



TRANSCRIPT OF PROCEEDINGS  
*Fair Work Act 2009*

**JUSTICE HATCHER, PRESIDENT  
DEPUTY PRESIDENT HAMPTON  
COMMISSIONER DURHAM**

**C2019/5259**

**s.157 - FWC may vary etc. modern awards if necessary to achieve modern awards  
objective**

**Review of C14 and C13 rates in modern awards  
(C2019/5259)**

**Sydney**

**10.04 AM, TUESDAY, 19 DECEMBER 2023**

**Continued from 18/12/2023**

PN725

JUSTICE HATCHER: I will take appearances. Mr Buckley, you appear for the Australian Meat Industry Union?

PN726

MR C BUCKLEY: Yes, your Honour.

PN727

JUSTICE HATCHER: Australasian Meat Industry Employees' Union, I'm sorry. Yes.

PN728

MR BUCKLEY: Yes, that's correct.

PN729

JUSTICE HATCHER: And, Mr Herbert, you appear for the Australian Meat Industry Council?

PN730

MR A HERBERT: I do thank you, your Honour.

PN731

JUSTICE HATCHER: All right. Is the plan to call Mr Smith as the first witness?

PN732

MR BUCKLEY: Yes, your Honour.

PN733

JUSTICE HATCHER: All right, let's get him sworn in.

**<JUSTIN SMITH, AFFIRMED** [10.05 AM]

**EXAMINATION-IN-CHIEF BY MR BUCKLEY** [10.05 AM]

PN734

JUSTICE HATCHER: Sorry, go ahead, Mr Buckley.

PN735

MR HERBERT: Your Honour, I have no video of Mr Smith. Am I alone in that regard?

PN736

JUSTICE HATCHER: All right. We will just see what the problem is.

PN737

MR BUCKLEY: I have video of Mr Smith.

PN738

MR HERBERT: I have corrected the problem, thank you, your Honour.

\*\*\* JUSTIN SMITH

XN MR BUCKLEY

PN739

JUSTICE HATCHER: All right. You go ahead, Mr Buckley.

PN740

MR BUCKLEY: Yes. Mr Smith, you've prepared a witness statement for the purpose of these proceedings?---Yes, I have.

PN741

Is that a witness statement some three pages in length?---Yes, it is.

PN742

Consisting of 12 paragraphs, signed and dated by you on 9 November 2023?---That's correct.

PN743

Are there any corrections that you need to make to your statement?---No, I don't believe so.

PN744

All right. Are you prepared to affirm that the contents of your statement are true and correct?---Yes, I am prepared to affirm it.

PN745

Yes. I would ask that that statement be admitted, your Honour.

PN746

JUSTICE HATCHER: All right.

**EXHIBIT #AMIEU1 WITNESS STATEMENT OF JUSTIN SMITH  
DATED 09/11/2023**

PN747

MR BUCKLEY: That's the evidence of Mr Smith.

PN748

JUSTICE HATCHER: Yes, thank you. Mr Herbert?

**CROSS-EXAMINATION BY MR HERBERT**

**[10.07 AM]**

PN749

MR HERBERT: Thank you. Mr Smith, you left the Wingham Abattoir after about eight years employment, or nine years employment in 2008; is that right?---That's correct.

PN750

And when you were there your principal job for most of those nine years was on the slaughter floor?---Wholly and solely on the slaughter floor apart from a couple of days in other departments, because there was no work. Yes.

\*\*\* JUSTIN SMITH

XXN MR HERBERT

PN751

And the slaughter floor in a meat processing plant is there would only ever be potentially one Newstart employee ever engaged on the slaughter floor; would that be right?---I wouldn't agree with that, no. There'd be many - - -

PN752

That's a neutral industry new start employee I'm talking about. Somebody who has no experience in the industry would not be started on the slaughter floor in the ordinary course of things, would they?---I'm trying to understand your question. If you're saying that there'd be only one started per day I would disagree with that. They would start people, different amounts of people at different times. Every week could be different. You could have 10 people walk through the slaughter floor in a day, and they may last five minutes or they may last 10 years.

PN753

My question - it's probably my fault, Mr Smith - my question was if you had a starter, it was a new starter, new to the industry, came to work at a processing plant like Wingham, they would not be started at their first job on the slaughter floor, would they?---They started - yes, they would. Not on the first - well, it's a hard question to answer. Are you talking about right now or are you talking about my time when I was there?

PN754

We should talk about the current situation. If you are current with that, Mr Smith, that's not something that would happen, is it?---No, generally they go for an induction on their first day.

PN755

And generally because the slaughter floor can be a very dangerous and busy place, and a new starter who's never had work in the meat industry before would be given a lot of other training type tasks before they were allowed to walk on to the slaughter floor; isn't that right?---Work on the slaughter floor to start work, yes, they'd be given some training before they actually started in that area.

PN756

Yes. The training they would be given would be training - well, you referred to one - in paragraph 5 of your statement you referred to the wide range of training that is provided to new starters in the industry, and if I say new starters we can always assume that I'm talking about a new starter in the industry, Mr Smith, for the purposes of this questioning. A new starter in the industry would be trained at the commencement of their employment in the wide variety of tasks that you've referred to in paragraph 5 of your statement?---When I look at paragraph 5 I actually pick out certain jobs or tasks that new starters could do as a first job on the slaughter floor.

\*\*\* JUSTIN SMITH

XXN MR HERBERT

PN757

Yes?---When they first start in the industry their training is generally around safety and hygiene and about safety protocols, and their actual training on jobs don't start till they actually enter the slaughter floor, and on that first day in

entering the slaughter floor they would be given a job. They don't learn a variety of jobs. They typically learn one job on the first day.

PN758

Yes. And on the first day they're started off on one job, and it might be a job such as you've mentioned there of making boxes or cartons?---That's correct.

PN759

And that doesn't happen on the slaughter floor, does it?---Making boxes or cartons, yes, it could happen in the offal room, which is - - -

PN760

In the offal room?---Which is a section of the slaughter floor.

PN761

And that's what happens at Wingham, but other plants there are separate rooms for box making, and that box making occurs in other places other than the slaughter floor; isn't that so?---Yes. Some sites have box rooms, what they call box rooms. That is separate, and that can supply the boner room or the (indistinct) floor, yes.

PN762

Now, the making of boxes, they don't literally make a box. What they do is they get the flat pack boxes that arrive in pallets and they are sort of structured into a cube by folding them in a way that they're directed to do; isn't that right?---That's correct.

PN763

That's not a job which is - are you familiar with the terms of the MI3 classification in the award?---Not 100 per cent.

PN764

No?---Not 100 per cent, no.

PN765

I will shorten the question, Mr Smith, by saying that making boxes is not a task that is found in MI3?---I can't answer that because I don't really know.

PN766

All right. We will deal with that later then.

PN767

JUSTICE HATCHER: Mr Herbert, I'm not getting clear on the acronyms. What was the acronym you just used?

PN768

MR HERBERT: MI3. That's the Meat Industry 3, at level 3 in the classification scale.

PN769

JUSTICE HATCHER: Yes, all right. Thank you.

PN770

MR HERBERT: The starter rate, your Honour, the acronym is MI1, and they're referred to in the submissions by their acronyms I think. Well, on the first day there would be, you would expect - and we're talking very generally here - but on the first day from the evidence we've seen from yourself and Mr Cooper and your other colleagues, that there would be two days, sometimes more of induction and induction training and familiarity with the rules and regulations on hygiene standards and everything else in that nature; is that right?---That's correct, yes.

PN771

And I think on your evidence it's two or three days you mentioned in - two days or even more you mentioned in paragraph 6; is that right?---Yes, from my experience different sites do it differently, but, yes, it can be one day or two days. Sometimes they may take a week to do a proper induction. It does depend on the site, but also the need to have people on the floor, because they need workers inside.

PN772

Yes. What you call a proper induction that would take a week would be one you would find in some of the larger, more complicated plants where they have more complex systems, equipment and machinery and safety issues and things of that kind. Would that be right?---I'd say it'd be more of a site that's willing to invest in a proper induction program, not a site that has more unique operating equipment. It'd be more a company who wishes to invest in a proper induction.

PN773

By induction you mean that they instruct the employees more thoroughly than some other places might do in relation to issues of safety, work safety, food safety, all that sort of thing; is that right?---Correct.

