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TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

s23 application for an award or variation of an award

Tasmanian Trades and Labor Council

[T10230 of 2002]

Private Sector Awards

[T10288 of 2002]

Private Sector Awards

[T10289 of 2002]

Private and Public Sector Awards

FULL BENCH:

PRESIDENT P L LEARY

DEPUTY PRESIDENT R J WATLING

COMMISSIONER T J ABEY

Wage Rates - State Wage Case July 2002 - applications to vary private sector awards in a manner consistent with the Australian Industrial Relations Commission decision in Print PR002002 - Safety Net Review 2002 - Award rates increased by - \$18 per week - Wage related allowances increased by 3.55% - Meal allowances increased to \$11.90 - Supported Wage increased to \$56 per week - Operation ffpp 1 August 2002 - State Minimum Wage determined at \$431.40 - s.35(1)(b)

BUILDING AND CONSTRUCTION INDUSTRY AWARD

ORDER BY CONSENT -

No. 1 of 2002

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THE BUILDING AND CONSTRUCTION INDUSTRY AWARD IS VARIED IN THE FOLLOWING MANNER:

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

"8. WAGE RATES

1. FOR EMPLOYEES CLASSIFIED AS TRADESPERSONS AND LABOURERS

The weekly wage rate to be paid to employees covered by this clause shall be those prescribed herein calculated as an hourly rate in accordance with paragraph 1(e) - Hourly Rate Calculation - Follow the Job Loading of this clause.

(a) Weekly Wage Rate - Tradespersons and Labourers

The Weekly Wage Rate for the purpose of the abovementioned calculation for the respective classifications shall be the following:

Tradespersons Classification	Base Rate	Safety Net Adjustment	Weekly Wage Rate
	\$	\$	\$
Carpenter Diver	541.90	106.00	647.90
Carver	448.00	108.00	556.00
Special Class Tradesman	437.10	108.00	545.10
Letter Cutter	430.70	108.00	538.70
Marker or Setter Out	430.70	108.00	538.70
Signwriter	426.80	108.00	534.80
Artificial Stoneworkers, Bricklayers, Bridge and Wharf Carpenter, (Carpenter and/or Joiner), Caster, Fixer, Floorlayer Specialist, Floorsander, Glazier, Painter, Plasterer, Roof Fixer, Tilelayer	417.30	108.00	525.30
Plasterer's, Terrazzo or Stonemason's Assistant	387.20	106.00	493.20
Stonemason's Assistant (Factory)	372.70	106.00	478.70

Labourers Classification

(1)	Rigger, Dogman	414.40	106.00	520.40
(2)	Scaffolder, Powder Monkey, Hoist or Winch Driver, Foundation Shaftsmen, Steelfixer, including Tack Welder, Concrete Finisher	398.80	106.00	504.80
(3)	Trades Labourers, Jack Hammerman, Mixer Driver (Concrete) Gantry Hand or Crane Hand, Crane Chaser, Cement Gun Operator (except in Vic), Concrete Cutting or Drilling Machine Operator, Concrete Gang including Concrete Floater, Roof Layer (Malthoid or similar material), Dump Cart Operator, Concrete Formwork Stripper	387.20	106.00	493.20
(4)	Builders Labourers other than as specified in classifications (1) to (3) above	358.70	106.00	464.70

NOTE: For total weekly and hourly rate refer to paragraph 1(e) - Hourly Rate Calculation - Follow the Job Loading classified as Trades Persons and Labourers.

(b) Industry Allowance

In addition to the rates prescribed in paragraph 1(a) - Weekly Wage Rate - Tradespersons and Labourers, an employee shall be paid an allowance at the rate of \$19.70 per week to compensate for the following disabilities associated with construction work:

- (i) climatic conditions when working in the open on all types of work;
- (ii) the physical disadvantage of having to climb stairs or ladders;
- (iii) the disability of dust blowing in the wind, brick dust, drippings from newly poured concrete;
- (iv) sloppy and muddy conditions associated with initial stages of the erection of a building;

- (v) the disability of working on all types of scaffolds or ladders other than a swing scaffold, suspended scaffold or a bosun's chair;
- (vi) the lack of usual amenities associated with factory work e.g. meal rooms, change rooms, lockers.

