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THURSDAY, DECEMBER 1.

[1938

Factories and Shops Acts.

DETERMINATION OF THE UMBRELLA BOARD.

Adjusted pursuant to Section 21 of the *Factories and Shops Act 1934* (No. 4275).

NOTE.—This Determination applies to the following parts of Victoria, namely:—The Metropolitan District as defined in the Factories and Shops Acts and the Order in Council thereunder, and such portions of the City of Sandringham as are not included in the said District; the cities of Ballarat, Bendigo, Geelong, Geelong West, and Warrnambool; the town of Newtown and Chilwell; and the boroughs of Eaglehawk and Sebastopol.

I, FRANCIS ANTHONY MARZORINI, in pursuance of the powers contained in the Factories and Shops Acts and in consequence of the provisions contained in a determination made on the 9th March, 1938, by the Umbrella Board, and published in the *Government Gazette* on the 7th April, 1938, hereby issue an adjusted determination showing the adjusted wages rates to be paid, as from the beginning of the first pay period to commence in December, 1938, to any persons employed in the trade of a maker of umbrellas.

(1)

(a) APPRENTICES OR IMPROVERS.

(i) WAGES.

Experience.	Males.	Females.	Female Improvers commencing at the trade between the ages of 18 and 21 years.
	Weekly Wages.	Weekly Wages.	Weekly Wages.
	£ s. d.	£ s. d.	£ s. d.
1st six months	0 12 6	0 9 0	1 3 6
2nd	0 15 6	0 12 0	1 9 6
3rd	0 19 0	0 14 6	1 15 6
4th	1 2 0	0 18 0	2 1 0
5th	1 5 6	1 3 6	..
6th	1 11 6	1 9 6	..
7th	2 0 6	1 15 6	..
8th	2 10 0	2 1 0	..

And thereafter the minimum weekly wage or piecework price.

(ii) PROPORTION (IN ANY FACTORY OR PLACE).

APPRENTICES OR IMPROVERS.

Males.

One apprentice or improver to every two or fraction of two journeymen.

Females.

Three female apprentices or improvers to every journeywoman.

All apprentices shall be indentured in accordance with the prescribed form of indenture, provided that a minor may serve an employer as a probationer for a period not exceeding three months. During the said three months he or she shall be paid at least the minimum rates prescribed by this Determination for the first six months of apprenticeship. If the probationer becomes indentured, his or her indentures shall be taken to have commenced from the commencement of the period of probation.

In the event of the employer to whom an apprentice is bound ceasing to carry on business, such apprentice may be bound to another employer for the remainder of the term to be served; provided that if such apprentice be over the age of eighteen years at the time of the original employer ceasing to carry on business, such person may complete the time to be served as an improver.

Notwithstanding anything contained in this Determination, any person who on 3rd March, 1933, was employed in the industry and whose engagement or continued employment as an improver is by this Determination forbidden, shall be entitled to be employed and shall be paid the scale of wages prescribed for an apprentice or improver of like experience.

(b) OTHER PERSONS (EXCEPT APPRENTICES AND IMPROVERS).

NOTE.—These rates INCLUDE the additional amounts prescribed by Clause (12) herein.		Weekly Wages.	
		Males.	Females.
		£ s. d.	£ s. d.
	Cutters	4 17 0	4 17 0
	Frame makers or repairers	4 9 0	4 9 0
	Finishers	4 7 0	4 7 0
	Machinists, pressers, or tipplers	2 9 9	2 9 9
	Persons not provided for otherwise	4 1 0	2 4 9

DEFINITIONS.

- (2)
- A journeyman is a male person other than an apprentice or improver.
- A journeywoman is a female person other than an apprentice or improver.
- (i) Who has served the term of experience prescribed by this Determination; or
- (ii) Who has attained the age of 21 years; or
- (iii) Who is in receipt of at least the minimum weekly wage prescribed for the class of work on which such person is engaged, whether on weekly wages or piece-work.

HOURS OF EMPLOYMENT.

(3)

Forty-four hours shall constitute a week's work within the following hours:—Time of beginning, 8 a.m.; time of ending, 6 p.m.—on five days of the week. Time of beginning, 8 a.m.; time of ending, 1 p.m.—on the other day of the week on which the half-holiday is usually observed. Provided further that if the majority of the employees desire to start at 7.30 a.m., the work may begin at 7.30 a.m.

OVERTIME.