PN774

And that can take in your experience up to a week?---It can take up to a week, yes.

PN775

Yes. All right. And that is considered in your experience - well, whether it is or it isn't will probably be a matter for the Commission to determine - but that's generally considered to be work for which they're paid?---Yes. My experience is they get paid for that induction process.

PN776

Yes, all right. And it's part of their training, isn't it?---Part of their training, yes.

PN777

Now, you say that on the first day, that you didn't mean literally as I understand it the first day, but on their first day after the induction is finished they're usually taken around to a place where they're going to get their first work task, is that right, as opposed to induction?---Yes.

PN778

And we're talking very generally here, because you haven't identified any particular individual here, we're talking in very general terms, and in general terms that work task would be something generally speaking one of the less complicated more repetitive easier tasks?---Yes.

PN779

And that would be because a new entrant to the industry may not be, to use a sporting analogy, match fit. They may not have the physical fitness to be able to step up to the sort of work that you were doing when you left the industry; that is as a slaughterman?---Obviously, yes, obviously some of the jobs you need more match fitness than what you do any kind of skill. It's more match fitness. But, yes, that's definitely a correct statement.

PN780

So they have to acquire - they have to soak up all of the material that they have been provided for in the induction and keep it in their mind, and then immediately thereafter they have to apply themselves to a work task for which they may be more or less fit enough or smart enough or adaptable enough to be able to get on with performing that task; is that right?---That would be correct. It would depend on what the task is. Obviously some tasks are very mundane, they're quite simple to achieve, so you don't need any kind of skill or (indistinct).

PN781

Yes. You have referred to those jobs in paragraph 5, and again we come back to the making boxes or cartons. That's a pretty simple task, isn't it?---Yes, it is.

PN782

And once you've mastered that maybe in a few hours or, you know, depending on your spatial awareness, once you've mastered that task then you would be in a position generally speaking where an employee would be allowed to perform or be required to perform that task for a period of days or weeks to get themselves completely familiar with that and to get themselves into a routine of the plant or the room?---I think they'd be expected to keep up pretty much straight away. Once they've mastered it, and it may take them half a day to master making that box, they would be required to perform that task by themselves for the rest of the day. And then if they're put there again the following day they'd be required to just do it straight away.

PN783

All right. Now, that person, if they became the master box maker in that (indistinct) they wouldn't then be put out and doing production jobs, would they?---Well, no, that - no, they wouldn't be. It would depend on the requirements throughout the day where things are needed, because that would be a task that other people could probably fill if they're on light duties or what not, and they would be moved, they could be easily moved on other jobs once they've showed a bit of initiative.

PN784

Box making is one of those light duty tasks that they like to keep around for people who are on return to work programs and things like that?---When they can, yes. It's one of those tasks that they may give them, yes.

PN785

Yes. So this person that I've referred to as the master box maker, in their first couple of days there after they have mastered this task they then in order to be able to be safely allocated to another area of the plant to do another job they would need to be trained in that other job, wouldn't they?---Yes.

PN786

And if that job is more complex, requires a bit more fitness or a bit more effort, a bit more supervision, that might take a week or two for them to become the master skirt puller for example, to master the whole concept of skirt pulling, that might take a week for them to be able to do; would that be right?---Yes, it depends on the job. It depends on their job.

PN787

Absolutely. Mr Smith, I'm not arguing with that. It entirely depends on the complexity of the job; is that right?---That's correct.

PN788

The amount of effort, physical effort that's required by the worker?---Yes.

PN789

The aptitude of the worker to get their head around this entirely new career that they've just embarked on?---Correct.

PN790

Whether or not they speak English?---That can be a big one in our industry, there is no doubt, and whether the companies provide work instruction in the correct language.

PN791

Yes, that's right, and as you will be aware from your experience that is a very big issue in the meat industry now, because there's a very high proportion of overseas workers, both skilled and unskilled?---Correct.

PN792

And if they have no English or insufficient English to be able to be safely communicated with about safety and other issues, essentially every word of their instruction would have to be filtered through a translator, wouldn't it?---You're going to open up a box of worms here if you start asking those type of questions, because my opinion on that is the fact that a lot of times these overseas workers with very little English are shown by their company representative, and it's pretty much just grunts and hollers and do this, do that. They don't care if they haven't got it written in their language, and they don't care if they don't have an interpreter. They just expect these people to pick it up in a timely manner. That's why we have so many injuries amongst overseas workers.

PN793



Thank you for that, Mr Smith. But if we're talking about a situation of a conscientious employer who is doing things correctly every word would have to be double and triple handled, if I may use that expression, in order to explain to the worker what needs to be done, and explain to the interpreter what needs to be done, and the interpreter explain to the worker, and then any feedback coming back by the same path. That is how it works, isn't it?---It definitely could take - make the training longer, yes.

PN794

And (indistinct) quite a long period, but if the worker comes from a country that does not have some of the cultural awareness that we might take for granted, but which they don't have that, no experience in an industrial undertaking like a meat processing plant, and they've got to have a lot of very basic concepts explained to them that native born Australians might not need to have explained to them. That's right too, isn't it?---That could be correct, yes.

PN795

Yes. So if the worker is in that space then the period to explain and get the worker up to speed could be double or treble what it might be to somebody who's not in that situation so far as their language?---I wouldn't know how long it would take. It just would add to the time it would take for sure.

PN796

Yes. Then of course there's a question of whether the worker has enthusiasm shall I say for the work, or whether they're simply there to do the least amount of work for the most amount of money. So in that situation that's another variable that might add to the time taken to get them up to speed with a particular task?---It's a variable. I wouldn't want to try and comment, because I don't know the individuals you're talking about.

PN797

No. Again we're talking in very general terms. So our hypothetical employee who became a master box maker, and then to say that he's able to be moved to a productive position he's then taught a production job such as pulling skirts, but that's only one. It would be necessary for him to be trained in that skirts job. He would then need presumably to be moved over for example like Mr Cooper to learn how to operate a Whizard knife?---To pull skirts, to pull thick skirts?

PN798

No. After he's mastered the pulling of the skirts or become signed off as competent pulling skirts, then he would - for example the next step might be to move him over like Mr Cooper was, moved over to train in the Whizard knife as another skillset?---That could be something he'd learn, yes, definitely if he has the attitude for it.

\*\*\* JUSTIN SMITH

XXN MR HERBERT

PN799

Yes. Can I say without being unnecessarily repetitive, Mr Smith, the learning goes on until the employees are in a position where they've got enough skills that they can be safely put out, safely put on the plant, that is food safe and personal

safe, to put out in the productions areas and do the range of jobs necessary to be able to allow the plant to operate and accommodate absences and things of that kind. That's generally how the system works, isn't it?---Training goes on, but I would suggest that unfortunately in our industry new starters are taught one or two tasks in their first period and they're left on that task because they're filling the hole that they need filled. The learning doesn't really go on that much unless they've got enough people employed, but it's an ongoing skill. It's ongoing training. As in any industry training has got to go on to keep the place going.

PN800

So again, Mr Smith, because we're talking in very general terms, because this award applies to a vast variety of businesses, if we assume that the employer is a conscientious employer running a respectable business, then you talked about new starters getting one or two and then maybe the training might trail off because the employer doesn't need any other skills. But equally it could be the case that an employer who has a shortage of employees with the rest of the sorts of skills that might be taught at this basic level would train that employee up on three, four, five different skills before sending them out into a production area; isn't that right?---They don't train them on three or five skills and send them out to a production area. They're sent out in the production area and that's where they're learning their skills.

PN801

Yes, I'm sorry - - -?---You don't learn it in a training room off site. You go onto the kill floor and you are learning that skill. As you learn that job and once you've got that job the person walks away from you and you are on your own. It's a sick horse mentality.

PN802

Yes. Mr Smith, that was my error, they are training to learn those new skills out on the floor, but they might be training to learn three or four or five before the last instructor walks away, signs them off and walks away and says, 'You're on your own', in terms of the work that they do. So that training does not stop at the first task or the second task, I suggest to you, it goes on to the third, fourth and fifth task, depending on the requirements of that employer's business. Isn't that right?---Obviously the training would continue where they need people to be learning the jobs, yes.