(c) Tool Allowance

A tool allowance shall be paid for all purposes of the award in accordance with the following table:

Classification	Amount per Week \$
Artificial Stoneworker, Carpenter and/or Joiner, Carpenter Diver, Carver, Bridge and Wharf Carpenter, Floorsander, Letter Cutter	19.70
Caster, Fixer, Floorlayer Specialist, Plasterer	16.20
Bricklayer	14.00
Roof Fixer	10.30
Signwriter, Painter, Glazier	4.90

(d) Special Allowance

Employees shall be paid an allowance of \$7.70 per week to compensate for the following matters:

- (i) excess travelling time incurred by employees in the building industry;
- (ii) the removal of loadings from the various Building Industry awards consequent upon the introduction of 'paid rates' awards in the building industry.

(e) Hourly Rate Calculation - Follow the Job Loading

The calculation of the hourly rate shall take into account a factor of eight days in respect of the incidence of loss of wages for periods of unemployment between jobs.

For this purpose the hourly rate, calculated to the nearest cent (less than half a cent to be disregarded) shall be calculated by multiplying the sum of the appropriate amounts prescribed in paragraph 1(a) - Weekly Wage Rate - Tradespersons and Labourers, paragraph 1(b) - Industry Allowance and paragraph 1(c) - Tool Allowance, if applicable, by 52 over 50.4 rounded to the nearest cent, adding to that subtotal the amount prescribed in paragraph 1(d) - Special Allowance, and dividing the total by 38 (provided that in the case of a Carpenter Diver the division shall be 31), rounded to the nearest cent.

Formula to Calculate Hourly Rate:

(8(1)(a) + 8(1)(b) + *8(1)(c) x 52/50.4 + 8(1)(d) divided by 38 + hourly rate where
 8(1)(a) = Weekly Wage Rate - Tradespersons and Labourers
 8(1)(b) = Industry Allowance
 8(1)(c) = Tool Allowance if applicable*
 52/50.4 = Follow the Job Factor
 8(1)(d) = Special Allowance
 38 = 38 hours per week (note Carpenter Diver calculation divided by 31)

NOTE: In addition to the above amounts where fares and travel are applicable see Clause 16 - Fares and Travelling.

(f) Leading Hands

A person specifically appointed to be a leading hand shall be paid at the rate of the undermentioned additional hourly amounts above the hourly rates of the highest classification supervised, or his own rate, whichever is the highest in accordance with the number of persons in his charge.

	Weekly Base Rate \$	Amount Per Hour \$
(i) In charge of not more than 1 person	12.60	0.34
(ii) In charge of 2 and not more than 5 persons	27.90	0.76
(iii) In charge of 6 and not more than 10 persons	35.50	0.97
(iv) In charge of over 10 persons	47.50	1.29
(v) The hourly rate prescribed herein is calculated to the nearest cent (less than half a cent to be disregarded) by multiplying the weekly wage rate - paragraph 1(a) - Weekly Wage Rate - Tradespersons and Labourers of this clause by 52 over 50.4 and dividing the total by 38.		

PROVIDED that in the case of a carpenter diver, the division shall be 31, and the said amount shall apply for all purposes of this award.

Base Rate x 52 over 50.4 divided by 38/divided by 31

(g) Foreman

In addition to the rates prescribed in paragraph 1(a) - Weekly Wage Rate - Tradespersons and Labourers, a Foreman in charge of a complete project shall be paid \$17.15 per day extra, provided that the payment prescribed in this paragraph shall not be taken into account for the purpose of calculating hourly rates prescribed herein.

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2. CONDITIONS FOR CARPENTER DIVERS

If called upon to work as a diver in the period before the daily meal break he shall receive a minimum payment for three hours as a carpenter diver.

If called upon to dive after the midday meal break he shall be paid as a carpenter diver for the time during which he works as such or for three hours, whichever is the greater.

3. PIECE-WORK

Engagement on a piece-work basis may be entered into providing that:

- (a) payment for such work shall be made at a rate which will enable the employee to earn not less than 33¹/₃ per cent above the appropriate wage rate prescribed herein for ordinary hours of work and in addition thereto payment for all prescribed special rates, allowances and penalty rates; and
- (b) employees engaged on piece-work shall be entitled to all of the conditions of employment prescribed in this award for employees on hourly rates.
 - (i) An employee who is employed in the classifications of joinery work, who is required to perform work 'on-site' on a construction project on any day or part thereof, shall be paid the rates and allowances that are applicable to that particular site work.
 - (ii) Where an employee has an entitlement under subparagraph (i) above on three or more days in any pay week he shall be paid in accordance with subparagraph (i) above for the whole of that pay week.

