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TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

s23 application for an award or variation of an award

Tasmanian Trades and Labor Council

[T10230 of 2002]

Private Sector Awards

[T10288 of 2002]

Private Sector Awards

[T10289 of 2002]

Private and Public Sector Awards

FULL BENCH:

PRESIDENT P L LEARY

DEPUTY PRESIDENT R J WATLING

COMMISSIONER T J ABEY

Wage Rates - State Wage Case July 2002 - applications to vary private sector awards in a manner consistent with the Australian Industrial Relations Commission decision in Print PR002002 - Safety Net Review 2002 - Award rates increased by - \$18 per week - Wage related allowances increased by 3.55% - Meal allowances increased to \$11.90 - Supported Wage increased to \$56 per week - Operation ffpp 1 August 2002 - State Minimum Wage determined at \$431.40-s.35(1)(b)

DENTISTS AWARD

ORDER BY CONSENT

No. 1 of 2002

THE **DENTISTS AWARD** IS VARIED IN THE FOLLOWING MANNER:

By deleting Clause 8 - WAGE RATES, and inserting in lieu thereof the following:

“8. WAGE RATES

1. WAGES

DIVISION A - REGISTERED DENTAL MECHANICS AND DENTAL TECHNICIANS

(a) The minimum weekly wage rate to be paid by employers to adult employees per week of 38 hours shall be as follows:

	Base Rate Relativity	Base Rate	Safety Net Adjustment	Weekly Wage Rate
	%	\$	\$	\$
Registered Dental Mechanic				
1 st year of experience	118.14	492.90	106.00	598.90
2 nd year of experience	119.70	499.40	106.00	605.40
3 rd year of experience	121.26	505.90	106.00	611.90
4 th year of experience	122.82	512.40	106.00	618.40
5 th year of experience & thereafter	124.37	518.90	104.00	622.90
Dental Technician				
1 st year of experience	104.98	438.00	108.00	546.00
2 nd year of experience	106.54	444.50	108.00	552.50
3 rd year of experience	108.10	451.00	108.00	559.00
4 th year of experience	109.66	457.50	108.00	565.50
5 th year of experience & thereafter	111.21	464.00	106.00	570.00

(b) Apprentices

The minimum weekly wage rate to be paid to an apprentice shall be the undermentioned percentages of the weekly wage rate of a Dental Technician, 1st year of experience:

	%
First year	45
Second year	55
Third year	65
Fourth year	85

Adjustments are to be made to the nearest 10 cents.

PROVIDED that an apprentice Dental Technician who completes his/her apprenticeship over a four year term shall then be paid the weekly wage rate of a Dental Technician.

(c) Extra Rates

A Dental Mechanic who is responsible for the supervision of three or more employees shall be paid \$11.40 per week in addition to his/her weekly wage.

DIVISION B - DENTAL MECHANIC'S ASSISTANTS AND ATTENDANTS

(a) The minimum weekly wage rate to be paid by employers to adult Dental Mechanic's Assistants and Attendants (i.e. employees over 20 years of age) shall be the undermentioned rates per week:

	Base Rate Relativity	Base Rate	Safety Net Adjustment	Weekly Wage Rate
	%	\$	\$	\$
1 st year of adult experience	79.45	331.50	106.00	437.50
2 nd year of adult experience	81.01	338.00	106.00	444.00
3 rd year of adult experience	82.57	344.50	106.00	450.50
4 th year of adult experience	84.13	351.00	106.00	457.00
5 th year of adult experience	85.69	357.50	106.00	463.50

(b) Juniors

The minimum weekly wage rate to be paid to junior assistants shall be as follows:

	Percentage of appropriate Adult Wage prescribed in Division B
	%
Under 17 years of age	50
17 to 18 years of age	62.5
18 to 19 years of age	75
19 to 20 years of age	87.5

DIVISION C - DENTAL ASSISTANTS

- (a) The minimum weekly wage rate to be paid by employers to adult Dental Assistants (i.e. employees over 20 years of age) shall be the undermentioned rates per week:

	Base Rate Relativity	Base Rate	Safety Net Adjustment	Weekly Wage Rate
	%	\$	\$	\$
1 st year of adult experience	83.62	348.90	106.00	454.90
2 nd year of adult experience	85.18	355.40	106.00	461.40
3 rd year of adult experience	86.74	361.90	106.00	467.90
4 th year of adult experience	88.30	368.40	106.00	474.40
5 th year of adult experience	89.86	374.90	106.00	480.90

PROVIDED that employees who prior to 20 November 1991 were classified as Dental Assistants in Clause 8 - Wage Rates, Division C - Dental Assistants, paragraph (a) 4th and 5th years adult experience shall receive an actual wage increase of \$10.60 and \$10.50 respectively.

- (b) Juniors

The minimum weekly wage rate to be paid to junior Dental Assistants shall be the undermentioned percentages of the 1st year adult experience contained in paragraph (a) of this division.

	Percentage of appropriate Adult Wage prescribed in Division B
	%
Under 17 years of age	50
17 to 18 years of age	62.5
18 to 19 years of age	75
19 to 20 years of age	87.5

PROVIDED that at 20 years of age an employee shall be classified under paragraph (a) of this division.

- (c) Certificate Allowance

In addition to the wage rates contained in paragraphs (a) and (c) of this division an employee who holds a certificate of proficiency accredited by the Dental Assistants' Education Council of Australia shall be paid a certificate allowance of \$19.70 per week.

2. 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 Clause 4 - Supported Wage System is \$431.40 per week.
- (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 subclause (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 subclause (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 subclause (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 subclause (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.

3. TOOL ALLOWANCE

All employees engaged in classifications that are proclaimed as trades under the Industrial and Commercial Training Act 1985 shall either be supplied with all tools by the employer or be paid a tool allowance of not less than 8.50 per week.

PROVIDED that such allowance shall not be subject to adjustment when computing payments for shift penalty rates, for weekend or holiday work, for overtime or for any other purpose.

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.”

Operative Date

This variation shall come into operation from the first full pay period to commence on or after 1 August 2002.

P C Shelley
COMMISSIONER

1 October 2002