PN803

Yes. And that's the background that supports the provision in the award at the moment in relation to new starters, that the training period in effect of a person's undergoing on the job training, there's a period of three months specified as being a minimum period in the current award, is there not?---Yes, I believe so, three months, yes.

\*\*\* JUSTIN SMITH

XXN MR HERBERT

PN804

And that's a period which (indistinct) to extrapolate out the periods that you've referred in your statement as the first simple job might take after a week or two. The next one might be more complicated. Well, that might be maybe two or

three weeks. And then the third one might be three weeks or four weeks and so on. It wouldn't take long to get to three months, would it, of training, if your hypothetical employee proceeded in that way, would it?---A hypothetical workplace would continue that way, but my experience for me is that they get called a job, and then they're on that job left alone and it could be 12 months before they revisit again and learn another job. It depends on the requirement of the site.

PN805

Yes. You might have seen a site that does that. Mr Smith, I can't challenge you on any of that, but what I'm suggesting to you is in the ordinary course a responsible employer who has a proper need for these employees and who respects the necessity for training and safety, it would not be difficult at all for them to engage an employee in three months on the job training so as to give them the number of skills that that employer needs out of the production area, or as being done by a properly trained employee. Three months would not be a difficult period to reach, would it?---No, I don't believe so.

PN806

And equally if you've got - if you add to the mix slow workers, workers who don't speak English, as we've mentioned before, workers with a low motivation, low aptitude, et cetera, difficulty finding trainers who are competent, shortage of staff generally so that there aren't enough to allocate to training and supervision, it wouldn't be difficult for that three months to turn into six months, would it?---If the employer - like the majority of employers that I have dealt with don't apply themselves well enough to the training I would suggest it could blow out to six months, but my experience is that people are put on a job, they learn it, and they're put on and they're expected to do it in a very short time period, and then they move on to another job some time later on. And that would probably constitute the fact that they've got industry experience. My experience is new starters come into our industry, regardless of they're a good employer or not a good employer, and the demands and the fact that they need people on the chain to keep that chain moving means that training is held in a very short time period, and then they're expected to keep up. No matter their match fitness they're expected to keep up and do the job as best as they can.

PN807

Yes. Thank you, Mr Smith. Your experience extends to Newcastle and northern district of New South Wales; is that right?---I am the state secretary to the Newcastle and Northern Branch, Tasmanian Branch as well, and I currently am looking after the South Australian Branch as well.

PN808

Do you have working experience in plants outside the Newcastle and northern district of New South Wales?---I only held a knife at Wingham Beef.

PN809

All right. And what about for example the very large sheep plants in South Australia and Victoria, have you had any experience in those, any firsthand experience as the way the training is organised there?---I've only been inside a mutton shed in Tamworth, Northern New South Wales.

PN810

So you don't know how the training is organised in those very large sheep plants I referred to in Victoria and South Australia?---No.

PN811

And what about in Tasmania - well, you say you've only been to the one mutton plant at Tamworth; is that right?---Yes.

PN812

And did you pay any particular regard to how the training is organised there?---A little bit of regard to it. It's been a while since I've been there, but I paid a little bit of attention to it.

PN813

Yes?---I've seen the result of poor training in that plant.

PN814

Yes, all right. And Western Australia for example, there's very large beef plants in Western Australia. Do you know how they organise their business in terms of training?---No. I've been to some plants in Western Australia, but I have not had a look at their training, no.

PN815

And finally, Mr Smith, when you worked in Wingham did they have an enterprise agreement in force back in your day?---Yes.

PN816

For the whole of the period?---Yes.

PN817

Now, we have asked for you to be provided with a copy. Could I ask your Honour did the Bench get copies of the Wingham Agreement that we - - -

PN818

JUSTICE HATCHER: Yes, we did.

PN819

MR HERBERT: Thank you, your Honour. We're having extraordinary difficulty - I should explain, that's the 2019 agreement. Your Honour might have more success in finding - we think there's a more recent current agreement, but that's the most recent one that we could scrape off the internet, and I apologise for that. But it serves the purpose that I was to deal with. Can you look, Mr Smith, at paragraph 17?---Yes, just finding it.

PN820

I understand this wasn't in force in your time as a worker there, but it has been in force since that time when you've been the state secretary. You see that clause there?---Yes.

PN821

Is the union a signatory to this for the Wingham Agreement?---Yes, it was.

PN822

Are you personally familiar with that scheme for new employees, or is that - - - ?---Yes.

PN823

And you see that's a scheme where:

PN824

*New employees (other than pieceworkers) will be engaged as regular daily employees and placed on New Starters' rates (Grade A6).*

PN825

?---Yes.

PN826

And:

PN827

*Monthly probation reviews will be conducted by management to assess the new employee's suitability to progress to a higher labourer wage classification.*

PN828

Is that a scheme - you can perhaps assist us, Mr Smith - is that a similar scheme to the one that was in force when you were working at the plant?---Yes.

PN829

So that scheme really has very little similarity to the award arrangement, does it, in terms of the definition of - or the material that relates to a new industry starter under the award. That's quite a different, scheme, isn't it, that involves monthly reviews for the purposes of promotion, et cetera?---Yes.

PN830

That scheme there would presumably - the employer has agreed to avoid the problem that you talked about, or to remedy the problem you talked about, about leaving an employee hanging after they've done a job, et cetera. They're just hanging on the low rate, but not being trained. That might help assist with that, with the monthly reviews, et cetera?---What it does there it gives the opportunity to the on site delegates to bring up the fact that someone hasn't been reviewed.

PN831

Yes?---(Indistinct) what happens there. It gives the delegates on site - that is not an automatic kicker, because that is just the rule book that we're meant to work to. It doesn't mean the company work to it, it means it gives the delegates on site the ability to enforce it if it's not happening.

\*\*\* JUSTIN SMITH

XXN MR HERBERT

PN832

Yes. But the arrangements there have really no relationship to the arrangements, the arrangements that you say have been in place for a very long time, have very little relationship to the award arrangements; would that be right?---I haven't got the award arrangements in front of me. I don't know off the top of my head, sorry.

PN833

All right. Your Honour, I won't take it any further with Mr Smith. Can I tender a copy of that agreement, your Honour?

PN834

JUSTICE HATCHER: Yes. Just for your information there is a 2023 agreement on our website.

PN835

MR HERBERT: There's one there? Your Honour, I'm not the website master of this - - -

PN836

JUSTICE HATCHER: (Indistinct) we can proceed to produce it, but in any event - - -

PN837

MR HERBERT: Yes. Thank you, your Honour. Your Honour, that's all I have of Mr Smith.

PN838

JUSTICE HATCHER: Yes. I will mark that.

**EXHIBIT #AMIC1 WINGHAM BEEF EXPORTS PTY LTD  
ENTERPRISE AGREEMENT 2019**

PN839

MR HERBERT: Thank you.

PN840

JUSTICE HATCHER: Any re-examination, Mr Buckley?

PN841

MR BUCKLEY: No, thank you, your Honour.

PN842

JUSTICE HATCHER: All right. Thank you for your evidence, Mr Smith, you're excused and you may disconnect now?---Thank you.

<THE WITNESS WITHDREW

[10.36 AM]

PN843

JUSTICE HATCHER: All right. So is the next witness Mr Cooper?

\*\*\* JUSTIN SMITH

XXN MR HERBERT

PN844

MR BUCKLEY: Yes, your Honour. He's with our organiser Mr Weston. He's been admitted as - he was coming up on the screen as Mr Weston, but that's Mr Cooper on the screen.

PN845

JUSTICE HATCHER: Okay, thank you. We will get him in and administer the oath. Can we administer the oath to Mr Cooper, please. Sorry, just stay seated, Mr Cooper, otherwise you will go out of camera shot.

**<KALEB COOPER, AFFIRMED** [10.37 AM]

**EXAMINATION-IN-CHIEF BY MR BUCKLEY** [10.37 AM]

PN846

JUSTICE HATCHER: Mr Buckley?

PN847

MR BUCKLEY: Yes, thank you, your Honour. Mr Cooper, my name is Craig Buckley, I'm from the AMIEU. Do you recall that you prepared a witness statement to be used in these proceedings?---Yes.

PN848

Is that a witness statement that's four pages in length and dated 30 November 2023?---Yes.