4. APPRENTICES

The employment of apprentices shall be in accordance with the requirements of the *Vocational Education and Training Act 1994* and Regulations made thereto:

(a) Weekly Wage Rate

The ordinary rates of pay to be paid by employers to apprentices shall be calculated by applying the percentages shown hereunder to the aggregate of the appropriate Weekly Wage Rate contained in paragraph 1(a) - Weekly Wage Rate - Tradespersons and Labourers and paragraph 1(d) - Special Allowance and, in addition thereto apprentices shall receive the amounts prescribed in paragraph 1(b) - Industry Allowance and paragraph 1(c) - Tool Allowance.

The following rates shall be calculated to the nearest five cents; two cents and less to be disregarded.

Percentage
Per Week

	%
(i) Artificial Stoneworker, Glazier, Painter Plasterer, Bricklayer, Carpenter	
1st year	38
2nd year	55
3rd year	75
4th year	90

In addition, paragraph 1(b) - Industry Allowance and paragraph 1(c) - Tool Allowance and fares and travel as per Clause 16 - Fares and Travelling.

(ii) Signwriter	
1st year	38
2nd year	55
3rd year	75
4th year	90

In addition, paragraph 1(b) - Industry Allowance and paragraph 1(c) - Tool Allowance and fares and travel as per Clause 16 - Fares and Travelling.

(iii) Roof Tiler	
1st year	55
2nd year	75
3rd year	90

In addition, paragraph 1(b) Industry Allowance and paragraph 1(c) - Tool Allowance and fares and travel as per Clause 16 - Fares and Travelling.

- (b) An employee who is under the age of 21 on the completion of his apprenticeship, or any junior, other than a probationer or an apprentice, who uses the tools in performing work usually carried out by a tradesman shall be paid not less than the appropriate wage prescribed for a tradesman.
- (c) An employer who provides an apprentice with a kit of tools may withhold from the wages of the apprentice the tool allowance until such time as the employer is reimbursed the cost of the tools. In the event of an apprentice being dismissed or leaving the employment before the cost of tools has been reimbursed, the employer shall be entitled to deduct from any moneys owing the apprentice the amount then owing to or retain such of the tools as will equal the value then owing.

Tools so provided shall be kept at the employer's establishment during the usual hours of work.

- (d) Should an apprentice at the time of being apprenticed produce a Schools Certificate [Full Award] with passes in Mathematics, English and Science, he

shall be entitled to 60 cents extra per week in addition to the wages and allowances prescribed in this subclause.

- (e) The provisions of Clause 7 - Definitions (for employees in Division A - Building Industry), Clause 10 - Annual Leave, Clause 13 - Compensation for Clothes and Tools, Clause 15 - Easter Saturday, Clause 16 - Fares and Travelling, Clause 19 - Hours, Clause 24 - Living Away from Home - Distant Work, Clause 25 - Meal Allowance, Clause 27 - Multi-Storey Allowance, Clause 28 - Overtime and Special Time, Clause 35 - Public Holidays and Holiday Work, Clause 36 - Rest Periods and Crib Time, Clause 40 - Shift Work, Clause 41 - Sick Leave, Clause 42 - Special Rates, and Clause 47 - Weekend Work of this award, shall be applicable to and in respect of the employment of apprenticed junior employees to the extent that they are consistent with the provisions of any articles of indenture in accordance with the terms of the contract of employment.

5. CASUAL HANDS - LABOURERS ONLY

In addition to the rate appropriate for the type of work, a casual hand shall be paid an additional 33 $\frac{1}{3}$ per cent of the rate per hour with a minimum payment as for three hours' employment. The penalty rate herein prescribed shall be deemed to include, inter alia, compensation for annual leave.

6. FOR EMPLOYEES CLASSIFIED AS EQUIPMENT OPERATORS

The weekly wage rate to be paid to employees who work on the undermentioned mechanical equipment classification shall be that prescribed herein calculated at an hourly rate in accordance with paragraph (f) - Hourly Rate Calculation.

- (a) Weekly Wage Rate

The weekly wage rate for the purpose of the abovementioned calculation for the respective classifications shall be in accordance with the following table:

Labourers Classification	Base Rate \$	Safety Net Adjustment \$	Weekly Wage Rate \$
OPERATOR GRADE 1 Mechanical Plant Operator Group 1 & 2 Winch Driver Forklift Driver Lifting capacity to 5000 kg	402.40	106.00	508.40
OPERATOR GRADE 2 Forklift Driver -	408.20	106.00	514.20

Lifting capacity over 5000 kg
Mobile Hydraulic Platform Operator

OPERATOR GRADE 3 Mechanical Plant Operator Group 3 & 4 Mobile Crane Driver up to 15 tonnes	422.40	108.00	530.40
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OPERATOR GRADE 4 Mobile Crane Driver 15 - 100 tonnes	437.40	108.00	545.40
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CAPACITY ADJUSTMENT FORMULA

Mobile Cranes - for each additional 40 tonnes over a maximum lifting capacity of 100 tonnes an amount of \$16.40 shall be added to the base rate for Operator Grade 3 & 4

Mechanical Plant Operator
Group 5 & 6

OPERATOR GRADE 5 Tower Crane Driver	482.60	106.00	588.60
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(b) Special Allowance

Employees shall be paid in addition to the rates prescribed in paragraph 6(a) - Weekly Wage Rate a special allowance of \$7.70 to compensate for excess travelling time incurred by employees in the building and construction industry.

