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TRANSCRIPT OF PROCEEDINGS

O/N 140254

TASMANIAN INDUSTRIAL COMMISSION

DEPUTY PRESIDENT T.J. ABEY

T No 13684 of 2010

TEACHING SERVICE (TASMANIAN PUBLIC SECTOR) AWARD

**Application pursuant to section 23(2)(b) of the
Industrial Relations Act 1984 lodged by the
Australian Education Union to vary the above
award re expense related allowances**

HOBART

9.30 AM, TUESDAY, 13 JULY 2010

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THE DEPUTY PRESIDENT: Thank you. Can I take appearances, please?

MR C. LANE: Thank you, Deputy President. My name is Chris Lane, I appear in
5 this matter – on both these matters – on behalf of the Australian Education Union,
Tasmanian Branch.

THE DEPUTY PRESIDENT: Thank you, Mr Lane.

MS D. CRESpan: Debbie Crespan appearing on behalf of the Minister
10 administering the State Service Act, and with me is KAREN GUNN.

THE DEPUTY PRESIDENT: Yes, thank you Ms Crespan.

MR T. KLEYN: And I'll put in an appearance as well, Deputy President. Tom
15 Kleyn, also appearing for the Minister administering the State Service Act in respect
to the Post Year 10 Teaching Staff Award.

THE DEPUTY PRESIDENT: Thank you, Mr Kleyn. Mr Lane, what can you tell
20 me about the – do you want to deal with them separately or together or - - -

MR LANE: They do have a different – slightly different outcomes and I'd probably
prefer to do them separately if I could.

THE DEPUTY PRESIDENT: Which one - - -
25

MR LANE: The Department of Education one, the Teaching Service (Tasmanian
Public Sector) Award first if we could, Deputy President.

THE DEPUTY PRESIDENT: Right. Okay. We'll deal with that one first.
30

MR LANE: Thank you, Deputy President. As can be seen from the attachment,
Deputy President, this matter is one that needs updating from five years ago - it is
that long since we have in fact changed the expense related allowances. All except,
35 in this particular case, the use of employees motor vehicles, which is worked out on a
slightly different formula and in fact does not need changing at this particular time
because of the fact that the formula does not show that an increase is warranted.

However, the increases that we are seeking or the allowances we're seeking increases
to, Deputy President, are in fact increases that are or allowances that are linked to the
40 CPI and as you can see in our application, or the attachment to it, the last time this
was increased was in line with CPI figures for March 2005. These allowances are
able to be varied every six months in line with the CPI for March and the CPI figures
for September. What we are seeking, Deputy President, is to increase them in line
with the increase in the CPI from March 2005 to March 2010.

45 On the second page of our application you can see that over that period of time the
increase to the CPI figures has been 15.93 per cent according to the ABS, and that's

agreed to by the Department of Education, and so we're seeking to increase a range of allowances by that particular amount. I must seek leave actually, Deputy President, to just make some slight variations to the increased amounts in the document and I undertake that at the end of the hearing, if you approve the increases,
5 I will send in electronic form to your associate, the changes so that an order can be quickly prepared.

If we go to the first page of the actual allowances, which is page 3 of the document, you will see there the district allowances. I wish to change the following ones:
10 where the first figure of 1772 comes up, I want to change that to 1771; and below that, again, 1771 instead of 1772; then where it's got 888 I want to change that to 889; and again, below that, 889; and where it says 443 I want to change that to 449. They are agreed with by the department. In fact, they were the ones who asked me to make those variations. Can I also go to the next page, Deputy President, to the
15 proviso which is paragraph B near the top of the page?

THE DEPUTY PRESIDENT: Yes.

MR LANE: It should read:
20

An employee –

and then the following words should be there –

25 *with the approval of the employer –*

Should be inserted there, and as I say, I'll make those changes and send them. And there is one further change - because I was doing both these applications at the same time I got mixed up – if we go to page 6, Deputy President, where at the top of the
30 page there is a proviso which reads or begins with:

Provided that a teacher employed in a secondary college -

That proviso should be deleted. It's actually a proviso from the Post Year 10 Award,
35 and should not be in this particular document. So with those changes in mind, which I'll send to your associate, the other changes that we're seeking are fairly clear with the district allowance, and then we're asking for the first paid allowance to be increased – I think it's about 613 at the moment, but we're asking to go to 625, which is in line with the allowances that are paid to other people in schools who
40 undertake first-aid duties. Then there is a camp allowance which we're asking to be increased on page 5, followed by the meal allowances, which we also seek to increase. The training course and conference allowance is the next one.

