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TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984
s.23 application for award or variation of award

**The AWU-FIME Amalgamated Union
Tasmania Branch**
(T.5039 of 1994)

PLANT NURSERIES AWARD

COMMISSIONER R K GOZZI

HOBART, 7 June 1994

Award variation - insertion of provisions for Career Start Traineeships

ORDER BY CONSENT -

No. 3 of 1994

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

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1. Delete from Clause 3 - Arrangements, Clause 30 Trainee - Nursery Assistant and insert in lieu thereof the following:

"Traineeships 30 48"

2. Delete clause 7 - Definitions and insert in lieu thereof the following:

"7. DEFINITIONS

'Career Start Trainee' means an employee who is employed under the terms of the Career Start Traineeship System and any agreement attached thereto and who undertakes structured on-the-job training (as defined) and structured off-the-job training (as defined) in accordance with a training agreement (as defined).

'Career Start Traineeship' means a system of training with an employer covered by Clause 2 - Scope of this award comprising structured on-the-job training (as defined) in a Technical and Further Education College, or other training provider(s) approved by the Training Authority of Tasmania in accordance with a training agreement (as defined).

'Casual Employee' means a person who is engaged on an irregular basis to perform a specific task(s) over a defined time period.

At the completion of such period and or task(s) the contract of employment shall be deemed to be terminated.

'Floriculturist' means an employer whose business involves the growing of flowers through to bloom for the retail and/or wholesale market.

'Full-time Employee' means any person who is engaged on an ongoing full-time basis on one of the work cycles described in Clause 19 - Hours and Days of Work, subclause (a).

'Nursery Assistant Level 1' -

(% Wage Relativity to Nursery Assistant Level 4 (as defined) after Minimum Rates Adjustment 80%)

Nursery Assistant Level 1 means a person with less than 4 months experience (at the time of or prior to the making of this award) in the industry as specified in Clause 2 - Scope of this award who is capable of performing, under constant supervision some or all of the following:

- General labouring
- General cleaning
- Preparation of media
- Operating equipment (media mixer, small tractor)
- Assisting in loading and unloading of stock
- Potting and laying out of beds after potting

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- Labelling
- Price marking
- Putting stock away
- Filling shelves or beds
- Limited plant maintenance including weeding, watering, thinning and transplanting.

Progression to Nursery Assistant Level 2 (as defined) will be automatic following four months experience in the industry as specified in Clause 2 - Scope of this award, prior to or following the making of this award.

'Nursery Assistant Level 2'

(% Wage relativity to Nursery Assistant Level 4 (as defined) after minimum rate adjustment - 84%)

Nursery Assistant Level 2 means a person with more than four months experience in the industry (at the time of or prior to the making of this award) as specified in Clause 2 - Scope of this award who is capable of performing, under limited supervision some or all of the functions of a Nursery Assistant Level 1 (as defined) and in addition may be required to perform some or all of the following:

- Small fork lift
- 34 - 50 H.P. tractors
- Potting machines
- Front end loader - up to 1M
- Spray equipment (motorised, tractor mounted or by hand)
- Deliveries (irregular)
- Brush cutters, mowers (hand held, ride on)
- Limited plant identification
- Basic sales and associated clerical duties
- Plant life maintenance including feeding
- Preparation of media for the growing of plants
- Spraying and or drenching
- Labelling
- Preparation of orders
- Plant life maintenance
- Assist in propagation

Progression to Plant Nursery Assistant Level 3 (as defined) will be by appointment or when an employee is capable of performing efficiently some or all of the tasks as prescribed for a Nursery Assistant Level 3 (as defined).

