

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

*Industrial Relations Act 1999* - s. 130 - award review

**SUPPORTED WAGE AWARD - STATE 2002**

(Matter A/2010/155)

DEPUTY PRESIDENT SWAN  
DEPUTY PRESIDENT BLOOMFIELD  
COMMISSIONER THOMPSON

10 May 2012

AWARD REVIEW

After reviewing the above Award as required by s. 130 of the *Industrial Relations Act 1999*, this Commission orders that the Award be repealed and the following Award be made as from 10 May 2012.

**SUPPORTED WAGE AWARD - STATE 2012**

**PART 1 - APPLICATION AND OPERATION**

**1.1 Title**

This Award is known as the Supported Wage Award - State 2012.

**1.2 Arrangement**

Subject Matter Clause No.

PART 1 - APPLICATION AND OPERATION

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PART 2 - FLEXIBILITY

No provisions inserted in this Award relevant to this Part.

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PART 6 - HOURS OF WORK, BREAKS, OVERTIME, SHIFT WORK, WEEKEND WORK

No provisions inserted in this Award relevant to this Part.

#### PART 7 - LEAVE OF ABSENCE AND PUBLIC HOLIDAYS

No provisions inserted in this Award relevant to this Part.

#### PART 8 - TRANSFERS, TRAVELLING AND WORKING AWAY FROM USUAL PLACE OF WORK

No provisions inserted in this Award relevant to this Part.

#### PART 9 - TRAINING AND RELATED MATTERS

No provisions inserted in this Award relevant to this Part.

#### PART 10 - OCCUPATIONAL HEALTH AND SAFETY MATTERS, EQUIPMENT, TOOLS AND AMENITIES

No provisions inserted in this Award relevant to this Part.

#### PART 11 - AWARD COMPLIANCE AND UNION RELATED MATTERS

Award posting

11.1

### 1.3 Objective

The objective of this Award is to promote job opportunities in the open labour market for people with a disability by providing a legal basis for the payment of a *pro rata* wage, based on a nationally consistent assessment of the person's skills and productive capacities, matched to the requirements of the particular position covered by an Industrial Instrument.

### 1.4 Award coverage

1.4.1 This Award applies to employees who:

- (a) are unable to perform the range of duties to the level of competence required within the class of work for which the employee is engaged under this Award because of the effects of a disability on their productive capacity; and
- (b) who meet the impairment criteria for receipt of a Disability Support Pension (as defined).

1.4.2 This Award does not apply to:

- (a) existing employees who have a claim against their employer which is subject to *Workers' Compensation and Rehabilitation Act 2003* or any employment which relates to the rehabilitation of employees who are injured in the course of their employment with the employer; or
- (b) employers, in relation to their facility, program, undertaking, service or the like which receives funding under the *Disability Services Act 2006* (as amended from time to time) and which fulfils the dual role of service provider and sheltered workshop to people with disabilities who are in receipt of or eligible for a Disability Support Pension. An exception is that clause 1.4 does apply to an employer's organisation (or part of an employer's organisation) that has received recognition under section 10 or section 12A of the *Disability Services Act 2006* as amended from time to time.

1.4.3 The percentage of the award rate stipulated in an Assessment Instrument only applies to the Industrial Instrument's wage rate. Employees covered by this Award are entitled to the same terms and conditions of employment as all other employees covered by the relevant Industrial Instrument.

### 1.5 Date of operation

This Award takes effect from 10 May 2012.

### 1.6 Definitions

1.6.1 "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.

- 1.6.2 "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.
- 1.6.3 "Disability Support Pension" means the Commonwealth pension scheme to provide income security for persons with a disability as provided under the *Social Security (Administration) Act 1999*, as amended from time to time, or any successor to that scheme.
- 1.6.4 "Industrial Instrument" means an award, certified agreement, industrial agreement, EFA or order under Chapter 5, Parts 5 and 6 of the Industrial Relations Act 1999 as amended from time to time.
- 1.6.5 "Relevant Union" means a union (industrial organisation of employees) which is party to the Industrial Instrument and which covers the calling in which the employee is to be employed.
- 1.6.6 "Supported Wage System" means the Commonwealth Government system to promote employment for people who cannot work at full award wages because of a disability, as documented in *"Supported Wage System: Guidelines and Assessment Process"*.

## **PART 2 - FLEXIBILITY**

NOTE: No provisions inserted in this Award relevant to this Part.

## **PART 3 - COMMUNICATION, CONSULTATION AND DISPUTE RESOLUTION**

### **3.1 Grievance and dispute settling procedure**

In the event of any dispute arising in connection with any part of this Award the dispute will be processed through the grievance and dispute settling procedure clause in the relevant Industrial Instrument.

## **PART 4 - EMPLOYER AND EMPLOYEES' DUTIES, EMPLOYMENT RELATIONSHIP AND RELATED ARRANGEMENTS**

### **4.1 Workplace adjustment**

In accordance with the Commonwealth Government guidelines it is expected that reasonable steps be taken by an employer wishing to employ a person under the provisions of this Award to make changes in the workplace to enhance the person's capacity to do the job. Changes may involve re-design of job duties, working time arrangements and work organisation in consultation with other employees in the area.