And then the last one is the living away from home allowances which are divided
45 into: within Tasmania; outside Tasmania; and Sydney. The very last one actually is on page 11, which is an allowance when travelling, and everything is paid for – that is accommodation and meals – you're entitled to a daily allowance of within the

state of \$18.15 and outside the state of \$25.50 a day. They're the nature of the changes that we would like, Deputy President, and as far as we're aware they do no damage to the wage fixing principles and we would suggest that it's in line with the public interest that these allowances be increased so that they maintain their relative value. If the commission pleases.

5
THE DEPUTY PRESIDENT: Thank you, Mr Lane. Can I just take you to clause 2(a) - that's the Bass Strait Island one - and the wording of that. I know it's the same as it currently is but it seems to me a little ambiguous and there's either an "and" missing or an "or" missing, I suspect, after "herself". Should there be an "and" there, or an "or"?

MR LANE: Well perhaps the word "for" should be "or".

15 THE DEPUTY PRESIDENT: In your mind, what is the intent of this clause? Is it three return trips for the individual plus each member of the family, or is it a total of three trips?

MR LANE: It would be our view that it's three trips for each member of the family.

20 THE DEPUTY PRESIDENT: Yes. The reason I've got an interest in this - it was subject to a dispute in the key public sector award and it actually went to - - -

MR LANE: Perhaps it should read "and any dependent member", yes.

25 THE DEPUTY PRESIDENT: That's what I would have thought, I'd be interested in the employer's view on that, because it went to appeal and it turned on and/or, but this has got neither.

30 MR LANE: No.

THE DEPUTY PRESIDENT: And it just - to me reading it, looking at it, it just doesn't read very elegantly.

35 MR LANE: You're quite right, it doesn't.

THE DEPUTY PRESIDENT: Ms Crespan, what's your position?

MS CRESPAN: In relation to the Bass Strait?

40 THE DEPUTY PRESIDENT: Well, both. The application, and the Bass Strait.

MS CRESPAN: Okay. We've had a chance to review the application in relation to updating the rates and we're in agreeance with the 15.93 per cent and we endorse the AEU's request to have that apply to the associated allowances in the teaching award. We also give support to the application to increase both the first-aid allowance and

the required use of employees motor vehicle allowance, which will bring these rates into line with Tasmanian State Service Award employees.

5 In relation to Bass Strait, we have been working with the AEU on some variations for a length of time and this has been one of the variations we've been working on. We were proposing to change that to "or", with the intent that it was three for both the employee and their family members, which is what happens in practice.

10 THE DEPUTY PRESIDENT: Well – right. Unless there's agreement I'll leave it unchanged and you can sort it out between yourselves.

MS CRESPAN: We are working on some further variations to bring to the commission and that is one of the changes we were having, that - - -

15 THE DEPUTY PRESIDENT: Yes. Okay. All right. Perhaps I shouldn't have raised it and – I'll leave it to the parties to sort that out and we'll just leave it unchanged at the moment.

20 MS CRESPAN: Okay.

MR LANE: We'll be pushing for "and".

THE DEPUTY PRESIDENT: Yes. Thank you, Ms Crespan, anything further?

25 MS CRESPAN: Just in closing, we believe the application is consistent with the principles of the commission and does not offend the requirements of the Act relating to public interest.

30 THE DEPUTY PRESIDENT: Thank you.

MS CRESPAN: Thank you.

35 THE DEPUTY PRESIDENT: Yes. Mr Kleyn – I know, you're not appearing in this one.

MR KLEYN: No.

40 THE DEPUTY PRESIDENT: No. So that's it? Okay. Is the operative date today, Mr Lane?

MR LANE: If the commission pleases, yes, thank you, Deputy President, sorry.

45 THE DEPUTY PRESIDENT: Well, having heard the parties, I'm satisfied that the application is consistent with the requirements of the Act. The application will be granted and will apply from the beginning of the first pay period to commence on or

after today, which is 13 July, a formal decision to that effect will be issued in the next few days.

5 MATTER ADJOURNED at 9.45 am INDEFINITELY