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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

GOVERNOR OF TASMANIA STAFF AWARD

ORDER -

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

AMEND THE **GOVERNOR OF TASMANIA STAFF 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 "Governor of Tasmania Staff Award".

2. SCOPE

Subject to the exceptions and conditions contained herein, this award shall apply to persons employed under the provisions of the *Governor of Tasmania Act 1982* and for whom classifications appear in this award.

3. ARRANGEMENT

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4. DATE OF OPERATION

This award shall come into operation from the first full pay period to commence 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 Governor of Tasmania Staff Award No. 1 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.

PROVIDED FURTHER that the provisions of the *Governor of Tasmania Act 1982* and any regulations made thereunder shall continue to apply to employees or classes of employee covered by this award, as and where such Act and regulations are applicable, save insofar as the salary to be received by and the conditions of service of such employees or classes of employee are inconsistent with the provisions of this award.

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 Community & Public Sector Union (SPSFT) Inc 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 Governor-in-Council in relation to all employees (as defined).

7. DEFINITIONS

'Employee' means a State employee permanently or temporarily employed under the provisions of the *Governor of Tasmania Act 1982*, who, on the date upon which this award comes into force, occupies a position covered by this award, or who after that date is appointed to one of such positions.

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8. SALARIES

An employee holding a position classified on the determination of the controlling authority within a salary scale prescribed in this clause, shall, subject to satisfying the prescribed requirements be paid at a salary rate determined for the relevant classification as hereinafter set forth.

PROVIDED that an employee paid in accordance with the rates established for persons under 21 years of age in Class I of a classification contained in this award shall on being promoted to a classification above Class I be paid at the salary rate prescribed for the position to which they have been appointed.

PROVIDED FURTHER that an employee under 21 years of age with dependants may, on the determination of the controlling authority, be paid the salary which would normally be received on attaining the age of 21 years.

For the purposes of this proviso, a '**dependant**' in relation to an employee means:-

- (a) in the case of a relative of that employee, a person who normally resides with that employee; and
- (b) in any other case, a person who has resided with that employee for a period of at least 12 months, and who is wholly or substantially dependent on that employee for financial support;
- (c) 'relative' as referred to in paragraph (a) above means spouse, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant, adopted child and foster child of the employee's spouse.

PROVIDED ALWAYS that it is a condition of the 4% second-tier adjustment applied to the wage rates in this award that the package of restructuring and efficiency offsets referred to in Appendix A 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:

- (aa) either this award, the General Conditions of Service Award, an Instruction, or Regulation; and
- (bb) Appendix A, the terms of which apply to employees covered by this award

that provision shall be read subject to the relevant provision contained in Appendix A.

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A. ADMINISTRATIVE AND CLERICAL EMPLOYEES

	Percentage
Class I	
16 years and under	55
17 years	63
18 years	73
19 years	84
20 years	93

The above percentages shall be of an Administrative and Clerical Employee, Class I, 21 years and over, 1st year of service as appearing in the Clerical Employees Award (S080).

	Salary per Annum \$
21 years and over	
1st year of service	29890
2nd year of service	30392
3rd year of service	30888
4th year of service	31399
5th year of service	31928
6th year of service	32543
7th year of service and thereafter	33111
Class II	
1st year of service	33948
2nd year of service	34570
3rd year of service and thereafter	35285
Class III	
1st year of service	36005
2nd year of service and thereafter	36724
Class IV	
1st year of service	37328
2nd year of service and thereafter	38144
Class V	
1st year of service	38704
2nd year of service and thereafter	39332
Class VI	
1st year of service	39929
2nd year of service	40531
3rd year of service and thereafter	41128

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Class VII	
1st year of service	41734
2nd year of service	42489
3rd year of service and thereafter	43132
Class VIII	
1st year of service	43880
2nd year of service	44485
3rd year of service and thereafter	45133
Class IX	
1st year of service	45730
2nd year of service	46490
3rd year of service and thereafter	47235
Class X	
1st year of service	47985
2nd year of service and thereafter	48735
Class XI	
1st year of service	49561
2nd year of service and thereafter	50390
Class XII	
1st year of service	51211
2nd year of service and thereafter	52036
Class XIII	53699
Class XIV	55344