PN849

And it contains 19 numbered paragraphs?---Yes.

PN850

All right. And you have signed that statement?---Yes.

PN851

Are you prepared to affirm to this tribunal that the contents of your statement are correct?---Yes.

PN852

All right. Your Honour, I would ask that Mr Cooper's statement be admitted.

PN853

JUSTICE HATCHER: All right.

**EXHIBIT #AMIEU2 WITNESS STATEMENT OF KALEB COOPER  
DATED 30/11/2023**

PN854

MR BUCKLEY: Mr Cooper, Mr Herbert will have some questions for you.

**CROSS-EXAMINATION BY MR HERBERT** [10.38 AM]

\*\*\* KALEB COOPER

XN MR BUCKLEY

\*\*\* KALEB COOPER

XXN MR HERBERT

PN855

MR HERBERT: Mr Cooper, I just want to ask you a couple of questions about your statement. Do you have a copy of it in front of you?---Yes.

PN856

Thank you. Now, you've been at Oakey, or you had been at Oakey when you signed this statement for a period of seven months. When you went through your induction you say that you were given information about the industry. This is paragraph 6 of your statement by the way I'm reading from?---Yes.

PN857

You were given information about the industry, the workplace, including health and safety and hygiene, as well as information about how you are being paid. All that information, it took at least two days for that to be provided to you in the initial stages; is that right?---Yes.

PN858

You had never worked in a meat industry plant before you came here to Oakey; is that correct?---Yes.

PN859

Mr Cooper, is Mr Weston in the room with you?---Yes, he is.

PN860

Your Honour, might I ask that Mr Weston be requested not to - there seems to be some contact, it's only visual, as between Mr Weston and Mr Cooper.

PN861

JUSTICE HATCHER: It might be easier if Mr Weston leaves the room if that's possible.

PN862

MR HERBERT: Thank you, Mr Cooper. Now, after that initial period of two days you say that you learned all you needed to know about those matters, about safety and health and hygiene and you'd remembered all of them after the first few days, or did you need to keep - need to refresh about that?---No, I'd say I remembered the majority of it anyway. Yes, but you always get the orange helmets. Health and safety always come around and give us little speeches and put posters up on the walls for what we should and meant to be doing.

PN863

So they're constantly reminding you and retraining you and refreshing you about the things that you were told in the first couple of days; is that right?---Yes.

PN864

And that's a good thing, isn't it, because there may be something you've forgotten or you might end up stepping in the wrong place or doing the wrong thing if they weren't refreshing you about those things; is that right?---Yes.

\*\*\* KALEB COOPER

XXN MR HERBERT

PN865



On the second day you were taken through the meat works, but it's a pretty big place out there, isn't it, you'd have a lot of - there'd be an awful lot of walking around and doing an awful lot of remembering to do as to what is where; isn't that right?---Yes, it's pretty big.

PN866

You couldn't soak all that up and keep it in your head all in one day, could you?---No.

PN867

You'd need to be reminded pretty regularly about what you could do and what you couldn't do in your first few months while you're there. Would that be the way it was?---Yes.

PN868

Now, you were told that your first job was going to be pushing bones in the boning room, you say in paragraph 8, and you describe what you needed to do there. Once you got yourself to the stage where you reckon you were doing fairly well in that job, even though you thought you were doing the job fairly well you still had trainers and other people coming to you and checking on you; is that right? After you thought you'd mastered the job you had other people still checking with you?---Yes, you'd always have - the trainer will come around once a day and ask how you're liking it and how you're going.

PN869

And your fellow workers around you, if you were seen to be in the wrong place or moving the wrong way other people were reminding you as well?---Yes.

PN870

Yes, all right. Now, in respect of that you probably thought you were doing, in yourself thought that you were doing pretty well, but the trainers and others didn't appear to be - they wanted to satisfy themselves about that. Is that how it appeared, they needed to come and see you and see you and see you to be certain themselves that you were doing as well as you thought you were?---Yes.

PN871

Is that how it worked when you were there?---Yes, pretty much.

PN872

When that was all done you were signed off as competent, and I think you say in paragraph 11 about three weeks after you started the job with pushing of the bones?---Yes, about three weeks in I got signed off.

PN873

Signed off, just so everybody is aware of that, that means that the trainer or the supervisor verifies with the management that you are competent to perform that particular task?---Yes.

\*\*\* KALEB COOPER

XXN MR HERBERT

PN874

You've reached the relevant standard of expertise in that task. Now, when that happened you didn't expect to stay - you didn't expect to be trained in one job and left in the corner doing that job, did you, you expected - - -?---Yes.

PN875

Sorry?---I expected that I would move to another job.

PN876

And to move to another job for somebody like you who's never been in a meat plant before you would have to be trained in whatever that other job might be?---Yes.

PN877

And you were approached then within a period of time, I think you said it was about two months, was it?---Yes.

PN878

You were asked what you wanted to do next; is that right, and you selected doing the Whizard knife?---Yes, the Whiz knife.

PN879

The Whizard knife is a piece of equipment that takes a little bit of learning as to how it operates; is that right? It's not an ordinary knife, it's a mechanised knife, isn't it?---Yes.

PN880

It operates off compressed air. In that situation you were - your physical fitness, I think you said you found out that you had a little bit of difficulty with discomfort when you were first using that knife because it's got a fair bit of vibration about it, and it's a different action to the action you were doing when you were pushing bones; is that right?---Yes.

PN881

And you had a fair bit of soreness that you needed to get used to and you needed to get physically used to that job as well as getting your head around about how to do that job?---All right.

PN882

Now, that wasn't so long ago. How are you going with that job, have you got on top of that job yet?---Yes. I'm finally signed off it, got signed off in the first month - two months - two months I think it was.

PN883

So two months in that job and you were signed off as being competent?---Yes, but I'm still doing that job at the moment.

PN884

But they'd left you on that job?---Yes.

\*\*\* KALEB COOPER

XXN MR HERBERT

PN885

Do you expect to be given another job, another training job? Is that how it works, the people around you, that they move from job to job and train up in a new job?---Yes.

PN886

All right. Now, have you been given any timeframe within which you think you will be able to move on to your next training job?---No.

PN887

What have you got in mind?---I was hoping to get another knife and go down (indistinct) slicing.

PN888

All right. And that would be a little bit more difficult than what you're doing with the Whizard knife; would that be right?---Yes.

PN889

And you'd expect to do a fair bit more training on that job than you are on the current job and that you were on the first job?---Yes.

PN890

Every job you've had from the sound of it you are trying to step yourself up to be able to learn higher and better skills, and to be trained in higher and better skills so that you can move out in the plant and do a range of jobs at a higher rate of pay. Is that how it works?---Yes.

PN891

And that's your plan to be there to move up that career path in that way in the plant?---Yes.

PN892

If you hadn't been trained on the Whizard knife, if you'd just been given one and told get on with the job you wouldn't have been able to do it, would you?---I wouldn't be able to, but I'd definitely need some sort of help there.

PN893

Yes, all right. And you got that help, and now you're rated as a competent operator of that knife?---Yes.

PN894

Yes, thank you. The last thing I want to ask you, Mr Cooper, is that in the course of your training there are other people - I think you said with your induction there were seven or eight people were inducted the same time as you?---Yes.

\*\*\* KALEB COOPER

XXN MR HERBERT

PN895

Have they undertaken the same sort of path that you have, that is they've gone to one fairly uncomplicated job for a while. Then signed off on that, and then moved on to a higher or a better job that they'd prefer to do and been trained up in that. Is that what the others, your cohort, your other group that you came in with our

doing?---I'm not too sure. So I'm in the boner room, and some of them fellows went to kill floor, they're like all over the place. I'm not too sure where they are.

PN896

You're not too familiar what their path has been?---Yes.

PN897

Thank you. I have nothing further, thank you, your Honour.

PN898

JUSTICE HATCHER: Any re-examination, Mr Buckley?

PN899

MR BUCKLEY: No, your Honour, no re-examination, thank you.

PN900

JUSTICE HATCHER: All right. Thank you for your evidence, Mr Cooper. You're excused and you're free to go or you can simply disconnect if you can do that?---Yes.

PN901

Thank you.

