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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

(T6941 of 1997)

All public and private sector awards

**Automotive, Food, Metals, Engineering,
Printing & Kindred Industries Union**

(T6928 of 1997)

Automotive Industries Award

(T6929 of 1997)

Draughting & Technical Officers (Private Industry) Award

(T6930 of 1997)

Fish, Aquaculture and Marine Products Award

(T6931 of 1997)

Metal & Engineering Industry Award

(T6932 of 1997)

Optical Industries Award

(T6933 of 1997)

Shipbuilders Award

(T6934 of 1997)

Surveyors (Private Industry) Award

The Australian Workers' Union, Tasmania Branch

(T6947 of 1997)

Automotive Industries Award

Bootmakers Award

Building Trades Award

Building and Construction Industry Award

Butter and Cheesemakers Award

Carriers Award

Clay and Mud Products Award

Concrete Products Award

Dairy Processing Award

Farming and Fruitgrowing Award

Fish, Aquaculture and Marine Products Award

Horticulturists Award

Marine Boards Award

Meat Processing Industry Award

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Metal and Engineering Industry Award
Monumental Masons Award
Optical Industries Award
Pasminco Rosebery (Mining) Award
Plant Nurseries Award
Produce Award
Public Vehicles Award
Quarrymens Award
Roadmakers Award
Rubber Trades Award
Shearing Industry Award
Shellfish Industry Award
Timber Merchants Award
Wireworking Award
National Training Wage (Tasmanian Private Sector) Award

Transport Workers' Union of Australia, Tasmanian Branch

(T6956 of 1997)

Transport Workers General Award

National Union of Workers, Tasmanian Branch

(T6971 of 1997)

Automotive Industries Award
Fuel Merchants Award
Produce Award
Retail Trades Award
Rubber Trades Award
Softgoods Award
Wholesale Trades Award
Fibreglass and Plastics Award
Timber Merchants Award
Wholesale Pharmaceutical Award

**Australasian Meat Industry Employees Union,
Tasmanian Branch**

(T6979 of 1997)

Meat Processing Industry Award
Meat Retailing Award

**Textile, Clothing and Footwear Union of Australia,
Tasmanian Branch**

(T6987 of 1997)

Bootmakers Award
Clothing Industry Award
Textile Award

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Australian Municipal, Administrative, Clerical and Services Union

(T6991 of 1997)

Aerated Waters Award
Barristers and Solicitors Award
Broadcasting and Television Award
Clerical and Administrative Employees (Private Sector) Award
Community Services Award
Entertainment Award
Estate Agents Award
Furnishing Trades Award
Independent Schools (Non-Teaching Staff) Award
Insurance Award
Photographic Industry Award
Printers Award
Public Accountants Award
Restaurant Keepers Award
Shipping Award
Totalizator Agency Award

Health Services Union of Australia, Tasmania No. 1 Branch

(T6993 of 1997)

Dentists Award
Disability Service Providers Award
Medical Practitioners (Private Sector) Award
Medical Diagnostic Services Award
Nursing Homes Award
Hospitals Award

HORTICULTURISTS AWARD

FULL BENCH:

PRESIDENT F D WESTWOOD

DEPUTY PRESIDENT B R JOHNSON

COMMISSIONER R J WATLING

Wage Rates - State Wage Case July 1997 - application to flow on Australian Industrial Relations Commission Safety Net Review decision April 1997 (Print P1997) agreed tripartite position - Wage Fixing Principles varied - \$10.00 per week arbitrated safety net adjustment approved- all private sector awards to be varied on application no earlier than ffpp on or after 14 July 1997 - State Minimum Wage to be subject to separate application

ORDER -

No. 2 of 1997

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AMEND THE **HORTICULTURISTS AWARD** IN THE FOLLOWING MANNER:

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

"8. WAGE RATES

1. HORTICULTURAL TRADESMAN

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

Classification	Base Rate \$	Safety Net Adjustment \$	Weekly Wage Rate \$
Horticultural Tradesman (as defined)	368.80	34.00	402.80

2. APPRENTICES

The minimum weekly wage rates that may be paid to apprentices shall be the undermentioned percentages of the total weekly wage rate payable to a Horticultural Tradesman as prescribed in subclause 1 of this clause.

	%	Weekly Wage Rate \$
1st year	42	169.20
2nd year	55	221.50
3rd year	75	302.10
4th year	88	354.50

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3. GENERAL

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

Classification	Base Rate \$	Safety Net Adjustment \$	Weekly Wage Rate \$
(i) Fork Lift Driver	334.00	34.00	368.00
(ii) Motor Lorry Driver	334.00	34.00	368.00
(iii) An employee having less than one month's continuous service with their present employer	298.70	34.00	332.70
(iv) Leading hand, i.e. an employee who directs or supervises the work of -			
2 to 6 employees	\$11.40 per week extra		
7 to 10 employees	\$12.10 per week extra		
11 to 19 employees	\$18.80 per week extra		
20 or more employees	\$24.70 per week extra		

4. JUNIOR EMPLOYEES - OTHER THAN APPRENTICES

The minimum weekly wage rate that may be paid to junior employees shall be the undermentioned percentages of the adult rate for the classification upon which they are employed.

	Percentage of Adult Weekly Wage Rate %
Under 16 years of age	45
16 to 17 years of age	50
17 to 18 years of age	60
18 years of age and over	100

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5. MINIMUM WAGE

- (i) Notwithstanding the provisions of subclauses 1, 2 & 3 of this clause, no adult employee shall be paid less than the rate of **\$251.10** per week.
- (ii) Provided that payments for overtime, special rates, holiday and weekend penalties, 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, sick leave and annual leave, and for all other purposes of this award.

6. PIECE-WORK

Piece-work rates may be fixed by the employer and the employee at such rates approved by The Australian Workers' Union, Tasmania Branch as will enable the average employee working the ordinary hours prescribed herein to earn at least twelve and a half percent above the prescribed time rate. Such rates shall, when fixed, be paid in lieu of the said time rates.

7. 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.

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(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 (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:

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- (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.

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- (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 subclause (c) hereof."

2. By deleting from subclause (a) of Clause 9 - Allowances, the amount of \$1.49 and inserting in lieu thereof the amount of \$1.52.

3. By deleting from Clause 17 - First Aid Equipment, the amount of \$1.35 and inserting in lieu thereof the amount of \$1.40.

4. By deleting from Clause 35 - Special Rates, the amount of \$0.41 and inserting in lieu thereof the amount of \$0.42.

5. By deleting from Clause 38 - Wet Pay, the amount of \$3.15 and inserting in lieu thereof the amount of \$3.20.

OPERATIVE DATE

These variations shall come into operation from the first full pay period to commence on or after 14 July 1997

F.D. Westwood
PRESIDENT

18 July 1997