

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

s23 application for award or variation of award

**Australian Liquor, Hospitality and Miscellaneous Workers Union -
Tasmanian Branch
(T10410 of 2002)**

**AERATED WATERS AWARD
CHILD CARE AND CHILDREN'S SERVICES AWARD
CLEANING AND PROPERTY SERVICES AWARD
FIBREGLASS AND PLASTICS AWARD
HEALTH AND FITNESS CENTRES AWARD
ICE CREAM MAKERS AWARD
INDEPENDENT SCHOOLS (NON TEACHING STAFF) AWARD
LAUNDRY AND DRY CLEANING AWARD
LICENSED CLUBS AWARD
MISCELLANEOUS WORKERS AWARD
RESTAURANT KEEPERS AWARD
SECURITY INDUSTRY AWARD
SHIPPING AWARD**

FULL BENCH:

PRESIDENT P L LEARY
DEPUTY PRESIDENT R J WATLING
COMMISSIONER T J ABEY

**Award variation - 9% superannuation - application approved - operative date
ffpp 25 November 2002**

FIBREGLASS AND PLASTICS AWARD

ORDER BY CONSENT -

No. 1 of 2003

AMEND THE **FIBREGLASS AND PLASTICS AWARD** IN THE FOLLOWING MANNER:

By Deleting Clause 29 – Superannuation, and inserting in lieu thereof the following:

"29. SUPERANNUATION

(a) Contribution

- (i) The employer shall make an occupational superannuation contribution equivalent to nine per cent of ordinary time earnings into the funds known as TASPLAN or LUCRF or any other approved fund where an exemption has been granted under subclause (d) of this clause in respect to all eligible employees as from 16 September 1991 provided that in the case of all eligible casual and part-time employees contributions shall not only be made where the employee works at least 38 hours during a fund billing statement month. Contributions to the fund shall be made by the employer on at least a calendar monthly basis unless there are circumstances for which the employer cannot be held responsible.
- (ii) Notwithstanding anything elsewhere contained in this clause an employee who is able to demonstrate to the employer their bona fide membership of the religious fellowship known as Exclusive Brethren shall have the contribution defined in paragraph (a)(i) of this clause paid into the fund known as CIS Superannuation Deed BR1188 being a scheme approved by the Insurance and Superannuation Commission.

(b) Definitions

'Approved fund' shall mean a superannuation fund or scheme approved in accordance with the Commonwealth Operational Standards for Occupation Superannuation Funds.

'Eligible employee' shall mean an employee whether weekly, part-time or casual, who has had at least three 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 service the qualifying period with any subsequent employer subject to this award.

'Ordinary time earnings' shall include an employee's classification rate, overaward payments, shift loading, casual loading and any permanent all purpose work-related allowance but shall exclude overtime payments, annual leave loading, annual or long service leave payments on termination and allowances paid as a reimbursement of expense.

(c) Nominated Funds

Contributions determined in accordance with subclause (a) of this clause shall, subject to subclause (e) of this clause, be made into either of the following nominated approved funds:

- (i) Labour Union Co-Operative Retirement Fund (LUCRF)
- (ii) TASPLAN

(d) Exemptions

The Tasmanian Industrial Commission may grant an exemption to an employer from making contributions into TASPLAN or LUCRF in the following circumstances:

- (i) Where the fund subject to the exemption application is an approved fund which was established prior to 1 September 1991 and occupational superannuation contributions equivalent to three per cent of ordinary time earnings were being paid on behalf of employees on the establishment covered by this award prior to 1 September 1991 and have continued to be paid since that date; or
- (ii) Where an employer can demonstrate a special and compelling circumstance to justify the use of an approved fund other than TASPLAN or LUCRF.

(e) Procedure for Seeking Exemption

- (i) Employees seeking exemptions in accordance with this provision shall make application through the appropriate registered organisation to the Tasmanian Industrial Commission by no later than 31 October 1991 for hearing determination.

Such application shall contain the following information:

- (1) Name of fund into which the funds are to be paid.
 - (2) Evidence of the fund's compliance with Commonwealth Operational Standards.
 - (3) Summary of Structure and Benefits.
 - (4) Level of Administration Charge.
 - (5) Any other relevant information.
- (ii) 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.

- (iii) Where agreement is not reached, the matter shall be heard and determined by the Tasmanian Industrial Commission.
- (iv) An employer who commences a new business after 1 September 1991 may make application for exemption in accordance with subclause (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 12 September 1991.
- (v) For the purpose of this clause, NMC Fabrications Pty Ltd is exempt from contributing to either TASPLAN or Labour Union Co-operative Retirement Fund (LUCF) however, for their employees contributions shall continue to be made in accordance with subclause (a) of this clause into the NMC Plastic Fabrication Pty Ltd No. 1 Superleader Superannuation Plan."

Operative Date

This variation shall come into operation from the first full pay period to commence on or after 25 November 2002.

Tim Abey
COMMISSIONER

8 January 2003