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TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984
s.23 application for an award or variation of an award

Tasmanian Trades and Labor Council
(T8413 of 1999)

Private Sector Awards

Tasmanian Chamber of Commerce and Industry Limited
(T8483 of 1999)

Private and Public Sector Awards

FULL BENCH:
DEPUTY PRESIDENT B R JOHNSON
COMMISSIONER R J WATLING
COMMISSIONER P A IMLACH

Wage Rates - State Wage Case July 1999 - applications to review the Wage Fixing Principles and to vary awards in a manner consistent with the Australian Industrial Relations Commission decision in Print number R1999 Safety Net Review - Wages - flow-on of federal safety net adjustment approved - operative date ffpp 1 August 1999 - partial revision of Wage Fixing Principles - full review of Wage Fixing Principles to begin no later than October 1999

COMMUNITY SERVICES AWARD

ORDER -

No. 1 of 1999

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THE **COMMUNITY SERVICES AWARD** IS VARIED IN THE FOLLOWING MANNER:

1. By deleting Clause 8 - WAGE RATES, and inserting in lieu thereof the following:

"8. WAGE RATES

(a) An employee appointed or promoted to a position within a level prescribed by this award shall be paid at the salary rate determined for that level by reference to the relevant classification standards as set out in Clause 7 - Definitions, subclause (b) - Classification Standards.

| | Base Rate Relativity % | Base Rate \$ | Safety Net Adjustment \$ | Weekly Wage Rate \$ |
|---------|---------------------------------|--------------------|--------------------------------|---------------------------|
| Level 1 | | | | |
| Grade 1 | 90 | 375.50 | 60.00 | 435.50 |
| Grade 2 | 95 | 396.30 | 60.00 | 456.30 |
| Level 2 | | | | |
| Grade 1 | 100 | 417.20 | 60.00 | 477.20 |
| Grade 2 | 105 | 438.10 | 60.00 | 498.10 |
| Level 3 | | | | |
| Grade 1 | 110 | 458.90 | 60.00 | 518.90 |
| Grade 2 | 115 | 479.80 | 58.00 | 537.80 |
| Grade 3 | 125 | 521.50 | 56.00 | 577.50 |
| Level 4 | 135 | 563.20 | 56.00 | 619.20 |
| Level 5 | 145 | 604.90 | 56.00 | 660.90 |
| Level 6 | 160 | 667.50 | 54.00 | 721.50 |
| Level 7 | 180 | 751.00 | 54.00 | 805.00 |

(b) Entry Level and Progression

An employee holding an Associate Diploma shall commence at Level 3 Grade 1.

An employee holding a relevant degree shall commence at Level 3 Grade 3.

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Within each level employees shall progress to successive grades upon completion of 12 months service subject to satisfactory performance assessment.

(c) Calculation of Rates

The hourly wage rate shall be determined by dividing the weekly rate by 38.

(d) Supported Wage System

(i) Eligibility Criteria

Subject to this subclause an employer may engage employees at a supported wage rate (as set out in paragraph (iii) of this subclause) 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 subclause 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 subclause 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 received recognition, that part.

(ii) For the purposes of this subclause:

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

'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.

'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.

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'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.

(iii) Supported Wage Rates

Employees to whom this subclause 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 (paragraph (iv)) | % 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 \$45 per week.

(iv) 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:

- (1) the employer and a union party to the award, in consultation with the employee or, if desired by any of these;
- (2) the employer and an accredited Assessor from a panel agreed by the parties to the award and the employee.

(v) Lodgment of Assessment Instrument

- (1) All assessment instruments under the conditions of this subclause, 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.
- (2) 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

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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.

(vi) 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.

(vii) 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 subclause 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.

(viii) Workplace Adjustment

An employer wishing to employ a person under the provisions of this subclause 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.

(ix) Trial Period

- (1) 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 subclause for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.
- (2) 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 paragraphs (iv) and (v).
- (3) The minimum amount payable to the employee during the trial period shall be no less than \$45 per week or such greater amount as is agreed from time to time between the parties.
- (4) Work trials should include induction or training as appropriate to the job being trialed.
- (5) Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a

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further contract of employment shall be entered into based on the outcome of assessment under paragraph (iii) hereof."

