

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T No. 3682 of 1992

IN THE MATTER OF an application
by the Australian Workers' Union,
Tasmania Branch to vary the
Horticulturists Award

re delete all reference to
farming and fruit growing

COMMISSIONER WATLING

HOBART, 3 March 1992

TRANSCRIPT OF PROCEEDINGSs

Unedited

COMMISSIONER WATLING: I'll take appearances in that matter, please.

MR G. COOPER: If the commission pleases, I appear on behalf of the Australian Workers' Union, Tasmanian Branch, COOPER G.

COMMISSIONER WATLING: Thanks, Mr Cooper.

MR W.J. FITZGERALD: If it pleases, I appear on behalf of the Tasmanian Confederation of Industries, FITZGERALD W.J.

COMMISSIONER WATLING: Good, thank you.

MR K.J. RICE: If it please the commission, RICE K.J., I appear on behalf of the TFGA Industrial Association.

COMMISSIONER WATLING: Good, thank you. Mr Cooper?

MR COOPER: Commissioner, this application, which you have a copy of, as it was tendered in the variation that was submitted by the union with respect to this, and was titled 'Attachment A'.

COMMISSIONER WATLING: Yes.

MR COOPER: And you should have a copy of that on your file.

COMMISSIONER WATLING: I have, yes.

MR COOPER: Now, the changes that we've proposed, or the union has put up, basically accommodate and reflect the needs that the parties have with respect to this award, as it is to be superseded by the Farming and Fruit Growing Award. And what we've done is, consistent with that award, the Farming and Fruit Award, we have deleted all reference to farming and/or fruit growing in this award. So you don't have two awards covering the same industry.

And if I could just briefly allude to that. In the scope you will see where fruit grower, vegetable grower, seed farmer, packer of fresh fruit have been deleted. And if you go to the scope of the Farming and Fruit Growing Award it quite clearly allows for those functions to be covered in the scope clause, clause 2, in points (a) to (d).

So what we've done, commissioner, is rather than have a duplicity of scopes, we've identified in the Farming and Fruit Award a scope that is quite clearly relevant to that industry, and we have amended the scope of this award so that that doesn't duplicate in two awards. And what that will leave this award to deal with is the nurserymen and/or landscape gardener, and cultivator or layer of instant turf. And if we were to proceed through the document you would find that subsequently all reference to farming and/or fruit growing has

been deleted accordingly.

And we are left with horticultural tradesmen, nurserymen and general provisions that relate - are contained within the award. We have deleted two clauses, clause 14, which covers casual employees during harvesting, and clause 31, which covers proportion of females to juveniles in fruit picking. And the rest of the changes are sequential with respect to clause numbers. I would ask the -

COMMISSIONER WATLING: Can I just say that I note in clause 6 - Parties and Persons Bound, your application seems to delete the two employer organisations. I just make the point that it will be up to the Hop Producers Association of Tasmania and the TFGA Industrial Association to make application in accordance with section 65A of the Act to have their Certificate of Registration withdrawn and reissued without this award on it.

And also it will - they will be required to make application under section 23 of the Act amend the Horticulturists Award to have them taken out of the parties and persons bound clause in the award.

MR COOPER: Yes, commissioner. Just on that too, my draft does reflect that deletion, but in fact we wouldn't be able to do that as outlined in the draft. So with that amendment I would request the commission to leave those two parties in there. But it is - it's my understanding from the discussions that we've had that as you've - the procedure you've outlined will be complied with in the very near future.

So in the outlining briefly of those changes, commissioner, I would ask the commission to endorse Attachment A, as it is - has been attached to the application for variation of the Horticulturists Award. And that would be consistent with the developing of the new award, or the making of the new award, Farming and Fruit Award. If the commission pleases.

COMMISSIONER WATLING: Thank you. Mr Fitzgerald?

MR FITZGERALD: Thank you, commissioner. I don't think it's really necessary for me to say much more than simply endorse the request made by Mr Cooper of the application before you, as a consequence of the making of the Farming and Fruit Growing Award. It's obviously necessary to make the application in these terms and we have checked the application and we're happy with it in its current format, and we seek its endorsement. If it pleases.

COMMISSIONER WATLING: Thank you. Mr Rice?

MR RICE: If it please the commission, we would support the submissions made by Mr Cooper and Mr Fitzgerald and, in

addition, we will be making application in the very near future to have our Certificate of Registration withdrawn, sir, and have the horticulturists deleted therefrom. If it please the commission.

COMMISSIONER WATLING: Good, thank you. No further submissions? No further submissions. Well, I indicate to the parties that the application - the consent application will be endorsed and I'll hand down a written decision in due course granting the application. This matter is now concluded.

HEARING CONCLUDED