<THE WITNESS WITHDREW

[10.49 AM]

PN902

JUSTICE HATCHER: All right. Mr Buckley, so I understand the maker of the third witness statement Mr Earle is not required for cross-examination. So do you tender that statement?

PN903

MR BUCKLEY: Yes, your Honour, I do.

**EXHIBIT #AMIEU3 WITNESS STATEMENT OF WARREN ROY  
EARLE DATED 10/11/2023**

PN904

JUSTICE HATCHER: All right. Mr Herbert, your witnesses. So who's available first?

PN905

MR HERBERT: They're both available and both waiting as I understand it to be admitted. We're in the process - I don't know if - the arrangement of this is we're to ring Ms Wolens and she now knows we're ready for her, so that if she's admitted into the proceedings she's expecting that.

PN906

JUSTICE HATCHER: All right. We will admit Ms Wolens and we will administer the oath or affirmation to her, please.

\*\*\* KALEB COOPER

XXN MR HERBERT

<CHERYL ANNE WOLENS, AFFIRMED

[10.50 AM]

EXAMINATION-IN-CHIEF BY MR HERBERT

[10.50 AM]

PN907

JUSTICE HATCHER: Mr Herbert?

PN908

MR HERBERT: Yes, thank you, your Honour. Ms Wolens, can you tell the Full Bench, please, your full name, your work address and your occupation?---My name is Cheryl Anne Wolens. The work address is Regatta 2, Innovation Way, Birtinya, and my occupation is the general manager for Workforce Services for Australian Meat Industry Council.

PN909

Thank you. Now, have you prepared a witness statement for use in these proceedings before the Full Bench?---Yes, I have.

PN910

Does that statement consist of nine paragraphs with sub-paragraphs and - I'm sorry, I don't have a dated copy of the statement. Is your copy dated, Ms Wolens?---My copy is dated in the submission filed on Friday 3 November.

PN911

Thank you. Now, are the facts and circumstances set out in that statement to the best of your knowledge true and correct?---Yes, they are.

PN912

If it pleases the Commission I tender that witness statement of Ms Wolens.

**EXHIBIT #AMIC2 WITNESS STATEMENT OF CHERYL WOLENS  
FILED 03/11/2023**

PN913

MR HERBERT: Thank you. I have one question, one matter I want to raise with you, Ms Wolens. Paragraph 6.1 of your statement you refer to:

PN914

*Product safety, literacy and quality knowledge as being matters which are to assist with learning all the required information needed before learning a new skill or product. These basic tasks only position new employees to learn skills necessary to progress through the classifications, and these tasks do not render the (indistinct) functional workers to (indistinct) knowledge in (indistinct) of the industry.*

\*\*\* CHERYL ANNE WOLENS

XN MR HERBERT

PN915

Now, there you are referring to the knowledge that you refer to at the commencement of the sentence, that is product safety, literacy, quality, knowledge, et cetera, et cetera. So those are the basic skills you need in order to be able to learn everything else. Can I ask you this against that background. If a

worker is to come in and they obviously have to start somewhere, and if they're allocated a simple uncomplicated task such as making boxes, pulling skirts, et cetera, that we heard, and they're trained up in that task, in the ordinary course of things in your understanding and your background in training, is that the end of their training before they're given an operational position in the plant, that is that first task that they're shown?---No, definitely not. Definitely not. That would just be that one specific task, but they would need to do multiple tasks to be able to be fully functioning in a workplace. One task would not make them competent by any means for any employer.

PN916

Is there any set or specific number that one can say that would be required of a person before they would be deemed competent to be placed in a production position, or does it depend on - - -?---It's very dependent. There is no set industry standard that I am aware of, but in my view one task would not make you competent and there would be multiple tasks that would make you competent. So to me one task would just be the beginning of your training, and you would need to be - to be a functioning, fully functioning capable employee you would need to learn many other tasks along with that one task. In a production one task does not make you a production worker, it's multiple tasks in a job.

PN917

If you were just trained up for one task and that was the end of your training period how useful would you be in terms of being able to be moved around the plant to fill in for other workers or to fill in gaps or vacancies in the lower level production workforce?---You wouldn't be very useful at all to any employer, and if that was to be the case employers would need to employ hundreds of staff if every person only did one specific task, and that would be an impossible, impossibility for any employer to do that.

PN918

Thank you. Your Honour, that's the evidence-in-chief of Ms Wolens.

PN919

JUSTICE HATCHER: Thank you. Mr Buckley?

PN920

MR BUCKLEY: Thank you, your Honour. Sorry, I'm just having difficulty with my screen. Ms Wolens keeps appearing and disappearing.

PN921

JUSTICE HATCHER: It's fine at our end so it must be your issue.

PN922

MR BUCKLEY: Yes, I understand. I'm not sure why it's happening.

**CROSS-EXAMINATION BY MR BUCKLEY**

**[10.56 AM]**

\*\*\* CHERYL ANNE WOLENS

XXN MR BUCKLEY

PN923

Ms Wolens, I'm going to start by asking you some questions just about the general observations you make about training employees new to the meat industry. So if you like the material under section 8 'General observations' in your witness statement. Okay. In your experience, Ms Wolens, new employees, the first thing they do is they undergo an induction process; that's right?---Correct.

PN924

And you describe that as typically lasting a day?---It depends on the plant, but it can be a day or it can be longer.

PN925

I understand that. Some establishments might take longer than a day. They might spend multiple days on the induction process?---Yes.

PN926

All right. Then you say that the day after the induction is completed the new employee, they go through that process you describe in paragraph 8.3 of your statement. Okay?---Yes.

PN927

So that's when they're taken to the area where they're going to work by their supervisor?---Yes.

PN928

They meet the supervisor, a tutor or trainer, and an employee that they're going to be paired or buddied with; is that correct?---Yes, that's correct.

PN929

All right. And of that group some or all of them might be involved in demonstrating the work task to the new employee?---Correct.

PN930

Some of them will show them how it's actually done; that's correct?---Correct.

PN931

In paragraph 8.3 you say:

PN932

*They meet their supervisor, buddy and tutor who will be with them constantly for approximately eight to 12 weeks.*

PN933

Just clarify for me, who is with them constantly for eight to 12 weeks?---Somebody who is able to demonstrate the tasks that they are learning, and who is competent to be able to show them how to do the tasks appropriately. So it could be a mix of all of those people.

PN934

But all three of them aren't constantly with that new employee for eight to 12 weeks, are they?---No.

\*\*\* CHERYL ANNE WOLENS

XXN MR BUCKLEY

PN935

So for instance they might be paired with a buddy, and when they first start they might not do any work, they might just watch the buddy perform the work for a period of time; is that right?---That's correct.

PN936

At some stage then the new employee they start working on the task themselves being assisted or watched over by the buddy worker; is that right?---Correct.

PN937

And after some length of time doing that the new employee will start doing the task on their own, but the buddy worker will probably still be there watching them do it; is that right?---Correct.

PN938

To help them if they make any mistakes or to point out if they're doing something wrong?---Correct.

PN939

And then at some point the buddy starts performing their own work separately from the new employee, but they might be in the same area or vicinity as the new employee so they can still keep an eye on them from time to time; is that right?---That is correct.

PN940

If the new employee performing the task on their own, if they need some help they can ask that buddy for help or they can ask the supervisor or the tutor if they're in the vicinity; is that right?---That's correct.

PN941

In your experience the tasks that new employees are trained in they tend to be relatively straightforward easier tasks; is that right?---They usually start off with easier tasks to allow them to gain a full understanding of their working area, that's correct.

PN942

I appreciate that. I am not suggesting those tasks aren't important or necessary, but they're not the most complex tasks that you begin them with, are they?---Not the most complex, no, because they're new to industry.

PN943

Some of those straightforward tasks, they might be able to learn how to competently perform those tasks within a relatively short period of time?---Some people may, yes.

PN944

There's some examples given in Mr Ward's statement of jobs such as making up cartons or boxes. That's a job that new employees might be assigned to; is that right?---That's correct.

\*\*\* CHERYL ANNE WOLENS

XXN MR BUCKLEY



PN945

Putting boxes on conveyors?---That's correct.

PN946

Moving product to different workstations?---That's correct.

PN947

Certain cleaning tasks?---Yes, that's correct.

PN948

Packing product into cartons. Is that a task they might do?---That's correct.

