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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 fpp 1 August 2002 - State Minimum Wage determined at \$431.40-s.35(1)(b)

BUTTER AND CHEESEMAKERS AWARD

ORDER BY CONSENT

No. 1 of 2002

THE **BUTTER AND CHEESEMAKERS AWARD** IS VARIED IN THE FOLLOWING MANNER:

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

“8. WAGE RATES

DIVISION A - EMPLOYEES OTHER THAN CLERKS

1. MANUFACTURER OF BUTTER, CHEESE, CASEIN AND POWDERED MILK

(a) Adult employees in a classification hereunder mentioned shall be paid the weekly wage rate appearing opposite that classification.

	Base Rate	Safety Net Adjustment	Weekly Wage Rate
	\$	\$	\$
GROUP 1			
Milk or Cream Grader and tester, Butter and Cheesemakers, Standardisers, Whey Plant Standardiser, Laboratory technician	326.80	106.00	432.80
GROUP 2			
Evaporator, Pasteuriser, Separator, Spray Drying, Casein Maker, Roller Dyer, Starter Maker, Assistant Cheesemaker, Cutter Head, Mill and Salter	311.60	106.00	417.60.
GROUP 3			
Fork Lift Operator	307.70	106.00	413.70
GROUP 4			
Vacuum Wrapping Machine, Weighing Machine	303.80	106.00	409.80
GROUP 5			
Assistant Operators, General Hands	298.40	106.00	404.40

PROVIDED that:

- (i) employees at the Edith Creek Factory of United Milk Tasmania Ltd, who are the holders of a Boiler Certificate shall be paid 70 cents per week extra;
- (ii) an employee who is a holder of a Butter Making Certificate, Dairy Operative's Certificate and the Combined Milk Tester's and Cream Tester's Certificate, Cream Grader's Certificate or Milk Grader's Certificate and who is not employed as such, shall be paid an additional and total amount of \$7.50 per week;
- (iii) an employee who is a holder of a Buttermaker's Certificate, Cheesemaker's Certificate, and the Combined Milk Tester's and Cream Tester's Certificate, Cream Grader's Certificate or Milk Grader's Certificate and who is not employed as such shall be paid an additional and total amount of \$15.30 per week. This allowance shall be paid in lieu of the allowance prescribed in paragraph (ii) above.

2. JUNIOR EMPLOYEES - MANUFACTURER OF BUTTER, CHEESE, CASEIN AND POWDERED MILK

'Junior worker' means any employee not in receipt of an adult wage rate whose duties are determined between the relevant company and The Australian Workers' Union, Tasmania Branch.

Wage Rates - The minimum weekly wage rate that may be paid to junior workers shall be the undermentioned percentage of the weekly wage rate prescribed in this Division, in subclause 1. Manufacturer of Butter, Cheese, Casein and Powdered Milk, Group 5.

	%
Under 17 years	60
17 to 18 years	75
18 to 19 years	85
19 and over	Adult rate

Wage rates in this subclause shall be calculated to the nearest 10 cents.

3. ENGINE DRIVERS AND FIREMEN

- (a) The weekly wage rate set out hereunder shall be the weekly wage rate payable to adult employees classified herein:

	Base Rate	Safety Net Adjustment	Weekly Wage Rate
	\$	\$	\$
(i) Stationary engine driver in charge of refrigeration compressors of capacity of 25 tonnes or less	310.00	106.00	416.00
(ii) Stationary engine driver in charge of refrigeration compressors of capacity over 25 tonnes	319.10	106.00	425.10
(iii) Leading driver in charge of plant, a payment to be made of \$18.90 in addition to the rate prescribed according to the capacity of equipment.			
(iv) Fireman			
(1) In charge of one boiler	290.90	106.00	396.90
(2) In charge of two or more boilers	296.70	106.00	402.70
(v) An employee engaged on the work of cleaning or scraping any boiler, flues or economiser shall, whilst so employed, be paid an additional \$1.05 per hour to his ordinary or overtime pay.			

4. CARTERS AND DRIVERS

The weekly wage rate set out hereunder shall be the weekly wage rate payable to adult employees classified herein.

	Base Rate	Safety Net Adjustment	Weekly Wage Rate
	\$	\$	\$
(i) Employee driving motor vehicle having maker's capacity of:			
1.2 tonnes or less	322.00	106.00	428.00
Over 1.2 tonnes but not over 3 tonnes	325.79	106.00	431.70
Over 3 tonnes but under 6 tonnes	330.30	106.00	436.30
6 tonnes and over but under 7 tonnes	331.00	106.00	437.30
7 tonnes and over but under 8 tonnes	331.80	106.00	437.80
8 tonnes and over but under 9 tonnes	332.50	106.00	438.50
9 tonnes and over but under 10 tonnes	333.30	106.00	439.30
10 tonnes and over but under 11 tonnes	334.20	106.00	440.20
(ii) Employee driving articulated vehicle having maker's capacity of -			
Under 9 tonnes	337.00	106.00	443.00
9 tonnes and over but under 10 tonnes	337.90	106.00	443.90
10 tonnes and over but under 11 tonnes	338.30	106.00	444.30
11 tonnes and over but under 12 tonnes	339.20	106.00	445.20
12 tonnes and over but under 13 tonnes	340.40	106.00	446.40
13 tonnes and over but under 14 tonnes	340.90	106.00	446.90
14 tonnes and over but under 15 tonnes	341.90	106.00	447.90
15 tonnes and over but under 16 tonnes	342.30	106.00	448.30
16 tonnes and over but under 17 tonnes	342.80	106.00	448.80
17 tonnes and over but under 18 tonnes	344.30	106.00	450.30
18 tonnes and over but under 19 tonnes	344.70	106.00	450.70
19 tonnes and over but under 20 tonnes	345.60	106.00	451.60
20 tonnes and over but under 21 tonnes	346.10	106.00	452.10
Motor driver's assistant, and yardman	307.30	106.00	413.30