(c) In Charge of Plant Allowance

'In charge of plant' an employee who is in charge of plant shall mean:

- (i) when two or more employees are employed at the plant at one time, the employee who is invested with the superintendence and responsibility or who has to accept the superintendence and responsibility; or
- (ii) an employee who is invested with the superintendence and responsibility or who has to accept the superintendence and responsibility over one or more other employees; or
- (iii) when he is the only person of his class employed on the plant the employee who does the general repair work of the plant in addition to the work of operating, but not when he merely assists a fitter or engineer to do such work; or

- (iv) where shifts are worked the employee who is directed to carry out the general repair work of the plant in addition to the work of operating, but not when he merely assists a fitter or engineer to do such work, shall be paid an allowance of \$25.60 per week.

(d) Leading Hands

A person specifically appointed to be Leading Hand shall be paid in addition to the rates prescribed in paragraph 6(a) - Weekly Wage Rate, at the rate of the highest classification supervised, or his own rate, whichever is the highest in accordance with the number of persons in his charge.

	Amount per Hour \$
(i) In charge of not more than 1 person	0.34
(ii) In charge of 2 and not more than 5 persons	0.76
(iii) In charge of 6 and not more than 10 persons	0.97
(iv) In charge of over 10 persons	1.29

(e) Industry Allowance

An employee shall be paid in addition to the rates prescribed in paragraph 6(a) - Weekly Wage Rate, an allowance at the rate of \$19.70 per week to compensate for the following disabilities associated with construction work.

- (i) Climatic conditions when working in the open on all types of work.
- (ii) The physical disadvantages of having to climb stairs or ladders.
- (iii) The disability of dust blowing in the wind, brick dust and drippings from newly poured concrete.
- (iv) Sloppy and muddy conditions associated with the initial stages of the erection of a building.
- (v) The disability of working on all types of scaffolds or ladders other than a swing scaffold, suspended scaffold, or bosun's chair.
- (vi) The lack of usual amenities associated with factory work (e.g. meal rooms, change rooms, lockers).

(f) Hourly Rate Calculation

The calculation of the hourly rate shall be calculated by adding the amounts prescribed by paragraphs (a) - Weekly Wage Rate, (b) - Special Allowance, (c) -

In-Charge of Plant Allowance, (d) - Leading Hands and (e) - Industry Allowance, of this subclause and dividing the total by 38.

(g) Casual Hands

In addition to the rate appropriate for the type of work, a casual hand shall be paid an additional 20 per cent of the rate per hour with a minimum payment for three hours' employment. The penalty rate herein prescribed shall be made in lieu of Annual Leave, Public Holidays and Sick Leave prescribed for other employees in this award.

7. 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 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 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:

'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.

'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.

'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.

'Supported Wage System' means the Commonwealth Government System to promote employment for people who cannot work at full award wages because of a disability.

(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 \$56 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 \$56 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.

8. MINIMUM WAGE

(a) Minimum Wage

No employee shall be paid less than the minimum wage.

(b) Amount of Adult Minimum Wage

- (i) The minimum wage for full-time adult employees not covered by subclause 7 - Supported Wage System is \$431.40 per week.
- (ii) Adults employed under a supported wage system clause shall continue to be entitled to receive the wage rate determined under that clause. Provided that such employees shall not be paid less than the amount determined by applying the percentage in the supported wage system clause applicable to the employee concerned to the amount of the minimum wage specified in paragraph (b)(i).
- (iii) Adults employed as part-time or casual employees shall continue to be entitled to receive the wage rate determined under the casual and part-time clauses of the award. Provided that such employees shall not be paid less than pro rata the minimum wage specified in paragraph (b)(i) according to the number of hours worked.

(c) How the Minimum Wage Applies to Juniors

- (i) The wage rates provided for juniors by this award continue to apply unless the amount determined under paragraph (c)(ii) is greater.
- (ii) The minimum wage for an employee to whom a junior rate of pay applies is determined by applying the percentage in the junior wage rates clause applicable to the employee concerned to the relevant amount in paragraph (b)(i).