- (4)
- (a) Any employee who, in any day, has performed any work outside the working hours ordinarily observed in the factory in which he or she is employed, shall be paid overtime as follows:—
- (1) Weekly workers shall be paid at the rate of time and one-half, and shall also be paid 1s. 6d. meal money when such overtime exceeds 40 minutes on week-days or on Saturdays in those factories or workshops where a five and a half-day week is worked.
- In those factories or workshops where a five-day week is worked, all work done on Saturdays shall be paid for at the rate of time and a half, and 1s. 6d. meal money shall be paid when such overtime is worked after noon.
- (2) Piece-workers shall be paid (in addition to the ordinary piece-work prices) for work done in the excess time such sum per hour as is equivalent to the weekly wage divided by 88, and shall also be paid 1s. 6d. meal money when such overtime exceeds 40 minutes on week days or on Saturdays in those factories or workshops where a five and a half-day week is worked.
- In those factories or workshops where a five-day week is worked, for all work done on Saturdays, piece-workers shall be paid (in addition to the ordinary piece-work prices for work done) such sum per hour as is equivalent to the weekly wage divided by 88, and 1s. 6d. meal money shall be paid when such overtime is worked after noon.
- (b) No employee shall be employed overtime outside the hours fixed, except with his or her consent.
- (c) No employee shall be dismissed, or in any way whatsoever be prejudiced in his or her employment, by reason of his or her refusal to work overtime outside the hours fixed.
- (d) No employee under the age of sixteen years shall be employed overtime.

MIDDAY MEAL.

- (5)
- (a) An interval of not less than three-quarters of an hour shall be allowed for the midday meal unless a majority of the employees in any place desires it to be otherwise. In no circumstances shall less than 30 minutes be fixed.
- (b) No work shall be performed during such meal time.

TASK SYSTEM.

(6)

No employer shall make a bonus or merit payment which fluctuates from period to period according to the amount of work performed by the employee concerned, and which is based upon a secret or task rate for measuring the output of such employee. No increase in wages granted to any employee, after the date of operation of this Determination, above the rates herein prescribed shall be deemed to be in contravention of this clause if the same be paid for a period of three months, or for the term of employment, whichever period is the shorter; provided, however, that such increased wages may, at the discretion of the employer, be adjusted according to the wages rates prescribed from time to time by this Determination.

In all factories where a minimum task is set for a minimum wage the following shall be observed:—

- (a) Until after the termination of six months from the coming into operation of this Determination the minimum task in operation in any factory on the date on which this Determination becomes operative shall be the minimum task for the minimum wage after the date of operation of this Determination, and shall not during the said period of six months be increased or decreased because of any increase or decrease in wages, and shall not during the said period of six months be increased unless an altered or improved method of working is introduced.
- (b) The task rate in respect of all garments or parts of garments or other articles or parts of articles shall be determined in the manner following:—
- (i) Where there are fewer than twenty employees involved in the work to be performed, the employer or his representative, in conference with one employee chosen by and from such employees, shall fix the rates.
- (ii) Where there are twenty or more employees involved in the work to be performed, the employer or his representative, in conference with two employees so chosen, shall fix the rates.
- (c) The task rates shall be fixed so as to enable the average worker to earn the minimum wage prescribed by this Determination for the class of work to be performed; and any number of garments or parts of garments or other articles or parts of articles made in excess of the minimum weekly task fixed by the task rates for the minimum weekly wage shall be paid for at *pro rata* plus 10 per cent.
- (d) When any employee is employed for less than a week on the task rates, then the task of the said employee shall be fixed at per day at the weekly rate prescribed.

- (e) Any excess number of garments or parts of garments or other articles made in any day by the employee shall be subject to the same *pro rata* payment as would apply if the employee were engaged for the whole week.
- (f) A copy of all task rate schedules shall, within twenty-four hours of their being fixed, be displayed by the employer in a conspicuous place in each room of the factory where such tasks are being performed.
- (g) A combination or team shall mean two or more persons working together on the same class of work, employed on weekly wages where a task has been imposed. Where employees work in a combination or team, the additional amount of wages shall be distributed amongst the employees on a percentage basis, according to the amount of their ordinary weekly wages.

(7)

HOLIDAYS.

(a) All weekly wage employees, whether in a city or elsewhere, shall be granted the following holidays without deduction of pay:—The days observed as New Year's Day, Australia Day, Good Friday, Easter Monday, Labour Day, Anzac Day, King's Birthday, Christmas Day, and Boxing Day.

(b) All employees working on piece-work or task-work shall be granted the same holidays as are granted to weekly wage workers, and, subject as hereinafter provided, they shall be paid for such holidays the amount for each holiday based on the minimum weekly wage prescribed by this Determination for the class of work performed.

