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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 fpp 1 August 2002 - State Minimum Wage determined at \$431.40-s.35(1)(b)

ORDER BY CONSENT

NATIONAL TRAINING WAGE (TASMANIAN PRIVATE SECTOR) AWARD

**No.1 of 2002
(Consolidated)**

CLAUSE NUMBERS 4, 6, 8 AND 9 ARE VARIED, AND THE AWARD IS CONSOLIDATED:

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1. TITLE

This award shall be known as the "National Training Wage (Tasmanian Private Sector) Award".

2. SCOPE

This award is established in respect of the industries falling within the "Scope" clause of the awards listed in Schedule A to this award.

This award does not apply to the apprenticeship system or any training programme which applies to the same occupation and achieves essentially the same training outcome as an existing apprenticeship in an award as at 10 October 1997 or in an award that binds the employer.

This award only applies to Certificate IV traineeships when the Certificate III traineeship in the training package is listed in Schedule B. Further, this award also does not apply to any certificate IV training qualification that is an extension of the competencies acquired under a certificate III qualification which is excluded from this award due to the operation of this subclause.

3. INDEX

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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 2002.

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5. AWARD INTEREST

- (a) The following employee organisation has an interest this award under Section 63(10) of the *Industrial Relations Act 1984*:
- (i) The Australian Workers' Union, Tasmania Branch;
 - (ii) Health Services Union of Australia, Tasmania No. 1 Branch.
- (b) The following employer organisation has an interest this award under Section 63(10) of the *Industrial Relations Act 1984*:
- the Tasmanian Newsagents Association Ltd.
- (c) The following organisation is deemed to have an interest in this award pursuant to Section 62(2) of the *Industrial Relations Act 1984*:
- the Tasmanian Chamber of Commerce and Industry Limited.
- (d) The following organisation is deemed to have an interest in this award pursuant to Section 62(3) of the *Industrial Relations Act 1984*:
- the Tasmanian Trades and Labor Council.

6. SUPERSESSSION

This award incorporates and supersedes the National Training Wage (Tasmanian Private Sector) Award No. 1 of 2001 (Consolidated) and No. 2 of 2001.

7. DEFINITIONS

“Approved Training” means that training which is specified in the Training Plan which is part of the Training Agreement registered with the Tasmanian Training Authority. It includes training undertaken both on and off-the-job in a Traineeship and involves formal instruction, both theoretical and practical, and supervised practice. The training reflects the requirements of a National Training Package or a Traineeship Scheme and leads to a qualification under the Australian Qualification Framework.

‘Certificate’ means a qualification or part qualification endorsed under the Australian Qualifications Framework.

‘Relevant Award’ means an award that applies to a Trainee, or that which would have applied, but for the operation of this award.

‘Relevant Union’ means a union with an interest in a relevant award and which is entitled to enrol the Trainee as a member.

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'School-based Trainee' means a trainee who is student undertaking at least 600 hours per year of education and study.

"Trainee" is an individual who is a signatory to a training agreement registered with and is involved in paid work and structured training which may be on or off the job. "Trainee" does not include an individual who already has the competencies to which the traineeship is directed.

'Traineeship' means a system of training which has been approved by the Tasmanian State Training Authority and includes full-time and part-time traineeships including school based traineeships.

'Training Agreement' means an agreement between an employer and a trainee that is registered by the Tasmanian State Training Authority.

"Training Package" means the competency standards, assessment guidelines and Australian Qualifications Framework qualifications endorsed for an industry or enterprise by the National Training Framework Committee and placed on the National Training Information Service with the approval of Commonwealth, State and Territory Ministers responsible for vocational education and training.

"Training Plan" means a programme of training which forms part of a Training Agreement registered with the Tasmanian State Training Authority.

"Traineeship Scheme" means an approved Traineeship applicable to a group or class of employees or to an industry or sector of an industry or an enterprise, which has been approved by the Tasmanian State Training Authority.

'Year 10'. For the purposes of this award any person leaving school before completing Year 10 shall be deemed to have completed Year 10.

