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TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

s23 application for an award or variation of an award

Tasmanian Trades and Labor Council

[T10230 of 2002]

Private Sector Awards

[T10288 of 2002]

Private Sector Awards

[T10289 of 2002]

Private and Public Sector Awards

FULL BENCH:

PRESIDENT P L LEARY

DEPUTY PRESIDENT R J WATLING

COMMISSIONER T J ABEY

Wage Rates - State Wage Case July 2002 - applications to vary private sector awards in a manner consistent with the Australian Industrial Relations Commission decision in Print PR002002 - Safety Net Review 2002 - Award rates increased by - \$18 per week - Wage related allowances increased by 3.55% - Meal allowances increased to \$11.90 - Supported Wage increased to \$56 per week - Operation ffpp 1 August 2002 - State Minimum Wage determined at \$431.40-s.35(1)(b)

AUTOMOTIVE INDUSTRIES AWARD

ORDER BY CONSENT -

No 1 of 2002

THE AUTOMOTIVE INDUSTRIES AWARD IS VARIED IN THE FOLLOWING MANNER:

1. By deleting Part III, Clause 1 - WAGE RATES and inserting in lieu thereof the following:

1. WAGE RATES

(a) Adults

Adult employees shall be paid in accordance with the following classification structure which shall be read in conjunction with the classification definitions contained in Part III – Wage Rates and Related Matters, Clause 3 – Classification Structure and Implementation.

Wage Group Level	Base Rate Relativity %	Base Rate \$	Safety Net Adjustment \$	Weekly Wage Rate \$
Level 1 Automotive Industry - Repair, Services and Retail Employee Grade 1	78	325.40	106.00	431.40
Level 2 Automotive Industry - Repair, Services and Retail Employee Grade 2	82	342.10	106.00	448.10
Level 3 Automotive Industry - Repair, Services and Retail Employee Grade 3 Clerical Assistant/Adult Entry Point	87.4	364.60	106.00	470.60
Level 4 Automotive Industry - Repair, Services and Retail Employee Grade 4 Clerical Assistant Grade 1	92.4	385.50	106.00	491.50
Level 5 Automotive Industry - Repair, Services and Retail Employee Grade 5 Clerical Officer Grade 2	96.2	401.30	106.00	507.30

Wage Group Level	Base Rate Relativity %	Base Rate \$	Safety Net Adjustment \$	Weekly Wage Rate \$
Level 6 Automotive Industry - Repair, Services and Retail Employee Tradesperson or Equivalent Grade 1 Clerical Officer Grade 3	100	417.20	108.00	525.20
Level 7 - Automotive Industry - Repair, Services and Retail Employee Tradesperson or Equivalent Grade 2 Clerical Officer Grade 4	108	450.60	108.00	558.60
Level 8 Automotive Industry - Repair, Services and Retail Employee Tradesperson or Equivalent Grade 3 Clerical Officer Grade 5	115	479.80	106.00	585.80

(b) Tool Allowance

All employees that are engaged in classifications that are proclaimed as trades under the *Vocational Education and Training Act 1994*, shall either be supplied with all tools by the employer or be paid a tool allowance of not less than \$9.00 per week.

PROVIDED that such allowance shall not be the subject of adjustment when computing payments for shift penalty rates for weekend or holiday work for overtime or for any other purpose.

(c) Leading Hands

In charge of 2 employees - \$15.10 per week extra;

In charge of not less than 3 employees and not more than 10 employees - \$20.80 per week extra;

In charge of not less than 10 employees and not more than 20 employees - \$31.10 per week extra;

In charge of more than 20 employees - \$39.80 per week extra.

(d) Junior Employees other than Apprentices

- (i) The minimum weekly wage rate for a junior employed in the tasks set out below, shall be the undermentioned percentages of the Weekly Wage Rate, Automotive Industry - Repair, Services and Retail Employee, Level 3:

Age	%
16 years of age and under	45
17 years of age	55
18 years of age	70
19 years of age	80
20 years of age	90

Clerical Employee
Counter Salesperson
Driver of a mobile crane
Driver of a motor vehicle and/or towing vehicle.

