

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984
s23 application for an award or variation of an 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

RESTAURANT KEEPERS AWARD

ORDER BY CONSENT-

No. 1 of 1998

The RESTAURANT KEEPERS AWARD is amended in the following manner:

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

"8. WAGE RATES

1. CAREER STRUCTURE / GRADES

An adult employee of a grade specified in the table hereunder shall be paid the weekly wage rate assigned opposite the grade wage / salary.

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

	Base Rate	Base Rate Relativity	Safety Net Adjustment	Weekly Wage Rate
	\$	%	\$	\$
(i) Introductory/Entry Level	325.40	78	44.00	369.40
(ii) Food & Beverage Service				
Food and Beverage Service Grade 1	342.10	82	44.00	386.10
Food and Beverage Service Grade 2	367.20	88	44.00	411.20
Food and Beverage Service Grade 3	385.50	92.4	44.00	429.50
Food and Beverage Service Grade 4	417.20	100	44.00	461.20
Food and Beverage Service Grade 5	458.90	110	44.00	502.90
Food and Beverage Service Grade 6	479.80	115	44.00	523.80
(iii) Guest Service				
Guest Service Grade 1	342.10	82	44.00	386.10
Guest Service Grade 2	367.20	88	44.00	411.20
Guest Service Grade 3	385.50	92.4	44.00	429.50
Greenkeeper Grade 1	367.20	88	44.00	411.20
Greenkeeper Grade 2	385.50	92.4	44.00	429.50
Greenkeeper Grade 3	417.20	100	44.00	461.20
Head Greenkeeper	458.90	110	44.00	502.90
(iv) Administrative				
Clerical Grade 1	375.50	90	44.00	419.50
Clerical Grade 2	396.30	95	44.00	440.30
Clerical Grade 3	417.20	100	44.00	461.20
Clerical Supervisor	500.60	120	44.00	544.60

- (v) General Provisions

- (1) Notwithstanding the recognition of these career path streams, such streaming does not prevent employees undertaking duties across different streams.

PROVIDED that where work is undertaken at a higher grade and/or at a higher rate than Clause 23 - Mixed Functions - Higher and Lower Grade Work applies.

- (2) Any employee who is at the date of this award in receipt of a wage rate in excess of that herein prescribed shall not have his/her weekly wage rate reduced as a result of this award.

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

	Base Rate	Base Rate Relativity	Safety Net Adjustment	Weekly Wage Rate
	\$	%	\$	\$
(i) Introductory/Entry Level	325.40	78	48.00	373.40
(ii) Food & Beverage Service				
Food and Beverage Service Grade 1	342.10	82	48.00	390.10
Food and Beverage Service Grade 2	367.20	88	48.00	415.20
Food and Beverage Service Grade 3	385.50	92.4	48.00	433.50
Food and Beverage Service Grade 4	417.20	100	48.00	465.20
Food and Beverage Service Grade 5	458.90	110	48.00	506.90
Food and Beverage Service Grade 6	479.80	115	48.00	527.80
(iii) Guest Service				
Guest Service Grade 1	342.10	82	48.00	390.10
Guest Service Grade 2	367.20	88	48.00	415.20
Guest Service Grade 3	385.50	92.4	48.00	433.50
Greenkeeper Grade 1	367.20	88	48.00	415.20
Greenkeeper Grade 2	385.50	92.4	48.00	433.50
Greenkeeper Grade 3	417.20	100	48.00	465.20
Head Greenkeeper	458.90	110	48.00	506.90
(iv) Administrative				
Clerical Grade 1	375.50	90	48.00	423.50
Clerical Grade 2	396.30	95	48.00	444.30
Clerical Grade 3	417.20	100	48.00	465.20
Clerical Supervisor	500.60	120	48.00	548.60

(v) General Provisions

- (1) Notwithstanding the recognition of these career path streams, such streaming does not prevent employees undertaking duties across different streams.

PROVIDED that where work is undertaken at a higher grade and/or at a higher rate than Clause 23 - Mixed Functions - Higher and Lower Grade Work applies.

- (2) Any employee who is at the date of this award in receipt of a wage rate in excess of that herein prescribed shall not have his/her weekly wage rate reduced as a result of this award.