(d) Application of Minimum Wage to Certain Employees

Due to existing applicable award wage rates being greater than the relevant proportionate minimum wage, this clause will not apply to employees falling within the scope of the National Training Wage (Tasmanian Private Sector) Award and Trainees undertaking an apprenticeship.

(e) Application of Minimum Wage to Award Rates Calculation

The minimum wage:

- (i) applies to all work in ordinary hours;
- (ii) applies to the calculation of overtime and all other penalty rates, superannuation, payments during sick leave, long service leave and annual leave, and for all other purposes of this award; and
- (iii) is inclusive of the arbitrated safety net adjustment provided by the July 2002 State Wage Case Decision (T10230 of 2002) and all previous safety net and state wage case adjustments."

2. By deleting Clause 17 - First Aid Certificate Allowance, and inserting in lieu thereof the following:

"17. FIRST AID CERTIFICATE ALLOWANCE

An employee who is the holder of a current Red Cross or St. John First Aid Certificate, shall if required to act as a first aid attendant, be paid \$1.90 per day extra."

3. By deleting Clause 27 - Multi-Storey Allowance, and inserting in lieu thereof the following:

"27. MULTI-STOREY ALLOWANCE

(a) Eligibility

A multi-storey allowance shall be paid to all employees on site engaged in the construction of a multi-storey building as defined herein, to compensate for the disabilities experienced in, and which are peculiar to the construction of a multi-storey building.

PROVIDED that for employees classified as Equipment Operators, that for the purposes of this clause renovation work is work performed in existing multi-storey buildings and such work involves structural alterations which extend to more than two storey levels in a building, and at least part of the work to be performed is above the 4th floor storey level in accordance with the scale of payments appropriate for the highest floor level affected by such work.

(b) Definition of Multi-Storey Building

For the purposes of this award, a multi-storey building is a building which will, when complete, consist of five or more storey levels.

For the purposes of this clause, a storey level means structurally completed floor, walls, pillars or columns, and ceilings (not being false ceilings) of a building, and shall include basement levels and mezzanine or similar levels (but excluding 'half floors' such as toilet blocks or store rooms located between floors).

PROVIDED that for employees classified as Equipment Operators, '**complete**' means the building is fully functional and all work which is part of the principal contract is complete. For the purposes of this clause, a storey level means structurally completed floor, walls, pillars or columns, and ceiling (not being false ceilings) of a building, and shall include basement levels and mezzanine or similar levels (but excluding 'half floors' such as toilet block or storerooms located between floors).

PROVIDED FURTHER that any building or structures which do not have regular storey levels but which are not classed as towers (e.g. Grandstands, Aircraft hangers, Large stores etc.) and which exceed 15 metres in height may be covered by this subclause, or by Clause 42 - Special Rates subclause (i) - Towers Allowance, by agreement. Where no agreement is reached, by determination of the Commission.

PLANT ROOM

Further provided that a plant room situated on the top of a building shall constitute a further storey level if the plant room occupies 25 per cent of the total roof or an area of 100 square metres, whichever is the lesser.

(c) Rates

Except as provided for in subclause (d) - Service Cores, of this clause, an allowance in accordance with the following table shall be paid to all employees on the building site. The second and subsequent allowance scales shall, where applicable, commence to apply to all employees when one of the following components of the building - structural steel, reinforcing steel, boxing or walls, rises above the floor level first designated in each such allowance scale.

'Floor level' means that stage of construction which in the completed building would constitute the walking surface of the particular floor level referred to in the table of payments.

From commencement of building to 15th Floor level	36 cents per hour extra
From 16th Floor level to 30th Floor level	44 cents per hour extra
From 31st Floor level to 45th Floor level	67 cents per hour extra
From 46th Floor level to 60th Floor level	85 cents per hour extra
From 61st Floor level onwards	\$1.07 per hour extra

The allowance payable at the highest point of the building shall continue until completion of the building.

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(d) Service Cores

- (i) All employees employed on a service core at more than 15 metres above the highest point of the main structure shall be paid the multi-storey rate appropriate for the main structure plus the allowance prescribed in Clause 42 - Special Rates, subclause (i) - Towers Allowance, of this award, calculated from the highest point reached by the main structure to the highest point reached by the service core in any one day period (i.e., for this purpose the highest point of the main structure shall be regarded as though it were the ground in calculating the appropriate towers allowance).
- (ii) Employees employed on a service core no higher than 15 metres above the main structure shall be paid in accordance with the multi-storey allowance prescribed herein.
- (iii) **PROVIDED** that any section of a service core no higher than 15 metres above the highest point of the main structure shall be disregarded for the purpose of calculating the multi-storey allowance applicable to the main structure.

