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**TASMANIAN INDUSTRIAL COMMISSION**

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

**Tasmanian Trades and Labor Council**  
(T7702 of 1998)

**Private and public sector awards**

**FULL BENCH:**

PRESIDENT F D WESTWOOD  
DEPUTY PRESIDENT B R JOHNSON  
COMMISSIONER R J WATLING

Wage Rates - State Wage Case July 1998 - application to review the Wage Fixing Principles and to vary awards in a manner consistent with the Australian Industrial Relations Commission decision in Print number Q 1998 Safety Net Review - Wages - Agreed Settlement - Two-stage Arbitrated Safety Net Adjustment - ffpp on or after 14 July 1998 and ffpp on or after 14 October 1998 - Revised Wage Fixing Principles - Approved

**NURSING HOMES AWARD**

**ORDER BY CONSENT -**

**No. 1 of 1998**

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AMEND THE **NURSING HOMES AWARD** IN THE FOLLOWING MANNER:

By deleting Clause 8 - Wage Rates, and inserting in lieu thereof the following:

**"8. WAGE RATES**

SECTION A - WAGES - ADULTS

Adult employees shall be paid in accordance with the following structure which shall be read in conjunction with the classification definitions contained in Clause 7 - Definitions.

(a) Operative from the first full pay period to commence on or after 14 July 1998:

	Base Rate Relativity %	Base Rate \$	Safety Net Adjustment \$	Total Weekly Wage \$
Administrative Employee				
Adult Entry Level	82.5	375.10	44.00	419.10
Level 1a	86	391.00	44.00	435.00
Level 1b	88.5	402.40	44.00	446.40
Level 2a	90	409.20	44.00	453.20
Level 2b	92	418.30	44.00	462.30
Level 3a	95	432.00	44.00	476.00
Level 3b	97	441.10	44.00	485.10
Level 4	100	454.70	44.00	498.70
Level 5	105	477.40	44.00	521.40
Level 6	110	500.20	44.00	544.20
Level 7	120	545.60	43.00	588.60
Extended Care Assistant				
Level 1	78	354.70	44.00	398.70
Level 2	85.5	388.80	44.00	432.80
Level 3	85.5	402.40	44.00	446.40
Level 4	91	413.80	44.00	457.80
Level 5	94	427.40	44.00	471.40
Services Employee				
Level 1	78.6	357.40	44.00	401.40
Level 2	82	372.80	44.00	416.80
Level 3	87.4	397.40	44.00	441.40
Level 4	92.1	418.80	44.00	462.80
Level 5	100	454.70	44.00	498.70
Level 6	105	477.40	44.00	521.40
Level 7	110	500.20	44.00	544.20
Level 8	115	522.90	43.00	565.90

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(b) Operative from the first full pay period to commence on or after 14 October 1998:

	Base Rate Relativity %	Base Rate \$	Safety Net Adjustment \$	Total Weekly Wage \$
<b>Administrative Employee</b>				
Adult Entry Level	82.5	375.10	48.00	423.10
Level 1a	86	391.00	48.00	439.00
Level 1b	88.5	402.40	48.00	450.40
Level 2a	90	409.20	48.00	457.20
Level 2b	92	418.30	48.00	466.30
Level 3a	95	432.00	48.00	480.00
Level 3b	97	441.10	48.00	489.10
Level 4	100	454.70	48.00	502.70
Level 5	105	477.40	48.00	525.40
Level 6	110	500.20	48.00	548.20
Level 7	120	545.60	46.00	591.60
<b>Extended Care Assistant</b>				
Level 1	78	354.70	48.00	402.70
Level 2	85.5	388.80	48.00	436.80
Level 3	85.5	402.40	48.00	450.40
Level 4	91	413.80	48.00	461.80
Level 5	94	427.40	48.00	475.40
<b>Services Employee</b>				
Level 1	78.6	357.40	48.00	405.40
Level 2	82	372.80	48.00	420.80
Level 3	87.4	397.40	48.00	445.40
Level 4	92.1	418.80	48.00	466.80
Level 5	100	454.70	48.00	502.70
Level 6	105	477.40	48.00	525.40
Level 7	110	500.20	48.00	548.20
Level 8	115	522.90	46.00	568.90

SECTION B - WAGES - JUNIORS

Junior employees shall be paid the wage rate assigned to the following age classification:

	% of Wage Rate Adult Entry Level
Administrative Employee	
Under 17 years of age	53
17 to 18 years of age	61
18 to 19 years of age	71
19 to 20 years of age	81
20 to 21 years of age	90

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	% of Wage Rate for Extended Care Assistant Level 1
Extended Care Assistant and Services Employee	
Under 17 years of age	52
17 to 18 years of age	61
18 to 19 years of age	72
19 to 20 years of age	83
20 to 21 years of age	91

#### SECTION C - WAGES - RELEVANT MINIMUM RATE

It is a requirement of the State Wage Case Decision of 13 February, 1992, T3584 of 1991, that where a new paid rates award is made, the award shall specify the classification prescribed in the relevant minimum rates award on which the actual rates prescribed for the key classification in the paid rates award is calculated.

The following is set down in accordance with that requirement:

Minimum Rates Award - Metal and Engineering Industry Award  
Classification - Wage Group Level 7

Paid Rates Award - Nursing Homes Award  
Classification - Services Employee Level 5

#### SECTION D - SUPPORTED WAGE SYSTEM

(a) Eligibility Criteria

Subject to this section an employer may engage employees at a supported wage rate (as set out in subclause (c) of this section) 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 section 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 section 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.

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(b) For the purposes of this section:

**'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 section 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 \$45 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:

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- (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 section, 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 section 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 section 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 section 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 \$45 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."

**Operative Date**

This Order shall come into operation from the first full pay period to commence on or after 14 July 1998.

B R Johnson  
**DEPUTY PRESIDENT**

13 August 1998