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TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984
s.23 application for award or variation of award

Tasmanian Trades and Labor Council

(T6941 of 1997)

All public and private sector awards

**Automotive, Food, Metals, Engineering,
Printing & Kindred Industries Union**

(T6928 of 1997)

Automotive Industries Award

(T6929 of 1997)

Draughting & Technical Officers (Private Industry) Award

(T6930 of 1997)

Fish, Aquaculture and Marine Products Award

(T6931 of 1997)

Metal & Engineering Industry Award

(T6932 of 1997)

Optical Industries Award

(T6933 of 1997)

Shipbuilders Award

(T6934 of 1997)

Surveyors (Private Industry) Award

The Australian Workers' Union, Tasmania Branch

(T6947 of 1997)

Automotive Industries Award

Bootmakers Award

Building Trades Award

Building and Construction Industry Award

Butter and Cheesemakers Award

Carriers Award

Clay and Mud Products Award

Concrete Products Award

Dairy Processing Award

Farming and Fruitgrowing Award

Fish, Aquaculture and Marine Products Award

Horticulturists Award

Marine Boards Award

Meat Processing Industry Award

Metal and Engineering Industry Award

Monumental Masons Award

Optical Industries Award

Pasminco Rosebery (Mining) Award

Plant Nurseries Award

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Produce Award
Public Vehicles Award
Quarrymens Award
Roadmakers Award
Rubber Trades Award
Shearing Industry Award
Shellfish Industry Award
Timber Merchants Award
Wireworking Award
National Training Wage (Tasmanian Private Sector) Award

Transport Workers' Union of Australia, Tasmanian Branch
(T6956 of 1997)
Transport Workers General Award

National Union of Workers, Tasmanian Branch
(T6971 of 1997)
Automotive Industries Award
Fuel Merchants Award
Produce Award
Retail Trades Award
Rubber Trades Award
Softgoods Award
Wholesale Trades Award
Fibreglass and Plastics Award
Timber Merchants Award
Wholesale Pharmaceutical Award

**Australasian Meat Industry Employees Union,
Tasmanian Branch**
(T6979 of 1997)
Meat Processing Industry Award
Meat Retailing Award

**Textile, Clothing and Footwear Union of Australia,
Tasmanian Branch**
(T6987 of 1997)
Bootmakers Award
Clothing Industry Award
Textile Award

Australian Municipal, Administrative, Clerical and Services Union
(T6991 of 1997)
Aerated Waters Award
Barristers and Solicitors Award
Broadcasting and Television Award
Clerical and Administrative Employees (Private Sector) Award
Community Services Award
Entertainment Award

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Estate Agents Award
Furnishing Trades Award
Independent Schools (Non-Teaching Staff) Award
Insurance Award
Photographic Industry Award
Printers Award
Public Accountants Award
Restaurant Keepers Award
Shipping Award
Totalizator Agency Award

Health Services Union of Australia, Tasmania No. 1 Branch
(T6993 of 1997)

Dentists Award
Disability Service Providers Award
Medical Practitioners (Private Sector) Award
Medical Diagnostic Services Award
Nursing Homes Award
Hospitals Award

ESTATE AGENTS AWARD

FULL BENCH:
PRESIDENT F D WESTWOOD
DEPUTY PRESIDENT B R JOHNSON
COMMISSIONER R J WATLING

Wage Rates - State Wage Case July 1997 - application to flow on Australian Industrial Relations Commission Safety Net Review decision April 1997 (Print P1997) a-greed tripartite position - Wage Fixing Principles varied - \$10.00 per week arbitrated safety net adjustment approved- all private sector awards to be varied on application no earlier than ffpp on or after 14 July 1997 - State Minimum Wage to be subject to separate application

ORDER -

No. 5 of 1997

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AMEND THE **ESTATE AGENTS AWARD** IN THE FOLLOWING MANNER:

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

8. WAGE RATES

DIVISION A - CLERKS

The classification structure listed here shall be read in conjunction with the definitions set out in Clause 7 - Definitions, of this award.

The weekly wage rates set out hereunder shall be the rates payable to adult employees classified herein:

(a)	Adults	Base Relativity %	Base Rate \$	Safety Net Adjustment \$	Weekly Wage Rate \$
	Adult Entry (as defined)				
	1st 6 months	80	333.80	34.00	367.80
	2nd 6 months	85	354.60	34.00	388.60
	Grade 1 (as defined)				
	1A 1st 12 months	87	363.00	34.00	397.00
	1B After 12 months	90	375.50	34.00	409.50
	Grade 2 (as defined)				
	2A 1st 12 months	92	383.80	34.00	417.80
	2B After 12 months	95	396.30	34.00	430.30
	Grade 3 (as defined)				
	3A 1st 12 months	97	404.70	34.00	438.70
	3B After 12 months	100	417.20	34.00	451.20
	Grade 4 (as defined)	105	438.10	34.00	472.10
	Grade 5 (as defined)	110	458.90	34.00	492.90
	Grade 6 (as defined)	115	479.80	34.00	513.80
	Grade 7 (as defined)	120	500.60	34.00	534.60

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(b) Junior Employees

The minimum weekly wage rate that may be paid to junior employees is the undermentioned percentages of the Grade 1, 1st 12 months service weekly wage rate adjusted to the nearest 10 cents:

	%	(\$397.00)
Under 16 years of age	40	158.80
16 to 17 years of age	45	178.70
17 to 18 years of age	55	218.40
18 to 19 years of age	70	277.90
19 to 20 years of age	80	317.60
20 to 21 years of age	90	357.30

(c) Trainee Clerk (as defined)

The minimum weekly wage rate payable to a trainee clerk shall be determined by the following method of calculation:

By taking the appropriate weekly wage rate for a junior clerk as prescribed in subclause (b) of this division then multiplying it by 39 and dividing it by 52.