2. By deleting Clause 16 - FIRST AID, and inserting in lieu thereof the following:

"16. FIRST AID

Allowance

An employee who holds a current first aid certificate issued by the St John Ambulance Association or Australian Red Cross Society or equivalent qualification, and who is required by his/her employer to perform first aid duty at his/her work-place shall be paid an allowance of \$8.80 per week."

3. By deleting Clause 23 - ON CALL AND RECALL, and inserting in lieu thereof the following:

"23. ON CALL AND RECALL

(a) On Call Allowance

(i) Ordinary Rates

An employee required to be on call (i.e.) available to be recalled for duty or available for 'telephone duty' shall be paid an allowance of \$17.15 in respect of any specified 24 hour period or part thereof during which the employee is on call during the period commencing from the time of finishing ordinary duty on Monday and the termination of ordinary duty on Friday.

(ii) Weekend

The allowance shall be \$34.25 in respect of any other 24 hour period or part thereof.

(b) Recall

In addition to the on call allowance an employee recalled to duty shall be paid for a minimum of two hour's work inclusive of reasonable travelling time for each recall at relevant overtime rates. In respect of a recall in excess of two hour's work the employee shall be paid for each hour in which work is performed whether or not the full hour is worked, at relevant overtime rates.

PROVIDED that time reasonably spent travelling to and from work shall be regarded as time worked.

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(c) Telephone Duty

In addition to the on call allowance, an employee who performs telephone duties shall be paid for a minimum of one hour's work for disturbance, whether as single disturbance of a maximum of one hour or two disturbances of a maximum of 30 minutes, whether or not the full hour is worked, at relevant overtime rates.

In respect of subsequent disturbances, the employee shall be paid for each 30 minute period in which duties are performed whether or not the full period is worked, at appropriate overtime rates."

4. By deleting Clause 27 - SLEEPOVER, and inserting in lieu thereof the following:

"27. SLEEPOVER

- (a) **'Sleepover'** means a continuous period during which an employee is enabled by the employer to sleep over at the workplace, but is available to deal with any urgent situation which cannot be dealt with by another worker or be dealt with after the end of the sleepover period. An employee shall not be required to seek specific authorisation from the employer for such work, and shall record the hours worked.

The employer shall take all reasonable steps to enable the employee to sleep on the premises, including the provision of:

- (i) suitable accommodation and bedding in a single bedroom occupied only by the employee;
 - (ii) a bathroom or shower room, a toilet and a meal room, all reasonably accessible from the bedroom and reasonably private;
 - (iii) linen, cutlery, crockery and blankets, free of charge to the employee.
- (b) An employee shall only sleepover under the following conditions:
- (i) there is an agreement between the employer and employee in respect of each period;
 - (ii) a sleepover period shall consist of a maximum of eight continuous hours within a night shift period of at least 12 hours. A minimum of four hours shall be paid at night shift rates in addition to the sleepover allowance contained in subclause (c) hereunder;
 - (iii) a sleepover period shall count as night shift hours in respect to calculation of overtime entitlements and limitations on shift work in Clause 18 - Hours, Shift Work, Overtime, subclause (b).

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- (c) (i) An employee engaged on sleepover shall be paid an allowance of \$17.15 plus payment equivalent to one and a half hours pay that shall be deemed to be remuneration for one hour's work whether or not the employee is disturbed.
- (ii) Where an employee is required to perform duties during the sleepover period, each disturbance shall be recorded and paid in multiples of one half hour's work.
- (iii) The payment shall be deemed to be remuneration for one hour's work whether as a single disturbance of a maximum of one hour duration or two disturbances of a maximum of 30 minutes duration. In respect of subsequent disturbances the employee shall be paid for each 30 minutes in which work is performed, whether or not the full 30 minutes are worked, at the appropriate overtime rate."

OPERATIVE DATE

This variation shall come into operation from the first full pay period commencing on or after 1 August 1999.

R J Watling
COMMISSIONER

28 July 1999