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**TASMANIAN INDUSTRIAL COMMISSION**

Industrial Relations Act 1984

**T.2347 of 1990**

**IN THE MATTER OF AN APPLICATION  
BY THE FEDERATED LIQUOR AND  
ALLIED INDUSTRIES EMPLOYEES'  
UNION OF AUSTRALIA, TASMANIAN  
BRANCH TO VARY THE HOTELS,  
RESORTS, HOSPITALITY AND  
MOTELS AWARD**

**ORDER BY CONSENT –**

**No. 1 of 1990**

**AMEND THE HOTELS, RESORTS, HOSPITALITY AND MOTELS AWARD IN THE  
FOLLOWING MANNER:**

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**1. Insert in Clause 3 - Arrangement, in Division A - Hotels, Taverns or Wine Saloons, the following:**

"Superannuation 40A"

**2. Insert in Clause 3 - Arrangement, in Division B - Motels, the following:**

"Superannuation 77A"

**3. In Conditions for Employees in Division A - Hotels, Taverns or Wine Saloons, insert the following new Clause 40A - Superannuation:**

**"40A. SUPERANNUATION"**

**(a) Application and Commencement**

Each employer shall, by the date hereinafter stated, provide superannuation for eligible employees in accordance with the terms of this clause.

By 1 June 1990.

**(b) Definitions**

**'Scheme'** means the Hospitality Industry Portable Liquor Union Superannuation Trust Deed (HOST-PLUS), which complies with the Australian Government's Operational Standards for Occupational Superannuation Funds.

**'Trustees'** means HOST-PLUS Pty Ltd.

**'Eligible employee'** in the case of full-time and part-time employees means:

- (i) an employee who immediately before the date of commencement of superannuation as provided in subclause (a) has completed 4 weeks' continuous service with the employer; or
- (ii) an employee who subsequent to the date of commencement of superannuation completes 4 weeks' continuous service with the employer; or
- (iii) an employee who commences employment after the date of commencement of superannuation and who is an existing member of the scheme.

**'Eligible employee'** in the case of casual employees means:

- (i) an employee who immediately before the date of commencement of superannuation as provided in subclause (a) has completed continuous service over two successive calendar months in each of which the employee has had not less than two engagements and has aggregate ordinary time earnings, as defined, equivalent to not less than \$57 for each week in the month calculated by the number of Fridays falling within the calendar month; or
- (ii) an employee who subsequent to the date of operation of superannuation completes continuous service over two successive calendar months in each of which the employee has had not less than two engagements and has aggregate ordinary time earnings, as defined, equivalent to not less than \$57 for each week in the month calculated by the number of Fridays falling within the calendar month; or
- (iii) an employee who commences employment after the date of commencement of superannuation and who is an existing member of the scheme and has ordinary time earnings upon commencement or at any time thereafter of not less than \$57 per week in any one week.

**'Ordinary time earnings'** means the ordinary periodic salary wages or other remuneration paid by the employer to the employee each week including shift penalties, weekend and public holiday penalties, in-charge allowances, overaward payments and all other all purpose payments and in respect of a casual employee shall include any casual loading including weekend and late shift penalties as prescribed by this award but not including any bonuses, commission, payment for overtime or other extraordinary payment, remuneration or allowance.

(c) Enrolment

Each employer shall:

- (i) take all necessary steps to enable contributions to be made to the scheme; and
- (ii) take all reasonable steps to ensure that each eligible employee becomes a member of the scheme, including a written notification to each individual employee offering superannuation in accordance with this clause and providing an application form for the employee to become a member of the scheme.
- (iii) If the completed Application for Scheme Membership form is returned to the employer within one month of the written notice referred to in paragraph (i), contributions will be made in respect of that employee either from the date of commencement of superannuation as provided in subclause (a) or the date on which the employee qualified as an eligible employee, whichever is the later.

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(iv) If the completed Application for Scheme Membership form is not returned to the employer within one month, the employee will be regarded as having refused to join the scheme. In such a case the employer shall notify the Trustees in writing of the refusal to join. After a period of six months the employer shall make to the employee a further offer of superannuation in accordance with this clause. In cases which fall within this subclause, the employer's obligation to make contributions shall commence from the time that he receives a completed application form or notification that the Trustees or Administrator of the scheme have received such completed application form.

(d) Contributions

(i) Each employer shall, in respect of each eligible employee who is a member of the scheme, contribute an amount equal to 31 of ordinary time earnings as defined.

**PROVIDED** that in any monthly contribution period the aggregate ordinary time earnings for a casual employee does not exceed \$200, no contribution shall be made in respect of such employee. However, where an employee is employed by more than one employer and his aggregate earnings with those employers exceeds \$200 per month, then each employer will on production of satisfactory evidence by the employee, be required to make contributions in respect of earnings with that employer.

(ii) On the commencement of superannuation as provided in subclause (a), the starting dates for contributions for existing employees shall be:

- (1) In respect of employees who on superannuation commencement date are eligible employees because of prior service; from the commencement date of superannuation.
- (2) In respect of other employees; from the date on which they become eligible employees.
- (3) Provided always that such contribution dates are subject to the completion of scheme membership forms as provided in subclause (c)(ii) and (iii).