- (ii) The minimum weekly wage rate for a junior employed in all other tasks shall be the undermentioned percentages of the Weekly Wage Rate, Automotive Industry - Repair, Services and Retail Employee, Level 1:

Age	%
16 years of age and under	45
17 years of age	50
18 years of age	62.5
19 years of age	75
20 years of age	87.5

(e) Minimum Wage

Notwithstanding the provisions of Part III – Wage Rates and Related Matters, Clause 1 - Wage Rates, no adult employee shall be paid less than the rate of \$363.40 per week.

PROVIDED that payments for overtime, special rates, holiday and weekend penalties and shift allowances prescribed in this award shall not be taken into account in the calculation of such minimum weekly wage rates of pay.

Where a minimum weekly wage rate as aforesaid is applicable to an employee for work in ordinary hours the same rate shall be applicable to the calculation of overtime and all other penalty rates, payments during sick leave and annual leave, and for all other purposes of this award.

(f) Apprenticeship

Junior Employees shall not be employed in the following occupations otherwise than under a contract of apprenticeship (as defined) as hereinafter provided:

- Automotive Electrician
- Automotive Machining
- Body Making
- Motor Cycle & Small Engine Mechanic
- Motor Mechanic
- Panel Beating
- Springsmithing
- Trimming
- Vehicle Painting
- Diesel Mechanic

Probationary Period

Junior Employees may be taken on probation for three months and, if apprenticed, such three months shall count as part of their period of apprenticeship. An employer shall, within 14 days of employing a probationer, notify the Tasmanian State Training Authority of the employment of such probationer in any of the trades mentioned.

Wages

The minimum weekly wage rate to be paid by employers to apprentices and other junior workers not elsewhere provided shall be the undermentioned percentages of Automotive Industry - Repair, Services and Retail Employee Tradesperson Level I:

	%
First year	42
Second year	55
Third year	75
Fourth year	88

The said minimum weekly wage rates shall be calculated to the nearest 10 cents, any fraction of 10 cents not exceeding 5 cents to be disregarded.

Payment by Results

An apprentice shall not work under any system of payment by results.

The employer shall be responsible for reimbursement of fees and levies paid by an apprentice as an integral part of the training of that apprentice provided:

- (i) the apprentice produces receipts as proof of payment of such fees or levies;
- (ii) the apprentice produces a report from TAFE which demonstrates a good attendance record, good conduct and a satisfactory performance result.

Such reimbursement shall occur at the successful conclusion of each year of apprenticeship.

(g) Adult Apprentice

(i) Definition

For the purposes of this award an adult apprentice means a person 21 years of age or over at the time of entering into an indenture to one of the trades specified in Part III – Wage Rates and Related Matters, Clause 1 - Wage Rates of this award.

(ii) Wage Rate

- (1) Where a person was employed by an employer in the automotive industry immediately prior to becoming an adult apprentice with that employer, such person shall not suffer a reduction in the rate of pay by virtue of becoming indentured. For the purpose only of fixing a rate of pay the adult apprentice shall continue to receive the rate of pay that is from time to time applicable to the classification or class of work specified in Part III – Wage Rates and Related Matters, Clause 1 - Wage Rates of the award and in which the adult apprentice was engaged immediately prior to entering into the contract of indenture.
- (2) Subject to paragraph (i) hereof the rate of an adult apprentice shall be the minimum weekly wage rate prescribed in Part III – Wage Rates and Related Matters, Clause 1 - Wage Rates or the rate prescribed by the appropriate subclause for the relevant year of apprenticeship whichever is the greater.

(iii) Preference

- (1) Preference of employment as an adult apprentice should be given to an applicant who is currently employed by the employer so as to provide for genuine career path development.
- (2) Adult apprentices shall not be employed at the expense of other apprentices.

(iv) Review

Parties to the award agree that a jointly conducted comprehensive review of the effectiveness of adult apprenticeships shall be undertaken to determine whether or not adult apprenticeships should continue in their existing form. One issue to be considered is the age at which persons will be regarded as adult apprentices.”