PN949

Let's start with an example of say a meat manufacturing establishment. You've worked at a meat manufacturing establishment, haven't you?---Yes, I have.

PN950

So one of the tasks that a new employee might be assigned there might be weighing product, say ham or bacon, and then putting it into a carton; is that correct?---That is correct.

PN951

That's typically performed - there's a conveyor and a number of employees along that conveyor who take the product off the conveyor, they weigh it and then pack it into a carton; is that correct?---That's correct.

PN952

And again the person has the assistance of a buddy when they first start performing that task; that's correct?---That's correct.

PN953

But they're expected to get up to speed if you like and work at the pace of the conveyor within a relatively short period of time; isn't that correct?---That's the expectation, yes.

PN954

And it may be that they're expected to - well, it may be a matter of days or even a week before they can perform that task at the required pace?---That's - that's possible, yes.

PN955

But that's also a job where if a person's employed in a meat manufacturing establishment like that they might remain in that job for some time, mightn't they, before they're trained on another job?---Yes, that is correct, they might remain in that role.

PN956

And that would depend upon the needs of the businesses; is that the case?---That would be the case.

\*\*\* CHERYL ANNE WOLENS

XXN MR BUCKLEY

PN957

And it might depend on how many new employees the business has been able to attract?---Yes.

PN958

You also talk about the importance of a whole range of other factors, including safety, hygiene and product knowledge; that's correct?---That's correct.

PN959

It would be fair to say though that those are elements that employees are continuously learning about; is that right? Not just when the new starters, but throughout their time with the business?---Yes, throughout their time. As they do different tasks they learn different parts of that, yes.

PN960

Yes, but things like safety, hygiene and product knowledge those are something that you would need to retrain and reinforce with people throughout their employment in the industry; is that correct?---Yes.

PN961

Okay. That's all the questions I had for Ms Wolens, your Honour.

PN962

DEPUTY PRESIDENT HAMPTON: Mr Buckley, just before you finish - Ms Wolens, it's Deputy President Hampton here. Can I ask whether in your position do you have an insight into how the award classifications are applied in practice?---Broadly, yes, I do.

PN963

All right. So you've described both in your statement and in response to Mr Buckley in a sense a typical induction and training process. In your experience at what point are employees reclassified from Meat Industry level 1 to another classification, and in the typical arrangement you've described where a series of more skilled jobs are learned what classification, at least in general terms, do they move to?---So new to industry where they have no experience and they're learning they're obviously at that MI level 1. And as they go through the on the job training and they can show a level of competency against those initial tasks, and then in the classification there are a list of tasks that are against the different levels, and as they become competent in those levels they'd be then changed to the new levels under the award.

PN964

Even though they are still undertaking training or potentially undertaking training in other skill areas or task areas?---I'm not sure I understand that piece.

PN965

Okay. You've described an induction and then training in a task, and then potentially and normally I understand training in a series of tasks?---Yes.

\*\*\* CHERYL ANNE WOLENS

XXN MR BUCKLEY

PN966

You have just indicated that once an employee is competent in one of the indicative tasks that are listed in one of the higher classifications, I think you were suggesting that they move to the higher classification, or do they only move to the higher classification once they have completed some other benchmark?---There would be - there would be a requirement to do several tasks within a level to be deemed at a level to fulfil that requirement for that level of role.

PN967

And where does that come from under the award?---If it's listed in there and they're performing the tasks that are listed against the level, and they're showing that they're competent, then that would be when it would be applied.

PN968

Providing they have more than one of those tasks under control?---Depending on the requirement of the business. It might be that, you know, they need to do a couple of tasks. Some businesses do have multiple tasks, depending on their size. Some it may be that they only are required to do one task.

PN969

The reason I ask is at least on face value what you have described as some incremental on the job training, and in a sense until someone has mastered all the jobs in the establishment they will undertake on the job training, and so it's in that context. I am just seek clarification given the way that clause A3.1 is currently worded, which talks about a person with no experience in the industry undertaking on the job training for an initial period of at least three months?---Yes.

PN970

So that's the context in which I have asked you those questions. Do you want to say anything more about that?---No.

PN971

All right. Anything arising from that, Mr Buckley?

PN972

MR BUCKLEY: No, thank you, your Honour.

PN973

DEPUTY PRESIDENT HAMPTON: Thank you.

PN974

JUSTICE HATCHER: Any re-examination, Mr Herbert?

PN975

MR HERBERT: No, thank you, your Honour. May Ms Wolens - - -

PN976

JUSTICE HATCHER: Thank you for your evidence, Ms Wolens. You're excused, which means you're free to go or disconnect as you please.

<THE WITNESS WITHDREW

[11.10 AM]

\*\*\* CHERYL ANNE WOLENS

XXN MR BUCKLEY

PN977

JUSTICE HATCHER: Mr Herbert, Lyle Ward is the next witness?

PN978

MR HERBERT: Yes. We're attempting to do the same electronic manoeuvre. He should be in the room, and he has been contacted and told that he's due.

PN979

JUSTICE HATCHER: He's here, Mr Herbert.

PN980

MR HERBERT: Thank you.

PN981

JUSTICE HATCHER: All right. So can we administer the oath or affirmation to Mr Ward, please.

**<LYLE WARD, AFFIRMED**

**[11.11 AM]**

**EXAMINATION-IN-CHIEF BY MR HERBERT**

**[11.11 AM]**

PN982

JUSTICE HATCHER: Mr Herbert?

PN983

MR HERBERT: Mr Ward, is your full name Lyle Ward?---Correct, it is.

PN984

Could you tell the Commission, please, your work address and your occupation, please?---Yes. My work address is Australian Meat Industry Council. My occupation is Training and Workforce Advisor.

PN985

Mr Ward, have you prepared a statement which you are able to give, which the paragraphs unfortunately are not numbered, but it consists of five pages and was filed in the Commission on - I'm sorry, your Honour, I've lost - - -

PN986

JUSTICE HATCHER: Filed on 3 November.

PN987

MR HERBERT: Yes, thank you, your Honour. Mr Ward, have you prepared that statement?---Yes, I have, thank you.

PN988

And are the facts and circumstances set out in that statement true and correct?---Yes, they are.

\*\*\* LYLE WARD

XN MR HERBERT

PN989

Just one question if I may, one further question. You've mentioned in paragraph 1 you have over 25 years experience in the meat industry, 14 of those years specifically on training, tutoring, et cetera. The years before those 14 years in training, tutoring, et cetera, that you spent, which is another 11 years to make up the 25, what role did you perform in the meat industry there?---I was primarily employed in the boning room as a knife hand, but spent a lot of my time as a qualified slicer in large plants up here in Queensland, or a large plant in particular up in Queensland, and gradually worked my way up from being a slicer. We had - back in those days we had what's called a super chain, so all of the hard working guys would go onto a super chain, I was on that for quite a while, and then gradually worked my way up to a room tutor, a plant tutor, so to speak, before getting into the HR training type of managerial roles.

PN990

And that super chain, Mr Ward, is a chain in the boning room?---Yes, correct.

PN991

Thank you. That's the evidence-in-chief of Mr Ward.

**EXHIBIT #AMIC3 WITNESS STATEMENT OF LYLE WARD  
FILED ON 03/11/2023**

PN992

MR HERBERT: Thank you, your Honour.

PN993

JUSTICE HATCHER: All right. Mr Buckley?

PN994

MR BUCKLEY: Thank you, your Honour.

**CROSS-EXAMINATION BY MR BUCKLEY**

**[11.14 AM]**

PN995

Mr Ward, do you have a copy of your witness statement in front of you?---Yes. Yes, I do, thank you.

PN996

I want to start just by asking about the table, the sample new entrants plan that you've included in the witness statement. So could you turn to that, please?---Yes. Yes, I've got that one, thank you.

PN997

First of all can you tell me what job or task this particular plan relates to?---It's not to any specific task, but what you would use relating to, you know, food safety and also safety scenarios for any particular task that a new starter might go on. It could be many different tasks that a new starter might be placed on.

\*\*\* LYLE WARD

XXN MR BUCKLEY

PN998

What do you mean by a food safety perspective; how does this table relate to food safety?---So for food safety we need to, you know, acknowledge we are in a food production business, so we need to ensure that products are being made safe for consumers to eat. You'd have what we call a (indistinct) person who may be teaching that task, but they would then ensure that the learner would do X amount of tasks and then the (indistinct) person would ensure that's being done in a food safe standard, up to a food safety standard.