8. WEEKLY WAGE RATES

(a) Definitions

An **adult trainee** for the purpose of this subclause is a trainee who would qualify for the highest wage rate in Wage Level A, B or C if covered by that wage level

“**Out of school**” shall refer only to periods out of school beyond Year 10, and shall be deemed to

- (i) include any period of schooling beyond Year 10 which was not part of nor contributed to a completed year of schooling;
- (ii) include any period during which a trainee repeats in whole or part a year of schooling beyond Year 10;
- (iii) not include any period during a calendar year in which a year of schooling is completed; and
- (iv) have effect on an anniversary date being 1 January in each year.

(b) Wage Rates: Certificate Level I, II and III

- (i) The weekly wages payable to Trainees shall be as provided in paragraphs (iv), (v) (vi) and (vii) of this subclause.
- (ii) These wage rates will only apply to Trainees while they are undertaking an approved Traineeship which includes approved training.
- (iii) The wage rates prescribed by this clause do not apply to complete trade level training which is covered by the apprenticeship system.
- (iv) Wage Level A

Where the accredited training course and work performed are for the purpose of generating skills which have been defined for work at Wage level A.

School Leaver	Highest Year of Schooling Completed		
	Year 10 \$	Year 11 \$	Year 12 \$
	157.00 (50%)*	194.00 (33%)	
	183.00 (33%)	219.00 (25%)	265.00
plus 1 year out of school	219.00	265.00	309.00
plus 2 years	265.00	309.00	359.00
plus 3 years	309.00	359.00	410.00
plus 4 years	359.00	410.00	
plus 5 years or more	410.00		

(v) Wage Level B

Where the accredited training course and work performed are for the purpose of generating skills which have been defined for work at Wage level B.

	Highest Year of Schooling Completed		
	Year 10	Year 11	Year 12
School Leaver	\$	\$	\$
	157.00 (50%)*	194.00 (33%)	
	183.00 (33%)	219.00 (25%)	255.00
plus 1 year out of school	219.00	255.00	294.00
plus 2 years	255.00	294.00	345.00
plus 3 years	294.00	345.00	392.00
plus 4 years	345.00	392.00	
plus 5 years or more	392.00		

(vi) Wage Level C

Where the accredited training course and work performed are for the purpose of generating skills which have been defined for work at Wage level C.

	Highest Year of Schooling Completed		
	Year 10	Year 11	Year 12
School Leaver	\$	\$	\$
	157.00 (50%)*	194.00 (33%)	
	183.00 (33%)	219.00 (25%)	247.00
plus 1 year out of school	219.00	247.00	278.00
plus 2 years	247.00	278.00	311.00
plus 3 years	278.00	311.00	347.00
plus 4 years	311.00	347.00	
plus 5 years or more	347.00		

(vii) School Based Traineeships

	Year of Schooling	
	Year 11	Year 12
School based traineeships	\$	\$
skill levels A, B and C	200.00	219.00

* Figures in brackets indicate the average proportion of time spent in approved training to which the associated wage rate is applicable. Where not specifically indicated, the average proportion of time spent in structured training which has been taken into account in setting the rate is 20 per cent.

(c) Wage Rates for Certificate IV Traineeships

- (i) Trainees undertaking an Certificate IV traineeship shall receive the relevant weekly wage rate for Certificate III trainees at Wage Levels A, B or C as applicable with the addition of 3.8 per cent of that wage rate.
- (ii) An adult trainee who is undertaking a traineeship for an Certificate IV qualification shall receive the following weekly wage as applicable based on the allocation of Certificate III qualifications:

Wage Level	FIRST YEAR OF TRAINEESHIP	Second Year of Traineeship
Wage Level A	\$426.00	442.00
Wage Level B	\$407.00	422.00
Wage Level C	\$360.00	374.00

- (d) (i) Wages levels shall be determined according to the Certificate Level of the Training Package in accordance with Schedule B.
- (ii) Where the traineeship is not included in Schedule B the Wage Level shall be as set out in Schedule C. The industry skill levels are prima facie the appropriate levels but are not determinative of the actual skill levels (i.e. Skill Level A, B or C) that may be contained in a Traineeship Scheme.

