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TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

s23 application for award or variation of award

Tasmanian Trades and Labor Council

(T11548 of 2004)

Private Sector Awards

Tasmanian Trades and Labor Council

(T11564 of 2004)

Private Sector Awards

Tasmanian Trades and Labor Council

(T11566 of 2004)

Private and Public Sector Awards

FULL BENCH:

PRESIDENT P L LEARY

COMMISSIONER T J ABEY

COMMISSIONER J P McALPINE

Wage Rates – State Wage Case July 2004 – applications to vary private sector awards in a manner consistent with the Australian Industrial Relations Commission in Print PR002004 – Safety Net Review – Award rates to be increased by \$19 per week – Wage related allowances increased by 3.5% - Meal allowances increased to \$12.70 – Supported Wage increased to \$61 per week – Operative date ffpp 1 August 2004 – State Minimum Wage determined at \$467.40 – s.35(1)(b)

AUSTRALIAN CEMENT HOLDINGS ENTERPRISE AWARD

ORDER BY CONSENT

No. 1 of 2004

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THE **AUSTRALIAN CEMENT HOLDINGS ENTERPRISE AWARD** IS VARIED IN THE FOLLOWING MANNER:

1. By deleting from Clause 8 – WAGE RATES, PART IV - SPECIAL ALLOWANCE, PART V - LEADING HANDS and PART VI - SUPPORTED WAGE SYSTEM, and inserting in lieu thereof the following:

"8. WAGE RATES

"PART IV - SPECIAL ALLOWANCE

Employees engaged on maintenance work on board bulk cargo ships shall be paid the following amounts per week:

Apprentices	\$8.60
Maintenance employees	\$9.10

PART V - LEADING HANDS

- (a) If in charge of not less than 3 and not more than 10 employees - \$19.60 per week.
- (b) If in charge of more than 10 and not more than 20 employees - \$29.30 per week.
- (c) If in charge of more than 20 employees - \$37.30 per week.

PART VI - SUPPORTED WAGE SYSTEM

- (a) Eligibility criteria

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

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(b) For the purposes of this part:

- (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 part 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 \$61 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:

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- (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 part, 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 part 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 part 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 subclause for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.

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- (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 subclauses (d) and (e).
- (iii) The minimum amount payable to the employee during the trial period shall be no less than \$61 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 from Clause 22 – OVERTIME, subclause (k), and inserting in lieu thereof the following:

“(k) Meal Money

- (i) Any employee required to continue at work on overtime for more than one and a half hours after his ordinary time, without having been notified on the previous day that he would be required to work overtime, shall be provided, free of cost, with a suitable meal and, if the work extends into a second meal break, another meal.

PROVIDED that in the event of meals not being provided by the employer he shall pay to the employee a meal allowance at the rate of \$12.70 for the first and each subsequent meal.

- (ii) If an employee pursuant to notice has provided a meal and is not required to work overtime or is required to work less than one and a half hours he shall be paid \$12.70 for the meal which he has provided but which is surplus."

OPERATIVE DATE

This variation shall come into operation from the first full pay period to commence on or after 1 August 2004.

Tim Abey
COMMISSIONER

30 August 2004