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TRANSCRIPT OF PROCEEDINGS

O/No 102632

TASMANIAN INDUSTRIAL COMMISSION

DEPUTY PRESIDENT P.C. SHELLEY

T No 13387 of 2009

TASMANIAN STATE SERVICE AWARD

**Application pursuant to the provisions of section 23(2)(b)
of the Industrial Relations Act 1984 lodged by the Minister
administering the State Service Act 2000 to vary the
above award**

HOBART

11.00 AM, MONDAY, 16 MARCH 2009

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THE DEPUTY PRESIDENT: Thank you. I'll take appearances, please.

MR P. BAKER: Deputy President, I appear on behalf of the Minister administering the State Service Act 2000, P. Baker.

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THE DEPUTY PRESIDENT: Thank you.

MS K. JACKSON: Deputy President, Kate Jackson appearing on behalf of the CPSU (SPSFT) Inc and with me is MR PETER HORNE from the same organisation.

10

THE DEPUTY PRESIDENT: Thank you. Well, the notification of hearing went out to a number of unions, including the AMWU, which you referred to in your email. Mr Baker, I'll take the fact that they haven't appeared as indicating consent?

15 MR BAKER: Actually, I have a letter – I'm not sure whether they forwarded the letter to you.

THE DEPUTY PRESIDENT: Yes, I do remember that occurring. Yes. Okay. Yes, they consent. That's fine. It is in the file. I'll just have a look at that. Okay.
20 The other – the CFMEU, Health Services Union, Liquor, Hospitality, etcetera, etcetera, etcetera. Obviously, either aren't particularly concerned or agree. So, Mr Baker?

MR BAKER: Thank you, Deputy President. As part of our ongoing process of review of not only the Tasmanian State Service Award, but also of other
25 agency-specific awards and agreements we are continuing our process of tidying up bits and pieces. To that end, the Tasmanian Fire Service is actually a respondent to some four awards, that is, in the first instance there is the Fire Service Award - - -

30 THE DEPUTY PRESIDENT: That's the Fire Service Industry Award?

MR BAKER: Yes, which operates in conjunction with as it was then known as the General Conditions of Employment Award. In addition to that, there are three
35 industrial agreements that cover staff within the Tasmanian Fire Service, excluding career fire fighters. And those three agreements are known as the finance and administration – sorry, administrative employees of the State Fire Commission, State Service and Wages Agreement 1996 in matter T6477 of '96. There is the Tasmanian Fire Service Engineering and Services Agreement 2001 in matter T9904 of 2001 and,
40 finally, there is the Tasmanian Fire Service Communication Services Agreement 2002 in matter T10046 of '02.

As part of our tidying-up exercise, we have proposed to do four things – five things. Firstly, we have filed an application to rescind the Fire Service Award; secondly, the Minister has moved to withdraw from the three-cited industrial agreements and the
45 fifth step is that we seek to incorporate the key elements of those three-cited agreements into what will become appendix 9 of the Tasmanian State Service Award

and it will be headed Special Provisions for Employees in the Tasmanian Fire Service. And I would hand a draft order to the Commission to that effect.

5 THE DEPUTY PRESIDENT: Okay. Is it any different to the one that we've already received?

MR BAKER: Not really. There's only a minor tidying up, following a discussion I had with Ms Jackson last week.

10 THE DEPUTY PRESIDENT: Thank you.

MR BAKER: Basically, the three agreements that were entered into between the then Minister and the respective unions dealt with hours of work and a loading and salary in return for certain flexibilities in the workforce. We have maintained – or, in
15 fact, we intend to enshrine those matters into the award so that they are represented there within the award itself and they seek to do no more or no less than to provide for ongoing security as far as those bits and pieces are concerned. So we've added nothing and we've subtracted nothing. And in the event that we've overlooked something or omitted something, or whatever, then the Minister gives an undertaking
20 that that matter will be addressed in due course through the avenue of the Commission.

