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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)

**CLAY AND MUD PRODUCTS AWARD**

**ORDER BY CONSENT**

**No. 1 of 2002**

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**THE CLAY AND MUD PRODUCTS AWARD IS VARIED IN THE FOLLOWING MANNER:**

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

**“8. WAGE RATES**

(a) Adult Employees

An employee shall be classified on commencement in one of the classifications contained in this award and shall be paid not less than the weekly wage rate amount assigned to the relevant grade provided hereunder:

	Base Rate Relativity %	Base Rate \$	Safety Net Adjustment \$	Weekly Wage Rate \$
Clay and Mud Products Worker				
Grade 1	100	417.20	108.00	525.20
Grade 2	93	388.00	106.00	494.00
Grade 3	85	354.60	106.00	460.60
Grade 4	76	317.10	106.00	423.10

(b) Apprentices

The minimum weekly wage rate to be paid to an apprentice shall be the undermentioned percentage of the weekly wage rate for a Clay and Mud Products Worker, Grade 1, as contained in subclause 8(a).

	Percentage of Clay and Mud Products Worker, Grade 1 %
1st year	38
2nd year	55
3rd year	75
4th year	88

(c) Unapprenticed Juniors

The minimum weekly wage rate payable to an unapprenticed junior shall be the undermentioned percentage of the weekly wage rate for Clay and Mud Products Worker Grade 3, as contained in subclause 8(a).

	Percent age of Clay and Mud Products Worker, Grade 3
Under 17 years of age	% 65
Over 17 years but under 18 years of age	75
Over 18 years but under 19 years of age	90

(d) Leading Hands

In addition to the rates prescribed in subclause 8(a) hereof, a leading hand shall be paid:

- (i) In charge of less than 3 other employees per week an extra \$11.20
- (ii) In charge of 3 but not more than 6 other employees per week an extra \$14.50.
- (iii) In charge of more than 6 other employees per week an extra \$17.30.

(e) 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 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.

(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.

(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 8(e)(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 \$56 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.

(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 8(e)(iv) and 8(e)(v).

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- (3) 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.
- (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 8(e)(iii) hereof.”

**2. By deleting Clause 17 - FIRST AID ATTENDANT, and inserting in lieu thereof the following**

**“17. FIRST AID ATTENDANT**

An employee holding first aid qualifications from the Red Cross Society or St. John Ambulance or a similar body and appointed by the employer to perform first aid duty shall receive \$6.40 per week.”

**3. By deleting Clause 22 - MEAL ALLOWANCE and inserting in lieu thereof the following:**

**“22. MEAL ALLOWANCE**

An employee required to work overtime for more than two hours without being notified on the previous day or earlier that he will be so required to work shall either be supplied with a meal by the employer or paid \$11.90 but such payment need not be made to employees living in the same locality as their place of work who can reasonably return home for meals.

Unless the employer advises an employee on the previous day or earlier that the amount of overtime to be worked will necessitate the partaking of a second or subsequent meal (as the case may be) the employer shall provide such second and/or subsequent meals or make payment in lieu thereof as above prescribed.”

**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**

12 September 2002

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