The determination of the appropriate skill level shall be based on the following criteria:

- (1) Any agreement of the parties
- (2) The nature of the industry
- (3) The total training plan
- (4) Recognition that training can be undertaken in stages
- (5) The exit skill level in the relevant award contemplated by the Traineeship.

In the event that the parties disagree with such determination it shall be open to any party to the award to seek to have the matters in dispute determined by the Tasmanian Industrial Commission.

- (e) Where a person was employed by an employer under this award immediately prior to becoming an adult trainee with that employer, such person shall not suffer a reduction in the rate of pay by virtue of becoming a trainee. An 'adult trainee' for the purpose of this subclause is a trainee who would qualify for the highest wage rate in Wage Level A, B or C if covered by that wage level.

(f) Where a traineeship is converted from an Certificate II to an Certificate III traineeship, or from an Certificate III to an Certificate IV traineeship, the employee shall move to the next higher award rate provided in this award, if a higher award rate is provided for that new Certificate Level.

(g) Special Arrangements

Subject to the foregoing, the Tasmanian Industrial Commission shall be requested to determine the appropriate wage rates and/or conditions of employment for any Traineeship not regarded by the parties or any of them as appropriately covered by this award.

9. PART TIME TRAINEESHIPS : WAGE RATES

(a) This clause shall apply to trainees who undertake a traineeship on a part time basis by working less than full time hours and by undertaking the approved training at the same or lesser training time than a full-time trainee.

These rates are derived from a 38 hour week. Where the normal full time weekly hours are not 38 the appropriate hourly rate may be obtained by multiplying the rate in the table by 38 and then dividing by the normal full time hours

(b) Wage Rates

(i) Wage rates in Table 1 apply to Trainees who have left school where:

- (1) the approved training for a traineeship (including a school based traineeship) is provided off-the-job by a registered training organisation, for example at school or at TAFE, , or
- (2) the approved training is undertaken on-the-job or in a combination of on-the-job and off-the-job, and the average proportion of time to be spent in approved training is 20% (i.e. the same as for the equivalent full time traineeship).
- (3) these rates shall apply only to the total hours worked by the part time trainee on-the-job.

Table 1: (\$ per hour)

Wage Level A	HIGHEST YEAR OF SCHOOLING COMPLETED		
	YEAR 10	YEAR 11	YEAR 12
School leaver	6.58	7.20	8.72
1 year after leaving school	7.20	8.72	10.16
2 years +	8.72	10.16	11.81
3 years +	10.16	11.81	13.49
4 years +	11.81	13.49	
5 years +	13.49		

Wage Level B	HIGHEST YEAR OF SCHOOLING COMPLETED		
	YEAR 10	YEAR 11	YEAR 12
School leaver	6.58	7.20	8.39
1 year after leaving school	7.20	8.39	9.67
2 years +	8.39	9.67	11.35
3 years +	9.67	11.35	12.89
4 years +	11.35	12.89	
5 years +	12.89		

Wage Level C	HIGHEST YEAR OF SCHOOLING COMPLETED		
	YEAR 10	YEAR 11	YEAR 12
School leaver	6.58	7.20	8.13
1 year after leaving school	7.20	8.13	9.14
2 years +	8.13	9.14	10.23
3 years +	9.14	10.23	11.41
4 years +	10.23	11.41	
5 years +	11.41		

(ii) Wage rates in Table 2 apply to Trainees who have left school where:

- (1) the training is solely on-the-job: in which case then the total hours on-the-job shall be multiplied by the applicable hourly rate;
- (2) the training is partly on-the-job and partly off-the-job; in which case the total of all hours spent in work and training shall be multiplied by the applicable hourly rate.

