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TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

s.23 application for award or variation of award

Health Services Union of Australia, Tasmania No 1 Branch
(T10613 of 2002)

Award variation - wage rates - minimum wage - insert new minimum wage clause - phasing-in over 18-month period - annual leave loading - State Wage Case July 2002 (T10230 of 2002) - insert new supported wage clause - consent matter - application granted - award varied - operative dates ffpp 18 December 2002, 18 June 2003, 18 December 2003 and 18 June 2004

MEDICAL PRACTITIONERS (PRIVATE SECTOR) AWARD

ORDER BY CONSENT -

No. 1 of 2003

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AMEND THE **MEDICAL PRACTITIONERS (PRIVATE SECTOR) AWARD** IN THE FOLLOWING MANNER:

1. By deleting Clause 8 - Wage Rates, and inserting in lieu thereof the following:

"8. WAGE RATES

1. WAGES

Employees of a classification mentioned herein shall be paid a weekly wage rate not less than the amount assigned to that classification.

SUBDIVISION A - REGISTERED NURSING STAFF

	Base Rate	Safety Net Adjustment	Weekly Wage Rate (40 hours) \$
	\$	\$	\$
(i) Registered Nurse			
1st year of service	384.20	106.00	490.20
2nd year of service	397.10	106.00	503.10
3rd year of service	402.10	106.00	508.10
4th year of service	413.90	106.00	519.90
5th year of service and thereafter	426.60	108.00	534.60
(ii) Registered Auxiliary Nurse			
One Year Trained -			
1st and 2nd year of service	361.40	106.00	467.40
3rd year of service and thereafter	367.30	106.00	473.30
Two Year Trained -			
1st and 2nd year of service	367.30	106.00	473.30
3rd year of service and thereafter	373.80	106.00	479.80

SUBDIVISION B - ANCILLARY AND CLERICAL STAFF

(a) Operative from the first full pay period commencing on or after 18 December 2002:

	Base Rate	Safety Net Adjustment	Weekly Wage Rate (40 hours)
	\$	\$	\$
(i) Surgery Attendant			
1st year of service	316.00	106.00	422.00
2nd year of service	330.30	106.00	436.30
3rd year of service	353.80	106.00	459.80
4th year of service	371.10	106.00	477.10
5th year of service and thereafter	392.40	106.00	498.40
(ii) Secretary			
1st year of service	353.80	106.00	459.80
2nd year of service	371.10	106.00	477.10
3rd year of service and thereafter	392.40	106.00	498.40
(iii) Cleaners	328.00	106.00	434.00
(iv) Clerk			
1st year's adult experience	296.40	106.00	402.40
2nd year's adult experience	316.40	106.00	422.40
3rd year's adult experience and thereafter	344.80	106.00	450.80
	Base Rate	Safety Net Adjustment	Weekly Wage Rate (37.5 hours)
	\$	\$	\$
(v) Radiographer			
1st year of service	423.90	108.00	531.90
2nd year of service	439.20	108.00	547.20
3rd year of service	455.60	108.00	563.60
4th year of service	472.10	106.00	578.10
5th year of service and thereafter	488.70	106.00	594.70
(vi) Medical Scientist			
1st year of service	432.80	108.00	540.80
2nd year of service	443.30	108.00	551.30
3rd year of service	459.70	108.00	567.70
4th year of service	486.00	106.00	592.00
5th year of service	515.30	106.00	621.30
6th year of service	550.90	106.00	656.90
7th year of service	586.70	106.00	692.70
8th year of service	611.90	106.00	717.90

	632.30	106.00	738.30
	Base Rate	Safety Net Adjustment	Weekly Wage Rate (40 hours)
	\$	\$	\$
9th year of service and thereafter			
(vii) Technical Assistant - Laboratory			
1st year of service	359.20	106.00	465.20
2nd year of service	362.60	106.00	468.60
3rd year of service	366.00	106.00	472.00
4th year of service and thereafter	368.80	106.00	474.80
(viii) Senior Technical Assistant - Laboratory			
1st year of service	373.80	106.00	479.80
2nd year of service	387.60	106.00	493.60
3rd year of service	396.50	106.00	502.50
4th year of service and thereafter	405.30	106.00	511.30
(ix) Clerk/Driver	344.90	106.00	450.90

PROVIDED that when determining the amount payable to an employee attaining the age of 21 years, who has been employed as a junior clerk in the trades or groups of trades in which awards of the Tasmanian Industrial Commission relating to private industry employees are established, experience obtained after reaching the age of 18 years shall be counted as adult experience.