2. MINIMUM WAGE

- (a) Notwithstanding the provisions of subclause 1 of this clause, no adult employee shall be paid less than the rate of:
- (i) \$267.10 per week operative from the first full pay period to commence on or after 14 July 1998;
 - (ii) \$271.10 per week operative from the first full pay period to commence on or after 14 October 1998.
- (b) **PROVIDED** that payments for overtime, holiday and weekend penalties, special rates, and shift allowances prescribed in this award shall not be taken into account in the calculation of such minimum weekly wage rate.

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 and annual leave, and for all other purposes of this award.

3. JUNIORS

The minimum weekly wage rate to be paid to junior employees shall be the undermentioned percentages of the weekly wage rate prescribed for the appropriate adult weekly wage rate calculated to the nearest 10 cents:

Age	Administrative (based on Clerical Grade 2) %	All Others (based on appropriate grade) %
Under 16 years of age	40	54
16 to 17 years of age	45	54
17 to 18 years of age	55	60
18 to 19 years of age	70	75
19 to 20 years of age	80	90
20 to 21 years of age	90	100

- (a) Administrative

When determining the weekly wage rate payable to an employee attaining the age of 21 years, who has been employed as a junior Administrative employee in the occupations or groups of occupations in respect of which awards of the Tasmanian Industrial Commission are established, applicable to private industry employees experience obtained after reaching the age of 18 years shall be counted as adult experience.

(b) Licensed Establishments

The minimum percentage payable to all employees, except Administrative, shall be 60 percent of the appropriate adult weekly wage rate.

(c) No employee under the age of 18 years shall be required to work more than 10 hours in a shift.

4. APPRENTICES

Food and Beverage Trade

Percentage of Food &
Beverage Grade 4
%

First 6 months	62
Second 6 months	76
Third 6 months	76
Fourth 6 months	90
Fifth 6 months	90

Greenkeeping

Percentage of Greenkeeper
Grade 3
%

First year	45
Second year	55
Third year	75
Fourth year	90

Kitchen Trades

Percentage of Food &
Beverage Grade 4
%

First year	50
Second year	65
Third year	80
Fourth year	90

5. TRAINEES

The minimum weekly wage rate payable to trainees (ATS) shall be determined by the following methods of calculation:

- (a) Trainee Clerk - by taking the appropriate weekly wage rate for a junior clerk as prescribed in subclause 3 of this clause and multiplying it by 39 and then dividing it by 52.

- (b) Hospitality Trainee and Food Preparation and Service Trainee - by taking the appropriate junior percentage as prescribed in subclause 3 of this clause, applying it to the weekly wage rate prescribed for Food and Beverage Service Grade 2 in subclause 1 of this clause and multiplying the result by 39 and then dividing it by 52.

PROVIDED that the wage determined by these calculations shall in no case be less than the minimum rate (as varied from time to time) prescribed by the Australian Traineeship Guidelines.

In the above formulae, 39 represents the actual number of weeks out of the total 52 weeks of the traineeship that is spent on the job.

(i)	Hospitality Trainee and Food Preparation and Service Trainee	%
	Under 16 years of age	54
	16 years of age	54
	17 years of age	60
	18 years of age	75
	19 years of age	90
	20 years of age	100
(ii)	Trainee Clerk	%
	Under 16 years of age	40
	16 years of age	45
	17 years of age	55
	18 years of age	70
	19 years of age	80
	20 years of age	90
	21 years of age	100

6. CAREER START TRAINEES (CST)

- (a) The minimum weekly wage rate payable to career start trainees shall be calculated:
- (i) by determining the hourly rate applicable to the relevant age as prescribed in subclause 3 of this clause (or for an employee over 21 years of age the relevant grade as prescribed in subclause 1 of this clause) that would otherwise be applicable to the Career Start Trainee; and
- (ii) by multiplying that hourly rate by the number of weekly ordinary hours, less the average weekly time specified in the registered Training Agreement to be spent in off-the-job training.

Such average weekly time to be calculated as the number of days to be spent in off-the-job training multiplied by 7.6 and divided by the relevant number of weeks of the traineeship.

- (b) (i) Career Start Trainees may make application to the registered training provider, at the commencement of a Career Start Traineeship, for an initial assessment of the trainees' competency and prior learning. Where an assessment conducted in accordance with the terms of paragraph (b)(ii) below leads to recognition of prior learning, trainees shall be entitled to spend a lesser amount of time participating in off-the-job training. The reduction in the amount of time spent in off-the-job training shall be based solely on the assessment made by the registered and authorised assessor.