THE DEPUTY PRESIDENT: Okay. Well, the first point in this - or the preamble is not actually absolutely correct at this point in time, is it, not whilst the Fire
25 Services Industry Award, for example, is still in place and so on? It says:

The provisions of the State Services Act to apply to employees engaged by the Fire Service except where otherwise specified in this appendix.

30 And the appendix only refers to engineering services, etcetera. It doesn't refer to fire fighters. So it's not absolutely correct at this point in time.

MR BAKER: No, fire fighters are actually covered by a separate award and agreement.
35

THE DEPUTY PRESIDENT: Well, that's right. So this only applies, at this stage, to those employees listed below engaged by the Tasmanian Fire Service?

MR BAKER: Yes, yes.
40

THE DEPUTY PRESIDENT: Yes, and it doesn't actually say, "Those listed below." So it's not absolutely correct at this point in time.

MR BAKER: Well, no, no, and presumably career fire fighters would never become
45 party to this agreement.

THE DEPUTY PRESIDENT: No. So I just wonder if we should say, “Those employees listed below, who are engaged by the Tasmanian Fire Service.”? You just don’t know that somebody using – some public service administrative officer using this agreement at some stage might just read that and take it to mean people that it does not, in fact, apply to. Take it to mean that the - - -

MR BAKER: We have had those problems in the past.

THE DEPUTY PRESIDENT: We have, yes. I’m just trying to anticipate possible problems by making it as clear as possible who appendix 9 actually does apply to.

MR BAKER: Yes.

THE DEPUTY PRESIDENT: Okay. So you agree to amend it in that manner?

MR BAKER: Yes, and I would – in conclusion, I would suggest – submit, I’m sorry, Deputy President, that it is consistent with the wage-fixing principles and does not harm the public-interest test in section 36 of the Act. As I’ve indicated, it does no more or no less than to reflect the conditions of employment that already exist for these classifications of persons within the Tasmanian Fire Service.

THE DEPUTY PRESIDENT: Okay. Thank you. Ms Jackson?

MS JACKSON: Deputy President, the CPSU is happy to commend this draft order to become appendix 9 of the Tasmanian State Service Award. We’re happy that the matters in the relevant agreements – although I would note we were only party to the Finance and Administrative Staff Agreement, but everything is picked up and contained within this. We would ask that it be subject to the no disadvantage clause of the Tasmanian State Service Award and the intended-consequences clause of the Tasmanian State Service Union Agreement and note that Mr Baker has made this undertaking here. We’re very happy for this to go ahead with the amendment made just before. Thank you.

THE DEPUTY PRESIDENT: Okay. Now, operative date? Did you address that, Mr Baker?

MR BAKER: No, I didn’t. I suppose I’m in a little bit of a quandary and I haven’t spoken to Ms Jackson about it this morning, but the Tasmanian Fire Service Award will actually remain in place until 31 March when it’s due for rescission. It may be opportune that we actually bring the appendix in to apply from the same date - or do you want it from today?

MS JACKSON: I don’t believe there’s anything in the Fire Service Award that has effect on those provisions because they were covered by those agreements and otherwise the GCOE. So I would suggest that it start from today.

MR BAKER: No opposition.

THE DEPUTY PRESIDENT: So operative as of the 13th – well, the 16th, is it? The 16th?

MR BAKER: Yes.

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MS JACKSON: The 16th.

MR BAKER: 16 of March.

10 THE DEPUTY PRESIDENT: 16 March 2009. Okay. Well, the Tasmanian State Service Award will be varied in the manner sought with an operative date of 16 March 2009, which will be confirmed by way of a written decision. And will you send us an amended - - -

15 MR BAKER: Yes.

THE DEPUTY PRESIDENT: - - - introductory paragraph. The matter is adjourned.

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MATTER ADJOURNED at 11.10 am INDEFINITELY