2. By deleting Part III, Clause 2 – SUPPORTED WAGE SYSTEM, and inserting in lieu thereof the following:

“2. SUPPORTED WAGE SYSTEM

(a) Eligibility Criteria

Subject to this clause an employer may engage employees at a supported wage rate (as set out in subclause (c) of this clause) who meet the impairment criteria for receipt of a Disability Support Pension and who, because of their disability, are unable to perform the range of duties to the competence level normally required for the class of work for which they are engaged.

PROVIDED that this clause does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers' compensation legislation or any provision of this award relating to the rehabilitation of employees who are injured in the course of their current employment.

PROVIDED FURTHER that this clause does not apply to employers in respect of their facility, programme, undertaking, service or the like which receives funding under the *Disability Services Act 1986* and fulfils the dual role of service provider and sheltered employer to people with disabilities who are in receipt of or are eligible for a disability support pension, except with respect to an organisation which has received recognition under Section 10 or under Section 12A of the above Act, or if a part only has been received recognition, that part.

(b) For the purposes of this clause:

'Accredited Assessor' means a person accredited by the management unit established by the Commonwealth under the Supported Wage System to perform assessments of an individual's productive capacity within the Supported Wage System.

'Assessment Instrument' means the form provided for under the Supported Wage System that records the assessment of the productive capacity of the person to be employed under the Supported Wage System.

'Disability Support Pension' means the pension available under the Commonwealth pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991*, as amended from time to time, or any successor to that scheme.

'Supported Wage System' means the Commonwealth Government System to promote employment for people who cannot work at full award wages because of a disability.

(c) Supported Wage Rates

Employees to whom this clause applies shall be paid the applicable percentage of the minimum rate of pay prescribed by this award for the class of work which the person is performing according to the following schedule:

Assessed Capacity (subclause (d))	% of Prescribed Award Rate
10%	10%
20%	20%
30%	30%
40%	40%
50%	50%
60%	60%
70%	70%
80%	80%
90%	90%

PROVIDED that the minimum amount payable shall be not less than \$56 per week.

(d) Assessment of Capacity

For the purpose of establishing the percentage of the award rate to be paid to a supported wage employee under this award, the productive capacity of the employee will be assessed in accordance with the Supported Wage System and documented in an assessment instrument by either:

- (i) the employer and a union party to the award, in consultation with the employee or, if desired by any of these;
 - (ii) the employer and an accredited Assessor from a panel agreed by the parties to the award and the employee.
- (e) Lodgment of Assessment Instrument
 - (i) All assessment instruments under the conditions of this clause, including the appropriate percentage of the award wage to be paid to the employee, shall be lodged by the employer with the Registrar of the Tasmanian Industrial Commission.
 - (ii) All assessment instruments shall be agreed and signed by the parties to the assessment, provided that where a union which is party to the award, is not a party to the assessment, it shall be referred by the Registrar of the Tasmanian Industrial Commission to the union by certified mail and shall take effect unless an objection is notified to the Registrar of the Tasmanian Industrial Commission within 10 working days.
- (f) Review of Assessment

The assessment of the applicable percentage shall be subject to annual review or earlier on the basis of a reasonable request for such a review. The process of review shall be in accordance with the procedures for assessing capacity under the Supported Wage System.
- (g) Other Terms and Conditions of Employment

Where an assessment has been made, the applicable percentage shall apply to the wage rate only. Employees covered by the supported wage provisions of this clause shall be entitled to the same terms and conditions of employment as all other workers covered by this award who are paid on a pro rata basis.
- (h) Workplace Adjustment

An employer wishing to employ a person under the provisions of this clause shall take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve re-design of job duties, working time arrangements and work organisation in consultation with other workers in the area.
- (i) Trial Period
 - (i) in order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this clause for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.

