

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T No. 3433 of 1991

IN THE MATTER OF an application by
the Federated Furnishing Trade
Society of Australasia, Tasmanian
Branch to vary the Furnishing
Trades Award

re minimum rates adjustment

COMMISSIONER WATLING

Hobart, 25 November 1991

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER WATLING: I will take appearances, please.

MR R.B. ORANGE: If the commission pleases, ORANGE R.B. from The Federated Furnishing Trade Society of Australasia, Tasmanian Branch.

COMMISSIONER WATLING: Good, thank you.

MR T.J. EDWARDS: If it pleases the commission, EDWARDS T.J. I appear for the TCI.

COMMISSIONER WATLING: Good, thank you. Right, who shall I turn to Mr Orange, Mr Edwards, thank you.

Mr EDWARDS: Commissioner, the exercise we wish to put before the commission today is essentially an exercise in broadbanding of existing classifications and in doing that we will place before the commission a chart which will show the future intention of the parties on the commencement of the minimum rate adjustment process. We will put before you a scenario which will take us through to the end of that process by way of what the pay rates will be in the award at various points in time. We will also place before the commission a program for various changes we believe ought to be made to this award by way of classifications predominantly - the removal of certain types of work from the award - and the intention of the parties to create a new award.

Probably the best way to proceed, commissioner, is if I hand to the commission a series of exhibits -

COMMISSIONER WATLING: They are all different exhibits?

Mr EDWARDS: They are four separate documents, commissioner, but I have just put them together for ease of handling.

COMMISSIONER WATLING: We will mark the first one where it says Exhibit A in the right hand corner as TCI.1. The next one is Furnishing Trades Broadbanding as TCI.2. The next one is a flow sheet so we will mark that TCI.3 and the next one is the Furnishing Trades Award Draft Order as TCI.4 - and you can deal with them in any order.

MR EDWARDS: That is the order I intend to deal with them in any event, commissioner, I deliberately placed them in that order. Commissioner, the exercise we embarked upon was to look at the existing classification structure in the Furnishing Trades Award which by any test is extensive. We identified that there are some existing 59 classifications and by way of the variation we intend to ask the commission to make this morning, we have reduced that down to 7. Commissioner, TCI.1 is, in large part, an extract from the existing clause 8 of the Furnishing Trades Award in which we have on the left hand side identified the old classification

that currently exists in the award. On the right hand side under the heading - New Grade - we have identified the grade into which each of the classifications in turn will slot as part of this broadbanding exercise.

By way of brief explanation you will note that furniture maker grade A goes into a grade called 5(a). There is also a 5(b) which applies only in the safety class area which is on the second last sheet of Exhibit TCI.1 and it picks up classifications 45(a) which are edge grinder and 46 furnace operator. The purpose of doing that, commissioner, is that because of the - those classifications are trade classifications but the award has not identified them as trade classifications in the past. What we have agreed to do is phase up those classifications to trade equivalent wage rates but we have, because of the quantum involved in doing that we have cushioned the impact by phasing up to it through the minimum rate adjustment process. Part of it will happen with the broadbanding increase that will come about as a result of this and the final increases will come through the minimum rate adjustment process.

That is just a brief explanation. Other than that we do end up with seven grades - at the moment it is six full grades and two subgrades which equate to one grade. The trade grade or the 100 per cent level if you like is grade 5 - there are two post trade grades, grade 7 is a furniture maker grade A1 which only picks up two classifications - they being the old furniture maker grade A1 and the old classification L50. When I use that terminology, commissioner, you would be aware that there are subdivisions throughout the award - A3 to M, I think it is - and the next document will identify those previous classifications by referring to the subdivision from which it comes by a letter and then the classification number follows.

The methodology used in doing the broadbanding exercise, commissioner, is that we have gone through the award and identified wage rates with basically similar classifications and skill levels and banded them together. In doing that we have been able to identify that there is a number of divergent wage rates that go into each of the grades. If I could take the commission, by way of example, to Exhibit TCI.2 -

COMMISSIONER WATLING: Right. Could I just sort of interrupt your flow there?

MR EDWARDS: Certainly.

