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TASMANIAN INDUSTRIAL COMMISSION

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

Tasmanian Trades and Labor Council
(T8413 of 1999)

Private Sector Awards

Tasmanian Chamber of Commerce and Industry Limited
(T8483 of 1999)

Private and Public Sector Awards

FULL BENCH:
DEPUTY PRESIDENT B R JOHNSON
COMMISSIONER R J WATLING
COMMISSIONER P A IMLACH

Wage Rates - State Wage Case July 1999 - applications to review the Wage Fixing Principles and to vary awards in a manner consistent with the Australian Industrial Relations Commission decision in Print number 81999 Safety Net Review - Wages - flow-on of federal safety net adjustment approved - operative date ffpp 1 August 1999 - partial revision of Wage Fixing Principles - full review of Wage Fixing Principles to begin no later than October 1999

PLANT NURSERIES AWARD

ORDER -

No. 1 of 1999

AMEND THE **PLANT NURSERIES AWARD** IN THE FOLLOWING MANNER:

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1. Delete Clause 8 - Wage Rates, and inserting in lieu thereof the following:

"8. WAGE RATES

1. WAGE RATES

(a) Adult employees in a classification level hereunder mentioned shall be paid the weekly wage rate appearing opposite that classification.

	Base Rate Relativity %	Base Rate $	Safety Net Adjustment $	Weekly Wage Rate $
1. Nursery Assistant Level 1 (as defined)	80	333.80	60.00	393.80
2. Nursery Assistant Level 2 (as defined)	84	350.50	60.00	410.50
3. Nursery Assistant Level 3 (as defined)	92	383.80	60.00	443.80
4. Nursery Assistant Level 4 (as defined)	100	417.20	60.00	477.20
5. Nursery Assistant Level 5 (as defined)	108	450.60	60.00	510.60

(b) Translation Schedule

1.	An employee having less than one months continuous service with their present employer.	-	Nursery Assistant Level 1 (as defined)
2.	An employee who without direct supervision, carries out any duties required in connection with the growing of seeds and/or plants.	-	Nursery Assistant Level 2 (as defined)
3.	Propagator	-	Nursery Assistant Level 3 as defined)
4.	Horticultural Tradesman as defined)	-	Nursery Assistant Level 4 (as defined)

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2. APPRENTICES

The weekly wage rate to be paid to apprentices shall be the undermentioned percentage of the weekly wage rate payable to a Nursery Assistant - Level 4 (as defined).

	%
1st year	42
2nd year	55
3rd year	75
4th year	88

3. JUNIOR EMPLOYEES

The weekly wage rate to be paid to unapprenticed junior employees shall be the undermentioned percentage of the weekly wage rate for the classification Nursery Assistant - Level 1 (as defined).

	%
Under 16 years of age	50
16 to 17 years of age	65
17 to 18 years of age	75
18 to 19 years of age	90
19 to 20 years of age	95
20 years of age and over	100

4. SUPPORTED WAGE SYSTEM

(a) Eligibility criteria

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

PROVIDED FURTHER that this subclause 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 subclause:

(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 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 (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 $45 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 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.

(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 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.

(h) 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.

(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 4 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 paragraphs (d) and (e).

(iii) The minimum amount payable to the employee during the trial period shall be no less than $45 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 paragraph (c) hereof."

2. Delete the amount of $1.85 appearing in subclause (e) First Aid Allowance, of Clause 9 - ALLOWANCES, and insert in lieu thereof the amount of $1.90.

3. Delete the amount of 0.43 cents appearing in subclause (f) Special Rates, of Clause 9 - ALLOWANCES, and insert in lieu thereof the amount of 44 cents.

OPERATIVE DATE

This variation shall come into operation from the first full pay period to commence on or after 1 August 1999.

F D Westwood
PRESIDENT

22 July 1999