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'Nursery Assistant' Level 3'

(% Wage relativity to Nursery Assistant Level 4 (as defined) after minimum rate adjustment - 92%)

Nursery Assistant Level 3 means a person with at least 12 months experience in the industry as specified in Clause 2 - Scope of this award who is capable of performing efficiently with minimal supervision any of the tasks reasonably required of him/her, which may include some or all of the following:

- Propagator (as defined)
- Deliveries
- Handle customer queries
- Wholesale sales
- Limited supervision of other employees
- Assist with training of Nursery Assistant Level 1 (as defined) and/or Nursery Assistant Level 2 (as defined)

'Nursery Assistant Level 4'

(% Wage relativity after minimum rate adjustment - 100%)

Nursery Assistant Level 4 means a person who has successfully completed a recognised apprenticeship in a relevant trade. This shall not restrict the employer from classifying an employee at Level 4 if that employee has achieved a certain standard of knowledge and/or competence in the industry as specified in Clause 2 - Scope of this award; or

An employee who, in addition to performing some or all of the functions of Nursery Assistant Level 3 (as defined), accepts responsibility for supervision of employees and in addition is capable of performing some or all of the following functions:

- Advise of remedial treatment of diseases and pests in plants
- Training of Nursery Assistant Level 1 (as defined) and/or Nursery Assistant Level 2 (as defined) and or Nursery Assistant Level 3 (as defined).

'Nursery Assistant Level 5'

(% Wage relativity to Nursery Assistant Level 4 (as defined) after minimum rate adjustment - 108%)

Nursery Assistant Level 5 means an employee who, in addition to performing some or all of the functions of Nursery Assistant Level 3 (as defined) and/or Nursery Assistant Level 4 (as defined), accepts responsibility for acting in charge and in addition is capable of performing some or all of the following functions:

- Supervision of employees
- Training of Nursery Assistant Level 1 (as defined) and/or Nursery Assistant Level 2 (as defined) and/or Nursery Assistant Level 3 (as defined)
- Sales and marketing

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- Ordering of stock
- Quality control
- Engagement and termination of employees

'Part-time employee' means a person engaged to regularly work for less hours per day or per week than those hours prescribed in Clause 19 - Hours and Days of Work for a full-time employee (as defined).

'Plant Nursery' means where the principle business of the employer includes the preparation of growing media for the growing of plant material, the growing of plant material, presentation of plant material for sale, selling of plant material (which may include the selling of garden and or household accessories).

'Propagator' means a person who is capable of identifying when a plant is ready for propagation and, if required by his/her employer, is capable of performing propagation work or treatment of plant material and/or is capable of directing other employees to perform propagation work and/or treatment of plant material.

'Show Day' means not more than one local show day observed on an employee's ordinary working day, other than a Saturday or a Sunday, in the city, town or district in which the employee is employed; or such other day which, in the absence of such a local Show Day, is agreed on by the employee and the employer, making a total of up to 11 paid holidays per year.

'Structured On-the-Job Training' means formal instruction and supervised practise directly related to that instruction and approved by the Training Authority of Tasmania as part of a training agreement (as defined).

'Structured Off-the-Job Training' means formal instruction which is provided by a Technical and Further Education College or other training provider(s) and approved by the Training Authority of Tasmania as part of a training agreement (as defined).

'Trainee(s)' means a person(s) meeting the eligibility criteria laid down for the purpose of the Australian Traineeship System (ATS) and who are bound by a Training Agreement.

'Traineeships' means a system of training under the Australian Traineeship System (ATS) or Career Start Traineeship System (CST) comprising structured on-the-job training (as defined) with an employer and structured off-the-job training (as defined) in a Technical and Further Education College or other training provider(s) approved by the Training Authority of Tasmania.

'Training Agreement' means an agreement under the provisions of the Industrial and Commercial Training Act 1985. For the purposes of this definition a training agreement shall be a contract for training and not a contract of employment.

'Union' means a registered organisation of employees listed in Clause 6 - Parties and Persons Bound of this award."

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3. Delete Clause 30 - Trainee - Nursery Assistant and insert in lieu thereof the following:

"30. TRAINEESHIPS

(a) Australian Traineeship System (ATS)

- (i) A trainee (as defined) shall attend an approved on and off-the-job training course or programme prescribed in the relevant training agreement (as defined) or as notified to the trainee by the Training Authority of Tasmania.
- (ii) Trainees (as defined) may be engaged by employers registered with the Training Authority of Tasmania. The employer shall ensure that the trainee (as defined) is permitted to attend the prescribed off-the-job training course and is provided with on-the-job training approved by the Training Authority of Tasmania.
- (iii) The employer shall provide a level of supervision in accordance with the approved training plan during the traineeship period.
- (iv) The employer agrees that the implementation of the training plan will be monitored by officers of the Training Authority of Tasmania and that training records or work books may be utilised as part of this monitoring process.
- (v) All other terms and conditions of this award shall apply unless specifically varied by this clause.
- (vi) The trainee (as defined) shall be engaged for a period of twelve months as a full-time employee.

