

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

s23 application for an award or variation of an award

Tasmanian Trades and Labor Council

[T10230 of 2002]

Private Sector Awards

[T10288 of 2002]

Private Sector Awards

[T10289 of 2002]

Private and Public Sector Awards

FULL BENCH:

PRESIDENT P L LEARY

DEPUTY PRESIDENT R J WATLING

COMMISSIONER T J ABEY

Wage Rates - State Wage Case July 2002 - applications to vary private sector awards in a manner consistent with the Australian Industrial Relations Commission decision in Print PR002002 - Safety Net Review 2002 - Award rates increased by - \$18 per week - Wage related allowances increased by 3.55% - Meal allowances increased to \$11.90 - Supported Wage increased to \$56 per week - Operation ffpp 1 August 2002 - State Minimum Wage determined at \$431.40-s.35(1)(b)

MONUMENTAL MASONS AWARD

ORDER BY CONSENT

No. 1 of 2002

THE **MONUMENTAL MASONS AWARD** IS VARIED IN THE FOLLOWING MANNER:

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

“8. WAGE RATES

1. WAGE RATES

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

	Base Rate \$	Safety Net Adjustment \$	Weekly Wage Rate \$
Monumental Masons	355.60	106.00	461.60
All other employees (irrespective of age)	294.20	106.00	400.20

2. FOREMAN AND LEADING HANDS

A person specifically appointed to be a foreman or a leading hand shall be paid at the rate of the undermentioned additional amounts above the weekly wage rate of the highest classification supervised, or his own weekly wage rate, whichever is the highest, in accordance with the number of persons in his charge:

	Amount Per Week \$
(a) in charge of not more than 1 person	11.00
(b) in charge of 2 and not more than 5 persons	24.00
(c) in charge of 6 and not more than 10 persons	30.30
(d) in charge of more than 10 persons	40.60

3. MINIMUM WAGE

- (a) Notwithstanding the provisions of subclause 1 - Wage Rates of this clause, no adult employee shall be paid less than the rate of \$323.10.
- (b) Provided that payments for overtime, holiday and weekend penalties, and disability allowances 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 during sick leave and annual leave, and for all other purposes of this award.

4. APPRENTICES

The minimum weekly wage rate to be paid to apprentices shall be the undermentioned percentages of the weekly wage rate prescribed for Monumental Masons in subclause 1 - Wage Rates of this clause adjusted to the nearest ten cents.

	Percentage %
First year	38
Second year	55
Third year	75
Fourth year	90

5. HOURLY RATE

To an employee engaged by the hour on hourly rate [calculated to four decimal places of a dollar] equivalent to one fortieth of fifty two over forty six point eight of the weekly wage rate which would be payable in pursuance of subclause 1 - Wage Rates and subclause 2 - Foreman and Leading Hands of this clause and Clause 9 - Allowances, subclause (c) - Disability Allowance of this award, had the employee been engaged by the week.

PROVIDED that a casual employee shall be paid an additional $33\frac{1}{3}$ per cent loading on the hourly rate prescribed for the classification.

6. 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, 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.

(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))	% 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 \$56 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 \$56 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 9 - ALLOWANCES, and inserting in lieu thereof the following:

"9. ALLOWANCES

(a) Tool Allowance

In addition to the rates prescribed in Clause 8 - Wage Rates, subclause 1 - Wage Rates of this award and subclause (c) - Disability Allowance of this clause, employees shall be paid a tool allowance per week in accordance with the following:

Carver	\$11.90
Letter Cutter	\$11.90
Stonemason	\$11.90

When all tools are supplied by the employer this clause does not apply.

(b) Allowance for Distant Jobs

- (i) For the purposes of this subclause, 'a distant job' is one in respect of which the distance or the travelling facilities available to and from makes it reasonably necessary that the employee shall live and sleep at some other place than his usual place of residence.
- (ii) For an employee engaged on work on a distant job as defined in paragraph (i) above, the employer shall provide suitable board and accommodation, and if such is not provided by the employer he shall pay to the employee an allowance to enable him to provide himself with suitable board and accommodation at the following rates:

if employed on the job for less than a full working week \$25.00 per day;

if employed on the job for a full working week or longer, at the rate of \$174.70 per week (of seven days).

(c) Disability Allowance

- (i) In addition to the rates prescribed in Clause 8 - Wage Rates, subclause 1 - Wage Rates and subclause 4 - Apprentices of this award, all employees engaged on construction work on site shall be paid an allowance of \$17.50 per week to compensate for the following disabilities of the industry, namely being subjected to:
 - (1) climatic conditions when working in the open on all types of work or on multi-storey buildings prior to it being enclosed;
 - (2) the physical disadvantage of having to climb stairs or ladders, particularly on multi-storey buildings prior to an elevator being available;
 - (3) dust blowing in the wind on building sites;
 - (4) sloppy and muddy conditions associated with the initial stages of erection of a building;
 - (5) dirty conditions caused by the use of form oil or from green timber;
 - (6) drippings from newly poured concrete;
 - (7) the disability of working on all types of scaffold, other than a single plank or a bosun's chair; and
 - (8) the lack of usual amenities associated with factory work (e.g. meal rooms, change rooms, lockers, etc.)

