

HEARING COMMENCED 9.50am

DEPUTY PRESIDENT: I'll take the appearances, please.

MR C. BROWN: If the commission pleases, C. BROWN, appearing for the Health Services Union of Australia, Tasmania No. 1 Branch and
5 with me I have **MR BRIAN BISHOP**.

DEPUTY PRESIDENT: Thank you, Mr Brown.

MR M. WATSON: May it please the commission, MARK WATSON. I appear on behalf of the Tasmanian Chamber of Commerce and Industry.

10 DEPUTY PRESIDENT: Thank you, Mr Watson. Mr Brown?

MR BROWN: Thank you, Mr Deputy President. The application before you seeks to vary the Nursing Homes Award to give effect to the full bench decision in matters T6296 and T6441 of 1996 regarding an award provision for family leave and personal carer's leave. There is
15 also an amendment to the application as it was lodged.

I'll just quickly take you through the amendments which are minor. Again, the clause number for the carer's leave has been changed from clause 39A to clause 13A to make it consistent with the alphabetical listing of the clauses as it currently stands.

20 For the Single Day Annual Leave provision, the numbering of that clause was 1, it should be small l(ell). Over on the Make Up Time provision, subclause (f), paragraph (v), the Clause 44 - Time and Wage was the wrong way around. It's Wage and Time, so that has been corrected. Over the page for additions to the Rostered Day Off
25 provision, paragraph (ix) also has the Time and Wage the wrong way around so that has been corrected.

They are the only amendments to the application.

If I could also tender an exhibit.

DEPUTY PRESIDENT: **EXHIBIT B.1.**

30 MR BROWN: This exhibit just simply shows the differences between the applications that currently stand and the model clause as developed by the full bench. The changes are fairly minor. Most of them have the effect of simply enabling them to fit into the award consistently. The major change of course is the provision for part-time
35 employees to have access to unpaid carer's leave and if I could just refer you to the full bench decision in matters T6296 and T6441 of 1996, on page 8 it states, as to the availability of unpaid carer's leave and its possible application to casual and part-time employees.

5 It was submitted that the parties to each award should negotiate an agreed position, or failing agreement, argue their respective cases before the commission when processing individual applications. The parties have agreed that this is the appropriate way to proceed with giving part-time employees access to unpaid carer's leave.

10 Mr Deputy President, the parties are seeking an operational date of the first full pay period on or after date of decision. If that's today, then it's today's date or later as the commission sees fit. The HSUA submits that the application before you is consistent with the commission's Wage Fixing Principles and that's already been in fact tested by the full bench and that the application is consistent with the public interest requirements of the commission regarding this matter. If the commission pleases.

DEPUTY PRESIDENT: Thank you, Mr Brown. Mr Watson?

15 MR WATSON: Mr Deputy President, I can advise that the position of the employer in this particular case is one of consent. Mr Brown and I have had discussions regarding the draft order and those draft orders have been agreed and we also advise of consent to the amended draft order tabled today.

20 The application before you today is consistent with the full bench decision in matters T6296 of 1996 and T6441 of 1996. The application is in accordance with the commission's Wage Fixing Principles and our submission does not offend the public interest test in the Act and we would advise of consent to the application from the first full pay period on or after the date of your decision. If it pleases.

25 DEPUTY PRESIDENT: Thank you, Mr Watson. I will formally order that the draft order as lodged be amended by the amended draft order lodged this day and I formally order to that effect. It is my intention to approve this application and to vary the award in terms of the amended application. My written decision giving effect to that intention will be published either later today or Monday. That order, when it is published will come into effect from the first full pay period to commence either today or Monday.

That concludes the hearing of matter T8435 of 1999.

35 **HEARING CONCLUDED 9.55am**