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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

CHILD CARE AND CHILDRENS SERVICES AWARD

ORDER -

No. 3 of 1999

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THE **CHILD CARE AND CHILDRENS SERVICES AWARD** IS VARIED IN THE FOLLOWING MANNER:

By deleting from PART III – SALARIES AND RELATED MATTERS, Clause 1 - WAGE RATES, and inserting in lieu thereof the following

"1. WAGE RATES

- (a) Incremental progression within each level for Children's Services Workers and Directors shall be after completion of one year's service and 15 hours in-service training within that year, subject to the provisions Part II – Employment Relationship and Associated Matters, Clause 4 – In-Service Training, subclause (a) of this award. **Excepting Where** progression on the basis of completion of competency-based training modules is specified in Part III – Salaries and Related Matters, Clause 2 – Classification Descriptions of this award.
- (b) The minimum weekly rates of wages that shall be paid to employees classified hereunder shall be the base rate and supplementary payments appearing opposite that classification.

	Base Rate \$	Safety Net Adjustment \$	Weekly Wage Rate \$
Children's Services Worker Level 1			
1st year	360.90	60.00	420.90
2nd year	368.50	60.00	428.50
3rd year and thereafter	375.50	60.00	435.50
Children's Services Worker Level 2			
1st year	375.50	60.00	435.50
2nd year	386.90	60.00	446.90
3rd year and thereafter	401.30	60.00	461.30
Children's Services Worker Level 3			
1st year	410.00	60.00	470.00
2nd year	427.40	60.00	487.40
3rd year and thereafter	447.90	60.00	507.90
In-charge	458.20	60.00	518.20
Children's Services Worker Level 4			
1st year	458.20	60.00	518.20
2nd year	468.40	58.00	526.40
3rd year and thereafter	478.70	58.00	536.70
In-charge	488.90	58.00	546.90

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Children's Services Worker Level 4A

1st year	488.90	58.00	546.90
2nd year	509.40	58.00	567.40
3rd year and thereafter	529.90	56.00	585.90
In-charge	540.20	56.00	596.20

Children's Services Worker Level 5

1st year	543.30	56.00	599.30
2nd year	553.50	56.00	609.50
3rd year and thereafter	563.80	56.00	619.80

Children's Services Worker Level 5A

Assistant Director Level 1

1st year	553.50	56.00	609.50
2nd year	563.80	56.00	619.80
3rd year and thereafter	574.00	56.00	630.00

Assistant Director Level 2

1st year	563.80	56.00	619.80
2nd year	574.00	56.00	630.00
3rd year	584.30	56.00	640.30

Assistant Director Level 3

1st year	574.00	56.00	630.00
2nd year	584.30	56.00	640.30
3rd year and thereafter	594.50	56.00	650.50

Children's Services Director Level 1

1st year	604.80	56.00	660.80
2nd year	615.00	56.00	671.00
3rd year and thereafter	635.30	56.00	691.30

Children's Services Director Level 2

1st year	656.00	56.00	712.00
2nd year	666.30	54.00	720.30
3rd year and thereafter	676.50	54.00	730.50

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Children's Services Director Level 3

1st year	686.80	54.00	740.80
2nd year	697.00	54.00	751.00
3rd year and thereafter	707.30	54.00	761.30

(c) Junior Rates (Children’s Services Workers)

(i) Trained Junior (1 year trained)
Percentages of 1st year rate of Children’s Services Worker Level 2 classification

1st year	85%
2nd year	90%
3rd year	95%

(ii) Trained Junior (2 year trained)
Percentages of 1st year rate of Children’s Services Worker Level 3 classification

1st year	85%
2nd year	90%
3rd year	95%

(iii) Untrained Junior
Percentages of 1st year rate of Children’s Services Worker Level 1 classification

1st year	70%
2nd year	80%
3rd year	90%

(iv) Junior Rates (Junior Clerical Assistant)
Percentage of 1st year rate of Child Care Support Worker Level 2 classification

On Commencement	70%
After 1 year	80%
After 2 years	90%

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(d) Trainee – Child Care (as defined) - Junior

(i) Trainees Engaged as Such

The weekly wages payable to Trainee Child Care (as defined), engaged as such shall be determined by multiplying the rate for an untrained junior, 1st year in subclause (c) - Junior Rates (Children's Services Workers), paragraph (iii) - Untrained Junior by 39 (which represents the actual weeks spent on the job) and dividing that sum by 52 to provide a weekly wage.

