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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
(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

HORTICULTURISTS AWARD

ORDER BY CONSENT -

No. 1 of 1998

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AMEND THE **HORTICULTURISTS AWARD** IN THE FOLLOWING MANNER:

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

"8. WAGE RATES

1. HORTICULTURAL TRADESMAN

Adult employees of a classification hereunder mentioned shall be paid the weekly wage rate opposite that classification.

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

| Classification | Base Rate \$ | Safety Net Adjustment \$ | Weekly Wage Rate \$ |
|--------------------------------------|-----------------|-----------------------------|------------------------|
| Horticultural Tradesman (as defined) | 368.80 | 44.00 | 412.80 |

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

| Classification | Base Rate \$ | Safety Net Adjustment \$ | Weekly Wage Rate \$ |
|--------------------------------------|-----------------|-----------------------------|------------------------|
| Horticultural Tradesman (as defined) | 368.80 | 48.00 | 416.80 |

2. APPRENTICES

The minimum weekly wage rates that may be paid to apprentices shall be the undermentioned percentages of the total weekly wage rate payable to a Horticultural Tradesman as prescribed in subclause 1 of this clause.

| | % |
|----------|----|
| 1st year | 42 |
| 2nd year | 55 |
| 3rd year | 75 |
| 4th year | 88 |

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3. GENERAL

Adult employees of a classification hereunder mentioned shall be paid the weekly wage rate opposite that classification.

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

| Classification | Base Rate \$ | Safety Net Adjustment \$ | Weekly Wage Rate \$ |
|---|------------------------|-----------------------------|------------------------|
| (i) Fork Lift Driver | 334.00 | 44.00 | 378.00 |
| (ii) Motor Lorry Driver | 334.00 | 44.00 | 378.00 |
| (iii) An employee having less than one month's continuous service with their present employer | 298.70 | 44.00 | 342.70 |
| (iv) Leading hand, i.e. an employee who directs or supervises the work of - | | | |
| 2 to 6 employees | \$11.80 per week extra | | |
| 7 to 10 employees | \$12.50 per week extra | | |
| 11 to 19 employees | \$19.40 per week extra | | |
| 20 or more employees | \$25.50 per week extra | | |

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

| Classification | Base Rate \$ | Safety Net Adjustment \$ | Weekly Wage Rate \$ |
|---|------------------------|-----------------------------|------------------------|
| (i) Fork Lift Driver | 334.00 | 48.00 | 382.00 |
| (ii) Motor Lorry Driver | 334.00 | 48.00 | 382.00 |
| (iii) An employee having less than one month's continuous service with their present employer | 298.70 | 48.00 | 346.70 |
| (iv) Leading hand, i.e. an employee who directs or supervises the work of - | | | |
| 2 to 6 employees | \$11.80 per week extra | | |
| 7 to 10 employees | \$12.50 per week extra | | |
| 11 to 19 employees | \$19.40 per week extra | | |
| 20 or more employees | \$25.50 per week extra | | |

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4. JUNIOR EMPLOYEES - OTHER THAN APPRENTICES

The minimum weekly wage rate that may be paid to junior employees shall be the undermentioned percentages of the adult rate for the classification upon which they are employed.

| | Percentage of Adult Weekly Wage Rate % |
|--------------------------|---|
| Under 16 years of age | 45 |
| 16 to 17 years of age | 50 |
| 17 to 18 years of age | 60 |
| 18 years of age and over | 100 |

5. MINIMUM WAGE

- (i) Notwithstanding the provisions of subclauses 1, 2 & 3 of this clause, no adult employee shall be paid less than the rate:
 - (i) \$261.10 per week operative from the first full pay period to commence on or after 14 July 1998.
 - (ii) \$265.10 per week operative from the first full pay period to commence on or after 14 October 1998.
- (ii) **PROVIDED** that payments for overtime, special rates, holiday and weekend penalties, prescribed in this award shall not be taken into account in the calculation of such minimum weekly rate of wage.

Where a minimum rate of pay 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, sick leave and annual leave, and for all other purposes of this award.

6. PIECE-WORK

Piece-work rates may be fixed by the employer and the employee at such rates approved by The Australian Workers' Union, Tasmania Branch as will enable the average employee working the ordinary hours prescribed herein to earn at least twelve and a half percent above the prescribed time rate. Such rates shall, when fixed, be paid in lieu of the said time rates.

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7. SUPPORTED WAGE SYSTEM

(a) Eligibility Criteria

Subject to this division an employer may engage employees at a supported wage rate (as set out in subclause (c) of this division) 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 division 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 division 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 s.10 or under s.12A of the above Act, or if a part only has received recognition, that part.

(b) For the purposes of this division:

- (i) **"Supported Wage System"** means the Commonwealth Government System to promote employment for people who cannot work at full award wages because of a disability.
- (ii) **"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.
- (iii) **"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.
- (iv) **"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.

(c) Supported Wage Rates

Employees to whom this division 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:

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| Assessed capacity (paragraph (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:

- (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 division, 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.

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(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 division 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 division 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 division for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding 4 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 subclause (c) hereof."

2. Delete the amount of \$1.52 appearing in subclause (a) of Clause 9 - Allowances, and insert in lieu thereof the amount of \$1.57.

3. Delete the amount of \$1.40 appearing in Clause 17 - First Aid Equipment, and insert in lieu thereof the amount of \$1.45.

4. Delete the amount of \$0.42 appearing in Clause 35 - Special Rates, and insert in lieu thereof the amount of \$0.43.

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5. Delete the amount of \$3.20 appearing in Clause 38 - Wet Pay, and insert in lieu thereof the amount of \$3.30.

OPERATIVE DATE

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

F.D. Westwood
PRESIDENT

4 August 1998