharp and to the point.

COMMISSIONER IMLACH: Alright.

30 MR GATES: As usual. There's been - apart from this which was led as evidence there's been further points which were raised which were certainly outside my responding submission as to my opening brief and I wouldn't have said that his was a closing submission today but further evidence-in-chief.

As to this particular document which is restructuring our future and to comments against the employers that all the evidence led is from the employers side, I'd like to make a general point, and that is, there is a general rule of evidence - and I'm not suggesting that we particularly prescribe it here, but I think it's a useful principle -
5 and it says where something is more in the power of one party than the other then that party has an obligation to lead that evidence. If that evidence is not led then inference is to be drawn that the evidence would not have assisted his case. And I'll further that by saying there are no people from the Training Authority here to say this is how it will actually influence the training structure - I'd submit that it won't. There
10 has no been employee evidence led by Mr Matthewson, which is certainly more in his power than it is in mine. I have done everything which is in my power which has included calling employer evidence. Therefore I would submit that the inference is to be drawn that they would not have assisted his case and in fact would have assisted mine and the rule of law is in - what's the case - Dunkel-v-Jones - and I believe it's
15 1937 or 1938.

There was also evidence led that it's not discriminatory - that mine would be discriminatory in effect against women. Well I'm afraid the Sex Discrimination Act refers to discrimination and it says that you won't be discriminating on the basis of
20 sex if they can't perform the inherent requirements of the job. And that's what we're saying. They're not competent if they've been out of the industry for that period of time. It applies across the board - male, female - whatever race -it doesn't matter people with disabilities - and therefore it's not discriminatory. Certainly not directly and I'd suggest not indirectly.

If the commission pleases - that's all I have to say on the matter. Thank you.

25 COMMISSIONER IMLACH: Thank you, Mr Gates. I'll close this matter now and prepare my decision and issue the orders in due course. I can't guarantee - I think you'd have to agree it's been a heavy matter. I'm sure Mr Johnson agrees with that. Nevertheless, the points that had been made, whilst being condensed don't really affect the draft order all that much, are quite significant. So I'll repeat, I can't guarantee
30 when the decision will be issue. I will certainly get it out as soon as I can. Is there anything else, gentlemen?

MR MATTHEWSON: No, commissioner.

COMMISSIONER IMLACH: I thank you for your assistance. This matter is closed.

HEARING CONCLUDED