COMMISSIONER WATLING: Do the little asterisks alongside these things have any specific meaning for us in -

MR EDWARDS: Perhaps if I could explain them - it is a reasonable question, commissioner. As you would be aware in the award at the moment in the first subdivision which is

furniture manufacturing, there has in the past been a broadbanding exercise of sorts carried out and you have classifications - furniture maker grade A1 down to furniture maker grade D2. Then following from there you end up with an area called Composition of Grades and it goes through and gives, for example, grade A1 is made up of the classification of inspector - this is at the beginning of clause 8 - wage rates.

Under grade A there are some page and a half of various classifications that fit into that. It was very difficult, commissioner, to identify what of the words used in the award constituted a separate and distinct classification type - so all I have done is identified each separate classification that falls under the heading with an asterisk to separate them. It is no more sinister than that, it is simply an identification of the commencement of a new classification. They are not currently numbered and that is the reason we have done it that way.

COMMISSIONER WATLING: Yes, so in relation - you may have already covered it and I might be jumping the gun - but in relation to the appendix to the any new award are you requiring the commission to include that type of thing as well and do you require it to be exactly the same as this?

MR EDWARDS: Not exactly the same, commissioner, no. That is what we will suggest as an appendix to the award.

COMMISSIONER WATLING: Right.

MR EDWARDS: If the commission is so minded as to apply some sort of lettering or numbering system instead of an asterisk, I will be equally happy with that. I have only done it this way so as not to change the award but rather identify where each classification starts and finishes.

COMMISSIONER WATLING: Yes. I was just thinking ahead - we would probably have to retype it and set it out in the form that the awards are set out. Now is it possible for us to just take - lift out that section of the award and convert it to the appendix section at the rear?

MR EDWARDS: My preference, commissioner, would be not to do that for the simple reason I mentioned before.

COMMISSIONER WATLING: Yes, right I can understand that.

MR EDWARDS: But it is very difficult to identify what is a separate classification within those lists.

COMMISSIONER WATLING: So it would be preferable if we -

MR EDWARDS: Identified them some way.

COMMISSIONER WATLING: - took this and precisely reproduced this.

MR EDWARDS: That would be my request, commissioner.

COMMISSIONER WATLING: Yes, right.

MR EDWARDS: Whether you use an asterisk or whether you use a numbering system of sorts, I am fairly relaxed about so long as I think it is important that they are identified.

COMMISSIONER WATLING: Yes, that is right.

MR EDWARDS: Just as an example -

COMMISSIONER WATLING: You have gone to a lot of trouble here, I think -

MR EDWARDS: - the bedding making classification class A in most areas in the award is very difficult to find, and in some areas in fact the class A has been separated away from the other words in bedding making and that makes it very difficult for people to identify where the classification fits. So that is the sole purpose and we would like to see it set out in similar vein to this.

Turning to Exhibit TCI.2 so I might explain the broadbanding that we have undertaken, commissioner, this is taking Exhibit TCI.1 and setting it out the alternate way, i.e. identifying the grade and showing each of the classifications that used to be in the award and identifying them by way of where they fit. As I indicated the L's, the E's, the A's and D's are the existing subdivisions in the award and the number is the existing classification number. You will note that there are no numbers on certain classifications, such as furniture maker grade A1, furniture maker grade A - that is for the same reason we just discussed. They are not currently identified by any sort of number.

You will note when we get down to grade 5 - grade 7 and 6 were fairly simple because all the wage rates were the same - at grade 5 most classifications had a wage rate of 369.10. The exceptions are found on the second page of the document, which are the ones I essentially referred to before as being those classifications which will fall into grade 5(b) and they are K44(b) where it is currently \$344.40 we have applied a broadbanding increase of \$8.20 and Mr Orange will give to the commission, as part of his submission, an undertaking that those increases are to be absorbed against existing over award payments.

We have used that same theoretical exercise at each of the grades, commissioner, and you will note that as we go down through the grades there are increasingly numbers of different wages rates that fall within each of the grades and therefore the amount of broadbanding increase which we have identified is consequentially different. The most graphic way of viewing that, commissioner, to get it at a snapshot is to have a look at TCI.3, which is the document you have identified as a flow chart, which I guess more than anything else is a synopsis of TCI.2.