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B. KEYBOARD AND OFFICE ASSISTANT EMPLOYEES

Office Assistant
Typist
Stenographer
Machinist
Audio Typist
Keyboard Operator
Secretarial Assistant
Typist-in-Charge
Machinist-in-Charge
Keyboard Supervisor
Word Processor Operator

	Percentage
Class I	
16 years and under	55
17 years	63
18 years	73
19 years	84
20 years	93

The abovementioned percentage shall be of Class I, Grade I, 21 years and over salary as appearing in the Keyboard Employees and Office Assistants Award (S080).

	Salary per Annum \$
21 years and over	
Grade 1	29518
Grade 2	29769
Grade 3	30019

PROVIDED that an employee classified as a stenographer shall, on exceeding 20 years of age, be entitled to commence on the salary established in this award at the Class I Grade 2 level.

PROVIDED ALSO that an employee paid in accordance with rates prescribed for employees not exceeding 20 years of age in Class I of this award, shall be entitled to the following allowances:

- (i) An employee who is a typist who has satisfactorily passed a speed test in stenography at one or other of the speeds undermentioned, shall be paid a proficiency allowance at the rate of:-
 - (a) 80 words per minute - \$630.00 per annum
 - (b) 100 words per minute - \$1259.00 per annum
 - (c) 120 words per minute - \$1901.00 per annum

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- (ii) an employee who is a typist who has satisfactorily passed a typewriting test at one or other of the speeds undermentioned shall be paid a proficiency allowance at the rate of:
 - (a) 40 words per minute - \$491.00 per annum
 - (b) 50 words per minute - \$630.00 per annum

- (iii) an employee who is a machinist who has satisfactorily passed an approved efficiency test in machine operation in the full range of the machine or machines such employee is required to operate, shall be paid a proficiency allowance at the rate of:
 - (a) one class of machine with up to 10 programmes, functions or systems - \$630.00 per annum
 - (b) one class of machine with more than 10 programmes, functions or systems, or a group of machines with more than 10 programmes, functions or systems - \$1259.00 per annum

- (iv) an employee who is a typist who is regularly employed on audio work or relieves in that capacity shall be paid an allowance at the rate of:
 - (a) up to 2 years experience on reel-to-reel or cassette type recorders - \$951.00 per annum
 - (b) over 2 years experience on reel-to-reel or cassette type recorders - \$1901.00 per annum

PROVIDED FURTHER that the proficiency allowance more particularly set forth in either provisos (i), (ii), (iii) or (iv) hereof shall, in each case be in substitution for and not cumulative one upon the other.

	Salary per annum
	\$
Class II	
Grade 1	30265
Grade 2	30513
Grade 3	30759
Grade 4	31009
Class III	
Grade 1	31276
Grade 2	31533
Grade 3	31793
Grade 4	32057
Class IV	32416

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Class V	
Grade 1	32677
Grade 2	33191
Class VI	
Grade 1	34362
Grade 2	35043
Class VII	
Grade 1	35434
Grade 2	35832

PROVIDED that the following conditions shall apply to employees 21 years of age and above:

- (a) an employee who is a typist shall not be promoted or progress beyond Class I Grade 2 unless she/he has satisfactorily passed a typing test of 40 words per minute;
- (b) an employee who is a typist appointed to a Class I position who has passed a typing test of 50 words per minute shall be paid in addition an allowance of \$319.00 per annum;
- (c) an employee who is a typist shall not be appointed to a position classified above Class III Grade 4 unless she has passed a typing test of 50 words per minute;
- (d) an employee shall not be appointed as a stenographer unless she has passed a stenography test of 80 words per minute;
- (e) an employee classified to a position up to and including Class III, Grade 2, who has satisfactorily passed a stenography test shall be paid either of the allowances which follow -
 - (i) for 100 words per minute - \$630.00 per annum
 - (ii) for 120 words per minute - \$951.00 per annum
- (f) no stenographer shall be appointed to a position classified above Class III Grade 1 unless having first passed a stenography test of 100 words per minute;
- (g) a machinist who has served for twelve months on the maximum of Class II Grade 1 may progress grade by grade to Class III Grade 2, subject to a certificate by the Head of Department, and with the concurrence of the controlling authority, that that employee will be required to undertake the duties of an employee of that class;

