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TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

s.23 application for award or variation of award

The Australian Workers' Union, Tasmania Branch

[T10345 of 2002]

Fish, Aquaculture and Marine Products Award

COMMISSIONER P C SHELLEY

Award variation – vary wage rates - new Minimum Wage Clause – operative dates 1 October 2002 and 1 April 2003

FISH, AQUACULTURE AND MARINE PRODUCTS AWARD

ORDER BY CONSENT

No. 2 of 2002

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THE FISH, AQUACULTURE AND MARINE PRODUCTS AWARD IS VARIED IN THE FOLLOWING MANNER:

By deleting Clause 2 – Wage Rates of Part III – WAGE RATES AND RELATED MATTERS and inserting in lieu thereof the following:

“2. WAGE RATES

DIVISION A - PROCESS ATTENDANTS FINFISH AND/OR SHELLFISH

(a) Employees in a classification hereunder undermentioned shall be paid the weekly wage rate assigned opposite that classification.

(i) **Operative from the first full pay period to commence on or after 1 October 2002.**

No.	Classification	Wage Relativity %	Base Rate \$	Safety Net Adjustment \$	Weekly Wage Rate \$
1	Process Attendant Level 1 (as defined)		321.25	106.00	427.25
2	Process Attendant Level 2 (as defined)	80	333.80	106.00	439.80
3	Process Attendant Level 3 (as defined)	93	388.00	106.00	494.00
4	Process Attendant Level 4 (as defined)	100	417.20	108.00	525.20

(ii) **Operative from the first full pay period to commence on or after 1 April 2003**

No.	Classification	Wage Relativity %	Base Rate \$	Safety Net Adjustment \$	Weekly Wage Rate \$
1	Process Attendant Level 1 (as defined)	78	325.40	106.00	431.40
2	Process Attendant Level 2 (as defined)	80	333.80	106.00	439.80
3	Process Attendant Level 3 (as defined)	93	388.00	106.00	494.00
4	Process Attendant Level 4 (as defined)	100	417.20	108.00	525.20

(b) Translation Schedule

From the first full pay period on or after 15 November 1991 employees occupying classifications in the Poultry Game and Marine Products Award shall be re-classified to one of the appropriate levels as set out below:

<u>No.</u>	<u>New Classification</u>	<u>Existing Classification</u> (Poultry, Game and Marine Products Award)
1	Level 1	New Level
2	Level 2	Level 1 Process Worker
3	Level 3	Forklift Driver Boiler Attendant Refrigeration Attendant
4	Level 4	Trades Level

DIVISION B - SEA BASED FIN FISH FARM EMPLOYEES

(a) Adult employees of a classification hereunder undermentioned shall be paid the weekly wage rate assigned opposite that classification.

(i) Operative from the first full pay period to commence on or after 1 August 2002.

No.	Classification	Wage Relativity %	Base Rate \$	Safety Net Adjustment \$	Weekly Wage Rate \$
1	Finfish Farm Attendant Level 1 (as defined)	90	375.50	106.00	481.50
2	Finfish Farm Attendant Level 2 (as defined)	101	421.40	108.00	529.40

(b) Additional Payments

Finfish Farm Attendants (as defined) who are required by the employer to undertake diving duties shall, in addition to the rates prescribed in subclause (a) of this division receive an amount of \$2.80 per hour, or part thereof, where diving equipment, excluding tools are supplied by the employer. However, in instances where the employee supplies his or her own diving equipment, excluding tools, the amount shall be \$7.70 per hour or part thereof.

(c) Translation Schedule

From the first full pay period on or after 15 November 1991 employees occupying classifications in the Poultry Game and Marine Products Award shall be re-classified to one of the appropriate levels as set out below:

<u>No.</u>	<u>New Classification</u>	<u>Existing Classification</u> (Poultry, Game and Marine Products Award)
1	Level 1	New Level
2	Level 2	Level 1 Process Worker
3	Level 3	Forklift Driver Boiler Attendant Refrigeration Attendant
4	Level 4	Trades Level

DIVISION C - 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 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 s.10 or under s.12A of the above Act, or if a part only has received recognition, that part.

(b) For the purposes of this division:

- (i) **'Supported Wage System'** means the Commonwealth Government System to promote employment for people who cannot work at full award wages because of a disability.
- (ii) **'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.
- (iii) **'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.
- (iv) **'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.

(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 \$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 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 work adjustment time (not exceeding 4 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 subclause (c) hereof.

DIVISION D – MINIMUM WAGE

Operative from the first full pay period to commence on or after 1 April 2003

(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 Division C - 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 subclause (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 subclause (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 subclause (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 subclause (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.”

OPERATIVE DATES

These variations shall come into operation from:

- Part III – WAGE RATES AND RELATED MATTERS, Clause 2 – Wage Rates, Division A – Process Attendants Finfish and/or Shellfish, subclause (a) paragraph (i) operative from the first full pay period to commence on or after 1 October 2002.

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- Part III – WAGE RATES AND RELATED MATTERS, Clause 2 – Wage Rates, Division A – Process Attendants Finfish and/or Shellfish, subclause (a) paragraph (ii) operative from the first full pay period to commence on or after 1 April 2003.
- Part III – WAGE RATES AND RELATED MATTERS, Division D – Minimum Wage operative from the first full pay period to commence on or after 1 April 2003.

P C Shelley
COMMISSIONER

10 October 2002