We show the grade, we show the rate which incorporates the recently awarded 2.5 per cent just to establish the current award rate and what it includes. We then have a heading called Broadbanding Increase. If I could take the commission, for example, to grade 4 I found in doing the exercise that there were four different wage levels at grade 4. I have listed each of those different wage levels that appear in that grade, shown the amount of broadbanding increase to bring them to a common pay rate which in each case is the highest pay rate existing within the grade, which then brings a new broadbanded rate which is the rate we seek to have included in the award today.

The same can be said through grades 3, 2 and 1. We have also identified in this document our proposed percentage relativities of each of these new grades to the tradesperson level, which is the level 5 as I indicated earlier. There is one of those percentage relativities which is not set in concrete - it is the subject of much debate at the moment between the parties to the Federal Furnishing Trades Award and that is grade 6, where it is the employers opinion that grade 6 should come back and be part of grade 5. It is the Federated Furnishing Trades Society position that it should go up and become part of grade 7.

So as an interim percentage relativity so as to separately identify, we have assigned a mid-point relativity of 102.5 and it is our intention to finalise the percentage relativity for grade 6 prior to the end of the minimum rate adjustment process so that we are not left with having to take money away from anyone if our case wins the day or, alternatively, apply a further fairly hefty increase if the Federated Furnishing Trades position wins the day.

We would hope to have that finished no later than the time we come before the commission for the second MRA and I will go to the timing of those shortly. Two other points in Exhibit TCI.3, I think, require - some three other points in fact, commissioner. At grade 5, as I indicated earlier, we have a sublevel at the moment which you will note under the heading - 3MRA - disappears because it comes into line. Now that is because it is receiving bigger increases at the first, second

and third MRA points and, in fact, receives a total increase of \$64.60 compared to \$48.10.

At grade 1, commissioner, you will note under the broadbanding rate and each of the MRA columns there is an amount of \$1 shown in brackets. That is because the new broadbanded rate is less than the existing award rate for one of the classifications which are shown over on the left-hand side is grade 1(v), where it shows 326.40 - whereas the end point position of this classification is 325.40. We have dealt with that in the draft orders by way of an excess payments clause which I will take you to when we get there. We very much tried to avoid it - we talked about it for hours as to how we might handle it and we could not find any alternative way.

COMMISSIONER WATLING: I think we had this excess payment discussion in the fibreglass and plastics thing and I was a bit reluctant to put another thing in the award - MRAs, excess payments, over-award payments, supplementary payments - and I think we handled it in that area by just talking about the rates people currently receive - a savings provision.

MR EDWARDS: We have put a savings provision in the award as well.

COMMISSIONER WATLING: Yes, but I have to say, even foreshadowing the argument, you might think about it. I am going to be a little reluctant to put another payment - another type of payment - in the award called excess payments.

MR EDWARDS: Perhaps when we get to Exhibit TCI.4, commissioner, I will take you to the way we have tried to handle that particular matter which is - I personally agree with you. I very much dislike, as Mr Orange will testify, having an additional component and it is something we really did try to avoid.

COMMISSIONER WATLING: I could understand that.

MR EDWARDS: I even gave consideration to promoting the classification to grade 2.

COMMISSIONER WATLING: I have just got to be a bit careful too that I am not seen to be awarding another payment which entitled excess payments at a time when the only time I can award anything is through MRAs or the State wage case decision.

MR EDWARDS: This amount of money - this \$1 - is an amount currently enshrined in the award. I guess we are taking it from one place and putting it in another place, but I will explain that to the commission when we get to the next exhibit and perhaps we can discuss it further.

COMMISSIONER WATLING: You would have to really wonder - when does it go, when does it come back?

MR EDWARDS: Well, in fact it does not - that is the thing that concerns me.

COMMISSIONER WATLING: Well, if it does not then all I say is you may as well put the extra dollar in.

MR EDWARDS: The only problem with that, commissioner, is of course it then goes beyond the proposed percentage relativity.

COMMISSIONER WATLING: I agree, and that is where sometimes we would probably have to bite the bullet and say, 'Well, that is the rate' -

MR EDWARDS: And absorb it against the next wage increase.

COMMISSIONER WATLING: Well, if it is the rate it is the rate.

MR EDWARDS: We have in fact dealt with the question of excess payments twice in our - it might be an appropriate time, commissioner, as part of this discussion if I could take you to the draft order.

