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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
(T9062 of 2000)

Private sector awards

FULL BENCH:

DEPUTY PRESIDENT R J WATLING
COMMISSIONER P L LEARY
COMMISSIONER P A IMLACH

Wage Rates - State Wage Case July 2000 - application to vary private sector awards in a manner consistent with the Australian Industrial Relations Commission decision in Print number S5000 - 2000 Safety Net Review - Wages - Agreed Settlement - \$15.00 Arbitrated Safety Net Adjustment and 3.14% increase to work related allowances - Approved

MEAT RETAILING AWARD

ORDER BY CONSENT

No. 2 of 2000

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THE **MEAT RETAILING 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. ADULT WAGES

An adult employee of a classification specified herein employed in any of the industries or divisions hereof to which this award applies shall, except as otherwise specified, be paid the weekly wage rate herein assigned to that classification.

	*Base Rate Relativity %	Base Rate \$	Safety Net Adjustment \$	Weekly Wage Rate \$
Meat Industry Employee Entry Level	80	333.80	75.00	408.80
Meat Industry Employee Level 1	85	354.60	75.00	429.60
Meat Industry Employee Level 2	92.1	384.20	75.00	459.20
Meat Industry Employee Level 3	95	396.30	75.00	471.30
Meat Industry Employee Level 4	100	417.20	75.00	492.20
Meat Industry Employee Level 5	105	438.10	75.00	513.10

2. MINIMUM WAGE

- (a) Notwithstanding the provisions of subclause 1 hereof, no adult employee shall be paid less than the rate of \$332.40 per week.

PROVIDED that payments for overtime, special rates, holiday and weekend penalties, shift allowances and disability allowances prescribed in this award shall not be taken into account in the calculation of such minimum weekly rate of wage.

- (b) Where a minimum rate of pay as aforesaid is applicable to an employee for work in ordinary hours the same rate shall be applicable to the calculation of overtime and all other penalty rates, payments during sick leave and annual leave, and for all other purposes of this award.

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3. APPRENTICES AND JUNIORS

APPRENTICES

The minimum weekly wage rate for apprentices engaged as an apprentice slaughterer, apprentice butcher or apprentice smallgoods person shall be the undermentioned percentages of the tradespersons wage contained in Level 4:

	%
First year	50
Second year	65
Third year	72
Fourth year	95

PROVIDED that the employees employed as apprentices and who do not receive accredited off-the-job technical training shall be paid the relevant tradespersons weekly wage rate as set out in Wage Rates - Level 4.

JUNIOR WORKERS

The minimum weekly wage rates that may be paid to junior workers shall be the undermentioned percentages of Level 1 adjusted to the nearest 10 cents.

	%
Under 17	50
17 to 18 year old	60
18 to 19 year old	70
19 to 20 year old	80
20 to 21 year old	90

4. SUPPORTED WAGE SYSTEM

(a) Eligibility Criteria

Subject to this division an employer may engage employees at a supported wage rate (as set out in subclause (c) of this division) 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 division 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

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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 division:

'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 division 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 \$51 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

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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 division, 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 division 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 division 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 division for a trial period not exceeding 12 weeks, except that in some cases additional

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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 \$51 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 subclause (c) hereof."

2. By deleting Clause 9 - ALLOWANCES, and inserting in lieu thereof the following:

"9. ALLOWANCES

DRIVER'S LICENCE

If an employee employed in any of the classifications in respect of which this award is made uses his driver's licence exclusively in the business of driving any class or type of motor vehicle in respect of which such employee is required to hold a licence, his licence fee shall be paid by the employer at the time of the employee taking his annual leave.

FIRST AID

The employer shall provide and maintain a sufficient first aid box for injured employees. Such first aid box shall be to the satisfaction of the Tasmanian Industrial Commission.

An employee who holds current first aid qualifications from St. John Ambulance, the Red Cross Society or similar body, and who is appointed by the employer to perform first aid duty shall be paid \$1.29 per day extra.

INCIDENTAL EXPENSES

Where an employee is involved in meeting the cost of fares, accommodation or other expenses incurred as a result of attending for work to which he is directed by the employer, he shall be reimbursed for all expenses reasonably incurred.

MEALS

An employee who is required overtime for more than one and one half hours without being notified the previous day shall either be supplied with a meal by the employer or be paid a meal allowance of \$10.00.

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TOOLS

All employees (other than pieceworkers) engaged in classifications that are proclaimed as trades under the *Vocation Education and Training Act 1994* shall either be supplied with all tools by the employer or be paid a tool allowance of not less than \$9.20 per week.

An Employer shall provide each apprentice with such tools as are customarily used in the trade, such tools to remain the property of the employer.

Employees (including juniors) other than those mentioned above shall be supplied with all tools and equipment or be paid an allowance of \$1.00 per week.

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

TRAVELLING

When an employee uses his/her own motor vehicle at the request of the employer the employee shall be paid an allowance of 38 cents per kilometre travelled in the course of the employee's duties."

3. By deleting from Clause 17 - LEAVE, subclause ANNUAL LEAVE, and inserting in lieu thereof the following:

"ANNUAL LEAVE

(a) Period of Leave

(i) Dayworkers

For employees other than casual, or part-time employees, a period of 28 consecutive days' leave shall be allowed annually to an employee after 12 months' continuous service (less the period of annual leave).

