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TRANSCRIPT OF PROCEEDINGS

O/N 168381

TASMANIAN INDUSTRIAL COMMISSION

MR J.P. McALPINE, Commissioner

No. T13782 of 2011

**MINISTER ADMINISTERING THE
STATE SERVICE ACT**

and

**COMMUNITY AND PUBLIC SECTOR
UNION**

**Re: Aware variation – Tasmanian State Service
National Training Wage Award**

HOBART

9.30 AM, WEDNESDAY, 22 JUNE 2011

THE COMMISSIONER: Can I have appearances, please.

5 MR K. GREY: If the commission pleases, Kerryl Gray representing the Minister Administering the State Service Act (2000).

THE COMMISSIONER: Thank you.

10 MR M. JOHNSTON: If the commission pleases, Matt Johnston appearing on behalf of the Community and Public Sector Union, State Public Services Federation of Tasmania Inc. and also by way of written authority from Tim Jacobsen, assistant state secretary of the Health Services Union of Australia Tasmanian number 1 branch.

15 THE COMMISSIONER: Thank you.

MR JOHNSTON: Thank you.

20 THE COMMISSIONER: All right, Mr Grey, over to you.

MR GREY: Thank you, Commissioner. This application is, as you know, to vary the Tasmanian State Service National Training Wage Award. It was last varied by T13471/2009 with an operative date of the first full pay period on or after 1 August 2009. The rates then were adjusted according to the increase in the State minimum wage rate to then \$558.10 per week. There has been no adjustment since that time. Mr Commissioner, T13680/2010 determined the State minimum wage rate as \$569.90 per week with an operative date of the first full pay period on or after 1 October 2010.

30 For reasons that are somewhat mysterious, no relevant adjustment has been made to the Tasmanian State Service National Training Wage Award, or the wage-related allowances since that time, but it's a matter that is being addressed as for this award now and for the other allowances soon. This application seeks to redress the oversight and to increase the wage rates according to the draft order of appendix A of the application. Now, Mr Commissioner, in T13680/2010 you adjusted the State minimum wage. The Full Bench at paragraph 10 said, and I quote:

40 *We agree with the position adopted by the parties that there are good reasons why the Tasmanian minimum wage should now be aligned with that determined by the Fair Work Australia Panel.*

Because of that alignment, Commissioner, the Minister submits that it's consistent for the Tasmanian State Service National Training Wage Award to be varied in accordance with the principal award in the Fair Work Australia jurisdiction that governs the rates of trainees and apprentices among other things. That award is the Manufacturing and Associated Industries and Occupations Award (2010).
45 Commissioner, I bring a number of documents from that award to tender to the bench

and to the parties to demonstrate why the increases sought by this application mirror those of that principle award.

5 THE COMMISSIONER: Thank you. Are you going to address these separately?

MR GREY: I thought I would hand them as one, but if you need them separately - - -

10 THE COMMISSIONER: Well, hand them up once, but as you address them I will number them as you address them, I think, make it so I can follow it. I'm a bit slow. Okay. Which one are you going to - - -

MR GREY: The first one, Commissioner, is the Fair Work Australia determination.

15 THE COMMISSIONER: Okay. So we will call this A1.

EXHIBIT #A1 FAIR WORK AUSTRALIA DETERMINATION

20 THE COMMISSIONER: Okay. Fire away.

MR GREY: Now, Commissioner, on page 1 of A1 it shows that the determination was the outcome of the annual wage review conducted in accordance with
25 section 285 of the Fair Work Act (2009) by the minimum wage panel. The wage – minimum wage adjustment is that of a classification C14, \$569.90 at the top of that page. If we turn, Commissioner, to page 3, paragraph D5, minimum wages, D5.1, Minimum Wages and Full-Time apprenticeships, subparagraph (a), Wage Level A, are the minimum wages for full-time traineeships, for traineeships conducted under
30 certain industry sectors. The next exhibit, Commissioner, if I could take you to that - - -

THE COMMISSIONER: So this is appendix D1?