PROVIDED that the trainee (as defined) shall be subject to a satisfactory probation period of up to one month.

- (vii) The trainee (as defined) is permitted to be absent from work without loss of continuity of employment to attend the off-the-job training in accordance with the Training Agreement (as defined).
- (viii) It is acknowledged that service as a trainee (as defined) is to be counted as service for all purposes of determining long service leave entitlements provided it is continuous with further service. However, it is agreed that service as a trainee (as defined) shall also be counted if the trainee is appointed to a position by the employer within three months of the termination of the traineeship.
- (ix) Under normal circumstances overtime and shift work shall not be undertaken by trainees (as defined).

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If during the traineeship period it is necessary because of the nature of the work and training experience then such shift/overtime work may be worked by the trainees (as defined).

Where overtime or shift work is undertaken by the trainee (as defined) the appropriate award conditions shall apply based on the rate for the trainee classification.

- (x) As the Australian Traineeship System is a system of vocational training providing work based training, focusing on developing practical competence, trainees (as defined) shall be exempt from action with respect to industrial disputes.
- (xi) Wherever possible traineeship positions shall be additional to existing staff numbers. Existing full-time employees shall not be displaced from employment by the trainee as defined).
- (xii) The union (as defined) shall be afforded reasonable access to the trainees (as defined) for the purpose of explaining the role and function of the union (as defined).
- (xiii) This clause represents a compromise on the part of all parties and will not be used as a precedent in proceedings before industrial tribunals.
- (xiv) The weekly wages payable to trainees (as defined) shall be determined by multiplying the appropriate junior rate as specified in Clause 8 - Wage Rates, subclause 3 - Junior Employees of this award by 39 (which represents the actual time spent on the job) and dividing that sum by 52.

The wage rates determined by this calculation shall in no case be less than the minimum rate prescribed by the Australian Traineeship System Guidelines. This figure is adjusted in accordance with National Wage Decisions.

(b) Career Start Traineeship System (CST)

- (i) A Career Start Trainee (as defined) shall be engaged as a full-time employee, for a Career Start Traineeship (as defined) of a minimum period of one year.
PROVIDED that the Career Start Trainee (as defined) shall be subject to a satisfactory probation period of up to one month.
- (ii) A Career Start Trainee(as defined) shall spend the amount of time in structured on-the-job training (as defined) and structured off-the-job training (as defined) as specified in the registered training agreement (as defined).
- (iii) The Career Start Trainee (as defined) is permitted to be absent from work without loss of continuity of employment to attend the structured off-the-job training (as defined) in accordance with the Training Agreement (as defined).

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- (iv) Where the employment of a Career Start Trainee (as defined) is continued by an employer after the completion of the traineeship period, such traineeship period shall be counted as service for the purposes of the award and entitlements.
- (v) The registered training agreement (as defined) may restrict the circumstances under which the Career Start Trainee (as defined) may work overtime in order to ensure the training programme is successfully completed. When overtime is worked the relevant penalties and allowances of the award based on the trainee wage will apply. No Career Start Trainee (as defined) shall work without adequate supervision.
- (vi) Unless otherwise specifically stated all other terms and conditions of this award shall apply to a Career Start Trainee (as defined).
- (vii) The union (as defined) shall be afforded reasonable access to Career Start Trainee(s) (as defined) for the purpose of explaining the role and functions of the union (as defined).
- (viii) The weekly wages payable to a Career Start Trainee (as defined) shall be calculated by taking the appropriate classification rate prescribed in Clause 8 - Wage Rates of this award that would otherwise have been applicable to the employee had that employee not been a Career Start Trainee (as defined) and multiplying that weekly rate by the number of weeks spent on-the-job as specified in the registered training agreement (as defined) and dividing that amount by the number of weeks duration of the contract for training as specified in the registered training agreement (as defined)."

OPERATIVE DATE

This order shall commence operation from the first full pay period on or after 12 May 1994.

R K Gozzi
COMMISSIONER

7 June 1994