5. JUNIORS - CARTERS AND DRIVERS

The minimum weekly wage rate to be paid to junior employees shall be the undermentioned percentages of the appropriate adult rate for the class of work performed:

	%
18 years and under 19 years	70
19 and under 20 years	80
20 years and over	100

6. LEADING HANDS

In addition to the wage rates prescribed in subclause 1 - Manufacturer of Butter, Cheese, Casein and Powdered Milk, subclause 3 - Engine Drivers and Fireman and subclause 4 - Carters and Drivers of this Division, leading hands shall receive the following additional amounts per week:

		Amount per week
		\$
(a)	In charge of 3 to 10 employees	11.30
(b)	In charge of 11 to 20 employees	23.20
(c)	In charge of 21 or more employees	34.00

DIVISION B - CLERKS

1. WAGE RATES

(a) Except as prescribed in this Division in subclause 2 - Juniors, (b) Proviso, adult employees of a classification hereunder mentioned shall be paid the weekly wage rate assigned opposite that classification.

	Base Rate	Safety Net Adjustment	Weekly Wage Rate
	\$	\$	\$
(i) First year's adult experience	279.40	106.00	385.40
Second year's adult experience	300.00	106.00	406.00
Third year's adult experience & thereafter	326.50	106.00	432.50
(ii) An Accountant or Chief Clerk wholly responsible for the office work and who prepares the balance sheet and profit And loss account	435.80	108	543.80
(iii) A clerk who is in charge of and responsible for the work of -			
(1) 5 or more employees	385.70	106.00	491.70
(2) 3 or 4 employees	370.30	106.00	476.30
(3) 2 employees	360.10	106.00	466.10

Employees in (iii) above shall mean any male or female clerk, typist or stenographer and shall include the clerk-in-charge.

2. JUNIORS

The minimum weekly wage rate that may be paid to juniors shall be the undermentioned percentages of the second year adult weekly wage rate adjusted to the nearest ten cents.

	Percentage of Second Year Adult Rat
(a) Under 16 years of age	40%
16 to 17 years of age	45%
17 to 18 years of age	55%
18 to 19 years of age	70%
19 to 20 years of age	80%
20 to 21 years of age	90%

(b) Proviso

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

(c) Additional Payments

In addition to the weekly wage rate prescribed herein the following additional amounts per week shall be paid to stenographers, audio-typists, teletypists, accounting machine, computer, data processing, tabulating machine, card punch and verifier operators.

	Amount per week
	\$
Under 16 years of age	1.10
16 to 17 years of age	1.30
17 to 18 years of age	1.40
18 to 19 years of age	1.90
19 to 20 years of age	2.50
20 to 21 years of age	2.60
21 years of age and over	3.30

3. TRAINEE CLERK (AS DEFINED)

The weekly wage rate to be paid a trainee clerk (as defined) shall be determined by the following method of calculation:

By taking the appropriate weekly wage rate for a junior clerk as prescribed in subclause 2 of this division then multiplying it by 39 and dividing it by 52.

PROVIDED that the weekly wage rate determined by this calculation shall in no case be less than the minimum rate (as varied from time to time) prescribed by the Australian Traineeships System Guidelines.

PROVIDED FURTHER that the trainee clerk (as defined) weekly wage rate shall be calculated in multiples of ten cents with any result of five (5) cents or more being taken to the next ten cents.

DIVISION C. - 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:

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 \$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 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.

(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 \$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 subclause (c) hereof.

2. By deleting Clause 33 - SPECIAL RATES, and inserting in lieu thereof the following:

“33. SPECIAL RATES

Confined Spaces:

Employees working in a compartment, space or place, the dimensions of which necessitate an employee working in a stooped or otherwise cramped position or without proper ventilation, shall be paid an additional \$1.04 cents per hour.

PROVIDED that a person working in such circumstances for at least half an hour shall qualify for one hour's payment.”

3. By deleting Clause 21 - MEAL INTERVAL AND ALLOWANCE, and inserting in lieu thereof the following:

“21. MEAL INTERVAL AND ALLOWANCE

- (a) A meal interval of not less than thirty minutes shall be allowed not later than five hours after commencing work.
- (b) An employee who is required to work overtime for one and a half hours or more without being notified the previous day shall either be supplied with a meal by the employer or be paid a meal allowance of \$11.90.”

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

1 August 2002