Table 2: (\$ per hour)

	HIGHEST YEAR OF SCHOOLING COMPLETED		
	YEAR 10	YEAR 11	YEAR 12
Wage Level A			
School leaver	5.26	5.76	7.00
1 year after leaving school	5.76	7.00	8.12
2 years +	7.00	8.12	9.44
3 years +	8.12	9.44	10.79
4 years +	9.44	10.79	
5 years +	10.79		
Wage Level B			
School leaver	5.26	5.76	6.73
1 year after leaving school	5.76	6.73	7.73
2 years +	6.73	7.73	9.08
3 years +	7.73	9.08	10.31
4 years +	9.08	10.31	
5 years +	10.31		
Wage Level C			
School leaver	5.26	5.76	6.52
1 year after leaving school	5.76	6.52	7.31
2 years +	6.52	7.31	8.18
3 years +	7.31	8.18	9.12
4 years +	8.18	9.12	
5 years +	9.12		

(iii) School Based Traineeships

Table 3: School based traineeships (\$ per hour)

	YEAR OF SCHOOLING	
	YEAR 11	YEAR 12
Wage levels A, B and C.	6.58	7.20
Including 20% loading in accordance with Clause 11 (b)	7.90	8.64

(c) General Formulae

- (i) The wage rate shall be pro-rata the full-time rates based on variation in the amount of training and/or the amount of work over the period of the traineeship which may also be varied on the basis of the following formula.

$$\text{Full-time wage rate} \quad \times \quad \frac{\text{Trainee hours - average weekly training time}}{30.4}$$

**Note* 30.4 in the above formula represents 38 ordinary full-time hours less the average training time for full-time trainees (i.e. 20%). A pro-rata adjustment will need to be made in the case where any relevant award specifies different ordinary full-time hours; for example where the ordinary weekly hours are 40, 30.4 will be replaced by 32.

- (ii) "**Full-time wage rate**" means the appropriate rate as set out in Clause 8 - Weekly Wage Rates.
- (iii) "**Trainee hours**" shall be the hours worked per week including the time spent in approved training.
- (iv) "**Average weekly training time**" is based upon the length of the traineeship specified in the traineeship agreement or training agreement as follows:

$$\frac{7.6 \times 12}{\text{length of the traineeship in months}}$$

**Note 1* 7.6 in the above formula represents the average weekly training time for a full-time trainee whose ordinary hours are 38 per week. A pro-rata adjustment will need to be made in the case where the relevant award specifies different ordinary time hours. For example, where the ordinary weekly hours are 40, 7.6 will be replaced by 8.

**Note 2* The parties note that the traineeship agreement will require a trainee to be employed for sufficient hours to complete all requirements of the traineeship, including the on the job work experience and demonstration of competencies. The parties also note that this would normally result in the equivalent of a full day's on the job work per week.

10. CONDITIONS

[a] Objective

The objective of this award is to provide a stable industrial relations underpinning for the system of traineeships in operation in Tasmania in accordance with the Vocational Education and Training Act 1994.

It is not intended that existing employees will be displaced by trainees.

[b] Training Conditions

- (i) A trainee shall attend an approved training course or training program prescribed in the Training Agreement or as notified to the trainee by the Tasmanian State Training Authority.
- (ii) A traineeship can only be commenced in accordance with the provisions of the Vocational Education and Training Act 1994.
- (iii) The employer shall ensure that the trainee is permitted to attend the training course or program provided for in the Training Agreement and shall ensure that the trainee receives the appropriate on-the-job training.
- (iv) The employer shall provide a level of supervision in accordance with the Training Agreement during the traineeship period.
- (v) The employer shall agree that the overall training program will be monitored by officers of the Tasmanian State Training Authority and that training records or work books may be utilised as part of this monitoring process.

[c] Employment Conditions

- (i) A trainee may be engaged on a full time basis for the maximum period specified in the training agreement.
- (ii) A trainee shall be subject to a maximum probation period in accordance with the following scale:-

For a traineeship of up to 12 months duration	1 month
All other traineeships	3 months

PROVIDED that part time traineeships will be subject to a probation period calculated on a pro rata basis.

During the relevant probation period either party may terminate the contract of employment by giving notice in accordance with the relevant award. Any such termination is to be notified to the Tasmanian Training Agreements Committee in writing within 5 working days of termination.

