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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)

MISCELLANEOUS WORKERS (PUBLIC SECTOR) AWARD

ORDER BY CONSENT

No 1 of 2002

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THE **MISCELLANEOUS WORKERS (PUBLIC SECTOR) AWARD** IS VARIED IN THE FOLLOWING MANNER:

1. By deleting Clause 8 – WAGE RATES and inserting in lieu thereof the following:

“8. WAGE RATES

(a) The minimum weekly rate of pay for employees of a classification hereunder mentioned shall be the amount assigned to that classification.

	Amount per Annum \$
(a) Assistant Matron	345.20
(b) Caretaker - (Resident)	340.70
(c) Caretaker - (Non-Resident)	349.30
(d) Cleaner	339.50
(e) Cook Other (including meals on duty)	331.20
(f) Crossing Guard	259.90
(g) Domestic	319.30
(h) Groundskeeper	339.50
(i) Kitchen Assistant	316.90
(j) Kitchen Assistant - (School)	339.50
(k) Matron	363.60
(l) Matron (with General Nursing Certificate)	371.10
(m) School Farm Hand	339.50
(n) Storeman/Cleaner	344.60
(o) Utility Officer	343.60

Leading Hands

In addition to the rates of pay prescribed above leading hands shall be paid the following additional amounts:

- (i) where the leading hand is in charge of not more than five employees \$11.40 extra per week;
- (ii) where the leading hand is in charge of six to ten employees \$14.70 extra per week;
- (iii) where the leading hand is in charge of more than ten employees \$19.50 extra per week.

(b) Service Incremental Payments Scheme

- (i) Subject to the conditions set out elsewhere in this subclause, employees shall be entitled to the following payments upon satisfactory completion of continuous service (as defined) in conformity with the periods set out hereunder:-

	Per Week
	\$
0 to 6 months service	Nil
6 months to 18 months service	50.70
18 months to 30 months service	55.20
30 months service and thereafter	59.80

(ii) The following conditions of service shall be applied to payments prescribed in this subclause:-

(1) This subclause is applicable to adult service only, subject to the provisions prescribed for apprentices and junior employees as detailed hereunder.

(A) Apprentices shall not be entitled to receive increments until they commence the final year of their apprenticeship or on attaining the age of 20 years, whichever is the earlier then they shall receive the first prescribed incremental payment, provided that in either circumstances the apprentice shall have completed a minimum of six months continuous service.

(B) Unapprenticed juniors (not being paid adult rates) shall be eligible for the first prescribed incremental payment on attaining the age of 20 years, provided that the unapprenticed junior has completed a minimum of six months continuous service.

Where a junior employee is paid the appropriate adult rate of pay he shall be eligible to receive the full adult payment provided by the award and all time during which the junior employee has received the full adult rate of pay shall be counted to assess the appropriate incremental leave.

(2) Employees otherwise entitled to the benefits of this subclause shall not lose the payments prescribed whilst on paid leave of absence.

(3) Part-time employees who by virtue of continuous service attain eligibility for payments prescribed by this subclause shall receive proportionate payments at the rate of one thirty-eighth of the weekly rate for each hour worked per week.

(4) Payments prescribed under this subclause do not apply to employees who are engaged on a casual basis, but shall apply to seasonal workers (as defined).

(5) Payments prescribed under this subclause are all purpose payments.

- (6) Employees who qualify for payments prescribed by this subclause shall, subject to the qualifications provided in these conditions, be entitled to the incremental payment from the first full pay period which commences on or after the completion of the qualifying period of service.
 - (7) Service of an employee who transfers in employment between Agencies shall be deemed to be continuous.
 - (8) Service of an employee who leaves his or her employment and is subsequently re-engaged by the immediate past employing Agency or another Agency shall be deemed to be continuous, provided that the break in service does not exceed 2 months.
- (iii) For the purpose of this subclause the following definitions shall apply:-

"Continuous Service" shall mean service unbroken except as follows:-

- (1) **PROVIDED** that there shall be included as part of any period of continuous service:
 - (A) Any period of leave with pay.
 - (B) Any period served prior to termination of the employment on account of slackness of work or retirement on account of ill-health provided that the employee is re-engaged within a period of 6 months or, in the case of seasonal workers; twelve months.
- (2) That when calculating the duration of a period of continuous employment there shall be deducted:-
 - (A) Any period or periods of leave without pay (other than sick leave) which exceed in the aggregate two weeks in any one year.
 - (B) Any continuous period of absence on sick leave to the extent to which such period exceeds 6 months.
 - (C) Any period of service prior to termination of employment for disciplinary reasons or voluntary termination of employment for any reason other than ill health.

"Seasonal Worker" means an employee whose employment is regularly due to seasons or a particular recurring annual work situation and whose employment is normally restricted to one period within a calendar year but does not include one who is intermittently employed under fortuitous or casual circumstances.

(c) Supported Wage System

(i) Eligibility criteria

Subject to this subclause an employer may engage employees at a supported wage rate (as set out in paragraph (iii) 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 s.10 or under s.12A of the above Act, or if a part only has received recognition, that part.

(ii) For the purposes of this subclause:

- (1) **“Supported Wage System”** means the Commonwealth Government System to promote employment for people who cannot work at full award wages because of a disability.
- (2) **“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.
- (3) **“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.
- (4) **“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.

(iii) 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 (iv))	% 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.)

(iv) 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:

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

(v) Lodgment of assessment instrument

- (1) 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.
- (2) 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.

(vi) 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.

(vii) 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.

(viii) 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.

(ix) Trial Period

- (1) 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 4 weeks) may be needed.
- (2) 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 (iv) and (v).
- (3) 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.
- (4) Work trials should include induction or training as appropriate to the job being trialed.
- (5) 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 (iii) hereof."

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OPERATIVE DATE

These variations shall come into operation from the first full pay period on or after 1 August 2002.

P L Leary
PRESIDENT

18 July 2002

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