(b) Operative from the first full pay period commencing on or after 18 June 2003:

	Base Rate	Safety Net Adjustment	Weekly Wage Rate (40 hours)
	\$	\$	\$
(i) Surgery Attendant			
1st year of service	330.30	106.00	436.30
2nd year of service	353.80	106.00	459.80
3rd year of service	371.10	106.00	477.10
4th year of service and thereafter	392.40	106.00	498.40
(ii) Secretary			
1st year of service	353.80	106.00	459.80
2nd year of service	371.10	106.00	477.10
3rd year of service and thereafter	392.40	106.00	498.40
(iii) Cleaners	328.00	106.00	434.00

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(iv) Clerk			
1st year's adult experience	306.40	106.00	412.40
2nd year's adult experience	316.40	106.00	422.40
3rd year's adult experience and thereafter	344.80	106.00	450.80
	Base Rate	Safety Net Adjustment	Weekly Wage Rate [37.5 hours]
	\$	\$	\$
(v) Radiographer			
1st year of service	423.90	108.00	531.90
2nd year of service	439.20	108.00	547.20
3rd year of service	455.60	108.00	563.60
4th year of service	472.10	106.00	578.10
5th year of service and thereafter	488.70	106.00	594.70
(vi) Medical Scientist			
1st year of service	432.80	108.00	540.80
2nd year of service	443.30	108.00	551.30
3rd year of service	459.70	108.00	567.70
4th year of service	486.00	106.00	592.00
5th year of service	515.30	106.00	621.30
6th year of service	550.90	106.00	656.90
7th year of service	586.70	106.00	692.70
8th year of service	611.90	106.00	717.90
9th year of service and thereafter	632.30	106.00	738.30
	Base Rate	Safety Net Adjustment	Weekly Wage Rate [40 hours]
	\$	\$	\$
(vii) Technical Assistant - Laboratory			
1st year of service	359.20	106.00	465.20
2nd year of service	362.60	106.00	468.60
3rd year of service	366.00	106.00	472.00
4th year of service and thereafter	368.80	106.00	474.80
(viii) Senior Technical Assistant - Laboratory			
1st year of service	373.80	106.00	479.80
2nd year of service	387.60	106.00	493.60
3rd year of service	396.50	106.00	502.50
4th year of service and thereafter	405.30	106.00	511.30
(ix) Clerk/Driver	344.90	106.00	450.90

PROVIDED that when determining the amount payable to an employee attaining the age of 21 years, who has been employed as a junior clerk in the trades or

groups of trades in which awards of the Tasmanian Industrial Commission relating to private industry employees are established, experience obtained after reaching the age of 18 years shall be counted as adult experience.

(c) Operative from the first full pay period commencing on or after 18 December 2003:

	Base Rate	Safety Net Adjustment	Weekly Wage Rate (40 hours)
	\$	\$	\$
(i) Surgery Attendant			
1st year of service	330.30	106.00	436.30
2nd year of service	353.80	106.00	459.80
3rd year of service	371.10	106.00	477.10
4th year of service and thereafter	392.40	106.00	498.40
(ii) Secretary			
1st year of service	353.80	106.00	459.80
2nd year of service	371.10	106.00	477.10
3rd year of service and thereafter	392.40	106.00	498.40
(iii) Cleaners	328.00	106.00	434.00
(iv) Clerk			
1st year's adult experience	316.40	106.00	422.40
2nd year's adult experience and thereafter	344.80	106.00	450.80
	Base Rate	Safety Net Adjustment	Weekly Wage Rate (37.5 hours)
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1st year of service	423.90	108.00	531.90
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2nd year of service	443.30	108.00	551.30
3rd year of service	459.70	108.00	567.70
4th year of service	486.00	106.00	592.00
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7th year of service	586.70	106.00	692.70
8th year of service	611.90	106.00	717.90

	632.30	106.00	738.30
	Base Rate	Safety Net Adjustment	Weekly Wage Rate (40 hours)
	\$	\$	\$
(vii) Technical Assistant - Laboratory			
1st year of service	359.20	106.00	465.20
2nd year of service	362.60	106.00	468.60
3rd year of service	366.00	106.00	472.00
4th year of service and thereafter	368.80	106.00	474.80
(viii) Senior Technical Assistant - Laboratory			
1st year of service	373.80	106.00	479.80
2nd year of service	387.60	106.00	493.60
3rd year of service	396.50	106.00	502.50
4th year of service and thereafter	405.30	106.00	511.30
(ix) Clerk/Driver	344.90	106.00	450.90

PROVIDED that when determining the amount payable to an employee attaining the age of 21 years, who has been employed as a junior clerk in the trades or groups of trades in which awards of the Tasmanian Industrial Commission relating to private industry employees are established, experience obtained after reaching the age of 18 years shall be counted as adult experience.