PROVIDED that the rate determined shall in no case be less than the minimum rate prescribed by the Australian Traineeship Guidelines.

(ii) Existing Employees

(1) Employees employed upon the basis of later conversion to trainee

An existing employee who has been employed on the basis of later conversion to a trainee shall have his/her weekly wage rate determined by applying the formula referred to in paragraph (i) to his/her existing wage rate.

PROVIDED that the rate determined shall in no case be less than the minimum rate prescribed in the Australian Traineeship Guidelines.

(2) Employees who agree to convert to trainee

(A) Full-time Employees

An existing full-time employee, other than an employee referred to in subparagraph (ii)(1) who agrees to undertake a traineeship shall have his/her weekly wage rate determined by applying the formula referred to in paragraph (i) to his/her existing wage rate but only where this has been agreed to by the employee without duress. Unless there is genuine agreement between the employer and the converting employee to apply the formula referred to, the trainee will be paid the same wage as that which would have applied had he/she not converted to a traineeship.

PROVIDED that the rate determined shall in no case be less than the minimum prescribed by the Australian Traineeship guidelines.

(B) Part-time Employees

Where an existing part-time employee has agreed to undertake a traineeship as in (A) above the weekly wage rate shall be determined by applying the formula to the full-time rate for that employee's classification.

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PROVIDED that the rate determined shall in no case be less than the minimum rate prescribed by the Australian Traineeship Guidelines.

(e) Trainee - Child Care (as defined) - 20-24 years

(i) Trainees Engaged as Such

The weekly wages payable to a Trainee Child Care (as defined), engaged as such, aged between 20 to 24 years shall be determined by multiplying the rate for an untrained Children's Services Worker, Level 1 - 1st year by 39 (which represents the actual time spent on the job) and dividing that sum by 52 to provide a weekly wage.

PROVIDED that the rate determined shall in no case be less than the minimum rate prescribed in the Australian Traineeship Guidelines.

(ii) Existing Employees

(1) Employees employed upon the basis of later conversion to trainee

An existing employee aged between 20 and 24 years who has been employed on the basis of later conversion to a trainee shall have his/her weekly wage rate determined by applying the formula referred to in paragraph (i) above to his/her existing wage rate.

PROVIDED that the rate determined shall in no case be less than the minimum rate prescribed by the Australian Traineeship Guidelines.

(2) Employees who agree to convert to trainee

(A) Full-time Employees

An existing full-time employee, other than an employee referred to in paragraph (ii)(1) above who agrees to undertake a traineeship shall have his/her weekly wage rate determined by applying the formula referred to in paragraph (i) above to his/her existing wage rate but only where this has been agreed to by the employee without duress. Unless there is genuine agreement between the employer and the converting employee to apply the formula referred to the trainee will be paid the same wage as that which would have applied had he/she not converted to a traineeship.

PROVIDED that the rate determined shall in no case be less than the minimum prescribed by the Australian Traineeship Guidelines.

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(B) Part-time Employees

Where an existing part-time employee has agreed to undertake a traineeship as in (A) above the weekly wage rate shall be determined by applying the formula to the full-time rate for that employee's classification.

PROVIDED that the rate determined shall in no case be less than the minimum rate prescribed by the Australian Traineeship Guidelines.

(f) Child Care Support Workers

The minimum weekly rates of wages that shall be paid to employees classified hereunder shall be:

	Base Rate \$	Safety Net Adjustment \$	Weekly Wage Rate \$
Child Care Support Worker Level 1			
1st year	354.20	60.00	414.20
2nd year	357.80	60.00	417.80
3rd year and thereafter	364.80	60.00	424.80
Child Care Support Worker Level 2			
1st year	366.30	60.00	426.30
2nd year	370.40	60.00	430.40
3rd year and thereafter	376.40	60.00	436.40
Child Care Support Worker Level 3			
1st year	417.40	60.00	477.40
2nd year	420.50	60.00	480.50
3rd year and thereafter	423.50	60.00	483.50
Child Care Support Worker Level 4			
1st year	433.40	60.00	493.40
2nd year	438.80	60.00	498.80
3rd year and thereafter	444.40	60.00	504.40

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(g) 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 ALWAYS 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.

'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.

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(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 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.

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

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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

29 July 1999