(e) Completion Point of Allowance

Payment of the allowance shall cease when the walls are completed and the employees are working under cover and the lifts or passenger/material hoists are available to employees.

PROVIDED that the exclusion of odd wall panels, sections or windows for the purposes of entrance or exit of materials or the anchoring of cranes, external lifting devices or scaffolding shall not prevent the walls of a building being defined as completed."

4. By deleting Clause 42 - Special Rates, and inserting in lieu thereof the following:

"42. SPECIAL RATES

In addition to the rates otherwise prescribed in this award, the following extra rates shall be paid to employees in this award.

(a) Insulation

An employee handling charcoal, pumice, granulated cork, silicate of cotton, insulwood, slag wool or other recognised insulating material of a like nature or working in the immediate vicinity so as to be affected by the use thereof 54 cents per hour or part thereof.

(b) Hot Work

An employee who works in a place where the temperature has been raised by artificial means to between 46 degrees and 54 degrees Celsius - 45 cents per hour or part thereof; exceeding 54 degrees Celsius - 54 cents per hour or part thereof.

Where such work continues for more than two hours, the employee shall be entitled to 20 minutes rest after every two hours work without loss of pay, not including the special rate provided by this subclause.

(c) Cold Work

An employee who works in a place where the temperature is lowered by artificial means to less than 0 degrees Celsius shall be paid 45 cents per hour.

Where such work continues for more than two hours, the employee shall be entitled to 20 minutes rest after every two hours work without loss of pay, not including the special rate provided by this subclause.

(d) Confined Space

An employee required to work in a confined space shall be paid 54 cents per hour or part thereof.

'Confined Space' means a place the dimensions or nature of which necessitate working in a cramped position or without sufficient ventilation.

(e) Swing Scaffold

A payment of \$3.23 for the first four hours or any portion thereof, and 67 cents for each hour thereafter on any day shall be made to any persons employed:

- (i) on any type of swing scaffold, or any scaffold suspended by rope or cable, bosun's chair, etc;
- (ii) on a suspended scaffold requiring the use of steel or iron hooks or angle irons at a height of 6 metres or more above the nearest horizontal plane.

PROVIDED that an apprentice with less than two years experience shall not use a swing scaffold or bosun's chair.

PROVIDED FURTHER provided that solid plasterers when working off a swing scaffold shall receive an additional 11 cents per hour.

(f) Explosive Powered Tools

An operator of explosive powered tools, as defined in this award, who is required to use an explosive powered tool, shall be paid \$1.05 for each day on which he uses such a tool.

(g) Wet Work

Employees working in any place where water is continually dripping on the employee so that clothing and boots become wet, or where there is water under foot, shall be paid 45 cents per hour whilst so engaged.

(h) Dirty Work

An employee engaged on unusually dirty work shall be paid 45 cents per hour.

(i) Towers Allowance

An employee working on a chimney stack, spire, tower, radio or television mast or tower, air shaft (other than above ground in a multi-storey building), cooling tower, water tower or silo, where the construction exceeds 15 metres in height shall be paid for all work above 15 metres, 45 cents per hour, with 45 cents per hour additional for work above each further 15 metres.

PROVIDED that any similarly constructed building or a building not covered by Clause 27 - Multi-Storey Allowance, of this award which exceeds 15 metres in height may be covered by this subclause or by Clause 27 - Multi-Storey Allowance, of this award by agreement, or where no agreement is reached, referred to the Tasmanian Industrial Commission.

(j) Toxic Substances

(i) An employee required to use toxic substances shall be informed by the employer of the health hazards involved and instructed in the correct and necessary safeguards which must be observed in the use of such materials.

(ii) Employees using such materials will be provided with and shall use all safeguards as are required by Clause 34 - Protection of Employees, of this award and the appropriate Government authority or in the absence of such requirement such safeguards as are defined by a competent authority or person chosen by the union and the employer.

(iii) Employees using toxic substances or materials of a like nature shall be paid 54 cents per hour extra. Employees working in close proximity to employees so engaged shall be paid 45 cents per hour extra.

(iv) For the purposes of this subclause toxic substances shall include epoxy based and all materials which include or require the addition of a

catalyst hardener and reactive additives or two pack catalyst system, shall be deemed to be materials of a like nature.