(d) Operative from the first full pay period commencing on or after 18 June 2004:

	Base Rate	Safety Net Adjustment	Weekly Wage Rate (40 hours)
	\$	\$	\$
(i) Surgery Attendant			
1st year of service	330.30	106.00	436.30
2nd year of service	353.80	106.00	459.80
3rd year of service	371.10	106.00	477.10
4th year of service and thereafter	392.40	106.00	498.40
(ii) Secretary			
1st year of service	353.80	106.00	459.80
2nd year of service	371.10	106.00	477.10
3rd year of service and thereafter	392.40	106.00	498.40
(iii) Cleaners	328.00	106.00	434.00

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(iv) Clerk			
1st year's adult experience	325.40	106.00	431.40
2nd year's adult experience and thereafter	344.80	106.00	450.80
	Base Rate	Safety Net Adjustment	Weekly Wage Rate [37.5 hours]
	\$	\$	\$
(v) Radiographer			
1st year of service	423.90	108.00	531.90
2nd year of service	439.20	108.00	547.20
3rd year of service	455.60	108.00	563.60
4th year of service	472.10	106.00	578.10
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(vi) Medical Scientist			
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	Base Rate	Safety Net Adjustment	Weekly Wage Rate [40 hours]
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4th year of service and thereafter	405.30	106.00	511.30
(ix) Clerk/Driver	344.90	106.00	450.90

PROVIDED that when determining the amount payable to an employee attaining the age of 21 years, who has been employed as a junior clerk in the trades or groups of trades in which awards of the Tasmanian Industrial Commission relating

to private industry employees are established, experience obtained after reaching the age of 18 years shall be counted as adult experience.

2. JUNIORS

The minimum weekly wage rate to be paid to junior employees shall be the undermentioned percentages of the weekly wage rate prescribed for a Surgery Attendant, 1st year of service, classification (i), Subdivision B - Ancillary and Clerical Staff of this clause:

	%
Under 17 years of age	50
17 years of age	60
18 years of age	70
19 years of age	80
20 years of age	90

PROVIDED that when determining the amount payable to an employee attaining the age of 21 years, who has been employed under this award as a junior, experience obtained after reaching the age of 18 years shall be counted as adult experience.

3. ALLOWANCES

- (a) Typing and/or Stenography - Any employee classified under items (i) and (ii), Subdivision A - Registered Nursing Staff or (iii) and (iv), Subdivision B - Ancillary and Clerical Staff of subclause 1 - Wages of this clause, who performs the duties of a typist, and who holds a certificate of proficiency from a registered business college, or who attains a standard of proficiency which will enable the employee to process medical reports and documents to the satisfaction of the employer shall be paid an additional amount of \$6.00 per week.

PROVIDED that an employee who, without aid, serves more than one part-time doctor, an additional amount of \$4.70 per week shall be paid, provided that an employee serving more than one full-time doctor shall be paid an additional amount of \$8.20 per week.

- (b) A registered nurse required to make use of additional certificates shall, whilst employed by a doctor practising in that field, be paid an additional amount of \$8.50 per week.
- (c) The payments prescribed in this clause shall be made in a manner so that they do not exceed the amount of \$20.80 per week in the aggregate.

4. SUPPORTED WAGE SYSTEM

(a) Eligibility Criteria

Subject to this subclause an employer may engage employees at a supported wage rate (as set out in paragraph (c) of this subclause) who meet the impairment criteria for receipt of a Disability Support Pension and who, because of their disability, are unable to perform the range of duties to the competence level normally required for the class of work for which they are engaged.

PROVIDED that this subclause does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers' compensation legislation or any provision of this award relating to the rehabilitation of employees who are injured in the course of their current employment.