- (iii) The parties to a training agreement may, prior to the expiry of the probation period, apply to the Tasmanian Training Agreements Committee for an extension of the probation period for a period not exceeding the original probation period.
- (iv) The employment of a trainee shall not be terminated other than in accordance with the provisions of the Vocational Education and Training Act 1994.
- (v) An employer who chooses not to continue the employment of a trainee upon the completion of the traineeship shall notify, in writing, the Tasmanian State Training Authority of that decision.
- (vi) Where the trainee completes the qualification, in the Training Agreement, earlier than the time specified in the Training Agreement then the traineeship may be concluded subject to the provisions of the Vocational Education and Training Act 1994.
- (vii) The trainee shall be permitted to be absent from work without loss of continuity of employment and/or wages to attend the training in accordance with the Training Agreement
- (viii) Where the employment of a trainee by an employer is continued after the completion of the traineeship period, such traineeship period shall be counted as service for the purpose of any award or other legislative entitlements.
- (ix)
 - (1) The Training Agreement may restrict the circumstances under which the trainee may work overtime and shiftwork in order to ensure the training program is successfully completed.
 - (2) No trainee shall work overtime or shiftwork on his/her own unless consistent with the provisions of the relevant award.
 - (3) No trainee shall work shiftwork unless the parties to a Traineeship Scheme agree that such shiftwork makes satisfactory provision for approved training. Such training may be applied over a cycle in excess of a week, but must average over the relevant period no less than the amount of training required for non-shiftwork trainees.

- (4) The trainee wage shall be the basis for the calculation of overtime and/or shift penalty rates prescribed by the relevant award unless otherwise agreed by the parties to a Traineeship Scheme or unless the relevant award makes specific provision for a trainee to be paid at a higher rate, in which case the higher rate shall apply.
- (x) All other terms and conditions of the relevant award that are applicable to the trainee or would be applicable to the trainee but for this award, shall apply unless specifically varied by this award.
- (xi) A trainee who fails to either complete the traineeship or who cannot for any reason be placed in full-time employment with the employer on successful completion of the traineeship shall not be entitled to any severance payments pursuant to termination, change and redundancy provisions or provisions similar thereto.

11. PART-TIME TRAINEESHIPS - CONDITIONS

This clause shall apply to trainees who undertake a traineeship on a part-time basis by working less than full-time ordinary hours and by undertaking the approved training at the same or lesser training time than a full-time trainee.

- (a) A part-time trainee shall receive, on a pro-rata basis, all employment conditions applicable to a full-time trainee. All the provisions of this award shall apply to part-time trainees except as specified in this clause.
- (b) A trainee undertaking a school based traineeship may, with the agreement of the trainee, be paid an additional loading 20 per cent on all ordinary hours in lieu of annual leave, sick leave, personal leave and public holidays notwithstanding this, where a trainee is called upon to work on a public holiday the provisions of the relevant award shall apply.
- (c) A part-time trainee may, by agreement, transfer from a part-time to a full-time traineeship position should one become available.
- (d) Any minimum engagement periods specified in a relevant award shall also be applicable to a part-time trainee.

R.J. Watling
DEPUTY PRESIDENT

25 July 2002

SCHEDULE A

Aerated Waters Award
Architects (Private Industry) Award
Automotive Industries Award
Baking Industry Award
Barristers and Solicitors Award
Bootmakers Award
Broadcasting and Television Award
Business Services Award
Butter and Cheese Makers Award
Carriers Award
Catholic Education Award
Child Care and Childrens Services Award
Clay and Mud Products Award
Cleaning and Property Services Award
Clothing Industry Award
Community Services Award
Concrete Products Award
Dairy Processing Award
Dentists Award
Disability Service Providers Award
Draughting and Technical Officers (Private Industry) Award
Electrical Engineers Award
Entertainment Award
Estate Agents Award
Farming and Fruit Growing Award
Fertiliser Industry Award
Fibreglass and Plastics Award
Fish, Aquaculture and Marine Products Award
Fuel Merchants Award
Furnishing Trades Award
Group Training Industry Award
Hairdressers Award
Health and Fitness Centres Award
Horticulturists Award
Hospitals Award
Hotels, Resorts, Hospitality & Motels Award
Ice Cream Makers Award
Independent Schools (Non-Teaching Staff) Award
Independent Schools (Teachers) Tasmania Award
Insurance Award
Landscape Gardening Award
Laundry and Dry Cleaning Award
Leather, Canvas and Sheet Plastic Fabrication Award
Licensed Clubs Award
Marine Boards Award
Meat Processing Industry Award
Meat Retailing Award
Medical Diagnostic Services (Private Sector) Award

