

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

s.23 application for award or variation of award

**The Amalgamated Footwear & Textile Workers' Union of Australia
Tasmanian Branch
(T.3393 of 1991)**

TEXTILE AWARD

COMMISSIONER R K GOZZI

Structural efficiency principle - second stage

ORDER

No 2 of 1991

Amend the above award in the following manner:

1. Insert in Clause 3 - Arrangements - the following titles and clause numbers:

"Enterprise Flexibility	13A	17
Enterprise Flexibility	36A	44"

2. Insert in Clause 7 - Definitions - under for employees in Division C - Auxiliary Services - in alphabetical order the following:

"**Canteen worker (Entry level)**" means a person with less than four months experience in the occupation of canteen worker or a comparative occupation. An employee at this level shall be able to perform kitchen work, cooking duties, mobile cash sales and waiting duties.

'Cleaner (Entry level)' means a person with less than four months experience in the occupation of cleaner. An employee at this level shall be responsible for cleaning work of any description on the premises."

3. Delete Division B - Clerks - from Clause 8 - Wage Rates - and insert in lieu thereof the following:

"8. WAGE RATES

DIVISION A - MANUFACTURING SECTION

1. WAGE RATES

- (a) The rates of pay of employees engaged in the knitting, hosiery and allied manufacturing and fabricating industries shall be in accordance with those prescribed in the award known as the Textile Industry Award, made by the Australian Conciliation and Arbitration Commission.
- (b) Any disputes arising in respect of the provisions of subclause (a) above to be referred to the Tasmanian Industrial Commission whose decision shall be final.

DIVISION B - CLERKS

1. WAGE RATES

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

	Amount per Week \$
(a) 1st year's adult experience	302.90
2nd year's adult experience	324.00
3rd year's adult experience	351.60
4th year's adult experience	362.30
5th year's adult experience	370.40
6th year's adult experience & thereafter	386.10

- (b) An accountant or chief clerk wholly responsible for the office work and who prepares the balance sheet and profit and loss account 467.60
- (c) A clerk who is in charge of and responsible for the work of -
- (i) 5 or more employees 415.60
 - (ii) 3 or 4 employees 399.60
 - (iii) 2 employees 391.70

2. JUNIORS

- (a) The minimum rates of wages that may be paid to juniors shall be the undermentioned percentages of the second year adult rate, adjusted to the nearest 10 cents.

	Percentage of Second Year Adult Rate %	Amount per Week \$
Under 16 years of age	40	129.60
16 to 17 years of age	45	145.80
17 to 18 years of age	55	178.20
18 to 19 years of age	70	226.80
19 to 20 years of age	80	259.20
20 to 21 years of age	90	291.60

- (b) **PROVISO**

When determining the rate payable to an employee attaining the age of 21 years, who has been employed as a junior clerk in the trades or groups of trades in respect of which awards of the Tasmanian Industrial Commission are established, experience obtained after reaching the age of 19 years shall be counted as adult experience.

3. TRAINEE CLERK (AS DEFINED)

The minimum weekly wage rate payable to a trainee clerk (as defined) shall be determined by the following method of calculation -

By taking the appropriate wage rate for a junior clerk as prescribed in subclause 2 of this division then multiplying it by 39 and dividing it by 52.

(39 being the actual number of weeks spent on the job)

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 (as defined) wage rate shall be calculated in multiples of ten (10) cents with any result of five (5) cents or more being taken to the next ten (10) cents.

4. ADDITIONAL PAYMENTS

In addition to the weekly rates prescribed herein the following additional amounts per week shall be paid to stenographers, audio-typists, teletypists, accounting machine, computer, data processing, tabulating machine, card punch and verifier operators.

	Amount per Week \$
Under 16 years of age	1.00
16 to 17 years of age	1.20
17 to 18 years of age	1.30
18 to 19 years of age	1.50
19 to 20 years of age	2.00
20 to 21 years of age	2.10
21 years of age and over	2.70

'**Employees**' in this Division shall mean any male or female clerk, typist or stenographer and shall include the Clerk-in-Charge."

