

IN THE TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T2332 of 1990

**IN THE MATTER OF AN APPLICATION
BY THE WOOLCLASSERS'
ASSOCIATION OF AUSTRALIA FOR
THE MAKING OF A NEW AWARD**

RE: SHEARING INDUSTRY AWARD

COMMISSIONER R.J. WATLING

HOBART, 27 April 1990

REASONS FOR PRELIMINARY DECISION

APPEARANCES:

For the Woolclassers' Association - Mr. J. Grenville
of Australia

For The Australian Workers' Union, - Mr. C. Hayes (intervening)
Tasmania Branch - Mr. V. Jacobs (21.3.90)

For the TFGA Industrial Association - Mr. K. Rice

The Tasmanian Confederation of Industries - Mr. S. Clues (21.3.90)
- Mr. K. Rice (24.4.90)

DATES AND PLACE OF HEARING:

21 March 1990 Hobart
24 April 1990 Hobart

At the commencement of this hearing the Woolclassers' Association of Australia, being the applicant in this matter, sought and was granted leave to amend their application for the making of a new award.

It was their submission that a new award to be known as the '*Shearing Industry Award*' should be established so as to ensure that all employees in the shearing industry in this State, who are not covered by an award of the Australian Industrial Relations Commission, were not left award-free.

I indicated to the parties that, as a first step, they would be required to establish to the satisfaction of the Commission:

- (a) the need for the award; and
- (b) the precise nature of the industry to be covered by the award.

They were further informed that if the application was successful on the first point then it would be open to registered organisations to seek an interest in the new award in accordance with the provisions of the Act and after the completion of that exercise the Commission would consider the contents of the award.

This approach met with the approval of the parties.

Submissions were presented on the threshold points by Mr. J. G. Grenville representing the Woolclassers' Association of Australia, Mr. C. Hayes representing The Australian Workers' Union, Tasmania Branch and Mr. K. Rice representing the TFGA Industrial Association and the Tasmanian Confederation of Industries.

There was no disagreement between the parties on the need for a 'Shearing Industry Award' within the jurisdiction of this Commission that was capable of encompassing identical classifications and conditions of employment to those contained in the 'Pastoral Industry Award' and the 'Shearing Industry (Woolclassers) Award', being awards of the Australian Industrial Relations Commission.

Mr. Rice maintained the organisation he represented supported the making of the new award on the understanding that the wage rates and conditions of employment were the same as those appearing in the previously-mentioned awards and he foreshadowed that if the application was successful on the preliminary question then this matter would be raised during the course of further proceedings.

DECISION:

After hearing the submissions of the parties, I have arrived at the conclusion that a new award should be established in respect of the shearing industry to be known as the '*Shearing Industry Award*' and I decide accordingly.

In arriving at my conclusion, I have taken into consideration the following matters:

1. Currently, the Agriculturists Award contains a provision in Clause 8 - Wage Rates, subclause 1. Farm Workers which states, inter alia:

*"employees working in and around shearing sheds during shearing time shall be paid the appropriate rate of wage prescribed by the award of the Australian Industrial Relations Commission known as the '*Pastoral Industry Award*'".*

I believe an award prescription of this nature is inappropriate and denies employers bound by the Agriculturists Award (and specifically this subclause) a say in the making of the award they are required to follow, namely the Pastoral Industry Award.

Whilst it could be said that employees working in and around shearing sheds during shearing times are already covered by an award of the Commission, nevertheless, one could legitimately question how the current award prescription could be enforced.

I am of the view that awards of the Commission should be drawn in such a way as to enable employers and employees falling within the scope of that award to clearly read and follow the conditions under which they are required to work without the need to be referred to an award of another tribunal.

The making of a new award for the shearing industry would clarify this situation.

2. Approximately 200 woolclassers are registered as being resident in Tasmania and whilst the parties found it hard to identify the exact number that would be covered by the making of this new award, nevertheless, I accept their submissions that there would be a sufficient number to warrant the creation of a '*Shearing Industry Award*', especially given the fact that woolclassers tend to move around Australia and could find themselves in an "award-free" situation when arriving in this State.

5.

For these reasons I endorse the application as it relates to this preliminary matter.

At the conclusion of the appeal period for this decision, I would recommend that the registered organisations who seek an interest in this award, do so in accordance with the provisions of the Industrial Relations Act 1984.

The Order giving effect to this decision is attached with an operative date as from 27 April 1990.

There will be a need for the parties to make application, at the appropriate time, to delete the provision in the Agriculturists Award which relates to work carried out in and around shearing sheds during shearing time.