PROVIDED FURTHER that this subclause does not apply to employers in respect of their facility, programme, undertaking, service or the like which receives funding under the *Disability Services Act 1986* and fulfils the dual role of service provider and sheltered employer to people with disabilities who are in receipt of or are eligible for a disability support pension, except with respect to an organisation which has received recognition under Section 10 or under Section 12A of the above Act, or if a part only has received recognition, that part.

(b) For the purposes of this subclause:

'Accredited Assessor' means a person accredited by the management unit established by the Commonwealth under the Supported Wage System to perform assessments of an individual's productive capacity within the Supported Wage System.

'Assessment instrument' means the form provided for under the Supported Wage System that records the assessment of the productive capacity of the person to be employed under the Supported Wage System.

'Disability Support Pension' means the pension available under the Commonwealth pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991*, as amended from time to time, or any successor to that scheme.

'Supported Wage System' means the Commonwealth Government System to promote employment for people who cannot work at full award wages because of a disability.

(c) Supported Wage Rates

Employees to whom this subclause applies shall be paid the applicable percentage of the minimum rate of pay prescribed by this award for the class of work which the person is performing according to the following schedule:

Assessed Capacity (paragraph (d))	% of prescribed award rate
10%	10%
20%	20%
30%	30%
40%	40%
50%	50%
60%	60%
70%	70%
80%	80%
90%	90%

PROVIDED that the minimum amount payable shall be not less than \$56 per week.

(d) Assessment of Capacity

For the purpose of establishing the percentage of the award rate to be paid to a supported wage employee under this award, the productive capacity of the employee will be assessed in accordance with the Supported Wage System and documented in an assessment instrument by either:

- (i) the employer and a union party to the award, in consultation with the employee or, if desired by any of these;
- (ii) the employer and an accredited Assessor from a panel agreed by the parties to the award and the employee.

(e) Lodgment of Assessment Instrument

- (i) All assessment instruments under the conditions of this subclause, including the appropriate percentage of the award wage to be paid to the employee, shall be lodged by the employer with the Registrar of the Tasmanian Industrial Commission.
- (ii) All assessment instruments shall be agreed and signed by the parties to the assessment, provided that where a union which is party to the award, is not a party to the assessment, it shall be referred by the Registrar of the Tasmanian Industrial Commission to the union by certified mail and shall take effect unless an objection is notified to the Registrar of the Tasmanian Industrial Commission within 10 working days.

(f) Review of Assessment

The assessment of the applicable percentage shall be subject to annual review or earlier on the basis of a reasonable request for such a review. The process of review shall be in accordance with the procedures for assessing capacity under the Supported Wage System.

(g) Other Terms and Conditions of Employment

Where an assessment has been made, the applicable percentage shall apply to the wage rate only. Employees covered by the supported wage provisions of this subclause shall be entitled to the same terms and conditions of employment as all other workers covered by this award who are paid on a pro rata basis.

(h) Workplace Adjustment

An employer wishing to employ a person under the provisions of this subclause shall take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve re-design of job duties, working time arrangements and work organisation in consultation with other workers in the area.

(i) Trial Period

(i) In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this subclause for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.

(ii) During that trial period the assessment of capacity shall be undertaken and the proposed wage rate for a continuing employment relationship shall be determined in accordance with paragraphs (d) and (e).

(iii) The minimum amount payable to the employee during the trial period shall be no less than \$56 per week or such greater amount as is agreed from time to time between the parties.

(iv) Work trials should include induction or training as appropriate to the job being trialed.

(v) Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment shall be entered into based on the outcome of assessment under paragraph (c) hereof.

5. MINIMUM WAGE

(a) Minimum Wage

No employee shall be paid less than the minimum wage.

(b) Amount of Adult Minimum Wage

- (i) The minimum wage for full-time adult employees not covered by subclause 4 - Supported Wage System is \$431.40 per week.

PROVIDED that employees classified as Surgery Attendant, first year of service shall continue to be paid the rate prescribed for the classification in Clause 8 – Wage Rates, subclause 1 – Wages, subdivision B – Ancillary and Clerical Staff, until 18 June 2003.

PROVIDED FURTHER that employees classified as Clerk, first and second year of service shall continue to be paid the rate prescribed for the classification in Clause 8 – Wage Rates, subclause 1 – Wages, subdivision B – Ancillary and Clerical Staff, until 18 June 2004.