4. Delete subclause 1 - Wage Rates - from Division C - Auxiliary Services in Clause 8 - Wage Rates, and insert in lieu thereof the following:

"DIVISION C - AUXILIARY SERVICES

1. WAGE RATES

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

	Amount per Week \$
(a) Watchman	319.60
(b) Pastrycook qualified tradesperson	358.90
Pastrycook non qualified	356.40
(c) Cook-in-Charge	343.30
(d) Cook other	322.80
(e) Canteen worker (Entry level)	300.70
(f) Canteen worker	303.20
(g) Employee responsible for canteen work and mobile cash sales	307.20
(h) Employee in charge of canteen stores	315.10
(i) Cleaner (Entry level)	316.30
(j) Cleaner	318.80
(k) Gardener	321.40
(l) Greenkeeper qualified tradesperson	331.30
(m) Greenkeeper non qualified	328.80
(n) Gatekeeper	314.60
(o) Leading hands: in charge of up to 10 employees per week extra	14.60"

5. Delete subclause (i) from Clause 10 - Annual Leave - and insert in lieu thereof the following:

"(i) Time of Taking Leave

Annual leave shall be given within twelve months of the date the leave has accrued at a time or times mutually agreed between the employer and employee.

In the event that mutual agreement cannot be reached, annual leave shall be given at a time fixed by the employer within a period not exceeding, in the case of an employee taking leave in one period, six months or, in the case of an employee taking the leave in two or three periods, nine months from the date when the right to annual leave accrued and after not less than two months notice to the employee."

6. Delete Clause 11 - Casual Employees - and insert in lieu thereof the following:

"A casual employee (as defined) for working ordinary time shall be paid per hour one thirty-eighth of the weekly rates prescribed for the work which he or she performs. In addition thereto a casual employee shall receive 15 per cent of the ordinary hourly rate in respect of each hour for which he or she is paid; such additional amount to be payment in lieu of annual leave, sick leave, and public holidays."

7. Delete Clause 12 - Clothing - and insert in lieu thereof the following:

***12. CLOTHING**

"Where an employer requires an employee to wear outer clothing or protective clothing of a distinctive colour or style such clothing shall be supplied by the employer without cost to the employee. The cost of repair and replacement of such clothing shall likewise be the responsibility of the employer.

PROVIDED that minor repairs to clothing shall be the responsibility of employees, e.g. re-attachment of buttons or re-stitching of faulty seams."

8. Insert the following new Clause 13A:

***13A. ENTERPRISE FLEXIBILITY**

- (a) Notwithstanding anything contained in this award but subject to the provisions of this clause, an enterprise agreement may be entered into between an employer and all or some of the employees engaged by that employer.
- (b) An agreement shall be subject to the following requirements:
- (i) The majority of employees affected by the change must genuinely agree to the change.
 - (ii) The agreement taken as a whole shall not confer a lesser benefit to any employee than is available under the award.

- (iii) The relevant union shall be advised by the employer of the intention to commence discussions with employees on an agreement under this clause.
 - (iv) The relevant union must be a party to the agreement.
 - (v) The relevant union shall not unreasonably oppose any agreement.
- (b) An enterprise agreement shall be signed by the parties being the employer and the union, and contain the following:
- (i) The terms of the agreement.
 - (ii) The parties covered by the agreement.
 - (iii) The classes of employees covered by the agreement.
 - (iv) The means by which a party may retire from the agreement.
 - (v) The means by which the agreement may be varied.
 - (vi) Where appropriate, the means by which any dispute arising in respect to the agreement may be resolved.
- (d) Any agreement which seeks to vary a provision of this award shall be referred to the Tasmanian Industrial Commission."
9. Insert in Clause 15 - Holidays With Pay - the following new subclause (d):
- "(d) An employer may, by agreement with the employee and the union, work that employee on any public holiday prescribed in subclause (a) provided an agreed substitute day off is provided at the penalty equivalent.

The substitute day shall, by agreement between the employer and employee, be taken either within twenty eight days of the entitlement being accrued or as an addition to annual leave."

10. Delete from Clause 16 - Hours - the amounts appearing in subclause (e) of "\$25.30" and "\$5.06", and insert in lieu thereof the amounts of "\$26.10" and "\$5.21" respectively.

11. Delete paragraph (v) from subclause (a) of Clause 17 - Implementation of 38 Hour Week - and insert in lieu thereof the following:

"(v) by accruing an entitlement to rostered days off up to a maximum of twelve days, or as otherwise mutually agreed and thereby averaging 38 hours over a period not exceeding twelve months."

The taking of accrued rostered days off shall be as mutually agreed between the employer and employee. In the absence of agreement, the employer shall be required to provide two weeks notice for the employee."

12. Delete subclause (e) from Clause 20 - Overtime - and insert in lieu thereof the following:

"(e) For the purpose of determining the hourly rate for the payment of overtime, the appropriate weekly rate shall be divided by 38."

13. Delete Clause 21 - Part-Time Employees - and insert in lieu thereof the following:

***21. PART-TIME EMPLOYEES**

(a) Part-time employees engaged to work twenty or more hours per week shall be entitled to the holidays, annual leave and sick leave as prescribed in Clauses 15 - Holidays with Pay, 10 - Annual Leave and 27 - Sick Leave, of this award, provided that payment thereof shall be made at the rate normally paid to such employees for a similar period of time worked. The wage rates payable per hour shall be one thirty-eighth of the relevant rate above set out.