35 MR GREY: Yes.

THE COMMISSIONER: So we will call this A2. Okay.

40 EXHIBIT #A2 APPENDIX D1

MR GREY: Thank you. If we look, Commissioner, at D1, the allocation of traineeships to wage level and turn to page 2 of that exhibit, page - - -
45

THE COMMISSIONER: It's on page 120.

MR GREY: Sorry, page 120, halfway down the page on the left-hand side under Training Packages, public sector aligned to AQF certificate II and III. Now, this – these tables align the industry title sector matched to particular AQF certificate level qualifications, so that trainees in the Tasmanian state sector who undertake public
5 sector training packages are paid wages under accordance with wage level A consistent with this determination. So that if we turn to page – if we go back to the original exhibit A1, to page 3, we can see under wage level A, the rates of pay there according to year 10, 11 and 12 schooling, whether you’re a school leaver and the years out of school, exactly mirror the wage rates of determination in exhibit A1. So
10 the Minister submits that the Tasmanian State Service National Training Wage Award be varied according to appendix A of the Minister’s application, and we further submit that granting this application is consistent with the public interest provisions of section 36 of the Industrial Relations Act (1984). Thank you, Commissioner.

15 THE COMMISSIONER: Sorry, effective from?

MR GREY: The first full pay period on or after – it should be consistent with the previous one, which is 1 August I believe. Although, Commissioner, we have got a
20 slight dilemma here. Because this is a retrospective adjustment, and we anticipate lodging another application as soon as the statement and wage case is adjusted again, so perhaps we could make this adjustment effective from the first full pay period on or after today, because we will have another adjustment within, hopefully, the first four to six weeks.

25 THE COMMISSIONER: So this isn’t going to back to last year?

MR GREY: There are probably two or three employees at the most affected by this.

30 THE COMMISSIONER: My - - -

MR GREY: Yes, well, Commissioner, if you would see fit to do that, that would be appropriate. No one - - -

35 THE COMMISSIONER: Well, I just feel it should really follow where this stopped.

MR GREY: Good. Yes, I agree. I agree.

40 THE COMMISSIONER: If you’re comfortable with that, I would be more keen to do that, I think.

MR GREY: I am comfortable with that.

45 THE COMMISSIONER: Date of operation, 1 August 2009, so I will make it 1 August 2010.

MR GREY: Yes, Commissioner.

THE COMMISSIONER: You're all right with that?

5 MR GREY: Yes.

THE COMMISSIONER: Okay. 1.8.10. All right. And then you will be back in about a month's time to – no, that's fine, I mean it's essential. We need to keep up to date.

10

MR GREY: Yes. There are quite a few matters over a number of years in different awards and different allowances, for example, that for a variety of reasons haven't been adjusted.

15 THE COMMISSIONER: Allowances are a wee bit different, but the wages are - - -

MR GREY: Yes, it is. But they flow from similar decisions.

THE COMMISSIONER: Certainly, yes. Okay.

20

MR GREY: Thank you.

THE COMMISSIONER: Mr Johnston.

25 MR JOHNSTON: Thank you, Commissioner. I can signal that the union parties that I represent consent and commend the amendment to the commission, and also believe it doesn't offend against the public interest. I would suggest that in order to discuss between the parties and gain genuine consent and discuss matters like the operative date, it would be beneficial for the applicant in this particular instance to
30 make contact to seek consent, discuss the issue prior to making application to the commission for registration. It just would lead us to perhaps deal more fully with some of the matters prior to coming before you.

THE COMMISSIONER: Sure. You don't have a problem with that?

35

MR GREY: No, Commissioner, not at all.

THE COMMISSIONER: All right. Okay, look, I'm comfortable to approve this, so – and it doesn't offend public interest, so by agreement with both parties, then, it's
40 from the first full pay period on or after 1 August 2010. Comfortable?

MR GREY: Yes.

MR JOHNSTON: Yes, Commissioner.

45

THE COMMISSIONER: I will adjourn.

MATTER ADJOURNED INDEFINITELY

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