

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984
s23 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

DISABILITY SERVICE PROVIDERS AWARD

ORDER BY CONSENT-

No. 1 of 1998

AMEND THE **DISABILITY SERVICE PROVIDERS AWARD** IN THE FOLLOWING MANNER:

1. Delete Clause 8 - Wage Rates and insert in lieu thereof the following:

8. WAGE RATES

ADMINISTRATIVE AND CLERICAL EMPLOYEES

- (a) Adult employees classified hereunder shall be paid the weekly wage rates assigned opposite that classification:

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

| | Base Rate \$ | Safety Net Adjustment \$ | Weekly Wage Rate \$ |
|----------------------------|--------------------|--------------------------------|---------------------------|
| Adult Entry | | | |
| 1st 6 months service | 333.80 | 44.00 | 377.80 |
| 2nd 6 months service | 354.60 | 44.00 | 398.60 |
| Grade 1 | | | |
| 1A 1st 12 months service | 363.00 | 44.00 | 407.00 |
| 1B After 12 months service | 375.50 | 44.00 | 419.50 |
| Grade 2 | | | |
| 2A 1st 12 months service | 383.80 | 44.00 | 427.80 |
| 2B After 12 months service | 396.30 | 44.00 | 440.30 |
| Grade 3 | | | |
| 3A 1st 12 months service | 404.70 | 44.00 | 448.70 |
| 3B After 12 months service | 417.20 | 44.00 | 461.20 |
| Grade 4 | 438.10 | 44.00 | 482.10 |
| Grade 5 | 458.90 | 44.00 | 502.90 |
| Grade 6 | 479.80 | 44.00 | 523.80 |
| Grade 7 | 500.60 | 44.00 | 544.60 |

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

| | Base Rate \$ | Safety Net Adjustment \$ | Weekly Wage Rate \$ |
|----------------------------|--------------------|--------------------------------|---------------------------|
| Adult Entry | | | |
| 1st 6 months service | 333.80 | 48.00 | 381.80 |
| 2nd 6 months service | 354.60 | 48.00 | 402.60 |
| Grade 1 | | | |
| 1A 1st 12 months service | 363.00 | 48.00 | 411.00 |
| 1B After 12 months service | 375.50 | 48.00 | 423.50 |
| Grade 2 | | | |
| 2A 1st 12 months service | 383.80 | 48.00 | 431.80 |
| 2B After 12 months service | 396.30 | 48.00 | 444.30 |
| Grade 3 | | | |
| 3A 1st 12 months service | 404.70 | 48.00 | 452.70 |
| 3B After 12 months service | 417.20 | 48.00 | 465.20 |
| Grade 4 | 438.10 | 48.00 | 486.10 |
| Grade 5 | 458.90 | 48.00 | 506.90 |
| Grade 6 | 479.80 | 48.00 | 527.80 |
| Grade 7 | 500.60 | 48.00 | 548.60 |

(b) Advice of Grading and Settlement of Disputes

All current and future employees shall be notified in writing by the employer of their grading within one month of this award coming into operation or the date of engagement as the case may be.

In the event of a dispute regarding grading, the matter shall be discussed by the employer involved or the employee's representative and the Australian Municipal, Administrative, Clerical and Services Union or the Health Services Union of Australia, Tasmania No. 1 Branch in an attempt to resolve the matter, and if then still in dispute, shall be referred to the Tasmanian Industrial Commission for determination.

DISABILITY SERVICE WORKERS

Adults

Adult employees classified hereunder shall be paid the weekly wage rates assigned opposite that classification:

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

| | Relativity Base Rate | Base Rate | Safety Net Adjustment | Weekly Wage Rate |
|--|-------------------------|--------------|--------------------------|------------------------|
| | % | \$ | \$ | \$ |
| Disability Service Workers - Level 1 369.40 | 78 | 325.40 | 44.00 | |
| Disability Service Worker - Level 2 | | | | |
| Base Level | 82 | 342.10 | 44.00 | |
| 386.10 | | | | |
| 1st Increment | 85 | 354.60 | 44.00 | |
| 398.60 | | | | |
| 2nd Increment | 87.4 | 364.60 | 44.00 | |
| 408.60 | | | | |
| Disability Service Worker - Level 3 | | | | |
| Base Level | 92 | 383.80 | 44.00 | |
| 427.80 | | | | |
| 1st Increment | 95 | 396.30 | 44.00 | |
| 440.30 | | | | |
| 2nd Increment | 98 | 408.90 | 44.00 | |
| 452.90 | | | | |
| Disability Service Worker - Level 4 | | | | |
| Base Level | 100 | 417.20 | 44.00 | |
| 461.20 | | | | |
| 1st Increment | 105 | 438.10 | 44.00 | |
| 482.10 | | | | |
| 2nd Increment | 110 | 458.90 | 44.00 | |
| 502.90 | | | | |
| Disability Service Worker - Level 5 | | | | |
| Base Level | 115 | 479.80 | 44.00 | |
| 523.80 | | | | |
| 1st Increment | 125 | 521.50 | 43.00 | |
| 564.50 | | | | |
| 2nd Increment | 130 | 542.40 | 43.00 | |
| 585.40 | | | | |