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- (h) except in the case of Secretarial Assistant, no employee shall be appointed above Class IV unless required to permanently supervise the work of other staff;
- (i) except where special circumstances exist, an employee required to permanently supervise the work of 2 to 4 other persons shall not be classified above Class V;
- (j) an employee who is a typist and who is regularly employed on audio work, or a typist who relieves in that capacity shall be paid an allowance at the rate of -
 - (a) up to 2 years experience on reel-to-reel or cassette type recorders - \$951.00 per annum,
 - (b) over 2 years experience on reel-to-reel or cassette type recorders - \$1901.00 per annum;

PROVIDED FURTHER that the proficiency allowances more particularly set forth in either provisos (ii), (v) or (x) hereof shall, in each case, be in substitution for, and not cumulative one upon the other.

C. TECHNICAL OFFICER

	Percentage
Class I	
16 years and under	55
17 years	63
18 years	73
19 years	84
20 years	93

The abovementioned percentages shall be of an Administrative and Clerical Employee, Class I, 21 years and over, 1st year of service as appearing in the Clerical Employees Award (S081).

	Salary per Annum \$
21 years and over	
1st year of service	29916
2nd year of service	30447
3rd year of service	30977
4th year of service and thereafter	31517
Class II	
1st year of service	31960
2nd year of service and thereafter	32590

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Class III	
Grade 1	33038
Grade 2	33683
Class IV	
Grade 1	34285
Grade 2	34839
Class V	
Grade 1	35243
Grade 2	35813
Class VI	
Grade 1	36302
Grade 2	36868
Class VII	
Grade 1	37243
Grade 2	37914
Class VIII	
Grade 1	38389
Grade 2	38991
Class IX	
Grade 1	39516
Grade 2	40119
Class X	
Grade 1	40640
Grade 2	41243
Class XI	
Grade 1	41771
Grade 2	42370
Class XII	
Grade 1	42901
Grade 2	43384

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D. GENERAL OFFICER

	Percentage
Class I	
16 years and under	55
17 years	63
18 years	73
19 years	84
20 years	93

The abovementioned percentages shall be of the Clerical Assistant, Class I and IA, 21 years and over, 1st year of service, as appearing in the Clerical Employees Award (S081).

	Salary per Annum \$
Class I	
21 years and over	
1st year of service	28181
2nd year of service	28410
3rd year of service	28639
4th year of service and thereafter	28872
Class II	
Grade 1	29106
Grade 2	29340
Class III	
Grade 1	29582
Grade 2	29802
Class IV	
Grade 1	30033
Grade 2	30258
Class V	
Grade 1	30491
Grade 2	30712
Class VI	
Grade 1	30944
Grade 2	31180
Class VII	
Grade 1	31429
Grade 2	31655

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Class VIII	
Grade 1	31899
Grade 2	32239
Class IX	
Grade 1	32474

E. 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 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.

(b) For the purposes of this subclause:

- (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.

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(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 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 \$61 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.

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(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 4 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 \$61 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.

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- (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.

9. ALLOWANCES

The following allowances will be paid in accordance with the General Conditions of Employment Award:

1. Recreation Leave Allowance
2. Overtime
3. Standby
4. Availability Allowance
5. Rest Period after Overtime, Meal Allowances and Emergency Rations
6. Travel, Accommodation, Meal and Kilometrage Allowances
7. Call out

PROVIDED that where there is an inconsistency between a provision of the General Conditions of Employment Award, an Instruction or Regulation, or a provision prescribed in Appendix A, the provision prescribed in Appendix A shall apply.