(iii) In respect of employees who commence employment after the commencement of superannuation as provided in subclause (a), the starting dates for contributions shall be:

- (1) In respect of employees who on starting employment are eligible employees because of existing membership of the scheme; from the commencement of employment.
- (2) In respect of other employees; from the date on which they become eligible employees subject to the completion of scheme membership forms as provided in subclause (c)(iii) and (iv).

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- (iv) Each employer shall make such contributions monthly for pay periods completed in such month or at such other times and in such other manner as may be agreed in writing between the Trustees of a scheme and the employer from time to time.

(e) Exemptions

- (i) An employer may make application to the Tasmanian Industrial Commission by 1 June 1990 to be exempt from using the scheme as defined in paragraph (ii) herein.

**PROVIDED** that such exemption shall only be granted to employers who at 1 June 1990 are already providing occupational superannuation in accordance with subclause (d) into a fund which complies with Commonwealth Occupational Standards.

- (ii) An employer who commences a new business after 1 June 1990 may make application for exemption in accordance with paragraph (i) above. Such application must be made within one month of the commencement of operation of the new business."

**4. In Conditions for Employees in Division B - Motels, insert the following new Clause 77A - Superannuation:**

**"77A. SUPEBANNUATION**

(a) Definitions

For the purpose of superannuation the following definitions shall apply:

**'Scheme'** means the Hospitality Industry Portable Liquor Union Superannuation Trust Deed (HOST-PLUS), which complies with the Australian Government's Operational Standards for Occupational Superannuation Funds.

**'Trustees'** means HOST-PLUS Pty Ltd.

**'Eligible permanent full-time and part-time employees'** means:

- (i) an employee who is a member of the scheme at commencement of employment and who provides confirmation to the employer of such membership; or
- (ii) an employee who was employed by an employer on a permanent basis full-time or part-time basis at or after 1 June 1990 subject to the completion of 4 weeks continuous service with the employer. Continuous service prior to 1 June 1990 shall count as service for the purpose of this paragraph.

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**'Eligible casual employee'** means:

- (1) an employee employed by an employer on a casual basis who is a member of the scheme at commencement of employment and who provides confirmation to the employer of such membership; or
- (ii) an employee employed by an employer on a casual basis at or after 1 June 1990 at completion of 8 weeks continuous service from date of employment.

**'Ordinary time earnings'** for the purposes of superannuation contribution only means the ordinary periodic salary wages or other remuneration being paid by the employer to the employee each week including shift penalties, weekend and public holiday penalties, in-charge allowances, overaward payments and all other all purpose payments and in respect of a casual employee shall include any casual loading including weekend and public holiday penalties as prescribed by this award as varied from time to time but not including any bonuses, commission, payment for overtime or other extraordinary payment, remuneration or allowance.

(b) Deed of Adherence and Enrolment

Each employer shall:

- (i) enter into a Deed of Adherence with the Trustees, acknowledging itself to be bound by the HOST-PLUS Scheme;
- (ii) take all reasonable steps to ensure that each eligible employee becomes a member of the scheme, including a written notification to each individual employee offering superannuation in accordance with this clause and providing an application form for the employee to become a member of the scheme.
- (iii) If the completed Application for Scheme Membership form is returned to the employer within one month of the written notice referred to in subclause (b)(ii), contributions will be made in respect of that employee either from the date on which the employee qualified as an eligible employee.
- (iv) If the completed Application for Scheme Membership form is not returned to the employer within one month, the employee will be regarded as having refused to join the scheme and the employer shall not be required to make contributions on behalf of such employee. In such a case the employer shall notify the Trustees in writing of the refusal to join. After a period of six months the employer shall make to the employee a further offer of superannuation in accordance with this clause. If and when an employee completes and returns to the employer an application for membership form after the expiry of one month as provided for in this subparagraph, the employer's obligation to make contributions shall commence from the time he receives a completed application form.

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(c) Contributions

- (i) Each employer shall in respect of each eligible full-time and part-time employee as defined, and each eligible casual employee as defined who earns \$257.50 or more in a 4 week period, contribute to the scheme of which the employee is a member and to which the employer is bound to contribute pursuant to the relevant Trust or Deed of Adherence an amount equal to 3% of the ordinary time earnings as defined, of such employee.
- (ii) Where an employee is absent on leave without pay, whether or not such leave is approved, no contribution from the employer shall be due in respect of that employee during and in respect of the period of unpaid absence.
- (iii) The obligation of the employer to contribute to the Fund in respect of an employee shall cease on the last day of such employee's employment with the employer.
- (iv) Each employer shall make such contributions monthly for pay periods completed in such month or at such other times and in such other manner as may be agreed in writing between the Trustees of a scheme and the employer from time to time.

(d) Exemptions

- (i) An employer may make application to the Tasmanian Industrial Commission by 1 June 1990 to be exempt from using the scheme as defined in subclause (a) herein.

**PROVIDED** that such exemption shall only be granted to employers who at 1 June 1990 are already providing occupational superannuation in accordance with subclause (c) into a fund which complies with Commonwealth Occupational Standards.

- (ii) An employer who commences a new business after 1 June 1990 may make application for exemption in accordance with paragraph (i) above. Such application must be made within one month of the commencement of operation of the new business."

**DATE OF OPERATION**

The foregoing variations shall take effect from 1 June 1990.

R.K. Gozzi  
**COMMISSIONER**

18 May 1990