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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)

BUTTER AND CHEESEMAKERS AWARD

COMMISSIONER R J WATLING

Wage rates - State Wage Case December 1993 - arbitrated safety net adjustment - application granted - ffpp 21 February 1994

ORDER No. 4 of 1994

AMEND THE **BUTTER AND CHEESEMAKERS AWARD** IN THE FOLLOWING MANNER:

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1. Delete from Clause 3 - ARRANGEMENT - the words "Traineeship - Dairy Processing", and rename Clause 36 by inserting in lieu thereof the word "Traineeships".

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).

'Clerk' includes bookkeepers, timekeepers, cashiers, typists and/or stenographers, calculating and/or accounting machine operators.

'Leading hand' means any adult employee appointed as a leading hand by an employer, who while working under direction of the management, gives instructions to or is responsible for the work of other employees.

'Maker's capacity' shall mean the capacity attributed to the vehicle by the seller or maker thereof except in cases where on any day the maximum weight of any load exceeds such capacity by one-third or more thereof, in which cases such maximum load shall, for the purposes of assessing the wages to be paid for that day, be deemed to be the Maker's capacity.

'Shift worker' shall mean an employee who is rostered to work continuous periods on shifts outside of the hours prescribed in Clause 18 - Implementation of 38-Hour Week, subclause (a) of this award or, whose hours of work alternate from one shift to another.

'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, therefore making a total of 11 paid public holidays per year.

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

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'Structured Off-the-Job Training' means formal instruction which is provided by a Technical 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 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 for training 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.

'Trainee Clerk' means a person employed by the employer under the terms of the Australian Traineeship System and any agreements attached thereto.

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

3. Delete Clause 36 - TRAINEESHIP (as defined) - DAIRY PROCESSING - and insert in lieu thereof the following:

"36. 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.

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- (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).

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 fulltime 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.

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- (xiv) The weekly wages payable to trainees (as defined) shall be determined by multiplying the appropriate wage rate specified in Clause 8 - Wage Rates, Division A, subclause 2 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).
- (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)

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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

The foregoing variations shall have effect from the first full pay period to commence on or after 12 May 1994.

F.D. Westwood
PRESIDENT

17 June 1994