10. DEDUCTIONS FROM SALARY

Until otherwise determined by this Commission, deductions from salaries or wages on account of quarters, fuel, light, power, board and other facilities and amenities provided for employees covered by this award, and the rates of those deductions, and the basis on which they shall be calculated shall be in accordance with the terms and conditions for the time being prescribed by the relevant Act or Instrument under or by virtue of which they are appointed, or as prescribed by the regulations, rules, by-laws or instructions made under such Act or Instrument, whichever are applicable.

11. HIGHER AND MORE RESPONSIBLE DUTIES ALLOWANCE

(a) HIGHER DUTIES ALLOWANCE

- (i) Where an employee is directed by the controlling authority to perform temporarily the duties of an employee with a higher classification for a period of five days or more, that employee shall be paid an allowance equal to the difference between the employee's own salary and the minimum salary of the higher position.

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- (ii) Where an employee is directed by the controlling authority to perform temporarily a part of the duties of an employee with a higher classification for a period of five days or more, that employee will receive an allowance established by reference to the proportion that the duties assumed bear to the whole of the duties of the higher position and the difference between the employee's substantive salary and the minimum salary of the higher position.
- (iii) Where an employee is promoted to a higher position in which that employee has previously been performing the duties in a temporary capacity, that employee will receive the increment to which the employee would normally have been entitled had the employee been promoted to the position at the commencement of the period of acting duty.
- (iv) Where an employee continues to perform the higher duties as provided for in subparagraph (i) for a period of more than twelve months, an increment, if provided for in the higher classified position, shall be paid.

PROVIDED that no employee shall be entitled to receive any increase in salary by virtue of this subparagraph unless, in the opinion of the controlling authority, his conduct, diligence and efficiency during the twelve months immediately prior to the date from which such increase would be payable shall have been satisfactory.

- (v) For the purposes of paragraph (a) reference to employee does not include temporary or casual employees.

(b) MORE RESPONSIBLE DUTIES ALLOWANCE

- (i) Where, for a period of five days or more an employee is required to perform more responsible duties which are not capable of being paid for in subparagraphs (a) (i) and (ii) above, the controlling authority shall authorise a more responsible duties allowance.

The allowance shall be established by reference to the value of the more responsible duties involved.

- (ii) For the purposes of paragraph (b) reference to employee does not include temporary or casual employees.
- (iii) Where an employee receiving an allowance under paragraphs (a) or (b) above proceeds on approved leave, sick leave or leave in lieu of overtime, the employee will continue to receive that allowance provided that the duties continue after the period of such leave.
- (iv) Payment of overtime shall be at the classification rate inclusive of the allowance provided in paragraphs (a) or (b) above.

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12. HOURS OF DUTY

Until otherwise determined by this Commission, the ordinary hours of duty for employees (exclusive of meal periods) and the times within which such hours shall be worked shall be in accordance with the hours of duty for the time being prescribed by the relevant Act or Instrument under or by virtue of which they are appointed or prescribed by the Regulations, rules, by-laws or instructions made under such Act or Instrument whichever are applicable.

PROVIDED that in no case shall such ordinary hours of work be less than 36 and three-quarter hours weekly.

13. NEW APPOINTMENTS AND PROMOTIONS

The commencing salary of a person or employee either on first appointment or on promotion to a position within a class or grade of a classification in respect of which salary scales are prescribed by this award shall be the minimum salary for that position on the appropriate scale, except in any case where, in the opinion of the controlling authority, the qualifications and the practical experience of such person or employee in the appropriate field justify a higher salary.

14. SALARY INCREMENTS

1. Except where otherwise 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 received his last salary increment in respect of his present position.

2. 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 previous salary increment was awarded.

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3. 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, his conduct, diligence and efficiency during the twelve months immediately prior to the date from which such increase would be payable shall have been satisfactory.

Tim Abey
COMMISSIONER

2 August 2007