

**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

**RETAIL TRADES AWARD**

**ORDER BY CONSENT-**

**No. 1 of 1998**

AMEND THE **RETAIL TRADES AWARD** IN THE FOLLOWING MANNER:

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

**"8. WAGE RATES**

(a) Adults

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

Adult employees of a grade hereunder mentioned shall be paid the amount assigned opposite that grade.

Retail Employee	Relativity %	Base Rate \$	Safety Net Adjustment \$	Weekly Wage Rate \$
Grade 1	85	354.60	44.00	398.60
Grade 2	92.1	384.10	44.00	428.10
Grade 3	96	400.50	44.00	444.50
Grade 4	100	417.20	44.00	461.20
Grade 5	105	438.10	44.00	482.10
Grade 6	110	458.90	44.00	502.90
Grade 7	- See rates applicable as per Clerical and Administrative Employees. (Private Sector) Award			

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

Adult employees of a grade hereunder mentioned shall be paid the amount assigned opposite that grade.

Retail Employee	Relativity %	Base Rate \$	Safety Net Adjustment \$	Weekly Wage Rate \$
Grade 1	85	354.60	48.00	402.60
Grade 2	92.1	384.10	48.00	432.10
Grade 3	96	400.50	48.00	448.50
Grade 4	100	417.20	48.00	465.20
Grade 5	105	438.10	48.00	486.10
Grade 6	110	458.90	48.00	506.90
Grade 7	- See rates applicable as per Clerical and Administrative Employees. (Private Sector) Award			

(b) Juniors

The minimum rates that may be paid to junior employees shall be the undermentioned percentages of the rate prescribed for a Retail Employee Grade 2.

	%
Under 17 years of age	50
17 to 18 years of age	54.5
18 to 19 years of age	67.5
19 to 20 years of age	79.5
20 to 21 years of age	83

(c) Transport Workers

Wage rates for employees engaged in transport classifications shall be as prescribed in Clause 8 - Wage Rates - of the Transport Workers General Award.

(d) Nightfill Employees

All employees employed to work "Nightfill" (as defined) shall receive a "Nightfill loading". This loading shall be 25% and applied to all hours worked.

(e) Floristry Apprentice

The minimum ordinary rate of payment for floristry apprentices shall be the undermentioned percentage of the rate for a Retail Employee Grade 3B.

	%
First Year	42
Second Year	55
Third Year	75
Fourth Year	88

(f) Trainees (ATS)

The weekly wages payable to Trainees (ATS) shall be determined by multiplying the appropriate junior rate as specified in subclause (b) hereof by 39 (which represents the actual number of weeks spent on the job) and dividing that sum by 52.

The wage rate determined by this calculation shall in no case be less than the minimum rate prescribed by the Australian Traineeship System Guidelines.

This figure is adjusted in accordance with State Wage Case decisions.

(g) Trainees (CST) Sales Assistants or Clerks

- (i) The weekly wage payable to a Trainee (CST) - Sales Assistant or Clerk, shall be calculated by:
- (1) determining the hourly rate applicable to the relevant age as prescribed in the Retail Trades Award or a legally registered Industrial Agreement.
  - (2) multiplying that hourly rate by the number of weekly ordinary hours, less the average weekly time specified in the training agreement to be spent in structured off-the-job training.
- (ii) The hourly rate of pay for the purpose of calculation of overtime or shift penalties is the hourly rate applicable to the relevant age as prescribed in the award.

**PROVIDED** that trainee rates shall be calculated in multiples of ten cents with any result of five cents or more being taken to the next highest ten cent multiple.

- (iii) The terms of this subclause applying to Career Start Traineeships operate in conjunction with a Commonwealth Government Scheme, under which, if weekly wages calculated using the method outlined above fall below \$125.00 for those under 18 years old and \$150.00 for those 18 years and over or any revised amount, the Commonwealth will provide a supplementary allowance to bring the total income of Trainees undertaking Career Start Traineeships up to those levels.

In the event that the Commonwealth Government reduces these minimum income maintenance levels, the terms of the award will be revised.

(h) Additional Rates

Window-dressers or show card writers (as defined) shall receive 5% in addition to the total rate of pay applicable to their age or grade.

(i) Tool Allowance

All employees engaged in classifications that are proclaimed as trades under the Industrial and Commercial Training Act 1985 shall either be supplied with all tools by the employer or paid a tool allowance of not less than \$8.50 per week.

**PROVIDED** that such allowance shall not be subject to adjustment when computing payments for shift penalty rates, for weekend or holiday work, for overtime or for any other purpose.

(j) Translation

Employees who are employed as at 1 July, 1992 shall translate to the new structure in accordance with the procedures set out in schedule 1 to this award.

(k) Advice of Grading and Settlement of Disputes

- (i) 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.
- (ii) In the event of a dispute regarding grading, the matter shall be discussed by the employer involved or his representative and the relevant union in an attempt to resolve the matter, and if then still in dispute, shall be referred to the President of the Tasmanian Industrial Commission for determination.
- (iii) In respect of clerical and administrative employees Grade 4 and above, guidance may, where appropriate, be sought from the definitions at the equivalent relativity contained in the Clerical and Administrative Employees (Private Sector) Award.

(l) 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, 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.

(ii) For the purposes of this subclause:

- (1) **"Supported Wage System"** means the Commonwealth Government System to promote employment for people who cannot work at full award wages because of a disability.
- (2) **"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.
- (3) **"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.
- (4) **"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 (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.)

(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 4 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 (iv) and (v).
- (3) 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.
- (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 (iii) hereof."

**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**

21 July 1998