(b) Part-time employees engaged to work less than 20 hours per week shall be paid per hour one thirty-eighth of the weekly rates prescribed for the work he or she performs. In addition thereto such employees shall receive 15 per cent of the ordinary hourly rate in respect of each hour for which he or she is paid; such additional amount to be payment in lieu of annual leave, sick leave and public holidays."

14. Delete subclause (e) from Clause 26 - Saturday, Sunday and Holiday Work - and insert in lieu thereof the following:

"(e) For the purpose of determining the hourly rate for work on a Saturday, Sunday or holiday the appropriate weekly rate shall be divided by 38."

15. Delete the amounts of "\$4.90" appearing in subclause (a) of Clause 28 - Tea Money - and insert in lieu thereof the amount of "\$5.00."

"(a) An employee who has worked six or more hours during ordinary time and who is required to work overtime for more than one and a half hours shall either be supplied with an adequate meal by the employer or be paid \$5.00 meal money."

16. Delete the amount of "\$8.30" appearing in Clause 30 - Allowances - Tool Allowance - and insert in lieu thereof the amount of "\$8.50."

17. Delete subclause (i) from Clause 31 - Annual Leave - and insert in lieu thereof the following:

"(i) Time of Taking Leave

Annual leave shall be given within twelve months of the date the leave has accrued at a time or times mutually agreed between the employer and employee.

In the event that mutual agreement cannot be reached, annual leave shall be given at a time fixed by the employer within a period not exceeding, in the case of an employee taking leave in one period, six months or, in the case of an employee taking the leave in two or three periods, nine months from the date when the right to annual leave accrued and after not less than two months notice to the employee."

19. Insert the following new clause 36A:

***36A. ENTERPRISE FLEXIBILITY**

- (a) Notwithstanding anything contained in this award but subject to the provisions of this clause, an enterprise agreement may be entered into between an employer and all or some of the employees engaged by that employer.
- (b) An agreement shall be subject to the following requirements:
 - (i) The majority of employees affected by the change must genuinely agree to the change.
 - (ii) The agreement taken as a whole shall not confer a lesser benefit to any employee than is available under the award.
 - (iii) The relevant union shall be advised by the employer of the intention to commence discussions with employees on an agreement under this clause.
 - (iv) The relevant union must be a party to the agreement.
 - (v) The relevant union shall not unreasonably oppose any agreement.
- (c) An enterprise agreement shall be signed by the parties, being the employer and the union, and contain the following:
 - (i) The terms of the agreement.
 - (ii) The parties covered by the agreement.
 - (iii) The classes of employees covered by the agreement.

- (iv) The means by which a party may retire from the agreement.
 - (v) The means by which the agreement may be varied.
 - (vi) Where appropriate, the means by which any dispute arising in respect of the agreement may be resolved.
- (d) Any agreement which seeks to vary a provision of this award shall be referred to the Tasmanian Industrial Commission."

19. Insert in Clause 39 - Holidays with Pay - the following new subclause (f):

"(f) An employer may, by agreement with the employee and the union, work that employee on any public holiday prescribed in subclause (a) provided an agreed substitute day off is provided at the penalty equivalent."

The substitute day shall, by agreement between the employer and the employee, be taken either within twenty-eight days of the entitlement being accrued or as an addition to annual leave."

20. Delete subclause (c) from Clause 40 - Hours - and insert in lieu thereof the following:

"(c) The ordinary hours of work for day workers prescribed herein shall be worked continuously, except for meal breaks, at the discretion of the employer between 7.00am and 7.00pm and by shift workers (not being seven-day continuous shift workers) in not more than five shifts in accordance with the provisions of Clause 48 - Shifts of this award."

21. Insert in Clause 45 - Overtime - the following new subclause (e), Time Off in Lieu of Overtime, and re-letter the remaining subclauses accordingly:

"(e) Time Of in Lieu of Overtime

Where an employee requests and the employer agrees, time off at the penalty equivalent may be allowed in lieu of payment for overtime.

PROVIDED such time off shall be paid at the ordinary rate."

22. Delete from Clause 49 - Shifts - the amounts "\$7.70" and "\$15.50" appearing in subclause (c) and insert in lieu thereof the amounts of "\$7.90" and "\$16.00" respectively.

Date of Operation

The foregoing variations shall come into operation from the beginning of the first full pay period commencing on or after 27 September 1991.

