

**TASMANIAN INDUSTRIAL COMMISSION**

**Industrial Relations Act 1984**

s.23 application for award or variation of award

**Minister administering the State Service Act 2000**

(T13782 of 2011)

**TASMANIAN STATE SERVICE NATIONAL TRAINING WAGE AWARD**

COMMISSIONER J P McALPINE

**Award variation – wage rates – operative date ffpp on or after 1/8/10 –  
consent order issued - award consolidated**

**ORDER BY CONSENT -**

**No. 1 of 2011  
(Consolidated)**

AMEND THE **TASMANIAN STATE SERVICE NATIONAL TRAINING WAGE AWARD** BY  
DELETING ALL CLAUSES CONTAINED THEREIN AND INSERTING IN LIEU THEREOF THE  
FOLLOWING; AND THE AWARD IS CONSOLIDATED:

## **1. TITLE**

This award shall be known as the "Tasmanian State Service National Training Wage Award".

## **2. SCOPE**

- (a) This award is established to apply to persons employed under the provisions of the *State Service Act 2000*, who occupy a position in an approved traineeship scheme.
- (b) This award is not to apply to employees who were employed prior to the date of approval of a traineeship scheme relevant to the employer, except where agreed between the parties to a traineeship scheme.
- (c) This award does not apply to apprenticeships.

## **3. INDEX**

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## **4. DATE OF OPERATION**

This award will come into operation from the first full pay period commencing on or after 1 August 2010.

## **5. AWARD INTEREST**

- (a) The following employee organisations are deemed to have an interest in this award pursuant to Section 63(10) of the *Industrial Relations Act 1984*:

- (i) The Australian Workers' Union (Tasmania Branch);
  - (ii) The Community and Public Sector Union (State Public Services Federation Tasmania) Inc;
  - (iii) The Health Services Union of Australia (Tasmania No. 1 Branch).
- (b) The employer deemed to be an employer organisation having an interest in this award pursuant to Section 62(4) of the *Industrial Relations Act 1984*:  
The Minister administering the State Service Act 2000.

## **6. SUPERSESSION**

This award supersedes the Tasmanian State Service National Training Wage Award, No. 1 of 2009 (Consolidated).

## **7. DEFINITIONS**

**'Approved training'** means training undertaken (both on or off the job) in a traineeship involving formal instruction, both theoretical and practical, and supervised practice in accordance with a traineeship scheme approved by the Tasmanian State Training Authority (the Authority).

For the purpose of this definition, the training will be accredited by and lead to qualifications being issued under the Australian Qualifications Framework (AQF) Level I, II, III or IV.

**'Certificate'** means a qualification or part qualification endorsed under the AQF.

**'Employer'** means the Minister administering the *State Service Act 2000*.

**'Parties to a traineeship scheme'** means the employer and the relevant union involved in the consultation and negotiation required for the approval of a traineeship scheme.

**'Relevant award'** means an award that applies to a trainee, or that which would have applied, but for the operation of this award. A list of relevant awards for the purposes of this award are contained in Schedule A

**'Relevant union(s)'** means a union party to this award and which is entitled to enrol the trainee as a member.

**'School based trainee'** means a trainee who is a student who is undertaking at least 600 hours per year of TCE study and off-the-job training under a school-based traineeship.

**'Trainee'** means a person employed under the provisions of the *State Service Act 2000* and who is bound by a Traineeship Agreement made in accordance with this award.

**'Traineeship'** means a system of training approved as such by the Authority and includes full-time and part-time traineeships including school-based traineeships.

**'Traineeship Agreement'** means an agreement made between the employer and the trainee for a traineeship and which is registered with the Authority.

For the purpose of this definition, a Traineeship Agreement is to be made in accordance with the traineeship scheme and is not to operate unless this condition is met.

**'Traineeship scheme'** means an approved traineeship applicable to a group or class of employees employed under the *State Service Act 2000*.

For the purpose of this definition, a traineeship scheme is not to be given approval unless consultation and negotiation with the relevant union upon the terms of the proposed traineeship scheme and the traineeship has occurred. Further, an application for approval of a traineeship scheme is to identify the relevant union and demonstrate to the satisfaction of the Authority that the above-mentioned consultation and negotiation has occurred. Furthermore, a traineeship scheme is to include a standard format to be used for a Traineeship Agreement.

**'Year 10'** means, for the purposes of this award, any person leaving school before completing year 10 will be deemed to have completed year 10.

