

**TASMANIAN INDUSTRIAL COMMISSION**

Industrial Relations Act 1984  
s.23 application for award variation

**Tasmanian Chamber of Commerce and Industry Limited**  
(T.5477 of 1995)

**WHOLESALE TRADES AWARD**

COMMISSIONER R J WATLING

HOBART, 15 August 1995

Award variation - superannuation - exemption from award fund - Section 31(1B) -  
Commission satisfied - award varied - operative 14 August 1995

Order No. 3 of 1995

AMEND THE WHOLESALE TRADES AWARD AS FOLLOWS:

AMEND THE WHOLESALE TRADES AWARD BY DELETING CLAUSE 33 -  
SUPERANNUATION AND INSERTING IN LIEU THEREOF THE FOLLOWING:

**“33. SUPERANNUATION**

(a) Contribution

An employer shall make a contribution equivalent to 3% of ordinary time earnings into an approved Superannuation Fund in respect of all eligible employees (as defined) as from 14 July, 1989. Such earnings shall exclude overtime and allowances in the nature of a reimbursement (such as meal money).

Contributions to the fund shall be made by the employer on at least a calendar monthly basis unless there are circumstances for which the employer cannot be held responsible.

(b) Casual Employees and Part-time Employees

In the case of eligible casual employee and part-time employees, contributions shall be made where the employee works at least 38 hours per month averaged over a Fund billing statement month.

(c) Definitions

**‘Eligible Employee’** shall mean an employee whether weekly, part-time or casual, who has had at least 3 months continuous service with an employer subject to this award.

**PROVIDED** that in the case of an employee who has so qualified with one employer, that employee shall not be required to serve the qualifying period with any subsequent employer subject to this Award.

**‘Approved Fund’** shall mean a superannuation fund or scheme approved in accordance with the Commonwealth Operational Standards for Occupation Superannuation Funds.

(d) Fund

Contributions determined in accordance with sub-clause (a) of this clause shall, subject to subclause (e) of this clause, be made into either of the following nominated approved funds:-

(i) Labour Union Co-operative Retirement Fund (LUCRF)

(ii) TASPLAN

(e) Exemption

An employer who commences a new business after 14 July 1989 may make application for exemption in accordance with this subclause. Such application shall be made within one month of the commencement of operation of the new business. However, this provision shall not apply to a business which has been transmitted or a subsidiary of a business subject to this award as at 14 July, 1989.

An application for exemption may be made by an employer in the following circumstances:-

- (i) Where employees subject to the award represent a minority of the total employees and contributions are already being made into an approved fund (as defined) in respect of the majority of employees in any one establishment; or
- (ii) Where an employer can demonstrate a special and compelling circumstance to justify the use of an approved fund other than either of the nominated approved funds.

(f) Procedure for Seeking Exemption

An employer seeking exemption shall, not later than one (1) month after the commencement of operation of the new business:-

- (i) Pursuant to Section 29 of the Act make application to the Industrial Commission.
- (ii) Applications shall contain the following information:-
  - (1) Name of Fund
  - (2) Evidence of compliance with Commonwealth Operational Standards
  - (3) Summary of Structure and Benefits
  - (4) Level of Administration Charge
  - (5) Any other relevant information
- (iii) Any application shall in the first instance be considered by the union(s) party to the Award which in each case have constitutional coverage for the class of employee affected. Where the union(s) agree with the application, the exemption will be granted.
- (iv) Where agreement is not reached the matter shall be heard and determined by the Commission. In such circumstances and in accordance with Section 28 of the Act, the employer concerned may be represented in person, by an Agent or by a registered employer organisation.
- (v) An employer may choose to forego consideration of his/her application by the union(s) and have the matter determined in the first instance by the Commission.



