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TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984
s.23 application for an award or variation of an award

Tasmanian Trades and Labor Council
(T8413 of 1999)

Private Sector Awards

Tasmanian Chamber of Commerce and Industry Limited
(T8483 of 1999)

Private and Public Sector Awards

FULL BENCH:
DEPUTY PRESIDENT B R JOHNSON
COMMISSIONER R J WATLING
COMMISSIONER P A IMLACH

Wage Rates - State Wage Case July 1999 - applications to review the Wage Fixing Principles and to vary awards in a manner consistent with the Australian Industrial Relations Commission decision in Print number R1999 Safety Net Review - Wages - flow-on of federal safety net adjustment approved - operative date ffpp 1 August 1999 - partial revision of Wage Fixing Principles - full review of Wage Fixing Principles to begin no later than October 1999

WHOLESALE TRADES AWARD

ORDER -

No. 1 of 1999

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THE **WHOLESALE TRADES 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) Warehouse and Storeworker Employees

(i) Adult employees shall be paid in accordance with the following classification structure which shall be read in conjunction with the classification definitions contained in Clause 7 - Definitions.

	Wage rate Relativity %	Base Rate \$	Safety Net Adjustment \$	Weekly Wage Rate \$
Warehouse & Storeworker Grade 1 (as defined)				
On commencement	87.4	364.60	60.00	424.60
After 2 months service	89.2	372.10	60.00	432.10
After 12 months service	91	379.70	60.00	439.70
Warehouse & Storeworker Grade 2 (as defined)				
	92.4	385.50	60.00	445.50
Warehouse & Storeworker Grade 3 (as defined)				
	96.9	404.30	60.00	464.30
Warehouse & Storeworker Grade 4 (as defined)				
	100.9	421.00	60.00	481.00
Warehouse & Storeworker Grade 5 (as defined)				
	105	438.10	60.00	498.10

(b) Manufacturing and Packing Employees

(i) Adult employees shall be paid in accordance with the following classification structure which shall be read in conjunction with the classification definitions contained in Clause 7 - Definitions.

Manufacturing & Packing Employee Grade 1 (as defined)	78	325.40	60.00	385.40
Manufacturing & Packing Employee Grade 2 (as defined)	82	342.10	60.00	402.10
Manufacturing & Packing Employee Grade 3 (as defined)	87.4	364.60	60.00	424.60

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Manufacturing & Packing Employee Grade 4 (as defined)	92.4	385.50	60.00	445.50
Manufacturing & Packing Employee Grade 5 (as defined)	96.9	404.30	60.00	464.30

(c) Clerical and Administrative Employees

- (i) Adult employees shall be paid in accordance with the following classification structure which shall be read in conjunction with the classification definitions contained in Clause 7 - Definitions.

Adult entry (as defined)				
1st 6 months service	80	333.80	60.00	393.80
2nd 6 months service	85	354.60	60.00	414.60
Clerical & Administrative Employee Grade 1 (as defined)				
1A - 1st 12 months service	87	363.00	60.00	423.00
1B - After 12 months service	90	375.50	60.00	435.50
Clerical & Administrative Employee Grade 2 (as defined)				
2A - 1st 12 months service	92	383.80	60.00	443.80
2B - After 12 months service	95	396.30	60.00	456.30
Clerical & Administrative Employee Grade 3 (as defined)				
3A - 1st 12 months service	97	404.70	60.00	464.70
3B - After 12 months service	100	417.20	60.00	477.20
Clerical & Administrative Employee Grade 4 (as defined)	105	438.10	60.00	498.10
Clerical & Administrative Employee Grade 5 (as defined)	110	458.90	60.00	518.90
Clerical & Administrative Employee Grade 6 (as defined)	115	479.80	58.00	537.80
Clerical & Administrative Employee Grade 7 (as defined)	120	500.60	58.00	558.60

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(d) Transport Employees

(i) Adult employees shall be paid in accordance with the following classification structure which shall be read in conjunction with the classification definitions contained in Clause 7 - Definitions.

Transport Employee Grade 1 (as defined)	93.2	388.80	60.00	448.80
Transport Employee Grade 2 (as defined)	97.4	406.30	60.00	466.30
Transport Employee Grade 3 (as defined)	99.5	415.10	60.00	475.10

(e) Commercial Travellers

(i) Adult employees shall be paid in accordance with the following classification structure which shall be read in conjunction with the classification definitions contained in Clause 7 - Definitions.

Commercial Traveller Grade 1 (as defined)	87	363.00	60.00	423.00
Commercial Traveller Grade 2 (as defined)	95	396.30	60.00	456.30
Commercial Traveller Grade 3 (as defined)	100	417.20	60.00	477.20

(f) (i) Junior Employees - Warehouse and Storeworker Employees

The minimum weekly wage rate to be paid to a junior Warehouse and Storeworker employee shall be the undermentioned percentages of the total weekly wage rate for an Adult, Warehouse and Storeworker, Grade 1, on commencement, subclause (a)(i) of this clause.

	%
Under 16 years of age	55
16 years of age	65
17 years of age	78.5
18 years of age	93
19 years of age	100

(ii) Junior Employees - Manufacturing and Packing Employees

The minimum weekly wage rate to be paid to a junior Manufacturing and Packing employee shall be the undermentioned percentages of the total weekly wage rate for an Adult, Manufacturing and Packing Employee, Grade 2 (as defined) of subclause (b)(i) of this clause.