COMMISSIONER WATLING: Right.

MR EDWARDS: I think the point you make is very valid and it is exactly the same point I made to Mr Orange ad nauseum. Without taking you through the detail of the order at the moment, Sir -

COMMISSIONER WATLING: No, we will just turn to this page -

MR EDWARDS: - if I could take you to the second page, there is a subheading after the graded structure which is called excess payment and it identifies precisely which classifications it applies to, where we have said:

Employees classified in Grade 1 who previously were engaged under classifications A5(b), D15, F23, J38(b), J39 and M53 -

And then referred people through to the appendix which will show exactly what those classifications were:

shall be paid an additional amount of \$1.00 per week for all purposes of the Award. This amount shall not be subject to adjustment.

Now the reason we have used that methodology is that that is strictly in accordance with the principles - and I mean strictly - even not being subject to adjustment. If I could

then take the commission to the next page and discuss the second way in which we have dealt with the same subject matter - and that is subclause (b) excess payments for - this is unapprenticed juniors, where the amounts are significantly greater than \$1. And we have put there:

Provided that the additional rates shall be absorbed against any increase in the Base Rate for Grade 2 and shall not be subject to future adjustment.

Those ones therefore will, at some point in the future, disappear whereas the \$1 amount does not - it remains there - which is the way I read the principles - strictly in accordance with the principles. It is not strictly in accordance with my principles. I believe - frankly, I would have rather seen it absorbed into whatever the next wage increase maybe. The commission is -

COMMISSIONER WATLING: I suppose I have to be consistent in that I have taken this issue on in another award area and if I am going to depart from that prima facie I should relist the other award and go back, which I feel very reluctant to do, because I do not agree with it for starters. The only way we got over it there was to talk about a savings provision and at least it would mean that all new employees would start on the classification rate.

MR EDWARDS: I have suggested that to Mr Orange and he did have some discomfort with that.

COMMISSIONER WATLING: Yes. Well, I would have to say, if you go through - you cannot have the cake and eat it too. If you are going through to look MRAs and you establish relativities one to the other and you are going to give people significant increases arising out of this and you do the exercise properly - which prima facie it looks like you have done a pretty good job here, at least you have highlighted everything - and if it comes out at the end of the day that someone is getting a \$1 more now than they should even at the completion of the MRAs, you then really have to say, 'Well, that is the luck of the draw - that is the way it goes'. The only thing you can really do is save the people who are already getting it, but you should not then put any new employees on the higher rate. Why do we do the exercise?

MR EDWARDS: If I could make a suggestion, commissioner, perhaps we could go off the record and just discuss this and see if we can find a mutually acceptable solution to it. I certainly agree with everything you have just said and I am sure Mr Orange will tell you it is no different to what I have said, as part of our negotiating process. And, as I said, what we have tried to enshrine in the order is a strict application of the principles. If there is another way of

doing it that satisfies the commission - and indeed the FFTS - then I am more than happy to do that.

COMMISSIONER WATLING: Good on you. We might go off the record now.

OFF THE RECORD

COMMISSIONER WATLING: Right, thanks, Mr Edwards.

MR EDWARDS: Thank you for that time off the record, commissioner. I will deal with the outcome of it when I come to the draft order but I could for now perhaps go back to Exhibit TCI.3 and make a suggested change, and that is that the \$1 figure in brackets shown under the B/B rate column, the 1MRA, 2MRA and 3MRA column and the total increase column, be struck out and I will undertake to have a clean copy of Exhibit TCI.3 to the commission by the end of today.

I think it is important to highlight at this point, commissioner, that the exercise we have undertaken in this award has been restricted to virtually all of the existing award to division A and subdivision (iii) other industries. We have not included in our exercise subdivision (ii) glass. The reason that is so, commissioner, is that the glass classifications contained in subdivision (ii) and the wage rates that accompany them are based on a different Federal award rather than the Federal Furnishing Trades Award - they are based on the Federal Glass Merchants and Glazing Contractors Tasmania Award and the wage rates and classifications do not fit comfortably in the furnishing trades industry, as that term might best be understood by most people. It is, by definition, an extremely large industry anyway in its coverage.