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- (ii) During that trial period the assessment of capacity shall be undertaken and the proposed wage rate for a continuing employment relationship shall be determined in accordance with subclauses (d) and (e).
- (iii) The minimum amount payable to the employee during the trial period shall be no less than \$56 per week or such greater amount as is agreed from time to time between the parties.
- (iv) Work trials should include induction or training as appropriate to the job being trialed.
- (v) Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment shall be entered into based on the outcome of assessment under subclause (c) hereof.”

3. By deleting Part IV, Clause 1 - FIRST AID, and inserting in lieu thereof the following:

1. FIRST AID

(a) Attendant

An employer shall endeavour to have at least one employee trained to render first aid in attendance when work is performed at an establishment.

(b) First Aid Outfit

In each workshop, and at other places where employees are regularly employed, the employer shall provide and continuously maintain at a place or places reasonably accessible to all employees an efficient first aid outfit.

(c) First Aid Allowance

An employee who has been trained to render first aid and who is the current holder of appropriate first aid qualifications such as a certificate from the Red Cross or St. John Ambulance or similar body shall be paid a weekly allowance of \$5.90 if he or she is appointed by his or her employer to perform first aid duty.”

4. By deleting Part V, Clause 4 - OVERTIME, and inserting in lieu thereof the following:

4. OVERTIME

The provisions of this clause shall not apply to a person classified as Vehicle Salesperson or Commercial Traveller.

(a) Rate of Remuneration

For all work done outside ordinary hours the rates of pay shall be time and a half for the first 2 hours and double time thereafter, such double time to continue until the completion of the overtime work.

(b) Rest Break After Overtime

(i) An employee, other than a casual employee (as defined) after the completion of overtime work performed after the usual ceasing time, shall be entitled to be absent until the employee has 10 consecutive hours off duty, without deduction of pay for ordinary time of duty occurring during each absence.

(ii) If, on the instructions of the employer, an employee resumes work without having had such 10 hours off duty the employee shall be paid at double rates until relieved from duty to take such rest period. The employee shall be entitled to 10 consecutive hours off duty without deduction of pay for ordinary time of duty occurring during such absence.

(c) Requirement to Work Overtime

As a condition to the operation of a 38-hour week any employee who may be required by the employer to work reasonable overtime at the overtime rates herein prescribed shall work such overtime in accordance with such requirements.

(d) Computation of Overtime

Except as otherwise provided in subclauses (a) and (b) hereof, in computing overtime each day's work shall stand alone.

(e) Excess Time Worked by Clerical Employees/Sellers of Automotive Replacement Parts and Accessories

Clerical Employees/Sellers of Automotive Replacement Parts and Accessories who work ten minutes or more past the time fixed for ceasing work shall be paid overtime rates for all time worked after the time fixed for ceasing work.

PROVIDED that this subclause shall not be used to obtain unpaid work from employees on a regular basis.

(f) Call Back

An employee recalled to work overtime after leaving the employer's business premises (whether notified before or after leaving the premises) shall be paid for a minimum of 4 hours' work at the appropriate rate for each time so recalled.

PROVIDED that, except in the case of unforeseen circumstances arising, the employee shall not be required to work the full 4 hours if the job the employee was recalled to perform is completed within a shorter period.

PROVIDED FURTHER employees classified as a seller of motor vehicle replacement parts and accessories shall be afforded a minimum payment of 3 hours only.

This subclause shall not apply in cases where it is customary for an employee to return to his or her employer's premises to perform a specific job outside his or her ordinary working hours, or where the overtime is continuous (subject to a reasonable meal break) with the completion or commencement of ordinary working time.

Overtime worked in the circumstances specified in this subclause shall not be regarded as overtime for the purposes of subclause (a) of this clause where the actual time worked is less than 3 hours on such recall or on each of such recalls.

(g) Stand-by

Subject to any custom now prevailing under which an employee is regularly required to be available for a call back, an employee required to remain on standby shall, until replaced, be paid at ordinary time rates from the commencement of the standby period.

