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TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984
s23 application for award or variation of award

Tasmanian Trades and Labor Council
(T12940 of 2007)
Private Sector Awards
Public Sector Awards

FULL BENCH:

PRESIDENT P L LEARY
DEPUTY PRESIDENT P C SHELLEY
COMMISSIONER T J ABEY

Wage Rates – State Wage Case 2007 – application amended - application to vary private and public sector awards – award wage rates to be increased by \$22.70 per week - wage related allowances to be increased by 3.8% – meal allowance increased to \$14.10 - State Minimum Wage rate determined at \$527.10 - s.35(1)(b) – operative date ffpp 1 August 2007

LEGAL PRACTITIONERS AND APPRENTICE-AT-LAW AWARD

ORDER -

**No. 2 of 2007
(Consolidated)**

AMEND THE **LEGAL PRACTITIONERS AND APPRENTICE-AT-LAW AWARD** BY DELETING ALL CLAUSES CONTAINED THEREIN AND INSERTING IN LIEU THEREOF THE FOLLOWING; AND THE AWARD IS CONSOLIDATED:

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1. TITLE

This award shall be known as the "Legal Practitioners and Apprentice-at-Law Award".

2. SCOPE

This award shall apply to the employment of persons employed under the Tasmanian *State Service Act 2000* whose duties involve legal work and for whom classifications appear in this award.

3. ARRANGEMENT

<u>SUBJECT MATTER</u>	<u>CLAUSE NO.</u>
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4. DATE OF OPERATION

This award shall come into operation from the first full pay period commencing on or after 1 August 2007.

PROVIDED that it is a term of this award (arising from the decision of the Tasmanian Industrial Commission in the State Wage Case of 13 August 1991) that the union undertakes, until 30 November 1991, not to pursue any extra claims, award or overaward, except where consistent with those principles.

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5. SUPERSESION AND SAVINGS

This award incorporates and supersedes the Legal Practitioners and Apprentice-at-Law Award No. 2 of 2007 (Consolidated).

PROVIDED that no right, obligation or liability incurred or accrued under any of the abovementioned provisions shall be affected by the replacement and supersession.

6. PARTIES AND PERSONS BOUND

This award shall apply to, and be binding upon:-

- (a) all employees (whether members of a registered organisation or not) for whom classifications appear in this award.
- (b) the following organisation of employees in respect of whom award interest has been determined:

The State Public Services Federation Tasmania and the officers of that organisation and their members for whom classifications appear in this award;

- (c) the Controlling Authority having an interest in this award is the Minister for Public Sector Management, in relation to all employees (as defined).

7. DEFINITIONS

- (a) **'Legal Practitioner'** means a person admitted, or qualified for and entitled to be admitted, as a barrister or a practitioner of the Supreme Court of Tasmania under the provisions of the *Legal Practitioners Act 1959* as amended.
- (b) **'Apprentice-at-Law'** means a person who has satisfied all the relevant requirements of the *Legal Practitioners Act 1959* as amended in relation to entry into articles of apprenticeship and desiring to seek admission as a practitioner of the Supreme Court of Tasmania, enters into an apprenticeship or articles of clerkship with one of those practitioners entitled to take articulated clerks pursuant to Section 28 of the *Legal Practitioners Act 1959* as amended.
- (c) **'Employee'** means a person permanently or temporarily employed under the provisions of the *Tasmanian State Service Act 2000*.

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8. SALARIES

An employee classified or graded within a class or grade prescribed by this award shall, subject to satisfying the prescribed requirements, be paid at the salary rate determined for the relevant classification, as hereinafter set forth.

PROVIDED ALWAYS that it is a condition of the 4% second tier adjustment applied to the wage rates in this award that the restructuring and efficiency offsets referred to in Registered Agreement T.1233 of 1988 be implemented and/or observed in relation to all employees for whom salary rates appear in this award.