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

| | Relativity Base Rate | Base Rate | Safety Net Adjustment | Weekly Wage Rate |
|--|-------------------------|--------------|-----------------------------|------------------------|
| | % | \$ | \$ | \$ |
| Disability Service Workers - Level 1 373.40 | 78 | 325.40 | 48.00 | |
| Disability Service Worker - Level 2 | | | | |
| Base Level 390.10 | 82 | 342.10 | 48.00 | |
| 1st Increment 402.60 | 85 | 354.60 | 48.00 | |
| 2nd Increment 412.60 | 87.4 | 364.60 | 48.00 | |
| | Relativity Base Rate | Base Rate | Safety Net Adjustment | Weekly Wage Rate |
| | % | \$ | \$ | \$ |
| Disability Service Worker - Level 3 | | | | |
| Base Level 431.80 | 92 | 383.80 | 48.00 | |
| 1st Increment 444.30 | 95 | 396.30 | 48.00 | |
| 2nd Increment 456.90 | 98 | 408.90 | 48.00 | |
| Disability Service Worker - Level 4 | | | | |
| Base Level 465.20 | 100 | 417.20 | 48.00 | |
| 1st Increment 486.10 | 105 | 438.10 | 48.00 | |
| 2nd Increment 506.90 | 110 | 458.90 | 48.00 | |
| Disability Service Worker - Level 5 | | | | |
| Base Level 527.80 | 115 | 479.80 | 48.00 | |
| 1st Increment 567.50 | 125 | 521.50 | 46.00 | |
| 2nd Increment 588.40 | 130 | 542.40 | 46.00 | |

JUNIORS

(a) Juniors - Administrative and Clerical Employees

- (i) The minimum weekly wage rate that may be paid to juniors performing duties consistent with the definition of a "Clerical Assistant" shall be the undermentioned percentages of the Grade 1, 1st 12 months service weekly wage rate, adjusted to the nearest 10 cents:

| | % |
|-----------------------|----|
| Under 17 years of age | 50 |
| 17 to 18 years of age | 55 |
| 18 to 19 years of age | 65 |
| 19 to 20 years of age | 80 |
| 20 to 21 years of age | 85 |

- (ii) The minimum weekly wage rates that may be paid to all other juniors shall be the undermentioned percentages of the Grade 2, 1st 12 months service weekly wage rate, adjusted to the nearest 10 cents:

| | % |
|-----------------------|----|
| Under 17 years of age | 50 |
| 17 to 18 years of age | 55 |
| 18 to 19 years of age | 65 |
| 19 to 20 years of age | 80 |
| 20 to 21 years of age | 85 |

(b) Juniors - Disability Service Workers

The minimum rate of wages that may be paid to junior employees shall be the undermentioned percentages of the appropriate level adult rate.

PROVIDED that an employee will not be paid a junior rate when he/she is classified in accordance with the classification definitions above Level 3.

| | % |
|---------------------------|----|
| 16 years of age and under | 45 |
| 17 years of age | 55 |
| 18 years of age | 74 |
| 19 years of age | 85 |
| 20 years of age | 96 |

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 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.

(b) 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.

(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 \$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 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 \$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 paragraph (c) hereof."

2. Delete Clause 16 First Aid and insert in lieu thereof the following:

"16. FIRST AID

- (a) The employer shall supply and maintain a first aid outfit at each work-place as prescribed by the provisions of the Industrial Safety Health and Welfare Act 1977 and the Industrial Safety, Health and Welfare (Administration and General) Regulations 1979.
- (b) In establishments where an employer has appointed an employee who holds a certificate issued by St John Ambulance or some other similar body as a First Aid Attendant an additional \$7.40 per week for each week in which three days or more have been worked shall be paid to such employee and such amount shall be payable in addition to any amounts paid for annual leave, sick leave and holidays with pay provided that this allowance shall not be subject to any premium or penalty additions.

PROVIDED that nothing in this subclause shall be taken as meaning an employer shall be required to make such an appointment."

OPERATIVE DATE

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

R J Watling
COMMISSIONER

24 July 1998