**8. PART-TIME TRAINEESHIPS**

This clause shall apply to trainees who undertake a traineeship on a part-time basis by working less than full-time ordinary hours and by undertaking the approved training at the same or lesser training time than a full-time trainee.

- (a) The wage rate shall be pro-rata the full-time rate based on variation in the amount of training and/or the amount of work over the period of the traineeship that may also be varied on the basis of the following formula.

$$\text{Full-time wage rate} \times \frac{\text{trainee hours} - \text{average weekly training time}}{30.4}$$

*\*Note:* 30.4 in the above formula represents 38 ordinary full-time hours less the average training time for full-time trainees (i.e. 20%). A pro-rata adjustment will need to be made in the case where any relevant award specifies different ordinary full-time hours; for example where the ordinary weekly hours are 40, 30.4 will be replaced by 32.

- (b) **'Full-time wage rate'** means the appropriate rate as set out in Clause 12(a)(iv).
- (c) **'Trainee hours'** shall be the hours worked per week including the time spent in approved training.
- (d) **'Average weekly training time'** is based upon the length of the traineeship specified in the Traineeship Agreement as follows:

$$\frac{7.6 \times 12}{\text{length of the traineeship in months}}$$

*\*Note 1* 7.6 in the above formula represents the average weekly training time for a full-time trainee whose ordinary hours are 38 per week. A pro-rata adjustment will need to be made in the case where the relevant award specifies different ordinary time hours. For example, where the ordinary weekly hours are 40, 7.6 will be replaced by 8.

*\*Note 2* The parties note that the Traineeship Agreement will require a trainee to be employed for sufficient hours to complete all requirements of the traineeship, including the 'on the job' work experience and demonstration of competencies. The parties also note that this would normally result in the equivalent of a full day's 'on the job' work per week.

- (e) A part-time trainee shall receive, on a pro-rata basis, all employment conditions applicable to a full-time trainee. All the provisions of this award shall apply to part-time trainees except as specified in this clause.
- (f) A part-time trainee may, by agreement, transfer from a part-time to a full-time traineeship position should one become available.
- (g) Any minimum engagement periods specified in a relevant award shall also be applicable to a part-time trainee.

## **9. SCHOOL BASED TRAINEESHIPS**

This clause shall apply to students who undertake a school-based traineeship.

- (a) No submission for approval of a school-based traineeship shall be made to the Tasmanian Training Agreements Committee (TTAC) without the agreement of the "parties to a traineeship scheme" as defined in Clause 7 - Definitions.
- (b) There will be no displacement of existing permanent, fixed-term or casual employees or the contraction of employment hours of any existing employees as a result of the engagement of a school based trainee.

- (c) The minimum number of hours per school based trainee of off-the-job training and Tasmanian Certificate of Education (TCE) study shall be 600 per year. The maximum number of hours for which a school-based trainee may be employed, per training course, is **900** hours annually. This is based on a maximum of 15 hours per week during school term and 25 hours per week during school holidays.

By mutual agreement a trainee may work up to 38 hours in any week during school holiday periods.

**PROVIDED** that the average weekly hours in any one school holiday period is not more than 25 hours.

- (d) The employer is to ensure that the trainee's hours of employment are such that they allow the trainee to fulfil commitment to their TCE study.
- (e) A school-based trainee will receive wages as determined under Clause 12 - Wage Rates, subclause (c) – School Based Traineeship Wages, together with all other provisions that apply to part-time trainees under Clause 8 – Part-Time Traineeships.
- (f) The employer shall provide a level of supervision consistent with the obligations of the Training Agreement during the traineeship period.
- (g) A Trainee will only undertake duties and functions that are consistent with the traineeship being undertaken.
- (h) No trainee can be required to work more than 10 hours in a shift.
- (i) A school-based trainee shall not perform shiftwork unless it is consistent with the shiftwork provisions in the relevant award and consistent with the Traineeship Agreement.
- (j) No trainee can be required to work on a Public Holiday.
- (k) A trainee undertaking a school based traineeship may, with the agreement of the trainee, be paid an additional loading 20 per cent on all ordinary hours in lieu of annual leave, sick leave, personal leave and public holidays notwithstanding this, where a trainee is called upon to work on a public holiday the provisions of the relevant award shall apply.

- (l) Unpaid Leave

The trainee shall be entitled to four calendar weeks of unpaid leave per year.

- (m) Overtime

A school-based trainee shall not normally be permitted to work overtime. Overtime is work performed outside the maximum hours specified in subclause (d) of this clause.

**PROVIDED** that overtime may be worked where it is directly associated with the achievement of competencies under the Traineeship Agreement.