The parties have discussed this issue and we have reached agreement in principle to remove subdivision (ii) - glass - from this award totally and create in its stead a new State award which will be for glass merchants. I specifically use the term 'merchants' there, commissioner - there is some glass work done in association with the furnishing industry, for example, glass panels in the front of furniture cabinets and the like. So there will be some glazing classifications but they will not be those that are currently contained in the award - they will be removed and hopefully we will create this new award.

The timetabling behind that is that we would hope to be approaching the commission no later than the end of February next year to deal with the question of scope of that new award and then obviously we do have an inbuilt time delay process from there through the 21 day appeal period - the mechanisms

where, after we have dealt with scope, we come back and deal with parties and persons bound and the rest of it.

COMMISSIONER WATLING: So would that mean that we leave this award application open? I notice that the application is made to look at minimum rates adjustments only.

MR EDWARDS: Yes. At the moment, commissioner, we have left the glass division in - I will take you to the order again, commissioner, and perhaps just explain what we have done. On the third page of Exhibit TCI.4, we have there a division A(ii) which we hope will be a temporary division pending the creation of this new award and faithfully reproduced the existing award provisions for glass - as we have done for clerks and transport workers, which I will come to and mention separately. It would be our intention - I guess it would have to be towards the end of March if things go on the quickest possible time frame - that we would be back before the commission to delete that. Now that would, in my view, have to be a completely separate application to do that.

COMMISSIONER WATLING: Yes. So we would not be using this application to -

MR EDWARDS: I would see this particular application being fulfilled when we come back to the commission towards the end of January next year to put the first minimum rate adjustment into the award - and that is another part of the timetable I am yet to explain.

COMMISSIONER WATLING: Right. So there will need to be not only an application to make a new award but there will be a need for an application to delete these people from the Furnishing Trades Award.

MR EDWARDS: Yes, commissioner.

COMMISSIONER WATLING: Right, so there are two applications foreshadowed.

MR EDWARDS: I would see them staying in this award until that new award is made in full - that is after we have done scope, parties and persons bound and withstood the appeal periods required and then put the body of the award together. At that point, I would expect a simultaneous application to be dealt with which would delete the newly created division A1 from the Furnishing Trades Award and, indeed, all reference to it throughout the award. And that is another minor change we have made, commissioner.

We have titled the furniture division - if I can use that broad term - as division A1 and the glass as division A2, so that we can keep them completely separate and it is a nice compartmentalised area to pull out later. We have not at this

time, commissioner, dealt with the questions of transport classifications nor clerical classifications and that has been purely a question of me having had insufficient time to sit down with the two organisations concerned and negotiating with them on the question of where they might fit in a broadbanded structure.

I have prepared a proposal which I hope to submit to the TWU over the next couple of days, which will see them fitting into this seven grade structure. The question of the clerical classifications, there have been negotiations in a global sense between the TCI and the Federated Clerks Union over recent weeks and I think as at Friday the TCI submitted a comprehensive proposal to the FCU with the ultimate purpose of, hopefully, resolving that longstanding impasse between the two organisations over appropriate clerical structures - and we will then see how that marries against the graded structure we have placed in this award.

I would hope that we are able to just slip them in as part of the seven grade structure so we do not have to have separate divisions in the award. I think that should, to the greatest extent possible, cease to occur and that is certainly my intention. The two organisations - that is the TWU and the FCU - their preferred position is to withdraw from the award, as the commission is well familiar. Negotiations with the TWU over recent times, I think, will see a change in their position in that regard so far as this award is concerned. But I would be hopeful of coming back before the commission in the not too distant future and putting a proposal which will see them slip into the seven grade structure.

There have been a number of consequential changes which are required to the award as a result of this broadbanding exercise. The first - if I could take the commission in that regard to Exhibit TCI.4 and perhaps explain the methodology of the order, variation No. 1 is a consequential alteration required to the heading in the arrangement clause. We need to delete the reference there to division A and insert in lieu a reference to both division A and division A2. The second variation again is a consequential one where in the arrangement clause again there is a heading immediately before clause 9 - annual leave - which refers to division A - persons employed in the manufacture or repair of furniture. We have changed that to now read division A1 and division A2 class other than safety glass, which facilitates the change to which I have just referred.