(c) If any of the above holidays occurs on a Sunday or Saturday and is not observed on any other day, then employees shall not be paid for such Sunday, and shall be paid for such Saturday as for a half day, but not otherwise.

(d) All other weekly employees, whether in a city or elsewhere, shall be paid for the above holidays an amount for each holiday based on the actual weekly wage paid to them by the employer.

(e) Any employee absenting himself or herself from work on any portion of the working day preceding or any portion of the working day succeeding a holiday provided for herein, other than Boxing Day and New Year's Day, without permission from the employer or without having reasonable cause for having absented himself or herself from work, shall not be entitled to payment for such holiday.

(f) Any employee who is employed on a Sunday or any holiday prescribed herein shall be paid for that day at the rate of time and a half in addition to his or her weekly wage.

(g) Any piece-worker employed on a Sunday or any holiday prescribed by this Determination shall be paid, in addition to the prescribed piece-work prices, at the rate of time and a half calculated on the minimum wage prescribed for the class of work performed.

(8)

TERMS OF ENGAGEMENT.

(a) The week shall terminate on a day other than Monday or Saturday, and all employees shall be paid all moneys due to them in full during the ordinary working hours not later than two working days following the termination of the week. In order to terminate employment of a weekly employee, two days' notice shall be given on any day, with payment to date of termination, or in lieu thereof two days' pay shall be paid or deducted. When employment is terminated by an employer, the employer shall, upon the date of such termination, pay to the employee (weekly employee or piece-worker) all moneys due to him or her, and, when employment is terminated by an employee in accordance with the terms of this Determination, the employer shall pay to the employee (weekly employee or piece-worker) all moneys due to him or her.

(b) All weekly wages shall be paid to the employees in full, with the following exceptions:—

(1) *Turns to be Observed.*—In slack times the employer shall observe turns of employment for weekly workers and piece-workers (including outside workers) not engaged on making samples in the respective class or classes of work at which they are engaged, provided always that journeymen and journeywomen having apprentices under their control shall be allowed in their turn extra work equivalent to the wages of the apprentice during the time the turn system is in operation. The employer shall keep in the workroom a true record of every turn, which shall be open to the inspection of the employees.

(2) *Standing Off Employees in Turn.*—Should any employer during slackness of trade desire to stand off his employees in turn then the employer on any day during any week shall inform every person whom it is proposed to stand off of any day or days in the following week (other than a Saturday or holiday) upon which his or her services will not be required; but an employee shall not, except under the conditions provided in sub-clause (3) of this clause, be stood off for part of a day without being paid for a whole day.

(3) *Employees Working Shortened Hours.*—If it is desired to work a week of shorter hours in slack times, instead of standing the employees off in turn, the employer may make an arrangement to work his employees for shortened hours, but such arrangement shall be made only where, on the vote of the employees being taken, a majority of the whole of the employees votes in favour of such arrangement.

Where such an arrangement is made, the employees shall be informed on the day ending each week of the shortened hours to be worked in the following week.

Where an arrangement is made in compliance with this provision the employer shall pay each employee for the actual hours worked on each day on the basis of his or her weekly wage.

(4) *Vacation Periods.*—Nothing contained in this sub-clause shall apply in the case of the usual vacation period at Christmas or Easter.

(c) *Classes of Employees.*—For the purpose of this clause (but subject to the provisions of sub-clause (b) hereof), in operating the turn system the various classes of employees shall be taken separately, and "classes of employees" shall mean each class of employee in respect of which a classification of work has been provided under this Determination, but in all cases, male improvers and journeymen, or female improvers and journeywomen doing the same class of work, shall be deemed to be one class of employee.

(d) *Stoppage of Work re Breakdown of Machinery.*—In the event of the work of a factory being stopped by a breakdown of machinery or a stoppage of supply of power, or for any cause for which the employer cannot reasonably be held responsible, all weekly hands who present themselves for work shall be found work for that day, or paid one day's wages in lieu thereof, but when such breakdown or stoppage occurs the employer may give notice to an employee that his or her services will not be required on the following day or days, and the employee shall not be entitled to any further payment in respect of any further days on which he or she is out of employment by reason of such break-down or stoppage.

(e) *Terminating Employment in Relation to a Holiday.*—

(i) Where the employer terminates the employment of an employee within fourteen days of a day on which a holiday occurs, and such employee is re-employed within a period of one month after such holiday, the employee shall be paid for such holiday or holidays prescribed by this Determination, provided that such employee has been employed by the employer for a period of at least one week prior to the termination of the employment.