Where there is an inconsistency between a provision of:

- (a) either this award, the General Conditions of Service Award, an Instruction, or Regulation; and
- (b) the Agreement referred to, the terms of which apply to employees covered by this award

that provision shall be read subject to the relevant provisions contained in the Agreement.

PROVIDED ALSO that "State Service Wages Arrangements Increases" means those fixed salary rate increases provided for in accordance with the Agreement in Relation to State Service Wage Arrangements.

APPRENTICE AT LAW	25182
LEGAL PRACTITIONER	
Class I - First year of service	39986
Second year of service	41832
Third year of service	43576
Class II - First year of service	45316
Second year of service and thereafter	47163
Class III - First year of service	49007
Second year of service and thereafter	48155
Class IV - Grade 1	52422
Grade 2	54182
Grade 3	55937
Grade 4	57692
Grade 5	59450
Grade 6	61203
Grade 7	62690

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Class V - Grade 1	65204
Grade 2	68139
Grade 3	71072
Grade 4	75007
Class VI - Grade 1	80865
Grade 2	83797
PARLIAMENTARY COUNSEL	88186

9. CONDITIONS OF SERVICE

Unless otherwise prescribed in this award, conditions of service shall be as prescribed in the General Conditions of Service Award, provided that where conditions are not prescribed therein, the Tasmanian *State Service Act 2000* and Regulations or Instructions made thereunder shall apply.

10. NEW APPOINTMENTS AND PROMOTIONS

The commencing salary of a person or employee either on first appointment or on promotion to a position classified within a class or grade in respect of which a salary scale is prescribed by this award shall be as determined by the Controlling Authority, having regard to the qualifications and the practical experience as a legal practitioner of such person or employee.

11. PROGRESSION

An employee who has served for twelve months on the maximum salary prescribed for either Legal Practitioner Class I or Legal Practitioner Class II respectively shall be advanced to Legal Practitioner Class II or Legal Practitioner Class III, as the case may require, subject to:-

- (i) the fulfilment of the requirements necessary for appointment to such class;
- (ii) a certificate issued by the Controlling Authority that such employee is worthy of advancement, and is qualified for and will be required to undertake the duties of an employee within that class.

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12. QUALIFICATIONS

No person shall hold a position classified or graded within a class or grade prescribed by this award unless the following requirements are fulfilled:

- (a) Legal Practitioner Class I - unless the person is a legal practitioner as defined in this award.
- (b) Legal Practitioner Class II and above - unless the person is a legal practitioner as defined in this award with at least three years practical experience in legal work of a professional nature subsequent to becoming a legal practitioner.

PROVIDED that a legal practitioner may, on the determination of the Controlling Authority, be appointed, promoted or classified within Legal Practitioner Class II and above where, in the opinion of the Controlling Authority, special circumstances exist which warrant such determination.

13. SALARY INCREMENTS

- (a) Except where otherwise specifically determined by this award, or where inconsistent with any Act, an employee while holding a position classified or graded within a class or grade in respect of which a salary scale is prescribed by this award, and who for not less than twelve months has been in receipt of a salary less than the maximum salary prescribed for such classification, shall be entitled to receive the annual increment prescribed for such classification until the maximum salary is reached.

PROVIDED that an employee who was an employee on the date of this award shall be entitled to receive such increment on the anniversary of the date upon which he/she received his/her last salary increment in respect of his or her present position.

- (b) An employee whilst continuing to hold the same office or position shall, unless the Controlling Authority otherwise determines, be deemed, for the purposes of this clause, to have been in receipt of a salary during any period of leave without pay in the twelve months immediately following the date upon which his or her previous salary increment was awarded.

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- (c) Notwithstanding anything contained in this award, no employee shall be entitled to receive any increase in salary by virtue of this clause unless, in the opinion of the Controlling Authority, the employee's conduct, diligence and efficiency during the twelve months immediately prior to the date from which such increase would be payable shall have been satisfactory.

James P McAlpine
COMMISSIONER

26 July 2007