(h) Meal Breaks

- (i) For work done during meal hours and thereafter until a meal break is allowed double time shall be paid. An employee shall not be compelled to work for more than 5 hours without a break for a meal, subject to the provisions of Part V – Hours of Work, Shift Work and Overtime, Clause 3 - Hours.
- (ii) Subject to the provisions of the second part of subclause (h) (i) of this clause, an employee employed as a regular maintenance person shall work during meal breaks at the ordinary rates herein prescribed whenever instructed to do so for the purpose of making good breakdowns of plant or upon routine maintenance of plant which can only be done while such plant is idle.
- (iii) An employee working overtime shall be allowed a crib time of 20 minutes without deduction of pay after each 4 hours of overtime work, if the employee continues to work after such crib time.
- (iv) Before starting overtime after ordinary working hours a meal break of at least 45 minutes shall be allowed unless the period of overtime is less than one and a half hours. An employer and employee may agree to any variation of this provision to meet the circumstances of the work in hand.

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(i) Tea Money

- (i) An employee required to work overtime for more than one and a half hours shall either be supplied with a meal by the employer or paid \$11.90 for each meal.
- (ii) If an employee, pursuant to notice, has provided a meal or meals and is not required to work overtime, the employee shall be paid as above prescribed above. An employee may request that the payment prescribed in this subclause be made on the day on which the overtime is worked.

(j) Transport Home

The employer shall provide an employee with transport to the employee's home in circumstances where the employee works unrostered overtime and finishes work at a time when other means of transport are not available.

(k) Time off in lieu

- (i) Where an employee requests and the employer agrees, time off at the penalty equivalent may be allowed in lieu of payment for overtime.
- (ii) Provided that such time off shall be paid at the ordinary rate.
- (iii) Agreement to implement this provision shall be in writing signed by the employee and the employer and shall form part of the records required to be kept in accordance with section 75 of the *Industrial Relations Act 1984*."

5. By deleting Part X, Clause 1 - CONDITIONS FOR VEHICLE SALESPERSONS, and inserting in lieu thereof the following:

1. CONDITIONS FOR VEHICLE SALESPERSONS

(a) Calculation of Wages

For the purposes only of determining payment for sick leave, bereavement leave, deduction for unauthorised absences, wage calculation on termination of employment and casual rates, the hourly rate shall be 1/38th of the appropriate weekly rate as prescribed by Part III – Wage Rates and Related Matters, Clause 1 - Wage Rates of this award.

(b) Commission

Payment of commission, if any, to a vehicle salesperson may be negotiated between the salesperson and his or her employer subject to the following provisions:

- (i) The basis on which commission is to be paid shall be committed to writing and a copy given to the salesperson within 21 days of his or her commencing employment and such basis shall not be altered except by mutual consent or by a week's notice in writing from the employer to the salesperson.
- (ii) The employer of a salesperson employed at the date of the coming into operation of this award shall comply with subclause (a) hereof within 21 days of such date.
- (iii) The employer shall within 21 days after the last day of each month furnish the salesperson with all relevant particulars of vehicles delivered and commission earned by them during the preceding month and thereupon such commission or any balance thereof shall be payable.
- (iv) Commission shall be deemed to accrue upon the delivery of a vehicle to the customer.
- (v) Where a sale is effected as a result of the efforts of two or more salesmen, the commission payable in respect of such sale shall be divided between them in such proportion as they may mutually agree. In default of agreement, the employer and the sales manager, shall act as arbitrator, subject to the right of any party to apply to the Tasmanian Industrial Commission for a decision.
- (vi) Where the employment of a salesperson terminates prior to the delivery of a vehicle for which the employee would otherwise be entitled to commission, the employee shall, provided the vehicle is delivered within three months of the termination of employment, be paid two-thirds of the commission the employee would otherwise have received.
- (vii) Where the employment of a salesperson terminates, the commission to which the employee is entitled in respect of vehicles which have already been delivered shall be paid to the employee within 14 days of such termination.
- (viii) Any sum payable under an agreement made pursuant to this clause shall be deemed to be payable under this award.

(c) Contract of Employment

- (i) All employees other than casual employees shall be employed by the week.

- (ii) Employment may be terminated by one week's notice on either side given at any time during the week or by the payment or forfeiture of a week's wages as the case may be.