We have then put a completely new clause 8 - wage rates - together, which embodies divisions A1, A2, division B - which is clerks - and division C - which is carters and drivers. The structure we see going in the award in division A1 is a simple straight line seven grade structure, comprised of a base rate, a supplementary payment and an award rate. I do

not know whether I mentioned on the record before, commissioner, so I will say it again now that the base rate shown for grades seven through to one is the ultimate base rate which will apply at the end of the day. So all future adjustments by way of minimum rate adjustment would be added to the supplementary payment.

COMMISSIONER WATLING: Should we be going from the lowest to the highest?

MR EDWARDS: I am relaxed which way we go. Mr Orange specifically asked that we structure it this way for the simple reason that the new additional classifications which will come in will be applied at the top of the structure - in other words, the next highest post-grade level will be grade 8.

COMMISSIONER WATLING: So you have to move them all down one rather than adding one on the bottom.

MR EDWARDS: If you added one to the bottom it would be more difficult than adding one to the top. It is easier to put an eight in than it is to put a new sub (i) in.

COMMISSIONER WATLING: I agree with that, but I am talking about where your grade 7 is should it be grade 1?

MR EDWARDS: Oh, just turning them over.

COMMISSIONER WATLING: Yes.

MR EDWARDS: I would be relaxed about that whether they were listed highest to lowest -

COMMISSIONER WATLING: Starting from the - and then work up to the top.

MR EDWARDS: - or lowest to highest.

MR ORANGE: I am relaxed also.

MR EDWARDS: I will invert them, commissioner.

COMMISSIONER WATLING: But certainly I agree with if you go from the bottom up to the tradesmen so you can keep -

MR ORANGE: Tiering.

COMMISSIONER WATLING: Yes, otherwise you end up with the problems the metals have got.

MR EDWARDS: That is what I am trying to avoid.

MR ORANGE: That is what we have both been trying to avoid here.

MR EDWARDS: With the clean copy of the order, commissioner, I will in fact invert those.

COMMISSIONER WATLING: Yes, right. How about the lead in now, given the position that we are going to insert.

MR EDWARDS: The lead in at the moment is adult employees should be paid wages in accordance with the following scale - the composition of each grade is contained in appendix A of this award. Now does that need further consequential change.

COMMISSIONER WATLING: Probably the second sentence, do you really need that now if you are going to put in a translation provision in the wages clause - I do not think you do.

MR EDWARDS: No, I think probably not, commissioner.

COMMISSIONER WATLING: So it will -

MR EDWARDS: The excess payment subclause would be deleted or sub provision - clause 2 - apprentices - was simply expressing the new rates for both junior and adult apprentices and I ask the commission to note that they are based on percentages of grade 5A. Unapprenticed juniors - we would suggest or request the commission, just on your copy of TCI.4, to delete (b) Excess Payment as it is no longer required, given the negotiations we have had this morning. Leading hand is a simple straightforward expression of the existing leading hand provision in the award and we would suggest the incorporation of a new subclause 5 titled - classification structure - translation schedule - which would pick up essentially the terminology contained in the Fibreglass and Plastics Award and would say something similar to this.

For the purposes of identifying an employee's new classification in accordance with the creation of the new broadbanded classification structure - there seems to be a typographical error there - then a reference through to appendix A and following on with that a proviso to the extend that employees who, prior to the first full pay period commencing on or after the 25th day of November 1991, who are in receipt of wage rates in excess of those herein prescribed shall not have their wage rate reduced as a result of the making of this award and the translation process.

And in fact we could then pick up the B as well out of the Fibreglass and Plastics Award. It says essentially that the parties shall cooperate in that translation process and any difficulties will be brought back to the commission. I will again supply that verbiage to the commission a little later in the day. Division A2 - glass other than safety glass - is a

direct take from the existing award. We have not interfered with it at all, believing that to be the - sorry there is one minor change. Classification No. 5 I have just inserted (i) and (ii) next to the utility worker classifications, so that they might be clearly identified which is necessary when one gets to calculating unapprenticed junior pay rates.

COMMISSIONER WATLING: I think we picked that up in the last award, did we not?

MR ORANGE: Yes - I was about to say I think -

MR EDWARDS: Yes, I do not think I did in my privately printed copy which is probably why I have done it now, commissioner. I do remember your associate rang me but I had already released my information. Division B - clerks - and Division C - carters and drivers - are faithful reproductions of the existing award provisions and I hope that will be an interim provision pending those negotiations to which I earlier referred.