- (ii) Adults employed under a supported wage system clause shall continue to be entitled to receive the wage rate determined under that clause. Provided that such employees shall not be paid less than the amount determined by applying the percentage in the supported wage system clause applicable to the employee concerned to the amount of the minimum wage specified in paragraph (b)(i).
- (iii) Adults employed as part-time or casual employees shall continue to be entitled to receive the wage rate determined under the casual and part-time clauses of the award. Provided that such employees shall not be paid less than pro rata the minimum wage specified in paragraph (b)(i) according to the number of hours worked.

(c) How the Minimum Wage Applies to Juniors

- (i) The wage rates provided for juniors by this award continue to apply unless the amount determined under paragraph (c)(ii) is greater.
- (ii) The minimum wage for an employee to whom a junior rate of pay applies is determined by applying the percentage in the junior wage rates clause applicable to the employee concerned to the relevant amount in paragraph (b)(i).

(d) Application of Minimum Wage to Certain Employees

Due to existing applicable award wage rates being greater than the relevant proportionate minimum wage, this clause will not apply to employees falling within the scope of the National Training Wage (Tasmanian Private Sector) Award and Trainees undertaking an apprenticeship.

(e) Application of Minimum Wage to Award Rates Calculation

The minimum wage:

- (i) applies to all work in ordinary hours;

- (ii) applies to the calculation of overtime and all other penalty rates, superannuation, payments during sick leave, long service leave and annual leave, and for all other purposes of this award; and
- (iii) is inclusive of the arbitrated safety net adjustment provided by the July 2002 State Wage Case Decision (T10230 of 2002) and all previous safety net and state wage case adjustments."

2. By deleting Clause 9 - Annual Leave, and inserting in lieu thereof the following:

"9. ANNUAL LEAVE

(a) Period of Leave

A period of 28 consecutive days' leave shall be allowed annually to an employee after 12 months' continuous service (less the period of annual leave).

PROVIDED that, by mutual agreement between the employer and the employee, leave may be taken in any combination providing one period is at least 14 consecutive days (i.e., 10 working days).

(b) Payment for Period of Leave

- (i) All employees before going on annual leave other than casual or part-time employees working less than 20 hours per week who attract a 20 per cent loading in lieu of annual leave, sick leave and public holidays as mentioned in Clause 12 - Casual Employees, and Clause 23(b) - Part-Time Employees, shall be paid the amount of wages they would have received in respect of the ordinary time they would have worked had they not been on leave during the relevant period.
- (ii) In addition thereto, all employees other than part-time employees in receipt of a 20 per cent loading in lieu of public holidays, annual leave and sick leave, shall be paid an amount equivalent to 17.5 per cent of his/her normal salary, or projected shift roster whichever is the greater, plus, where applicable, any higher duty allowance or all purpose payment payable to the employee concerned.

(c) Proportionate Leave on Termination of Service

A weekly employee who lawfully leaves the employment or who is dismissed, except for misconduct or neglect of duty, shall be paid 13 1/3 hours for each completed month of continuous service.

(d) Single Day Annual Leave

Notwithstanding provisions elsewhere in the award, the employer and the majority of employees at an enterprise may agree to establish a system of single day annual leave absences, provided that:

- (i) An employee may elect, with the consent of the employer, to take annual leave in single day periods or part of a single day not exceeding a total of five days in any calendar year at a time or times agreed between them.
- (ii) Access to annual leave, as prescribed in paragraph (i) above, shall be exclusive of any shutdown period provided for elsewhere under this award.
- (iii) An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken.
- (iv) An employee or the employees may choose to request a union party to this award, to represent their interests in negotiations referred to in paragraph (i) of this subclause.
- (v) Once a decision has been taken to introduce an enterprise system of single day annual leave, in accordance with this subclause, its terms must be set out in the time and wages records kept pursuant to Regulation 25 of the Industrial Relations Regulations 1993.
- (vi) An employer shall record these short term annual leave arrangements in the time and wages book."

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Operative Date

These variations shall come into operation from the first full pay period to commence on or after 18 December 2002, except for the following:

- (a) The operative dates referred to in Clause 8 – Wage Rates, subclause 1 – Wages, subdivision B – Ancillary and Clerical Staff, paragraphs (a), (b), (c) and (d).
- (b) The operative dates referred to in Clause 8 – Wages Rates, subclause 5 – Minimum Wage, paragraph (b)(i).

Tim Abey
COMMISSIONER

3 February 2003