

IN THE TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

**T.1921, T.1924, T.1966
and T.1967 of 1989**

**IN THE MATTER OF APPLICATIONS BY THE
THE FEDERATED CLERKS' UNION OF
AUSTRALIA, TASMANIAN BRANCH; THE
NATIONAL UNION OF STOREWORKERS,
PACKERS, RUBBER AND ALLIED WORKERS,
TASMANIAN BRANCH; THE UNITED SALES
REPRESENTATIVES AND COMMERCIAL
TRAVELLERS' GUILD OF AUSTRALIA,
TASMANIAN BRANCH; AND THE SHOP
DISTRIBUTIVE AND ALLIED EMPLOYEES'
ASSOCIATION, TASMANIAN BRANCH
RESPECTIVELY, TO VARY THE **WHOLESALE
TRADES AWARD****

RE: 3% SUPERANNUATION

ORDER BY CONSENT -

No. 4 of 1989

AMEND THE WHOLESALE TRADES AWARD IN THE FOLLOWING MANNER:

AMEND THE **WHOLESALE TRADES AWARD** IN THE FOLLOWING MANNER:

1. Insert the following new clause in Division A, as Clause 32:

"32. 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).

(b) Casual and Part-time Employees

In the case of eligible casual 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 sub-clause (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 may seek exemption from making contributions into either of the nominated approved funds in the following circumstances:-

(i) where employees subject to this 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 the fund subject to the exemption application is an approved fund which was established prior to 1 April, 1989 and Occupational Superannuation contributions equivalent to 3% of ordinary time earnings were being paid on behalf of all employees in the establishment covered by this award prior to 1 April, 1989 and have continued to be paid since that date; or

(iii) 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 7 August, 1989:-

(i) Pursuant to Section 29 of the Act make application to the Industrial Commission.

(ii) Such applications shall contain the following information:-

- (a) Name of Fund
- (b) Evidence of compliance with Commonwealth Operational Standards
- (c) Summary of Structure and Benefits
- (d) Level of Administration Charge
- (e) 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 (other than a legal practitioner) or by a registered employer organisation.

(v) An employer may choose to forego consideration of his application by the union(s) and have the matter determined in the first instance by the Commission.

(vi) An employer who commences a new business after 14 July 1989 may make application for exemption in accordance with sub-clause (e) of this Clause. 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 was a subsidiary of a business subject to this award as at 14 July 1989.

(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.

PROVIDED THAT, until further order, this clause shall not have application to classifications of employees set out in Subdivision 3 (Carters and Drivers) of Division A of Clause 8 of this award."

2. Renumber the following clauses to be:

- 33. Annual Leave
- 34. Expenses and Accommodation
- 35. General Conditions
- 36. Hours
- 37. Locomotion
- 38. Sick Leave
- 39. Special Allowances

3. Amend CLAUSE 3. ARRANGEMENT, by inserting the word "Superannuation" alphabetically, together with relevant clause and page numbers, and as a consequence renumber the following clauses.

4. **DATE OF OPERATION**

The foregoing variation shall come into operation from 14 July 1989.