(ii) Should the employment of an employee be terminated, or should an employee be stood off within fourteen days prior to any holiday or to the commencement of any group of holidays prescribed in this Determination, such employee shall be paid for such holiday or group of holidays, provided that such employee has been employed by the employer for a period of at least one week prior to the termination of the employment.

(iii) When any two or more of the holidays prescribed in this Determination occur within two weeks of one another, such holidays shall for the purposes of sub-clause (ii) hereof be deemed to be a group of holidays.

(iv) Where the employer terminates the employment of an employee more than fourteen days, but not exceeding one month prior to a day on which a holiday occurs and such employee is re-engaged within a period of one month, or normal business is resumed within such period of one month after such holiday, the employee shall be paid for such holiday or holidays prescribed by this Determination, provided that such employee has been employed by the employer for a period of at least one week prior to the termination of employment.

(f) *Employees Absenting Themselves.*—No employee shall, without just cause, be absent from his or her place of employment during the prescribed hours whilst there is work ready to be done by such employee, and, where weekly wages are fixed, the employee, to be entitled to the sums so fixed, must be available and ready and willing to do the work on the days and during the hours fixed by this Determination.

(9)

OUTSIDE WORKERS.

(a) No person who is or is deemed to be the occupier of a factory within the meaning of section twenty-three of the *Factories and Shops Act 1928* (No. 3677) shall issue or give out or authorize or permit to be issued or given out any material whatsoever for the purpose of being wholly or partly prepared or manufactured outside a factory as articles of clothing or wearing apparel for trade or sale, except to a person who has been licensed by the Chief Inspector of Factories as an outside worker. Provided that no such outside worker shall employ any other person or persons whatsoever in wholly or partly preparing or manufacturing such articles of clothing or wearing apparel save and except members of such worker's own family.

(b) In factories where a task rate is fixed in respect of the same class of work as that given to outside workers, then, in every such case, the rate so fixed shall be the piecework price to be paid to such outside workers. In factories where no such task rate is fixed for the class of work performed by outside workers, then such outside workers shall be paid such a piecework price as will enable an outside worker to earn at least 1s. 6d. per hour in the case of a female and 2s. 3d. per hour in the case of a male.

(c) Every outside worker shall be provided, free of charge, with cotton, silk thread and all other sewings and trimmings used in the manufacture of garments.

(d) In the case of an employer delivering or collecting the work of such outside worker, the same shall be done without charge to such outside worker.

(e) Every employer who has work done elsewhere than in his factory shall keep a record book, which shall contain a correct account written in ink as follows :—

(i) The name and full address of the outside worker.

(ii) The number of articles and description of work given out.

(iii) The price paid for such work.

(iv) The record book shall be signed each week by each outside worker, verifying the accuracy of the amount of wages received.

(f) The record book mentioned in the preceding sub-clause shall be open for inspection at any time by any authorized officer of the Department of Labour.

(10)

MISCELLANEOUS PROVISIONS.

(a) *Record of Time Worked and Wages Paid.*—(1) The employer shall provide in each factory, or place where there are fewer than 30 employees, and where work is carried on for him, a time and wages book. Such time and wages book :—

(i) shall be in the English language and shall contain a correct account of the hours worked each day, and the wages received each week, by each employee ;

(ii) shall be kept correctly entered up in ink ; and

(iii) shall record clearly the actual date of each day, of each week, and also the date of the day on which the week ends.

(2) The employer shall provide in each factory or place where there are not fewer than 30 employees, and where work is carried on for him, a time-book, or sheet, or record. Such time-book, or sheet, or record shall be in the English language and shall contain a correct account of the hours worked each day and the wages received each week by each employee. Such time-book, or sheet, or record shall be kept correctly and entered up in ink.

(b) *Chairs to have Backs.*—(1) Where it is necessary for employees to sit at their work, seats shall be provided for the employees by the employer. Such seats shall be reasonably comfortable seats.

(2) A seat provided for any female employee shall have a back to it, unless the work of such employee cannot be conveniently done in such a seat, or unless the employee requests to be allowed to use a seat without a back to it.

(c) *Collecting Logs.*—Where piece-work is in operation, the employer shall make arrangements for collecting the logs, and the employees need not leave their places.

(d) *Rest Period.*—When any spell of duty is for more than four hours, an interval of ten minutes, to be selected by the employer, shall be allowed in the third hour to females and apprentices for refreshment. The interval shall be as part of the time of duty, without deduction of time-work pay. During such rest period, the employees may leave their seats, but not the premises.

(e) *Authorized Person may Enter Factory.*—

(i) Any person or persons duly authorized, in writing, by the Secretary for Labour (such authorization to be terminable at the will of the Secretary for Labour) shall have power to inspect any part of a factory, workshop, or place where it is believed that a breach of this Determination is occurring or has occurred.