This shall not affect the right of the employer to dismiss an employee without notice for misconduct, in which case wages shall be paid up to the time of dismissal only.

- (iii) An employer may deduct payment for any day an employee cannot be usefully employed through any strike, breakdown of machinery or any stoppage of work by any cause for which the employer cannot reasonably be held responsible.
- (iv) An employee shall be entitled to receive on request a reference on termination of services. Such reference shall contain at least the commencing and finishing dates of service, also the classification upon which the employee was engaged and shall become the absolute property of the employee. Any prospective or future employer shall return the reference to the employee within 7 days of having received it.

- (v) Casual Employment

A casual employee shall be paid 12% of the appropriate weekly rate in Part III – Wage Rates and Related Matters, Clause 1 - Wage Rates, for each time the employee commences work before noon and each time the employee commences work after noon.

An employee who is not engaged specifically as a casual employee shall be deemed to be on weekly hire.

The provisions of subclause (j) Work on a Sunday, and subclause (k) Work on Holidays and Days Off of this clause shall also apply to casual employees.

- (vi) Part-time Employees

A part-time employee may be engaged in any of the classifications covered by the award, provided such employee accepts employment on the following terms:

- (1) The wage rate shall be equal to the appropriate weekly rate divided by 38.
- (2) The provisions of this award in respect to Annual Leave, Compassionate Leave, Sick Leave, Holidays and in all other respects shall apply to such part-time employees on a proportionate basis.
- (3) No part-time employee shall work less than twenty hours per week.

- (4) No full-time employee will be reduced to part-time without his or her express consent.
- (5) Not more than 10% of the employees in any one establishment shall be employed as part-time employees.

(d) Days Off

- (i) A vehicle salesperson shall be allowed one and one-half days free of duty per week or by mutual agreement three full days per fortnight.
- (ii) Each employee will be allotted a meal break of not less than 30 minutes nor more than 60 minutes between the hours of 11.00 a.m. and 3.00 p.m. each day.

PROVIDED that no employee may be required to work more than 5 hours without a break for a meal.

- (iii) No employee will be required to make himself or herself available for duty for more than 12 hours on any day.

(e) General Conditions

The provisions of this award relating to Part II – Employment Relationship and Associated Matters, Clause 5 - Suspension, Part III – Wage Rates and Related Matters, Clause 6 - Superannuation, Part VI – Leave and Holidays with Pay, Clause 1 - Annual Leave, Part VII - Consultation and Dispute Resolution, Clause 1 - Settlement of Disputes, and Clause 2 - Structural Efficiency, and Part IX - Miscellaneous Provisions, Clause 2 - Training shall apply to employees engaged under this clause.

(f) Meal Allowance

- (i) A vehicle salesperson required to be on duty at a motor show, agricultural show, or similar exhibition on either over the evening meal period or on a holiday referred to in Part V – Hours of Work, Shift Work and Overtime, Clause 1 - Holidays with Pay, shall be paid \$11.90 for each evening meal and \$11.90 for the midday meal on the holiday.
- (ii) A vehicle salesperson required to work at a showroom or car yard for more than two hours after 6.00 p.m. on any day without being notified on the previous day or earlier that the employee would be so required to work, shall either be supplied with a meal by his or her employer or paid \$11.90, but such payment need not be made to an employee living in the same locality as his or her work place who can reasonably return home for meals.

(g) Payment of Wages

Wages shall be paid weekly and not later than Thursday of the week of payment. By agreement between the employer and the majority of employees wages may be paid by means other than cash.

PROVIDED that in the absence of agreement with the majority of employees an employer may introduce payment of wages by electronic funds transfer without cost to the employee by the giving of three months notice.

If payment is made by electronic funds transfer the employer shall be responsible to meet the cost of one deposit and one withdrawal per employee per pay period.

By agreement between the employer and the majority of employees wages may be paid on a fortnightly basis with one week being paid in advance and one week in arrears.

PROVIDED FURTHER in the absence of agreement by the majority of employees the employer may implement fortnightly pay by giving not less than one months notice of his or her or her intention to do so.

