

IN THE TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T.1051 of 1987

**IN THE MATTER OF AN
APPLICATION TO VARY THE
TIMBER MERCHANTS AWARD BY THE
AUSTRALIAN TIMBER WORKERS
UNION.**

RE: SUPERANNUATION

COMMISSIONER J G KING

HOBART, 25 MARCH 1987

REASONS FOR DECISION

APPEARANCES:

For the Australian Timber
Workers' Union No 6 Branch
Tasmania

Mr C D Bannister

For the Tasmanian
Confederation of Industries

Mr M Sertori

Date and Place of Hearing:

14 March 1988, Hobart

The application in this matter contains the following Statement of Particulars:

"This application is made to provide for a 3% superannuation payment based on productivity which would be phased in and would reflect an award of the Australian Conciliation and Arbitration Commission for the Timber Industry."

Agreement has been reached between the parties and is reflected in Exhibit A, a proposed draft clause titled "Superannuation". The new clause if accepted by the Commission is to be included in the Timber Merchants Award (the Award).

The prime purpose of the new provision is to require an employer, bound by the Award, to make payments on behalf of employees, to the Timber Industry Superannuation Scheme (TISS). It is envisaged that payments be made at the rate of 1 1/2% of ordinary time earnings (as defined) calculated to the nearest 10 cents, from the first pay period commencing on or after 14 March 1988. A further 1 1/2% of ordinary time earnings would be paid from the first pay period commencing on or after 1 July 1988.

The clause is based on a provision recently included in the counterpart Federal Award, which I was told has application to approximately 90% of the timber industry in this State. The dates of operation, of the payment of contributions in the Federal Award are; from the first pay period commencing on or after 1 January and 1 July 1988 respectively.

My concern in this matter, goes to the question of who will be bound by this new clause, if inserted in the Award. Mr Sertori was not able to assure me that all employers who may be bound by the clause have been acquainted of its content. On the other hand, he did submit that all employers known to his organisation had indicated their consent.

Mr Sertori referred me to a provision in the new clause, subclause (b)(ii), which he maintained protected an employer who was not aware of the existence of this provision or who subsequently became part of the industry. He maintained employers in those categories would only be required to make contributions from appropriate prospective dates.

My reservations are not entirely satisfied by Mr Sertori's submission on this aspect or the ability of the proposed subclause to overcome potential problems. However, this is not a new situation as the same problem has been highlighted in other applications seeking to vary, so called "common rule" awards.

This application seeks to "pick up" what is alleged to be a small minority of timber industry employers who are not bound by the Federal Award. On that basis and having satisfied myself in relation to the intention of the Wage Fixing Principles of this Commission, I am prepared to vary the Award as requested.

The order giving effect to this decision is attached.