### **4.2 Trial period**

- 4.2.1 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 Award for a fixed term which will not exceed a period of 12 weeks. In the case where additional work adjustment time is needed another fixed term contract of up to 4 weeks may be entered into.
- 4.2.2 During that trial period the assessment of capacity must be undertaken and the proposed wage rate for a further employment relationship shall be determined.
- 4.2.3 The minimum amount payable to the employee during the trial period shall be not less than \$56 per week.
- 4.2.4 The amount payable to the employee during the trial period shall be \$56 per week or such greater amount as is agreed to in writing from time to time between the parties (taking into account the Department of Families, Housing, Community Services and Indigenous Affairs income test free area for earnings).
- 4.2.5 Work trials should include induction or training as appropriate to the job being trialled.
- 4.2.6 Following the completion of the trial period, a further contract of employment based on the outcome of assessment under clause 5.1 may be entered into.

### **4.3 Anti-discrimination**

- 4.3.1 It is the intention of the parties to this Award to prevent and eliminate discrimination as defined by the *Anti-Discrimination Act 1991* and the *Industrial Relations Act 1999* as amended from time to time, which includes:

- (a) discrimination on the basis of sex; relationship status, family responsibilities, pregnancy, parental status, breastfeeding, age, race, impairment, religious belief or religious activity, political belief or activity, trade

union activity, lawful sexual activity, gender identity, sexuality and association with, or in relation to, a person identified on the basis of the above attributes;

(b) sexual harassment; and

(c) racial and religious vilification.

4.3.2 Accordingly in fulfilling their obligations under the grievance and dispute settling procedure referred to in clause 3.1, the parties to this Award must take reasonable steps to ensure that neither the Award provisions nor their operation are directly or indirectly discriminatory in their effects.

4.3.3 Under the *Anti-Discrimination Act 1991* it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.

4.3.4 Nothing in clause 4.3 is to be taken to affect:

(a) any different treatment (or treatment having different outcomes) which is specifically exempted under the *Anti-Discrimination Act 1991*; or

(b) an employee, employer or registered organisation, pursuing matters of discrimination, including by application to the Australian Human Rights Commission/Anti-Discrimination Commission Queensland.

## **PART 5 - WAGES AND WAGE RELATED MATTERS**

### **5.1 Assessment of capacity**

For the purpose of establishing the percentage of the wage rate (as set out in the relevant Industrial Instrument) to be paid to an employee, the productive capacity of the employee will be assessed in accordance with the Supported Wage System and documented in an Assessment Instrument, by either:

(a) the employer and the Relevant Union in consultation with the employee, or,

(b) if desired by any of these, the employer and an Accredited Assessor from a list agreed by the parties to the Award and the employee.

### **5.2 Supported wage rates**

Employees to whom this Award applies shall be paid the applicable percentage of the appropriate rate of pay prescribed by the relevant Industrial Instrument for the class of work which the person is performing according to the following schedule:

Employee's Assessed Capacity	% of prescribed appropriate 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).

### **5.3 Lodgement of assessment instrument**

5.3.1 The Assessment Instrument under the conditions of this Award, including the appropriate percentage of the wage rate of the relevant Industrial Instrument to be paid to the employee, shall be lodged by the employer with the industrial registrar.

5.3.2 The Assessment Instrument shall be signed by the parties to the assessment, provided that where the Relevant Union is not a party to the assessment, the instrument shall be referred by the registrar to the union by certified mail and shall take effect unless an objection is notified in writing to the registrar within 10 working days of receipt.

5.3.3 Where an objection is notified in accordance with clause 5.3.2, it is appropriate that representatives of the Supported Wage Management Unit meet with all relevant parties to attempt to resolve the objection.

Queensland Council of Unions has indicated it will be available, for its affiliates, for consultation during this process.

#### **5.4 Review of assessment**

The assessment of the applicable percentage is to be reviewed annually 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.

#### **PART 6 - HOURS OF WORK, BREAKS, OVERTIME, SHIFT WORK, WEEKEND WORK**

NOTE: No provisions inserted in this Award relevant to this Part.

#### **PART 7 - LEAVE OF ABSENCE AND PUBLIC HOLIDAYS**

NOTE: No provisions inserted in this Award relevant to this Part.

#### **PART 8 - TRANSFERS, TRAVELLING AND WORKING AWAY FROM USUAL PLACE OF WORK**

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#### **PART 10 - OCCUPATIONAL HEALTH AND SAFETY MATTERS, EQUIPMENT, TOOLS AND AMENITIES**

NOTE: No provisions inserted in this Award relevant to this Part.

#### **PART 11 - AWARD COMPLIANCE AND UNION RELATED MATTERS**

##### **11.1 Award posting**

A true copy of this Award shall be exhibited in a conspicuous and convenient place on the premises of employers who engage employees under the terms and conditions of this Award so as to be easily read by employees.

Dated 10 May 2012.

By the Commission,  
[L.S.] G.D. SAVILL,  
Industrial Registrar.

Operative Date: 10 May 2012