- (g) Notwithstanding anything elsewhere contained in this Clause, an employee who belongs to the religious fellowship known as Brethren (and who holds a certificate issued by the Registrar pursuant to Section 32(9) of the Act) may nominate an alternative complying fund into which the contributions shall be paid.
- (h) For the purposes of this clause, the following companies are exempt from contributing to TASPLAN or the Labour Union Co-Operative Retirement Fund (L.U.C.R.F.), but shall observe all other provisions of this clause and shall make contributions in accordance with subclause (a) Contributions into the approved fund set out below:

	<u>COMPANY</u>	<u>FUND</u>
(i)	Arnotts Biscuits Limited	Arnotts Accumulation Superannuation Plan
(ii)	The Broken Hill Proprietary Company Limited and Tubemakers Australia Limited	Tubemakers Employees Superannuation Fund or Tubemakers Staff Superannuation Fund
(iii)	Burns Philp & Company Limited - Burns Philp Food Fermentation Division trading as Mauri Foods	Burns Philp Future Security Plan
(iv)	Burns, Philp & Company Limited - Burns Philp Hardware Division	Burns Philp Future Security Plan
(v)	Cadbury Schweppes Pty Ltd	Supermoney
(vi)	Cartledge Agency Pty Ltd	Tasmanian Chamber of Commerce and Industry Superannuation Fund
(vii)	The Cascade Brewery Co. Ltd Trading as Chancellors	Cascade Productivity Superannuation Plan
(viii)	Caterers' Market Pty Ltd	Legal & General Employed Persons Superannuation Fund
(ix)	C.C.A. Snack Foods	A.P.D. Snack Foods Superannuation Plan
(x)	Clements & Marshall Pty Ltd	C.A.R.E.
(xi)	Gordon & Gotch Limited	Gordon & Gotch Limited Superannuation Fund
(xii)	Hallmark Cards Aust. Ltd	Hallmark Cards Australia - Superannuation Fund No. 1

(xiii)	Ingram Corporation Pty Ltd	Brown and Dureau Productivity
(xiv)	Kimberley Clark Aust. Pty. Ltd.	Kimberley Clark Australia Retirement Fund
(xv)	Monier Redland Limited	Monier Redland Ltd. Group Superannuation Fund
(xvi)	National Distribution Services	Rothmans of Pall Mall (Aust) Limited Superannuation
(xvii)	North West Frozen Foods Pty Ltd trading as Frosto Distributors and Freezer Foods	Superannuation Fund C.A.R.E.
(xviii)	Oce' Australia Limited	Oce' Australia Ltd Superannuation Plan and Oce' Australia Ltd Accumulation Plan
(xix)	Penstock Distributors Pty Ltd	Lifetrack Superannuation
(xx)	Fund Plumrose (Australia) Limited	Plumrose (Australia) Limited Staff Superannuation Fund
(xxi)	Ramset Fasteners (Aust) Pty Ltd	Australian Retirement Fund
(xxii)	Rhone-Poulenc Australia Pty Ltd	Rhone-Poulenc in Australia Occupational Superannuation Fund
(xxiii)	Rothmans of Pall Mall (Aust) Ltd.	Rothmans of Pall Mall (Aust) Limited Superannuation Fund
(xxiv)	Rowntree Hoadley Ltd	Rowntree Hoadley Superannuation Fund
(xxv)	Australasian Conference Association Limited trading as Sanitarium Health Food Company	Australian Conference Association Superannuation Trust
(xxvi)	Sigma Company Limited - Tasmania	Sigma Company Superannuation Plan
(xxvii)	Spicers Paper Limited	Spicers Paper Superannuation Plan
(xxviii)	The Stanley Works Pty Ltd	Stanley Works Pty Ltd Employees' Superannuation Fund

(xxvix)	3M Australia Pty Ltd	3M Retirement Plan
(xxx)	Uncle Toby Company Pty. Ltd.	Aust. Food Superannuation Plan
(xxxix)	W D & H O Wills (Australia)	Australian Limited Retirement Fund
(xxxii)	Webster Limited	Webster Superannuation Fund
(xxxiii)	William Adams Pty Ltd	William Adams Employees Superannuation Fund & William Adams Staff Superannuation Fund"

**OPERATIVE DATE**

The foregoing variation shall come into effect from the beginning of the first full pay period commencing on or after 14 August 1995.

