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TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984
s23 application for award or variation of award

Tasmanian Chamber of Commerce and Industry Limited
(T8963 of 2000)

Australian Cement Holdings Enterprise Award
Broadcasting and Television Award
Butter and Cheesemakers Award
Civil Construction and Maintenance Award
Clerical and Administrative Employees (Private Sector) Award
Dairy Processing Award
Estate Agents Award
Farming and Fruit Growing Award
Fibreglass and Plastics Award
Fish Aquaculture and Marine Products Award
Fuel Merchants Award
Furnishing Trades Award
Horticulturists Award
Hotels, Resorts, Hospitality and Motels Award
Independent Schools (Non-Teaching Staff) Award
Insurance Award
Licensed Clubs Award
Marine Boards Award
Meat Processing Industry Award
Medical Diagnostic Services (Private Sector) Award
Medical Practitioners (Private Sector) Award
Miscellaneous Workers Award
Nursing Homes Award
Optical Industries Award
Photographic Industry Award
Plant Nurseries Award
Printers Award
Produce Award
Public Accountants Award
Public Vehicles Award
Restaurant Keepers Award
Retail Trades Award
Rubber Trades Award
Shellfish Industry Award
Textile Award
Timber Merchants Award
Totalizator Agency Award
Wholesale Pharmaceutical Award
Wholesale Trades Award

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FULL BENCH:
DEPUTY PRESIDENT R J WATLING
COMMISSIONER T J ABEY
COMMISSIONER A W PEARCE

Award variation - nominated private sector awards - application amended - deletion of obsolete training provisions - application granted - operative ffpp 7 September 2000

ESTATE AGENTS AWARD

ORDER BY CONSENT:-

No. 3 of 2000

THE **ESTATE AGENTS** AWARD IS VARIED IN THE FOLLOWING MANNER:

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1. By deleting Clause 3 - ARRANGEMENT and inserting in lieu thereof the following:

"3. ARRANGEMENT

<u>Subject Matter</u>	<u>Clause No.</u>	<u>Page No.</u>
Title	1	
Scope	2	
Arrangement	3	
Date of Operation	4	
Supersession and Savings	5	
Parties and Persons Bound	6	
Definitions	7	
Wage Rates	8	

Conditions for Employees in Division A - All Classifications including Clerks, Rent Collectors and Trainee Valuers but Excluding Salesmen and Managers

Annual Leave	9	
Carer's Leave	10	
Casual Employees	11	
Compassionate Leave	12	
Contract of Employment	13	
Enterprise Agreements	14	
Estimating Service	15	
Holiday and Sunday Work	16	
Holidays with Pay	17	
Hours of Work	18	
Jury Service	19	
Occupational Superannuation	20	
Overtime	21	
Parental Leave	22	
Part A - Maternity Leave		
Part B - Paternity Leave		
Part C - Adoption Leave		
Part D - Part-Time Work		
Part-Time Employees	23	
Payment of Wages	24	
Rest Periods	25	
Saving	26	
Sick Leave	27	
Structural Efficiency	28	
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Time and Wages Book	30	
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Conditions for Employees in Division B - Salesmen and Managers

Contract of Employment	32
General Conditions	33
Holidays with Pay	34
Hours of Work	35
Wages Book	36

Appendix A"

2. By deleting from Clause 7 - DEFINITIONS, subclause (c) General and inserting in lieu thereof the following:

"(c) General

'Adult Entry' shall mean the entry point for adult clerical employees (21 years and over) with less than 12 months clerical experience either as a junior or adult, and on completion of 12 months clerical experience (whether with one employer or more) such adult employees shall be advanced to a graded position dependent on skills held and position requirement. In the case of part-time and casual employees 12 months experience is defined as 1660 hours actual service.

'Show Day' means not more than one local show day observed on an employee's ordinary working day, other than a Saturday or a Sunday, in the city, town or district in which the employee is employed; or such other day which, in the absence of such a local show day, is agreed on by the employee and the employer, therefore making a total of 11 paid public holidays per year."

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3. By deleting 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.

(a) Adult Clerks

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

Adults	Base Relativity %	Base Rate \$	Safety Net Adjustment \$	Weekly Wage Rate \$
Adult Entry				
1st 6 months	80	333.80	75.00	408.80
2nd 6 months	85	354.60	75.00	429.60
Grade 1				
1A 1st 12 months	87	363.00	75.00	438.00
1B After 12 months	90	375.50	75.00	450.50
Grade 2				
2A 1st 12 months	92	383.80	75.00	458.80
2B After 12 months	95	396.30	75.00	471.30
Grade 3				
3A 1st 12 months	97	404.70	75.00	479.70
3B After 12 months	100	417.20	75.00	492.20
Grade 4	105	438.10	75.00	513.10
Grade 5	110	458.90	75.00	533.90
Grade 6	115	479.80	73.00	552.80
Grade 7	120	500.60	73.00	573.60

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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:

	%
Under 16 years of age	40
16 to 17 years of age	45
17 to 18 years of age	55
18 to 19 years of age	70
19 to 20 years of age	80
20 to 21 years of age	90

(c) 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.

(d) 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.

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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.

(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 \$51 per week.

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(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.

(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.

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(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 \$51 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.

DIVISION B - REAL ESTATE SALESPeOPLE AND MANAGEMENT

(a) Wage Rates

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

	Base Rate \$	Safety Net Adjustment \$	Weekly Wage Rate \$
(1) Real Estate Sales Trainee	280.00	75.00	355.00
(2) Real Estate Sales Consultant Auctioneer, Property Manager, Manager	325.00	75.00	400.00

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(b) Scholarship Holder

The minimum weekly wage rate payable to trainees for the first 12 months shall be determined by taking the appropriate wage rate for a junior clerk as prescribed in Division A - Clerks, subclause (b) - Junior Employees - of 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 Division A - Clerks, subclause (b) - Junior Employees, and adult scholarship holders shall receive the appropriate wage for a Grade 1 Clerk.

(c) Supported Wage System

As provided for in Division A - Clerks, subclause (d) Supported Wage System, of this Clause."

4. By deleting "Clause 31 - TRAINEESHIPS - CLERKS (ATS)".

5. By renumbering "Clause 32 - TRAVELLING TIME, ALLOWANCES AND BOARD" to "Clause 31 - TRAVELLING TIME, ALLOWANCES AND BOARD".

6. By renumbering "Clause 33 - CONTRACT OF EMPLOYMENT" to "Clause 32 - CONTRACT OF EMPLOYMENT".

7. By renumbering "Clause 34 - GENERAL CONDITIONS" to "Clause 33 - GENERAL CONDITIONS".

8. By renumbering "Clause 35 - HOLIDAYS WITH PAY" to "Clause 34 - HOLIDAYS WITH PAY".

9. By renumbering "Clause 36 - HOURS OF WORK" to "Clause 35 - HOURS OF WORK".

10. By renumbering "Clause 37 - WAGES BOOK" to "Clause 36 - WAGES BOOK".

OPERATIVE DATE

These variations shall come into operation from the first full pay period to commence on or after 7 September 2000.

A W Pearce
COMMISSIONER

21 September 2000