PN999

All right. The only connection with food safety is then you think that ensuring that an employee is trained adequately in food safety requires following a plan of this description; is that right?---Sorry, Craig, could you repeat that one?

PN1000

Perhaps if you could look at the paragraph before the table. There's a sentence there that says:

PN1001

*The below table is an example of what occurs in a food safety sense.*

PN1002

Can you tell me how this table is an example of what occurs in a food safety sense. I'm trying to understand the connection between this table and food safety?---Yes. My belief and from my time in these type of roles that export abattoirs we could not have a not competent person who could possibly be doing a task relating to food safety, do that final inspection, or do that final part of that task. You would have to have a competent person who would be, you know, their buddy, et cetera, or their work mate that would make sure that the new employee has done the task up to a point, but then the competent person would ensure that product is let go from his station to a food safety standard. There's no contamination, no bruises, you know, inoculation or whatever type of contamination on the product before it leaves their station.

PN1003

Is it the case that this relates to, I think you said the final task of checking whether a product is satisfactory in terms of food safety or hygiene?---Yes, but remembering that, you know, we work on chain systems, so that product that's in front of some person it's going to go to the next person who's going to do their part as well. So it all - it flows, you know, flows on. Does that make sense, Craig?

PN1004

All right. In the table there's a series of rows and each row seems to be to reflect a separate day in on the job training process; is that right?---Yes.

PN1005

So it's got day one through day 40?---Yes.

\*\*\* LYLE WARD

XXN MR BUCKLEY

PN1006

You have got two columns, one that says 'Competent employee' and one that says 'New employee.' Can you tell me what do the percentages in those columns represent?---So the competent employee, so it's the person, the buddy who's going to be teaching the new employee the task. On day one he's doing 100 per cent of the task. And then the new employee, he will just be observing, and so on and so forth. So as the days go on the competent person, the buddy, will be doing a bit less, and then the new employee will be doing a bit more as each day goes on.

PN1007

All right. In each row if you like, the two percentages entered for each day, in each row they add up to 100 per cent, don't they?---Yes, correct.

PN1008

So you say that that represents the proportion of work that's done by the competent employee as opposed to the new employee?---Yes.

PN1009

I think you'd agree, and I believe you've said in your statement, that employees new to the industry they're given relatively straightforward tasks to begin with, such as those that you've listed in your statement?---Yes.

PN1010

So you've listed things like helping erect cartons; that's right?---Yes. Yes.

PN1011

Manoeuvring boxes along conveyors, moving product to different workstations, tasks like that?---Yes. We'd call them, you know, soft landing tasks. You're not on - you're just doing tasks to help build work understanding and work fitness.

PN1012

Yes. I want to ask you about that. You say they're a soft landing task and they're not adding value to production?---Yes.

PN1013

That's how you describe it in your statement. But that doesn't mean the tasks aren't necessary, does it?---You could say that, but then again they're not necessarily - - -

PN1014

Well - sorry, I interrupted you?---No, sorry. They're not necessarily listed tasks that may be on a budget or on a timing sheet, or et cetera, they're tasks just to help out.

PN1015

I appreciate that, but the boxes have to get made up, don't they?---Yes.

PN1016

If you're going to use the cartons they have got to be assembled first, don't they?---Yes, correct.

\*\*\* LYLE WARD

XXN MR BUCKLEY

PN1017

And the business, it needs product moved from one workstation to another, doesn't it?---Yes.

PN1018

Cleaning needs to be done whether it adds value to production or not, doesn't it?---Yes, correct.

PN1019

So they're all tasks that the business needs performed, aren't they?---Yes.

PN1020

Now, in this sample entrant plan you've listed, it's a period of about 40 working days; is that correct?---Yes, that's correct.

PN1021

That period of 40 working days that wouldn't necessarily be required for every single task, would it?---The industry varies, you know, you've got to think where (indistinct) to allocated tasks that the new employee's going to be on. You've got to think about the employee's understanding of the task or the work area; industry requirements. You know, safety, hygiene we've already mentioned, both personal safety and also operational safety, and personal and operational hygiene. We've got to think of the employees, their ability or their lack thereof. You might have a superstar employee come in, they can fix things up quickly, but with industry we don't have a great deal of superstars coming through. We're getting, you know, lots of different nationalities coming through, so we've got to take all that into account. We just can't make it a one size fit all scenario. We've got to be very adaptable in how we get these new starters on to tasks and get them adding value.

PN1022

JUSTICE HATCHER: Mr Ward, how do you deal with an employee who already has industry experience in Australia, that is someone who's worked at a different abattoir, has done the tasks, and for whatever reason is changing employer or location?---Thank you, your Honour, a very good question. My understanding in that, and I'm probably not an expert on this, but my understanding would be an employer - an employee, sorry, with industry experience already they would not be going into the (indistinct) that we've already gone to, MI2, MI3, MI4. It depends on their level of experience, and what position they've applied for and been allocated.

PN1023

So presumably they just do a site induction which would take a day or two and then go straight on to the job. Is that the sort of - - -?---Yes. Yes, they'd still do it. You know, might have a little bit of learning time to learn the specifications of whatever task they've got on to, et cetera, but it wouldn't be the three to six months as what we have discussed here.

PN1024

Thank you?---Thank you, sir.

\*\*\* LYLE WARD

XXN MR BUCKLEY



PN1025

MR BUCKLEY: Mr Ward, even with a new employee when it's a task like for instance assembling cartons, you're not suggesting it takes 40 working days for an employee to become competent in that task, are you?---Like we said we've got a lot of things we need to take into account. Does the employee speak English; does he understand the operation of the carton forming machine; does he understand lockout tagout processes and procedures. So all that - all that needs to be taught and we need to ensure we're following up an employee that they are doing the right processes and operating safely, and make sure we've taken everything into account.

PN1026

What about moving product from one workstation to another? Again you're not suggesting it takes 40 working days for a person to become competent in that task?---Again I just revert to my last statement. In that one you'd have different hygiene - hygiene requirements. Do they need to wash their hands after every time they move product from a station or different work area. Do they need to change their aprons or change their clothes if they've touched a bit of grease or something, or whatever may happen. We have all these different variables within there that we need to ensure these people are learning and understanding.

PN1027

Is it the case that a person whose job is for instance to push bones in the boning room could learn how to perform that task competently within the space of a few days or a week?---They definitely could do, and, you know, we mentioned earlier that there are superstars that come through and can pick things up reasonably quickly. But then we - as I already said we need to look at the whole nature of the workforce, not just the superstars that come through, we've got to make sure we're adhering or accommodating everyone.

PN1028

Mr Ward, can I just ask you something about - it's just at the end of your statement. It's actually the last couple of paragraphs of your statement. In the last paragraph you talk about it taking a minimum of four to six weeks or rosters before the new employee's, presumably, ready to move to the next position. Could you describe for me what you're talking about there?---Yes. No, certainly. For those, we mentioned earlier the soft landing tasks, the erecting the boxes, et cetera, that aren't actually - aren't, you know, allocated a position I guess, or they might be helping out in the laundry, et cetera. They might do that for a few weeks till they get a bit of work understanding, an understanding of getting around the site, getting around the abattoir, the safety requirements, et cetera; get work fitness as well, remembering new employees maybe haven't worked for a while. They're coming in and going to be working 10 hour shifts, or nine to 10 hour shifts. Like are very sore, very - not frustrated, but, you know, they'll be - sorry, I've lost my wording there. Yes. So the four to six weeks they'll be doing that soft landing task and then potentially move on to an on the chain type of task, like Whiz knife or those type of roles.

\*\*\* LYLE WARD

XXN MR BUCKLEY

PN1029

All right. So you're saying they might start on - they might be on a soft landing task if you like for four to six weeks, and then moved on to another task?---Yes.

PN1030

But it's possible that at some establishments they don't move them on that quickly; is that right?---I can only comment where - you know, places I've worked and, yes, that's what my statement is based on.

PN1031

All right. Thank you, Mr Ward. Thank you, your Honour, those are the questions I have for Mr Ward.