Where overtime is worked in these circumstances, the school based trainee rate specified in Clause 12 – Wage Rates, sub clause (c) shall not apply for the purposes of calculating the overtime payment as specified in the relevant award. The rate to be used for the purpose of calculating overtime shall be the appropriate rate of pay specified in the relevant award as if the school based trainee were an employee of the employer.

- (n) All other terms and conditions of the relevant award that are applicable to the trainee or would be applicable to the trainee but for this award shall apply unless specifically varied by this award.
- (o) TTAC are to be notified of the conditions that are to apply to school based traineeships within the State Service as indicated in this clause and outlined in the application for approval of a traineeship.
- (p) No school-based traineeship will be introduced to training packages or courses without the approval of the relevant union/s.

## **10. TRAINING CONDITIONS**

- (a) Training conditions outlined in this award are to assist in the establishment of a system of traineeships within the State Service, which provides approved training in conjunction with employment in order to enhance the skill levels and future employment prospects of trainees, particularly young people and the long-term unemployed. The system is neither designed nor intended for those who are already trained and job ready.
- (b) Trainees will not displace existing employees from employment. Nothing in this award is to be taken to replace the prescription of training requirements in the relevant award and the *State Service Act 2000* and Regulations made thereto.
- (c) The trainee is to attend an approved training course or training program prescribed in the Traineeship Agreement or as notified to the trainee by the Authority.
- (d) The employer is to ensure that the trainee is permitted to attend the training course or program provided for in the Traineeship Agreement and is to ensure that the trainee receives the appropriate 'on the job' training.
- (e) The employer is to provide a level of supervision in accordance with the Traineeship Agreement during the traineeship period.
- (f) The overall training program will be monitored by officers of Skills Tasmania and that training records or workbooks may be utilised as part of this monitoring process.

- (g) Each traineeship scheme to be carried out under the terms of this award is to have been submitted to the relevant union in accordance with the requirements of this award.
- (h) This award does not apply to the apprenticeship system or any other training programme that applies to the same occupation and achieves essentially the same training outcome as an existing apprenticeship in an award.

## **11. EMPLOYMENT CONDITIONS**

- (a) Subject to the following proviso, a full-time trainee shall be engaged for a maximum of one year's duration, except in respect of AQF III and AQF IV traineeships that may extend up to two years full time.

**PROVIDED** that the trainee shall be subject to a satisfactory probation period of up to one month on initial appointment, which may be reduced at the discretion of the employer.

By agreement in writing, and with the consent of the Authority, the employer and the trainee may vary the duration of the traineeship and the extent of approved training.

**PROVIDED** that any agreement to vary is in accordance with the relevant traineeship scheme.

A part-time trainee shall be engaged in accordance with the provisions of Clause 8 - Part-Time Traineeships.

- (b) Where the trainee completes the qualification, in the Traineeship Agreement, earlier than the time specified in the Traineeship Agreement then the traineeship may be concluded by mutual agreement.
- (c) The employer is not to terminate the employment of a trainee without firstly having provided written notice of termination to the trainee concerned in accordance with the Traineeship Agreement and subsequently within 5 working days to Authority.
- (d) Where the employer chooses not to continue the employment of a trainee upon the completion of the traineeship, the employer is to notify the Authority, in writing, of that decision.
- (e) The trainee is to be permitted to be absent from work without loss of continuity of employment and/or wages to attend the training in accordance with the Traineeship Agreement.
- (f) Where the employment of a trainee by the employer is continued after the completion of the traineeship period, such traineeship period is to be counted as service for the purposes of any relevant award.

- (g) (i) The Traineeship Agreement may restrict the circumstances under which the trainee may work overtime and shiftwork in order to ensure the training program is successfully completed.
  - (ii) No trainee is to work overtime or shiftwork on their own.
  - (iii) No trainee is to work shiftwork unless the parties to a traineeship scheme agree that such shiftwork makes satisfactory provision for approved training. Such training may be applied over a cycle in excess of a week, but must average over the relevant period no less than the amount of training required for non-shiftwork trainees.
  - (iv) The trainee wage is to be the basis for the calculation of overtime and/or shift penalty rates prescribed by the relevant award, unless otherwise agreed by the parties to a traineeship scheme.
- (h) All other terms and conditions of the relevant award that are applicable to the trainee or would be applicable to the trainee but for this award are to apply unless specifically varied by this award.
  - (i) A trainee who fails to either complete the traineeship or who cannot for any reason be placed in full-time employment on successful completion of the traineeship is not to be entitled to any severance payments payable pursuant to termination, change and redundancy provisions or provisions similar thereto.