PROVIDED that the wage determined by this calculation shall in no case be less than the minimum rate (as varied from time to time) prescribed by the Australian Traineeships System Guidelines.

PROVIDED FURTHER that trainee clerk weekly wage rate shall be calculated in multiples of 10 cents with any result of five cents or more being taken to the next 10 cents.

(d) Advice of Grading and Settlement of Disputes

All current and future employees shall be notified in writing by the employer of their grading within one month of this award coming into operation or the date of engagement as the case may be.

In the event of a dispute regarding grading, the matter shall be discussed by the employer involved or his representative and the Australian Municipal, Administrative, Clerical and Services Union in an attempt to resolve the matter, and if then still in dispute, shall be referred to the Tasmanian Industrial Commission for determination.

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(e) Supported Wage System

(i) Eligibility criteria

Subject to this subclause an employer may engage employees at a supported wage rate (as set out in paragraph (iii) of this subclause) who meet the impairment criteria for receipt of a Disability Support Pension and who, because of their disability, are unable to perform the range of duties to the competence level normally required for the class of work for which they are engaged.

PROVIDED that this subclause does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers' compensation legislation or any provision of this award relating to the rehabilitation of employees who are injured in the course of their current employment.

PROVIDED FURTHER that this subclause does not apply to employers in respect of their facility, program, 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.

(ii) For the purposes of this subclause:

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

'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.

'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.

'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.

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(iii) Supported wage rates

Employees to whom this subclause applies shall be paid the applicable percentage of the minimum rate of pay prescribed by this award for the class of work which the person is performing according to the following schedule:

Assessed capacity (subclause (d))	% of prescribed award rate
10%	10
20%	20
30%	30
40%	40
50%	50
60%	60
70%	70
80%	80
90%	90

PROVIDED that the minimum amount payable shall be not less than \$45 per week.

(iv) Assessment of capacity

For the purpose of establishing the percentage of the award rate to be paid to a supported wage employee under this award, the productive capacity of the employee will be assessed in accordance with the Supported Wage System and documented in an assessment instrument by either:

- (1) the employer and a union party to the award, in consultation with the employee or, if desired by any of these;
- (2) the employer and an accredited Assessor from a panel agreed by the parties to the award and the employee.

(v) Lodgment of assessment instrument

- (1) All assessment instruments under the conditions of this subclause, including the appropriate percentage of the award wage to be paid to the employee, shall be lodged by the employer with the Registrar of the Tasmanian Industrial Commission.
- (2) All assessment instruments shall be agreed and signed by the parties to the assessment, provided that where a union which is party to the award, is not a party to the assessment, it shall be referred by the Registrar of the Tasmanian Industrial Commission to the union by certified mail and shall take effect unless an objection is notified to the Registrar of the Tasmanian Industrial Commission within 10 working days.

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(vi) Review of assessment

The assessment of the applicable percentage shall be subject to annual review or earlier on the basis of a reasonable request for such a review. The process of review shall be in accordance with the procedures for assessing capacity under the Supported Wage System.

(vii) Other terms and conditions of employment

Where an assessment has been made, the applicable percentage shall apply to the wage rate only. Employees covered by the supported wage provisions of this subclause shall be entitled to the same terms and conditions of employment as all other workers covered by this award who are paid on a pro rata basis.

(viii) Workplace adjustment

An employer wishing to employ a person under the provisions of this subclause shall take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve re-design of job duties, working time arrangements and work organisation in consultation with other workers in the area.

(ix) Trial Period

- (1) In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this subclause for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding 4 weeks) may be needed.
- (2) During that trial period the assessment of capacity shall be undertaken and the proposed wage rate for a continuing employment relationship shall be determined in accordance with paragraphs (iv) and (v).
- (3) The minimum amount payable to the employee during the trial period shall be no less than \$45 per week or such greater amount as is agreed from time to time between the parties.
- (4) Work trials should include induction or training as appropriate to the job being trialed.
- (5) Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment shall be entered into based on the outcome of assessment under paragraph (iii) hereof.

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DIVISION B - REAL ESTATE SALESPEOPLE AND MANAGEMENT

	Base Rate	Supplementary	Weekly
	\$	Payment	Wage Rate
		\$	\$
(a) Real Estate Sales Trainee	280.00	34.00	314.00
(b) Real Estate Sales Consultant Auctioneer, Property Manager, Manager	325.00	34.00	359.00
(c) Scholarship Holder			

The minimum weekly wage rate payable to trainees (as defined) for the first 12 months shall be determined by taking the appropriate wage rate for a junior clerk as prescribed in subclause (b) of Division A - Clerks and multiplying it by 42 and dividing it by 52 (42 being the actual number of weeks spent on the job). For each subsequent year scholarship holders will receive the appropriate wage rate for a junior clerk as prescribed in subclause (b) of Division A - clerks and adult scholarship holders shall receive the appropriate wage for a Grade 1 Clerk.

(d) Supported Wage System

As provided for in Division A, subclause (e) Supported Wage System, of this Clause.

2. By deleting from Clause 9 - Annual Leave, subclause (f)(ii) and inserting in lieu thereof the following:

"(f) Payment for Period of Leave

(ii) In addition thereto all employees (including part-time employees engaged to work 20 or more hours per week) shall receive a loading of 17.5 percent on payments made for annual leave as prescribed in paragraph (i) hereof; provided the loading is at least a minimum payment of at least \$291.40.

Such loading shall not apply to proportionate leave on termination of service."

OPERATIVE DATE

These variations shall come into operation from the first full pay period to commence on or after 14 July 1997.

P A Imlach
COMMISSIONER

16 July 1997