PROVIDED that assessments conducted under the terms of this subclause shall be completed before the probationary period specified in Clause 38 - Traineeships (CST), paragraph (c)(i) of this award has expired.

In such circumstances the Tasmanian Chamber of Commerce and Industry Limited and the Union shall subsequently recalculate the weekly wage rate to be paid to a Career Start Trainee by reducing the average weekly time spent in off-the-job training as specified in paragraph (a)(ii) hereof. Any such recalculation shall establish a new weekly rate of pay for the purposes of paragraph (d) of this subclause. This new rate shall be paid from the first full pay period on or after the abovementioned assessment has been completed.

- (ii) The initial competency and learning of a Career Start Trainee shall be assessed by an assessor who has been registered and authorised to conduct assessments by the State Training Authority.
- (iii) A letter of appointment including the rate of pay determined by paragraphs (a) and (b) of this subclause shall be provided by the employer to the Career Start Trainee as soon as practicable after such rate of pay has been determined.
- (iv) Except as provided in paragraph (c) below, the weekly wage rate to be paid to a Career Start Trainee shall not be varied by any subsequent assessment of the trainee's prior learning.
- (c) The formula prescribed in paragraphs (a) and (b) above may be departed from in the following circumstances:
- (i) in the event that a Career Start Trainee is assessed by the Registered Training Provider (or by a competent assessor approved and authorised by the State Training Authority) as being able to demonstrate all of the on and off-the-job competencies required to completed the accredited course; and
- (ii) in the event that such assessment occurs prior to the expiration of the term of engagement specified in the training agreement.

In such circumstances, Career Start Trainees shall not undertake further off-the-job training during the life of the training agreement, and the normal full time weekly wage as specified in either subclause (1) or subclause (3) of this clause (whichever is appropriate to the Career Start Trainees' age or experience) shall apply in lieu of

the provisions of paragraphs (a) and (c) above until such time as the training agreement expires.

PROVIDED that a trainee's weekly wage shall not be adjusted until the conditions stipulated in (i) and (ii) above have been met.

PROVIDED FURTHER that where a trainees' wages are adjusted in accordance with this paragraph, the terms of Clause 38 - Traineeships (CST) - paragraphs (b)(iii) and (c)(viii) of this award shall not apply, and the trainee shall be entitled to work shiftwork and overtime without limitation.

- (d) A trainee or employer aggrieved by a decision made in accordance with the terms of paragraphs (b) or (c) above may appeal to the relevant State Training Authority regarding the terms of that decision.
- (e) In order to achieve stability of income, the rates arrived at through paragraphs (a) and (b) above will be paid as a weekly wage rate and will be unaffected by the trainee's attendance at the off-the-job training which is to be carried out as part of the accredited course.
- (f)
 - (i) The terms of this award operate in conjunction with a Commonwealth Government Scheme under which, if weekly wages calculated using the methods outlined above fall below \$125 for those under 18 years and \$150 for those 18 years and over, the Commonwealth will provide a supplementary allowance to bring the total income of Career Start Trainees up to those levels.
 - (ii) In the event that the Commonwealth Government alters these minimum income maintenance levels, the terms of this subclause will be reviewed.

7. SUPPORTED WAGE SYSTEM

- (a) Eligibility Criteria

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

(b) For the purposes of this subclause:

'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 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 (d))	Percentage 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:

- (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 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.
 - (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 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.
- (h) 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.
- (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 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.

- (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 paragraphs (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 paragraph (c) hereof."

2. By deleting Clause 14 - Change Room, Toilet Accommodation and First Aid Equipment, and inserting in lieu thereof the following:

"14. CHANGE ROOM, TOILET ACCOMMODATION AND FIRST AID EQUIPMENT

An employee who has undertaken a first aid course and who is the holder of a current, recognised first aid qualification such as a certificate from St John's Ambulance or similar body shall be paid a weekly allowance of \$5.20 per week if he or she is appointed by the employer to perform first aid duty.

Provision of the above facilities shall be in accordance with those prescribed in the *Industrial Safety, Health and Welfare Act 1977* and Regulations made thereto."

OPERATIVE DATE

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

P A Imlach
COMMISSIONER

7 August 1998