(k) Fumes

An employee required to work in a place where fumes of sulphur or other acid or other offensive fumes are present shall be paid such rates as are agreed upon between the union and the employer; provided that in default of agreement the matter may be referred to the Tasmanian Industrial Commission for the fixation of a special rate.

Any special rate so fixed shall apply from the date the employer is advised of the claim and thereafter shall be paid as and when the fume condition occurs.

(l) Asbestos

(i) Employees required to use materials containing asbestos or to work in close proximity to employees using such materials shall be provided with and shall use all necessary safeguards as required by the appropriate occupational health authority.

(ii) **PROVIDED** that where such safeguards include the mandatory wearing of protective equipment [i.e. combination overalls and breathing equipment or similar apparatus] such employees shall be paid 54 cents per hour extra whilst so engaged.

(m) Furnace Work

An employee engaged in the construction or alteration or repairs to boiler flues, furnaces, retorts, kilns, ovens, ladles and similar refractory work shall be paid \$1.18 per hour. This additional rate shall be regarded as part of the wage rate for all purposes.

(n) Acid Work

An employee required to work on the construction or repairs to acid furnaces, acid stills, acid towers and all other acid resisting brickwork shall be paid \$1.18 per hour. This additional rate shall be regarded as part of the wage rate for all purposes.

(o) Bricklayers Laying Other Than Standard Bricks

Bricklayers employed laying blocks (other than concrete blocks for plugging purposes) shall be paid the following additional rates:

where the blocks weigh over 5.5 kg and under 9 kg	45 cents per hour
where the blocks weigh 9 kg or over up to 18 kg	80 cents per hour
where the blocks weigh over 18 kg	\$1.13 per hour

- (i) An employee shall not be required to lift a building block in excess of 20 kg in weight unless such employee is provided with a mechanical aid or with an assisting employee; provided that an employee shall not be required to manually lift any building block in excess of 20 kg in weight to a height of more than 4 feet (1.2 m) above the working platform.

PROVIDED that this subclause shall not apply to employees being paid the extra rate for refractory work.

- (ii) Stonemasonry Employees

The employer of stonemasonry employees shall provide mechanical means for the handling, lifting and placing of heavy blocks or pay in lieu thereof the rates and observe the conditions prescribed in paragraph (i) above.

- (p) Cleaning Down Brickwork

41 cents per hour extra. While so employed employees will be supplied with gloves by the employer.

- (q) Bagging

Employees engaged upon bagging brick or concrete structures shall be paid 41 cents per hour.

- (r) Bitumen Work

An employee handling hot bitumen or asphalt or dipping materials in creosote, shall be paid 54 cents per hour extra.

- (s) Plaster or Composite Spray

An employee using a plaster or composition spray shall be paid an additional 45 cents per hour whilst so engaged.

- (t) Slushing

An employee engaged at 'slushing' shall be paid 45 cents per hour.

- (u) Dry Polishing of Tiles

Employees engaged on dry polishing of tiles where machines are used shall be paid 54 cents per hour or part thereof.

- (v) Cutting Tiles

An employee engaged at cutting tiles by electric saw shall be paid 54 cents per hour whilst so engaged.

(w) Second Hand Timber

Where, whilst working with second hand timber, an employee's tools are damaged by nails, dumps or other foreign matter on the timber he shall be entitled to an allowance of \$1.75 per day on each day upon which his tools are so damaged, provided that no allowance shall be payable under this clause unless it is reported immediately to the employer's representative on the job in order that he may prove the claim.

(x) Roof Repairs

Employees engaged on repairs to roofs shall be paid 54 cents per hour; provided that in lieu of this rate roof slaters and tilers shall be paid in accordance with the following:

- (i) an employee who works on a roof at a height at over 15 metres measured at the loading point of the tiles at ground level to the eaves, shall be paid 41 cents per hour extra;
- (ii) an employee who is required to work on a roof at a height over 15 metres measured at the loading point of the tiles at ground level to the eaves and the pitch of which is over 35 degrees or over 40 degrees in lieu of being paid 41 cents per hour extra as provided in paragraph (i) above, shall be paid the sum of 54 cents and 80 cents respectively.

(y) Computing Quantities

Employees who are regularly required to compute or estimate quantities of materials in respect of the work performed by other employees shall be paid an additional \$3.25 per day or part thereof.

PROVIDED that this allowance shall not apply to an employee classified as a Leading Hand or Foreman.

(z) Height Work - Painting Trades

An employee working on any structure at a height of more than 9 metres where an adequate fixed support not less than .75 metres wide is not provided, shall be paid 41 cents per hour in addition to ordinary rates. This subclause shall not apply to an employee working on a bosun's chair or swinging stage.