COMMISSIONER WATLING: Right.

MR EDWARDS: There is then two further changes made to the award, which are on the back page of Exhibit TCI.4. The first is by deleting the existing Clause 32 - saving - and we have added a few words to the end of that particular clause and they being the words appearing after award in the second last line where we have said:

and/or the translation to the new classification structure.

to make it quite clear that there is no intention to reduce anyone's pay rate as a result of this exercise. And item No. 6 - operative date - which should obviously read 5.

COMMISSIONER WATLING: Will you still need that given -

MR EDWARDS: I will -

COMMISSIONER WATLING: How many times do you have to say in an award that things are saved?

MR EDWARDS: Before people see them?

COMMISSIONER WATLING: Yes.

MR EDWARDS: Probably a lot more than we already have, commissioner, judging by experience. There is an existing clause 32 in the award - saving - and I would see it staying there. In doing that I would suggest those changes.

COMMISSIONER WATLING: Point taken, yes.

MR EDWARDS: And I think ultimately the savings clause in the wage rates area will probably come out and I think it is probably as a safety net to make sure we have still got one. I would leave this one in and item No. 6 - operative date - which should read item No. 5 - I was probably a bit bleary eyed when I checked this this morning - simply indicates that the variation shall have operative effect from the beginning of the first full pay period to commence on or after the 25th of November 1991.

COMMISSIONER WATLING: Can I just take you to the thing of casuals - and I always get into some discussion with casuals because we do have, in a year, we probably have a number of discussions and debates about casuals and part-timers and full-timers - if we are doing something in this award could we not sort of put it beyond doubt that they were casuals. And we had to come to grips with this in the latest fishing industry award too, because a significant number of people were employed on a casual basis and when the dispute came around they then said, 'But I have worked every week for the last few weeks and therefore how can I be casual?'

In that industry we did come to grips with the thing by saying the employees are to get some piece of paper on or when they start recognising that they are casuals, so if there is any dispute over it then the pieces of paper can then be produced to say that the employees knew they were casuals, they were employed on that basis. But where it just says they shall not exceed eight weeks and be paid as such, there are a number of people out there that are paid as such but are not casuals. And I think if - the only real way to fix this issue is to say, right, when someone starts and they take on a job as a casual they sign to acknowledge that they have been taken on on a casual basis.

MR EDWARDS: I have got no conceptual problems at all with that, commissioner. What I would say is that we will take it on board. There is a substantial amount of rewriting to be done of this award, particularly the conditions and that will include definitions and I would see the definition of a casual ultimately going into clause 7 and I would see it would be appropriate to record exactly what you have just said at that time. But we would define a casual as someone who is engaged on a casual basis, however we might end up describing that and make it obligatory that there be some piece of paper produced

COMMISSIONER WATLING: Yes.

MR EDWARDS: - which clearly states that is the purpose.

COMMISSIONER WATLING: I think the new fishing industry thing they have gone a long way to try and solve this problem,

because they recognised it as well. And even with (b) it says here:

A casual employee shall be notified at the end of the day if his services

So is that at the end of each working day?

MR EDWARDS: Yes.

COMMISSIONER WATLING: So if they are working for an eight week period they get notified every day for eight weeks -

MR EDWARDS: Yes.

COMMISSIONER WATLING: Well how -

MR EDWARDS: If they are not required - not if they are - if they are not required.

COMMISSIONER WATLING: Yes, so someone could come up at any time during the eight week period and just say, 'You are not required'.

MR EDWARDS: You are not required tomorrow - that is the nature of casual employment.

COMMISSIONER WATLING: Well, it is and I want to say -

MR EDWARDS: The purpose of the eight weeks is not to guarantee eight weeks work - it is badly framed -

COMMISSIONER WATLING: No, I -

MR EDWARDS: The purpose of it is to say that is the maximum period for which you can engage someone as a casual.

COMMISSIONER WATLING: I think we might just go off the record and have a discussions about this because I am concerned.

OFF THE RECORD

COMMISSIONER WATLING: So that brings us to the conclusion of that - No. 5.