## **12. WAGES**

- (a) General wages
  - (i) A person employed as a trainee in a trainee position is to be paid the weekly wages payable to trainees as relevantly provided in subclauses 12(a)(iv), 12(a)(v), 12(b)(i), 12(b)(ii), or 12(c) of this clause, all such wages being derived from a 38 hour week.
  - (ii) These wage rates will only apply to trainees while they are undertaking an approved traineeship, which includes approved training.
  - (iii) The wage rates prescribed by this clause do not apply to complete trade level training that is covered by the apprenticeship system.

(iv)

	<b>Highest Year of Schooling Completed</b>		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	\$	\$	\$
<b>School Leaver</b>	256.00	282.00	336.00
plus 1 year out of school	282.00	336.00	391.00
plus 2 years	336.00	391.00	455.00
plus 3 years	391.00	455.00	521.00
plus 4 years	455.00	521.00	
plus 5 years or more	521.00		

\* *Figures in brackets indicate the average proportion of time spent in approved training to which the associated wage rate is applicable. Where not specifically indicated, the average proportion of time spent in structured training which has been taken into account in setting the rate is 20 per cent.*

(v) The following table set out the hourly rates of pay where the training is either fully off-the-job or where 20 % of time is spent in approved training.

	<b>Highest Year of Schooling Completed</b>		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	\$per hour	\$ per hour	\$ per hour
<b>School Leaver</b>	8.42	9.28	11.05
plus 1 year out of school	9.28	11.05	12.86
plus 2 years	11.05	12.86	14.97
plus 3 years	12.86	14.97	17.14
plus 4 years	14.97	17.14	
plus 5 years or more	17.14		

(vi) For the purposes of subclause (a)(iv) and (a)(v) of this clause, "out of school" is to refer only to periods out of school beyond Year 10 and is to be deemed to:

- (1) include any period of schooling beyond Year 10, which was not part of nor contributed to a completed year of schooling;
- (2) include any period during which a trainee repeats in whole or part a year of schooling beyond Year 10; and
- (3) not include any period during a calendar year in which a year of schooling is completed.
- (4) have effect on an anniversary date being 1 January in each year.

(b) Wages Rates for Certificate IV Traineeship

- (i) Trainees undertaking an AQF IV traineeship shall receive the relevant weekly wage rate for AQF III trainees at the wage level prescribed at subclause 12(a)(iv) of this clause, with the addition of 3.8 per cent of that wage.
- (ii) An adult trainee who is undertaking a traineeship for an AQF IV qualification shall receive the following weekly wage as applicable based on the allocation of AQF III qualifications:

<b>First Year of Traineeship</b>	<b>Second Year of Traineeship</b>
<b>\$</b>	<b>\$</b>
541.00	562.00

- (iii) Where a traineeship is converted from a Certificate II to a Certificate III traineeship or from a Certificate III to a Certificate IV traineeship, the employee shall move to the next higher award rate provided in this award, if a higher award rate is provided for in this award.

(c) School Based Traineeship Wages

Table 1: School based traineeships (\$ weekly)

<b>Year of Schooling</b>		
	<b>Year 11</b>	<b>Year 12</b>
	<b>\$</b>	<b>\$</b>
School based trainee	252.60	278.40

Table 2: School based traineeships (\$ per hour)

<b>Year of Schooling</b>		
	<b>Year 11</b>	<b>Year 12</b>
	<b>\$</b>	<b>\$</b>
School based trainee	8.42	9.28
20% Loading [see 12(a)(v)]	10.10	11.13

In the event that the normal full time weekly hours are not 38 the appropriate weekly rate shall be obtained by multiplying the hourly rate in the table by the normal full time hours.

James P McAlpine  
**COMMISSIONER**

22 June 2011

## SCHEDULE A

### Relevant Awards for the Purpose of this Award

Where an Award is rescinded and/or replaced, the replacement award will apply to this award as a relevant award.

<b>AWARD IDENTIFIER</b>	<b>DESCRIPTION</b>
S082	Dental Employees
S085	Tasmanian State Service 2008
S095	Inland Fisheries Commission
S110	Police Departmental Employees
S112	Custodial Officers
S121	Sea Fisheries
S143	Tasmanian Museum and Art Gallery
S148	Miscellaneous Workers (Public Sector)
S177	Health and Human Services (Tasmanian Public Sector)
S195	AWU (Tasmanian State Sector)