(h) Travelling Allowances

A vehicle salesperson whose duties necessitate the employee staying away overnight from his or her usual abode, shall be reimbursed expenses reasonably incurred by the salesperson in the course of his or her duties, including \$11.90 for each meal.

(i) Use of Motor Vehicles

(i) Where a vehicle salesperson is provided with a motor vehicle for use in the performance of his or her duties, no deduction shall be made from the wages payable to such salesperson pursuant to Part III – Wage Rates and Related Matters, Clause 1 - Wage Rates, of this award as the case may required, on account of such use.

(ii) Where a vehicle salesperson is engaged on terms which require the employee to provide his or her own vehicle, he or she shall be reimbursed as set out hereunder or on the basis not less favourable to the salesperson:

(1) For motor cars up to and including 20 hp, an overhead cost allowance of \$122.15 per week, plus a weekly amount calculated at the rate of 12 cents per kilometre for the actual distance travelled by his or her car each week in connection with his or her employment.

(2) For motor cars over 20 hp an overhead cost allowance of \$135.70 per week, plus a weekly amount calculated at the rate of 18 cents

per kilometre for the actual distance travelled by his or her car each week on connection with his or her employment.

- (3) For the purposes of paragraphs (i) and (ii) hereof, distance travelled to and from the place where the vehicle customarily is housed shall be regarded as travel in connection with the employment.
- (4) The overhead allowances prescribed by subparagraphs (1) and (2) hereof, shall be paid during each week of the calendar year except in respect of periods:
 - (A) when the salesperson is absent from duty without the consent of the employer;
 - (B) in excess of three consecutive weeks when the vehicle is unavailable due to accident or mechanical defect;
 - (C) in excess of a total of three complete weeks in any one year due to personal illness or incapacity of the salesperson.

PROVIDED that any such claim for any period of less than one week shall not be taken into account for the purpose of this paragraph.

Other than in cases of termination of employment, four weeks' notice shall be given to a salesperson by the employer that the salesperson is no longer required to provide his or her own vehicle.

- (iii) In the case of casual use by a salesperson of his or her own vehicle in the course of his or her duties and by agreement with his or her employer, the salesperson shall be reimbursed at a rate of not less than 48 cents per kilometre.

(j) Work on a Sunday

A vehicles salesperson required by his or her employer to work on a Sunday other than a Sunday which is his or her rostered day off shall be paid, in addition to his or her ordinary rate, as follows:

- (i) if more than half a day is worked - 2/5ths of the appropriate weekly rate prescribed by Part III – Wage Rates and Related Matters, Clause 1 - Wage Rates;
- (ii) if half a day or less is worked - 1/5th of the appropriate weekly rate prescribed by Part III – Wage Rates and Related Matters, Clause 1- Wage Rates.

(k) Work on Holidays and Days Off

- (i) All work done by a vehicle salesperson on the instruction of his or her employer on his or her rostered day or half day off shall be paid for at the rate of double time.

For the purpose of this subclause, double time shall mean:

- (1) if more than half a day is worked - 2/5ths of the weekly rate prescribed by Part III – Wage Rates and Related Matters, Clause 1 - Wage Rates;
- (2) if half a day or less is worked, 1/5th of the weekly rate prescribed by Part III – Wage Rates and Related Matters, Clause 1 - Wage Rates.

- (ii) All work done by a vehicle salesperson on the instruction of the employer on a holiday referred to in Part V – Hours of Work, Shift Work and Overtime, Clause 1 - Holidays with Pay, shall be paid for at the rate of double time and one half.

For the purpose of this subclause, double time and one half shall mean:

- (1) if more than half a day is worked, one half of the appropriate weekly rate prescribed by Part III – Wage Rates and Related Matters, Clause 1 - Wage Rates;
- (2) if half a day or less is worked, one quarter of the appropriate weekly rate prescribed by Part III – Wage Rates and Related Matters, Clause 1 - Wage Rates.”

OPERATIVE DATE

These variations shall come into operation from the first full pay period on or after 1 August 2002.

P L Leary
PRESIDENT

14 August 2002