- (ii) In addition to the rates prescribed in Clause 8 - Wage Rates, subclause 1 - Wage Rates and subclause 4 - Apprentices of this award, all employees engaged on maintenance work shall be paid an allowance of \$8.90 per week to compensate for disabilities of the industry not otherwise provided for in this award.
- (iii) **'Construction work'** means work in connection with the erection, repair, maintenance, renovation, ornamentation, or demolition of buildings or structures, and the making, preparing, assembling or fitting in connection therewith or the making, preparing, assembling, and the fixing of any material necessitating the use of tools or machines."

3. By deleting Clause 23 - SERVICE INCREMENTS, and inserting in lieu thereof the following:

"23. SERVICE INCREMENTS

- (a) In addition to any other payment to which an employee other than a casual may be entitled under this award, an adult employee shall be entitled as follows to an additional payment according to the years of service he has completed in the industry. The amount payable shall in each case be regarded as part of the employee's ordinary rate of pay for all purposes:

	Per Week
	\$
After completion of 1 year's service in the industry	3.00
After completion of 2 year's service in the industry	4.15
After completion of 3 year's service in the industry	5.60
After completion of 5 year's service in the industry	6.80
After completion of 10 year's service in the industry	13.80

- (b) The onus shall be upon the employee to satisfy the employer that he has completed the number of years service in the industry which he claims.
- (c) For the purpose of this clause, **'service in the industry'** shall mean service in Tasmania provided that where an employee commencing in the industry in Tasmania has worked in the industry in another State, service in that State shall count for purpose of service in Tasmania, subject to the production of evidence satisfactory to the employer of such service."

4. By deleting Clause 25 - SPECIAL RATES AND PROTECTIVE CLOTHING, and inserting in lieu thereof the following:

“25. SPECIAL RATES AND PROTECTIVE CLOTHING

(a) Swing Scaffold

A payment of \$2.90 for the first four hours or any portion thereof, and 58 cents for each hour thereafter on any day shall be made to any person employed:

- (i) on any type of swing scaffold or any scaffold suspended by rope or cable, bosun's chair etc.;
- (ii) on a suspended scaffold requiring the use of steel or iron hooks or angle irons at a height of 6 metres or more above the nearest horizontal plane.

PROVIDED that an apprentice with less than two years experience shall not use a swing scaffold or bosun's chair.

PROVIDED FURTHER that solid plasterers when working off a swing scaffold shall receive an additional 11 cents per hour.

(b) Explosive Powered Tools

An operator of explosive powered tools, as defined in this award who is required to use an explosive powered tool, shall be paid 95 cents for each day on which he uses such a tool.

(c) Flexible Drive Polishing Machines

Operators of flexible drive polishing machines shall be supplied with aprons by the employer when requested, but no such employee shall be entitled to more than one apron in any one year.

(d) Heavy Blocks

The employer shall provide mechanical means for the handling, lifting and placing of heavy blocks, or pay in lieu thereof the following allowances to employees engaged on such work:

where the blocks weigh over 5.5kg and under 9kg	40 cents per hour
where the blocks weigh 9 kg or over up to 18 kg	69 cents per hour
where the blocks weigh over 18 kg	\$1.00 per hour

An employee shall not be required to lift a building block in excess of 20 kg in weight unless such employee is provided with a mechanical aid or with an assisting employee; provided that an employee shall not be required to

manually lift any building block in excess of 20 kg in weight to a height of more than 4 feet (1.2m) above the working platform.”

5. By deleting Clause 15 - MEAL ALLOWANCE and inserting in lieu thereof the following:

“15. MEAL ALLOWANCE

- (a) An employee required to work overtime for more than two hours without being notified on the previous day or earlier that he will be required to work shall either be supplied with a meal by the employer or be paid the amount of \$11.90 provided that employees living in the same locality as their work place who can reasonably return home for meals shall not be entitled to the benefit of this clause.
- (b) If an employee pursuant to notice has provided a meal and is not required to work overtime or is required to work less than the time advised, he shall be paid the amount prescribed in subclause (a) of this clause for a meal which he has provided but which is surplus.
- (c) An employee required to work during his meal hour shall be paid at the rate of time and a half until he is allowed the usual period of time for a meal break.

Provided that an employer may be permitted to advance an employee's meal break so that it will conclude not later than 1.30pm. In these circumstances the penalty rate prescribed in this subclause shall not apply.”

Operative Date

This variation shall come into operation from the first full pay period to commence on or after 1 August 2002.

P C Shelley
COMMISSIONER

2 August 2002