MR EDWARDS: Exhibit TCI.4 which should be No. 5 operative date and the parties are agreed that the operative date of the changes that we are putting forward today should be from the beginning of the first pay period to commence on or after the 25th of November - that is today's date. I would briefly like to return to Exhibit TCI.3, which is the flow chart,

commissioner, and just indicate that the parties have conferred on the question of minimum rates adjustments. We have put together there a schedule of minimum rate adjustments. You will note that there are only three MRAs rather than four, which is now allowable under the principles and that is consistent with the direction we have taken on this award federally. Whilst it increases the amount of minimum rate adjustment on each bite, I think it is important given the state of this award particularly the classification structure, that we move as quickly as we possibly can to the new structure. For that reason we have agreed to go to three minimum rate adjustments.

The increases that we are seeking to be incorporated into the award today by way of broadbanding, which is shown in the third column of that document, are not enormous increases per se - some of them are getting up there as it were - the highest being some \$9.80. We have sort to minimise that to the greatest extent possible. This industry, like many others, is feeling the pinch and we have been very conscious of taking that into account in putting together this process which has been available to the parties for some considerable time since the national wage case decision of about August 1989 in fact, I think.

I think the documentation, commissioner, is fairly clear and as I indicated earlier I will provide clean documentation which will take account of those changes we have discussed and agreed this morning. I believe the application is in accordance with the wage fixation principles and further does no damage whatever to the public interest criteria which you are required to examine in accordance with the Industrial Relations Act and we would ask that the award be varied in accordance with Exhibit TCI.4 as amended. Unless the commission requires any further clarification of the methodologies used by the parties in reaching the broadbanded levels or any other issue, I would ask the commission to vary the award in that manner, if it pleases the commission.

COMMISSIONER WATLING: Good, thank you, Mr Edwards. Mr Orange.

MR ORANGE: If the commission pleases. This document has been a document that has been produced by both parties in agreeance and the principle of bringing forward the minimum rate adjustments to the award. The TCI, Mr Edwards, has gone through quite thoroughly our combined document to the fullest. I do not believe that I have much more to say barring a few requests or statements seeking to find answers for dates for the commission for the future. The Furnishing Trades gives the commitment to not absorb broadband increases which is part of the process which I have been asked to do and will do.

The work done on this has been immense, many hours have been spent, many hours together and many hours privately going through it and checking and making certain that we were compliant. We have endeavoured as much as possible to get it as a clone or as close to the Federal award, seeking to have not a void or a gap between the two awards so that in the workplace disadvantage to from employer to employees in different environments is going to be minimised.

The first minimum rate date is in January - we would be seeking if possible a date from the commission late January and also for the glass section as was discussed in detail by Mr Edwards seeking a date in February early to mid February to do the process of withdrawing the glass section out of this award and creating the scope and enabling the process to go forward to have a State glass and glazing contractors award. Unless the commission has any further of me, I believe that the morning's effort by Mr Edwards and he is only echoing what the combined parties of ourselves have put together fully I believe that you have all the information at this stage and should be satisfied or could be satisfied that we have complied with the principles. I take my leave.

COMMISSIONER WATLING: Any thing further, Mr Edwards.

MR EDWARDS: Just the observations by Mr Orange in respect of the dates for the minimum rate adjustment process. The parties are agreed that we would like to process the first minimum rate adjustment in the latter part of January next year which would then set in train the minimum rate adjustment process being the first MRA in late January. The second therefore would fall in July and the third therefore in January the following year 1993. And I agree with Mr Orange it would be an appropriate time if we perhaps ask the commission if it were possible to book some time for next year.

COMMISSIONER WATLING: We will just go off the record.

OFF THE RECORD

COMMISSIONER WATLING: I can indicate to you that I accept that this is the first stage of a phased program to get to the third minimum rate adjustment and I have viewed this as being thva first stage and a broadbanding of classifications. To that extent I agree with the submissions presented by the parties this morning and I will hand down a written decision in due course but it will be in favour of this first phase and it will be in the form requested by the parties with the operative dates being the first full pay period on or after today, which is the agreed operative date.

So I thank you for your participation and just say to you that this application will be relisted to deal with the question of the first minimum rate adjustment and it will be relisted for hearing at 10.30 on the 23rd of January 1992. Thank you.

HEARING ADJOURNED