This provision shall not apply in addition to the towers allowance prescribed in subclause (i) - Towers Allowance of this clause.

(aa) Underground Allowance

An employee required to work underground for no more than four days or shifts in an ordinary week shall be paid an amount of \$1.90 a day or shift in addition to any other amount prescribed for such employees elsewhere in this award.

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PROVIDED that an employee required to work underground for more than four days or shifts in an ordinary week shall be paid an underground allowance of \$9.70 per week in addition to the industry allowance and any other amount prescribed for such employee elsewhere in this award.

Where a shaft is to be sunk to a depth greater than 6 metres the payment of the underground allowance shall commence from the surface.

This allowance shall not be payable to employees engaged upon 'pot and drive' work at a depth of 3.5 metres or less.

If an employee is required to work underground for not more than four days or shifts in an ordinary week he shall be paid an underground allowance of \$1.90 per day.

If an employee is required to work more than four days or shifts in any ordinary week he shall be paid \$9.70 per week, which shall be paid for all purposes of the award.

(bb) Brewery Cylinders - Painters

A painter in brewery cylinders or stout tuns shall be allowed 15 minutes spell in the fresh air at the end of each hour worked by him.

Such 15 minutes shall be counted as working time and shall be paid for as such.

The rate of working in brewery cylinders or stout tuns shall be at the rate of time and one half. When an employee is working overtime and is required to work in brewery cylinders and stout tuns shall, in addition to the overtime rates payable, be paid one half of the ordinary rate payable as provided by Clause 8 - Wage Rates.

(cc) Certificate Allowance

A tradesman who is the holder of a Scaffolding Certificate or Rigging Certificate issued by the Workplace Standards Authority and is required to act on that certificate whilst engaged on work requiring a certificated person shall be paid an additional 45 cents per hour.

Provided that this allowance shall not be payable cumulative on the allowance for swing scaffolds.

(dd) Cutting Bricks

One bricklayer on each site to operate the cutting machine and to be paid 54 cents per hour or part thereof while so engaged.

(ee) Spray Application - Painters

An employee engaged on all spray applications carried out in other than a properly constructed booth approved by the Workplace Standards Authority shall be paid 44 cents per hour extra.

(ff) Conditions Respecting Special Rates

(i) The special rates prescribed in this award shall be paid irrespective of the times at which work is performed and shall not be subject to any premium or penalty conditions.

(ii) Where more than one of the above rates provides payments for disability of substantially the same nature then only the highest of such rates shall be payable.

This limitation does not apply to the 'all purpose' special rates and allowances in subclause (hh), paragraphs (i), (ii), (iii) and subclause (iv).

(gg) Employees required to use materials containing asbestos or to work in close proximity to employees using such materials shall be provided with and shall use all necessary safeguards as required by the appropriate occupational health authority.

PROVIDED that where such safeguards include the mandatory wearing of protective equipment (i.e. combination overalls and breathing equipment or similar apparatus) such employees shall be paid 54 cents per hour extra whilst so engaged.

(hh) In addition to the rates otherwise prescribed in this award, the following allowances shall be paid to all employees in this award.

(i) Hydraulic Hammer

An operator of a hydraulic hammer attached to an excavator shall be paid an extra, all purpose 75 cents per hour.

(ii) Greaser Carrying Oils

An employee required by the employer to carry any fuels, oils and/or greases in the employees own vehicle for use in the employer's plant shall be paid \$7.45 per day in addition to any amount payable under Clause 16 - Fares and Travelling for each day the employee is so required by the employer to carry such materials.

(iii) Pile Driving

Where a mobile crane of in excess of 15 tonnes is required to perform pile driving on any site or installation, or is required to be involved in the extraction process, the operator shall receive a payment of a disability allowance of \$10.30 per day or part thereof.

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(iv) Where two or more forklifts or cranes are engaged on any lift the drivers thereof shall be paid an additional amount at the rate of \$2.25 per day for each day or part thereof so occupied.

(ii) Tunnel Work

An employee engaged in tunnel work and required to work underground (other than 'pot and drive' work at a depth of 4 metres or less) or in shafts with a cross-sectional area of less than 14 square metres, which will be sunk to a depth greater than 6 metres, or in trenches more than 2 metres depth and less than 1 metre in width shall be paid as at the rate of \$1.85 per day or shift."

Operative Date

These variations shall come into operation from the first full pay period to commence on or after 1 August 2002.

Tim Abey
COMMISSIONER

22 August 2002