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Medical Practitioners (Private Sector) Award
Metal and Engineering Industry Award
Metal and Engineering On-Site Construction Industry Award
Monumental Masons Award
Nursing Homes Award
Optical Industries Award
Photographic Industry Award
Plant Nurseries Award
Plumbers Award
Printers Award
Produce Award
Professional Engineers and Scientists (Private Industry) Award
Public Accountants Award
Public Vehicles Award
Quarrymens Award
Restaurant Keepers Award
Retail Pharmacy Award
Retail Trades Award
Rubber Trades Award
Security Industry Award
Shellfish Industry Award
Shipbuilders Award
Shipping Award
Silviculture and Afforestation Award
Softgoods Award
Surveyors (Private Industry) Award
Textile Award
Timber Merchants Award
Totalizator Agency Award
Vegetable Preservers Award
Veterinary Services Award
Wholesale Pharmaceutical Award
Wholesale Plant Bakeries Award
Wholesale Trades Award
Wireworking Award

SCHEDULE B

ALLOCATION OF TRAINEESHIPS TO WAGE LEVELS

Part A New Training Package Titles'

Wage Levels that apply to Certificates under Training Packages

WAGE LEVEL A

Training Package	Certificate Level
Administration	I
	II
	III
Assessment and Workplace Training	III
Beauty	III
Chemical, Hydrocarbons and Oil Refining	III
Civil Construction	III
Community Services	II
	III
Correctional Services	III
Financial Services	III
Floristry	III
Food Processing	III
Hospitality	III
Information Technology	II
	III
Laboratory Operations	III
Metal and Engineering	
- Engineering Production Certificate	III
- Technician Traineeship	III
Museum and Library/Information Services	II
	III
Plastics, Rubber and Cablemaking	III
Public Services	II
	III
Retail	III
Telecommunications	II
	III
Textile Clothing and Footwear	III
Tourism	I
	II
	III
Transport and Distribution	III

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WAGE LEVEL B

Training Package	Certificate Level
Aeroskills Industry – This Award does not apply to these traineeships where another Award already provides for the traineeship.	II
Automotive Industry Retail Service and Repair	II
Beauty	II
Caravan Industry	I
	II
	III
Civil Construction	I
	II
Entertainment	I
	II
	III
Extractive Industries	II
	III
Floristry	II
Food Processing Industry	I
	II
Forest and Forest Products Industry	I
	II
Hospitality Industry	I
	II
Light Manufacturing – Textile, Clothing and Footwear	I
	II
	III
Meat	I
	II
	III
Metal and Engineering	I
	II
Outdoor Recreation	II
	III
Plastics, Rubber and Cablemaking	I
	II
Printing and Graphic Arts	II
Retail	II
Sport	I
	II
	III
Textile clothing and Footwear	I
	II
Transport and Distribution	I
	II

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Veterinary Nursing	I
	II
	III

WAGE LEVEL C

Training Package	Certificate Level
Agriculture	I
	II
	III
Horticulture	I
	II
	III
	III
Racing Industry	II
	III
Seafood	I
	II
	III

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SCHEDULE C

Set out below are the Wage levels of approved Traineeships. The industry skill levels are prima facie the appropriate levels but are not determinative of the actual skill levels (i.e. Skill Level A, B or C) that may be contained in a Traineeship Scheme.

INDUSTRY SKILL LEVELS

Wage Level A

Office Clerical
Finance, Property and Business Services

Industry /Skill Level B

Wholesale and Retail
Recreation and Personal Services
Transport and Storage
Manufacturing

Wage Level C

Community Services and Health
Pastoral
Environmental
Wholesale and Retail - Vehicle Repair Services and Retail Sector.