(ii) At least six hours' notice shall be given by the authorized person or persons (not exceeding two) prior to his or their actually going on the premises, and the employer shall be notified of his or their arrival, and shall in person (accompanied by a nominee, or by his nominees, not exceeding two) be entitled to accompany the authorized person or persons, and shall provide access to the wages book or time sheet or records of any employee including outside workers. The work and duties of the employees shall be interfered with as little as possible by the authorized person or persons.

(iii) The Secretary for Labour shall have power to dispense with the said six hours' notice on special application being made for any cause shown and supported by an affidavit setting out the facts. A certificate duly signed by the Secretary for Labour stating that such notice has been dispensed with shall be sufficient proof of such fact.

(f) *Union Official Visiting Employer's Establishment.*—

(1) The employer shall permit any official of the Victorian Branch of the Amalgamated Clothing and Allied Trades' Union of Australia (authorized in writing by the Secretary for Labour) to enter from time to time his or her factory or workshop during the midday meal time for the purpose of—

(i) collecting members' contributions ;

(ii) posting union notices and interviewing employees on union matters relating to this industry and/or this Determination.

(2) Such authorized person shall inform the person in charge of his arrival before entering the workshop or factory. Such official shall have reasonable ingress into the factory and access to the employees. If any official so authorized makes himself objectionable during any such visit to the employer or his manager or foreman or any employee his right to visit may be terminated by the Secretary for Labour on the application of the employer.

(3) For the purpose of this Clause the words "factory or workshop" shall include every room or place where work in respect of which a wage is prescribed by this Determination is carried out, together with the room in which the employees partake of their meals, notwithstanding that such room may be detached from or in a separate building from the main place of business of the employer.

(11)

PIECE-WORK.

(a) Subject to the conditions hereinafter set out, the employer, in conjunction with his employees, may fix his own piece-work prices, provided such prices enable a journeyman or journeywoman of average capacity working under like conditions to earn at least 10 per centum more than the minimum weekly wage in their respective classes. The same piece-work prices shall be paid to all piece-workers doing the same operation in the factory or workshop whether they be improvers or apprentices on piece-work or otherwise.

(b) All piece-workers who are available and ready and willing to work during the ordinary working hours, shall be paid in each week :—In the case of journeymen and journeywomen who at the piece-work prices so fixed are unable to earn the rate fixed for "Persons not provided for otherwise," not less than such rate ; and in the case of apprentices or improvers, not less than the amount prescribed by this Determination for an apprentice or improver of like experience.

(c) The piece-work price in respect of all garments or parts of garments or other articles or parts of articles shall be determined in the following manner:—

(i) Where there are fewer than twenty employees involved in the work to be performed the employer, or his representative, in conference with one employee chosen by and from such employees, shall fix the prices.

(ii) Where there are twenty or more employees involved in the work to be performed the employer, or his representative, in conference with two employees so chosen, shall fix the prices.

(d) A copy of all piece-work schedules shall, within 24 hours of their being fixed, be displayed by the employer in a conspicuous place in every room of the factory where such piece-work is being performed.

(12) ADDITION TO NEEDS BASIC WAGE CONSTITUENT FOR MALES AND TO WAGE FOR
ADULT FEMALES, APPRENTICES, AND IMPROVERS.

(a) From the beginning of the first pay period to commence in December, 1938, the weekly wage rates of all adult male employees shall be increased by the constant amount of 5s.

(b) From the beginning of the first pay period to commence in December, 1938, the weekly wage rates of all adult female employees shall be increased by the constant amount of 2s. 9d.

(c) Piecework prices shall be increased in the same proportion at the same time.

(d) From the beginning of the first pay period to commence in December, 1938, the weekly wage rates of all apprentices and improvers shall be increased by the following constant amounts:—

Experience.	Males.	Females.	Females Commencing at the Trade Between the Ages of 18 and 21 Years.
	<i>s. d.</i>	<i>s. d.</i>	<i>s. d.</i>
1st six months	0 6	0 6	1 0
2nd "	0 6	0 6	1 0
3rd "	1 0	0 6	1 6
4th "	1 0	1 0	1 6
5th "	1 6	1 0	..
6th "	1 6	1 0	..
7th "	1 6	1 6	..
8th "	2 0	1 6	..

NOTE.—The rates set out in Clause (1) INCLUDE the above additional amounts.

F. A. MARZORINI,
Secretary for Labour,

Melbourne, 16th November, 1938,

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