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	%
Under 16 years of age	55
16 years of age	65
17 years of age	78.5
18 years of age	93
19 years of age	100
20 years of age	100

(iii) Junior Employees - Clerical and Administrative Employees

(1) The minimum weekly wage rate to be paid to a junior Clerical and Administrative employee performing duties consistent with the definition of an Adult, Clerical and Administrative Employee, Grade 1 (as defined), shall be the undermentioned percentages of the total weekly wage rate for an Adult, Clerical and Administrative Employee, Grade 1, 1A of subclause (c)(i) of this clause.

	%
Under 17 years of age	50
17 to 18 years of age	55
18 to 19 years of age	65
19 to 20 years of age	80
20 to 21 years of age	85

(2) The minimum weekly wage rates to be paid to all other junior Clerical and Administrative employees shall be the undermentioned percentages of the total weekly wage rate for an Adult, Clerical and Administrative Employee, Grade 2, 2A of subclause (c)(i) of this clause.

	%
Under 17 years of age	50
17 to 18 years of age	55
18 to 19 years of age	65
19 to 20 years of age	80
20 to 21 years of age	85

(iv) Junior Employees - Transport Employees

The minimum weekly wage rate to be paid to junior Transport employees is as follows:

Under 19 years of age	-	70% of the appropriate adult weekly wage rate
19 years of age	-	80% of the appropriate adult weekly wage rate
20 years of age	-	100% of the appropriate adult weekly wage rate

PROVIDED that the total wage shall be calculated to the nearest ten cents.

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(g) Trainees

(i) Australian Traineeship System (ATS)

The total weekly wage rate payable to trainees (as defined) shall be determined by multiplying the appropriate junior employee rate as specified in Clause 8 - Wage Rates, of this award by 39 (which represents the actual time spent on the job) and dividing that sum by 52.

PROVIDED that 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.

(ii) Career Start Traineeship System (CST)

The weekly wage rate 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) and multiplying that weekly wage 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).

(h) 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.

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(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 (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 \$45 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:

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- (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

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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 \$45 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."

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

"9. ANNUAL LEAVE

(a) Period of Leave

A period of one hundred and fifty two hours paid annual leave shall be allowed annually after 12 months continuous service (less the period of annual leave) to an employee in any one or more of the occupations to which this award applies.

(b) Annual Leave Exclusive of Public Holidays

Subject to this subclause, the annual leave prescribed by this clause shall be exclusive of any of the holidays prescribed by Clause 16 - Holidays with Pay, and if any such holiday falls within an employee's period of annual leave and is observed on a day which in the case of that employee would have been an ordinary working day, there shall be added to that period one day for each such holiday falling as aforesaid.

Where a holiday falls as aforesaid and the employee fails, without reasonable cause (proof whereof shall be upon the employee), to attend for work at the employees ordinary starting time on the working day immediately following the last day of the period of the employees annual leave, the employee shall not be entitled to be paid for such holiday.

(c) Calculation of Continuous Service

For the purposes of this clause, service shall be deemed to be continuous notwithstanding -

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- (i) Any interruption or determination of the employment by the employer if such interruption or determination has been made merely with the intention of avoiding obligations hereunder in respect of leave of absence;
- (ii) Any absence from work on account of personal sickness or accident, and in calculating the period of 12 months' continuous service, absence on account of personal sickness or accident to the extent of 91 days in any 12 months shall be deemed to be part of the period of continuous service;
- (iii) Any absence with reasonable cause, proof whereof shall be upon the employee, or leave lawfully granted by the employer, but such absence shall not be taken into account in calculating the period of 12 months' continuous service.

(d) Proportionate Leave on Termination of Service

If after one month's continuous service in any qualifying 12 monthly period an employee lawfully leaves employment or employment is terminated by the employer through no fault of the employee, the employee shall be paid at his/her ordinary rate of wage as follows:

12.67 hours for each completed month of service.

(e) Payment in Lieu Prohibited

The annual leave provided for by this clause shall be allowed and shall be taken and, except as provided in subclause (d) hereof, payment shall not be made or accepted in lieu of annual leave.

(f) Payment for Period of Leave

All employees, before going on annual leave, 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. In addition thereto, all employees, other than casual employees(as defined), and part-time employees (as defined) engaged to work less than 20 hours per week shall be paid an amount of \$288.70.

(g) Successor or Assignee

Where the employer is a successor or assignee or transmittee of a business, if the employee was in the employment of the employer's predecessor at the time when the employer became such successor or assignee or transmittee, the employee in respect of the period during which the employee was in the service of the predecessor shall, for the purposes of this clause, be deemed to be in the service of the employer.

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(h) Time of Taking Leave

Annual leave shall be given at a time fixed by the employer within a period not exceeding 6 months from the date when the right to annual leave accrued. Where practicable, and unless otherwise mutually arranged between the employer and the employee, at least 2 weeks' notice shall be given to the employee that his/her annual leave is to be taken.

(i) Broken Leave

Leave allowed under the provisions of subclause (a) shall be granted and taken in one consecutive period, or where the employer and employee agree, in any combination.

(j) Disputes

Any dispute arising out of this clause shall be determined by the Secretary for Labour, whose decision shall be final."

OPERATIVE DATE

This variation shall come into operation from the first full pay period commencing on or after 1 August 1999.

R J Watling
COMMISSIONER

28 July 1999