PN1032

JUSTICE HATCHER: All right. Any re-examination, Mr Herbert? Mr Herbert, your microphone is turned off.

PN1033

MR HERBERT: I will get the hang of this eventually, your Honour. No, thank you, there's no further questions. That's the evidence for the AMIC.

PN1034

JUSTICE HATCHER: All right. Thank you for your evidence, Mr Ward. You're excused, which means you're free to go and you can simply disconnect?---Thank you, your Honour.

<THE WITNESS WITHDREW

[11.28 AM]

PN1035

JUSTICE HATCHER: All right. Mr Buckley, are you ready to go into submissions? Your microphone is off too.

PN1036

MR BUCKLEY: Thank you, your Honour. Yes. I will make - - -

PN1037

JUSTICE HATCHER: Mr Buckley, before you start can I just raise one proposition with you. As you would be aware the AMIEU has filed an application which seeks a comprehensive restructuring of the classification structure in the Meat Industry Award, and that matter has been the subject of directions for the filing of evidence and will be heard in the second half of next year. The AMIEU's proposal includes a reform of level MI1 in a way which I think is consistent with the alternative submission you advance in these proceedings.

PN1038

In that context I am just wondering whether we should be determining the issues you raise in the context of this review rather than perhaps adopting an interim provision consistent with a provisional view and having a fuller examination of these issues in your application, noting that we have been advised there will be a full program of inspections and there will be expert evidence, et cetera, et cetera.

\*\*\* LYLE WARD

XXN MR BUCKLEY

PN1039

MR BUCKLEY: On balance, your Honour, I think there is probably some merit in that, that a provisional view be adopted and that - we have heard evidence about the variety of different practices by different employers and different elements of the industry. So it is probably an issue that if it's going to be revisited, or visited in that application where there's going to be the opportunity to look at those circumstances more closely, then I agree that that would probably be a beneficial approach.

PN1040

JUSTICE HATCHER: And of course if we adopted that approach it would be without prejudice to your case in that respect in the wider review.

PN1041

MR BUCKLEY: Yes, I appreciate that.

PN1042

JUSTICE HATCHER: What do you think about that, Mr Herbert?

PN1043

MR HERBERT: Your Honour, we don't have any difficulty with that approach. It may well be because the evidence in this matter has been - because this matter wasn't as we understand it originally directed towards a restructure of the classification in a way that's been proposed by the union, it's not been the most fulsome examination of the industry, but might really be warranted if the Commission was to exercise powers under section 157 in respect of these classifications. If there is to be that broader hearing this would be an appropriate matter to be caught up in all of that.

PN1044

Can I just ask one question, your Honour. When your Honour says in the interim between now and the hearing of that matter that the Commission adopt a provisional view, am I to understand that would mean for the time being that because the provisional view involves a clear end date in effect of the operation of clauses of this kind - it's my words of course - whether the Commission was proposing to make, or the Commission might propose to make a variation of that kind as a provisional step pending the outcome of the proceedings that you've referred to that are to be heard next year, which is a long way of saying would that mean that the Full Bench might adopt at least part of the amendments that AMI has proposed as a way of meeting the provisional view of the Commission that there be an end date to a clause which currently doesn't have one?

PN1045

JUSTICE HATCHER: Subject to what I have raised that's an interim without prejudice approach that both parties would be happy to adopt as I said an interim solution. I think we would be prepared to do that. The only matter I wanted to raise relates to the question I asked of Mr Ward; that is, is there some form of words which excludes from level M1 the employee with industry experience in Australia who would move straight up to 2 or 3 as appropriate?

PN1046

MR HERBERT: Can I answer that, your Honour, and the answer to the question is that the award clause refers to persons undertaking - - -

PN1047

JUSTICE HATCHER: Just give me a second to pull that up, Mr Herbert.

PN1048

MR HERBERT: Undergoing on the job training, A3.1 is the current clause.

PN1049

JUSTICE HATCHER: Yes.

PN1050

MR HERBERT: The clause in those terms have been in place - - -

PN1051

JUSTICE HATCHER: I see. So it says with no experience in the industry already. Yes, I see.

PN1052

MR HERBERT: Yes. No experience in the industry, undergoing on the job training. So that double qualification would exclude the persons you're talking about. Now, we have in the terms of the amendment that AMI has put forward as a response to the union's application in these proceedings, we have endeavoured to define what no previous experience in the industry might mean, and we have qualified that with a proviso that there be a five year period put on that.

PN1053

That was a proposal that was put forward for consideration of the Commission, because no previous industry - if somebody worked in the industry for 10 minutes 20 years ago that would satisfy this requirement to exclude them from MI1, but it may be positively dangerous to do so, and we sought to put a five year limit on their previous experience.

PN1054

The answer to the other question that was asked earlier by Deputy President Hampton if I might say is that those words that a person with no experience in the industry undergoing on the job training would provide the checkpoint, if you like, after which, or at which persons become entitled to a promotion to the higher classifications of MI2, MI3, because as soon as they are no longer undertaking on the job training, and this is the way it's been applied as I understand it, as soon as they no longer are undertaking on the job training then they are entitled to be - and an employee is finished in that regard for any sort of period of time - then those persons are entitled to the higher classification.

PN1055

AMI has accepted that that can lead to unsatisfactory results, how long is long enough in terms of ceasing the training, which is why AMI has accepted and adopted the approach taken by the Full Bench in this matter, or the provisional approach taken, and that is that there needs to be an end date on all of that. And as we put in the submissions if the employer has not done all the training it wants

to do in that regard within six months it doesn't matter. An employee who has been undergoing training, or purporting to have undergone training for six months is entitled to advancement on that account alone, and if the employer hasn't trained them enough that will be a matter for the employer to deal with in their own internal arrangements.

PN1056

But the employee shouldn't be prejudiced by the fact an employer might be relying on the fact that there's some more (indistinct) training they might still want the employee to do, and thereby hold them back at MII. That's why we haven't put the six month, as it were, limit on the time in the proposal that we put forward to pick up observations such as those made by Deputy President Hampton. It is admittedly a little bit uncertain as to how long coming off on the job training needs to be in place before the employee becomes entitled to advancement.

PN1057

But as a provisional view pending the proceedings next year we wouldn't oppose the six month limit being applied in lieu of the three months open ended provision as a provisional change without prejudice to the case that the union wishes to run in the proceedings next year.

PN1058

JUSTICE HATCHER: Do you want to respond to any of that, Mr Buckley?

PN1059

MR BUCKLEY: No. I mean obviously the union and AMIC will have a different view as to what the ultimate length of that on the job training period might be, but that's of no moment either for the provisional view or for the fact that it should proceed that way now.

PN1060

JUSTICE HATCHER: All right. Ms Bhatt, Mr Scott or Mr Giordano, do you want to say anything about this award?

PN1061

MS BHATT: Only to respond to what your Honour has just put, very briefly if I might. Obviously our organisation has expressed various concerns about the Commission's provisional view at large. Having said that we have not sought to oppose the proposal that's been advanced in relation to this particular award by AMIC. I think our position in relation to what your Honour has put should be seen through that lens and without prejudice to the position that we have advanced in relation to the provisional views at large. Beyond that I wasn't proposing to advance any submissions today.

PN1062

JUSTICE HATCHER: All right. Mr Giordano?

PN1063

MR GIORDANO: No, your Honour, thank you.

PN1064

JUSTICE HATCHER: Mr Scott?

PN1065

MR SCOTT: Your Honour, given that there's an application on foot by the AMIEU that's going to look at the classification structure at large I would think just as a general proposition there would be merit in dealing with the issue of C14 or the M11 in the context of that broader view, and so no opposition if the Commission is inclined to do that.

PN1066

JUSTICE HATCHER: All right, thank you. I think we have got a broad indication that we will proceed on that basis. What we intend to do for this award as with all other awards is once we have determined the matter publish a draft determination. So there will be a further opportunity to comment upon the actual drafting of the variation, but we will make it clear that it's an interim position pending - a without prejudice position pending the proceedings next year. All right, if there's nothing further I thank the parties for their evidence and submissions and we will reserve our decision generally.

PN1067

MR BUCKLEY: Thank you.

PN1068

MR HERBERT: Thank you, your Honour.

**ADJOURNED INDEFINITELY**

**[11.40 AM]**

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