(ii) Shiftworkers

In addition to the leave prescribed in paragraph (i) above, seven day shiftworkers, who are rostered to work regularly on Sundays and holidays, shall be allowed seven consecutive days' leave including non-working days.

Where an employee with 12 month's continuous service is engaged for part of the 12 monthly period as a seven day shiftworker, the employee shall be entitled to have the period of annual leave prescribed in paragraph (i) increased by one half a day for each month the employee is continuously engaged.

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(b) Annual Leave Exclusive of Holidays with Pay.

- (i) Subject to this subclause, the annual leave prescribed by this clause shall be exclusive of any of the holidays prescribed in Clause 15 - Holidays with Pay, and if any such holidays fall within an employee's period of annual leave and is observed on a day which, in the case of that employee, would have been an ordinary working day, there shall be added to that period one day for each such holiday falling as aforesaid.
- (ii) Where a holiday falls as aforesaid and the employee fails without reasonable cause, proof whereof shall be upon the employee, to attend for work at the employee's ordinary starting time on the working day immediately following that last day of the period of the employee's annual leave the employee shall not be entitled to be paid for any such holiday.

(c) Calculation of Continuous Service

For the purposes of this clause, service shall be deemed to be continuous notwithstanding:

- (i) Any interruption or termination of the employment by the employer if such interruption or termination has been made merely with the intention of avoiding obligations hereunder in respect of leave of absence.
- (ii) Any absence from work on account of personal sickness or accident and in calculating the period of 12 months' continuous service any such absence as aforesaid shall not, except to the extent of 91 days in any 12 monthly period be taken into account in calculating the period of 12 months' continuous service.
- (iii) Any absence with reasonable cause, proof whereof shall be upon the employee, or leave lawfully granted by the employer, but such absence shall not be taken into account in calculating the period of 12 months' continuous service.

(d) Proportionate Leave on Termination of Service

If after 38 hours continuous service excluding overtime in any qualifying 12 monthly period an employee lawfully leaves that employment or the employee's employment is terminated by the employer, through no fault of the employee, the employee shall be paid pro rata for the leave for which the employee was qualified on the following basis:

One-twelfth of a week's wages in respect of each completed 38 hours of continuous service.

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(e) Payment in Lieu Prohibited

The annual leave provided by this clause shall be allowed and shall be taken except as provided in subclause (d) hereof, payment shall not be made or accepted in lieu of annual leave.

(f) Payment for Period of Leave

(i) All employees, before going on annual leave, other than casual employees or Part-time employees who attract a 20 percent loading in lieu of annual leave, sick leave and holidays with pay shall be paid the amount of wages they would have received in respect of the ordinary time they would have worked had they not been on leave during the relevant period.

(ii) In addition thereto, all full-time employees, shall be paid an annual leave loading which shall be \$306.40.

(iii) Employees who are not in receipt of a 20 percent loading in lieu of annual leave, sick leave and holidays with pay shall have an entitlement based on the average weekly hours worked in the previous three months divided by 38 multiplied by \$306.40.

(g) Calculation of Service

Where an employer is a successor or assignee or transmittee of a business if an employee was in the employment of the employer's predecessors at the time when the employer became such successor or assignee or transmittee the employee in respect of the period during which the employee was in the service of the predecessor, shall for the purpose of this clause, be deemed to be in the service of the employer.

(h) Leave Allowed Before Due Date

An employer may allow annual leave to an employee before the right thereto has accrued due, but where it is taken in such a case a further period of annual leave shall not commence to accrue until after expiration of the 12 months in respect of which annual leave has been taken before it accrued.

Where leave has been granted to an employee pursuant to this subclause before the right thereto has accrued due and the employee subsequently leaves or is discharged from the service of the employer before completing the 12 months' continuous service in respect of which the leave was granted, the employer may for each completed month of the qualifying period of twelve months not served by the employee, deduct from whatever remuneration is payable upon the termination of the employment one-twelfth of the amount of the wage paid on account of the annual leave which amount shall not include any sums paid for any of the holidays prescribed by Clause 15 - Holidays with Pay.

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(i) Time of Taking Leave

Annual leave shall be given at a time fixed by the employer within a period not exceeding three months from the date when the right to annual leave accrued.

Annual leave shall be taken in one consecutive period except at the instigation of the employee and with the agreement of the employer leave may be taken in any combination of periods.

(j) Notwithstanding provisions elsewhere in the award, the employer and the majority of employees at an enterprise may agree to establish a system of single day annual leave absences provided that:

(i) An employee may elect, with the consent of the employer, to take annual leave in single day periods or part of a single day not exceeding a total of five days in any calendar year at a time or times agreed between them.

(ii) Access to annual leave, as prescribed in paragraph (i) above, shall be exclusive of any shutdown period provided for elsewhere under this award.

(iii) An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken.

(iv) An employee or the employees may choose to request a union party to this award, to represent their interests in negotiations referred to in paragraph (i) of this subclause.

(v) Once a decision has been taken to introduce an enterprise system of single day annual leave, in accordance with this clause, its terms must be set out in the time and wages records kept pursuant to Regulation 25 of the Industrial Relations Regulations 1993.

(vi) An employer shall record these short term annual leave arrangements in the time and wages book as prescribed in this award."

OPERATIVE DATE

These variation shall come into operation from the first full pay period to commence on or after 1 August 2000.

RJ Watling
DEPUTY PRESIDENT

4 August 2000