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TASMANIAN INDUSTRIAL COMMISSION

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

The Australian Workers' Union,
Tasmania Branch
(T.6010 of 1995)

CONCRETE PRODUCTS AWARD

FULL BENCH:

PRESIDENT F.D. WESTWOOD
DEPUTY PRESIDENT A. ROBINSON
COMMISSIONER P.A. IMLACH

Award variation - union name change - delete references to The AWU-FIME Amalgamated Union, Tasmania Branch and insert in lieu thereof The Australian Workers' Union, Tasmania Branch - Clause 6 of all nominated awards - also Clause 31 Clay and Mud Products Award and Clause 7 Shearing Industry Award - consent matter - operative 16 January 1996

ORDER BY CONSENT-

No. 1 of 1996
(Consolidated)

A NEW CLAUSE IS SUBSTITUTED FOR CLAUSE 6 OF THIS AWARD AND THE AWARD IS CONSOLIDATED:

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1. TITLE

This award shall be known as the "Concrete Products Award".

2. SCOPE

This award is established in respect of the trade of making or selling concrete or articles made of concrete (not including the trade of a builder).

3. ARRANGEMENT

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4. DATE OF OPERATION

This award shall come into operation on and from 16 January 1996.

5. SUPERSESSION AND SAVINGS

This award incorporates and supersedes No. 1 of 1994 (Consolidated) and No. 2 of 1994, No. 1 of 1995 and No. 2 of 1995.

PROVIDED that no rights, obligation or liability incurred or accrued under any of the abovementioned provisions shall be affected by the replacement and supersession.

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6. PARTIES AND PERSONS BOUND

Unless otherwise specified, this award shall have application to and be binding upon:

(a) all employers (whether members of a Registered Organisation or not) who are engaged in the industry specified in Clause 2 - Scope;

(b) all employees (whether members of a Registered Organisation or not) for whom classifications appear in this award and who are engaged in the industry specified in Clause 2 - Scope;

(c) the following organisations of employees in respect of whom award interest has been determined:

(i) the Australian Municipal, Administrative, Clerical and Services Union and the officers of that organisation and their members who are employed in the industry specified in Clause 2 - Scope; and

(ii) The Australian Workers' Union, Tasmania Branch and the officers of that organisation and their members who are employed in the industry specified in Clause 2 - Scope;

(iii) the Transport Workers' Union, Tasmanian Branch, and the officers of that organisation and their members who are employed in the industry specified in Clause 2 - Scope;

(d) the following organisation of employers in respect of whom award interest has been determined:

Tasmanian Chamber of Commerce and Industry Limited.

7. DEFINITIONS

For the purposes of Division A:

'Show Day' means not more than one local show day observed on an employee's ordinary working day, other than a Saturday or a Sunday, in the city, town or district in which the employee is employed; or such other day which, in the absence of such a local show day, is agreed on by the employee and the employer, therefore making a total of 11 paid public holidays per year.

For the purposes of Division B:

'Maker's Capacity' shall mean the capacity attributed to the vehicle by the seller or maker thereof, except, in cases where on any day the maximum weight of any load exceeds such capacity by one-third or more thereof, in which case such maximum load shall for the purposes of assessing the wages to be paid for that day be deemed to be the maker's capacity.

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8. WAGE RATES

DIVISION A - EMPLOYEES ENGAGED IN THE PRODUCTION OF CONCRETE PRODUCTS

1. WAGES

The minimum weekly wage rate per week that may be paid by employers to adult employees of the undermentioned classifications shall be as follows:

	Base Rate $	Safety Net Adjustment $	Weekly Wage Rate $
Group A	319.90	16.00	335.90

1. Head moulder on centrifugal pipe machine
2. Operator concrete mixing machine with a rated capacity in excess of 0.4 cubic metre
3. Automatic tile/ridge machine operator
4. Maker by hand of tiles, ridges, apexes and starters
5. Pipe machine operator
6. Employee making pipe specials, ie concreting junctions, splays or other articles including the use of cortex and who may be required to work from plans and/or specifications
7. Moulder special, employed working from plans and specifications
8. Prestressed concrete-steel stressing operator
9. Automatic block/brick machine operator
10. Off-bearer operator
11. Operator bending and/or fixing bars, rods or reinforcement working from plans
12. Exposed aggregate maker-finisher (includes control of washing off of wet concrete surfaces)
13. Coating machine operator

Group A. 1	314.60	16.00	330.60

1. Operator concrete mixing machine with a rated capacity of less than 0.4 cubic metres but more than 0.12 cubic metres
2. Colour mixer/applicator operator
3. Reinforcement welding machine operator
4. Moulder of other cement or concrete articles
5. Repairer, and/or jointer
6. Renderer facing concrete articles with float and trowel
7. Mould assembler and/or stripper

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8. Concrete vibrator operator 9. Splitter or cuber operator 10. Hydraulic flag press operator 11. Operator bending, cutting and/or fixing bars, rods, or reinforcement - other 12. Exposed aggregate maker - other - including setting up of moulds and making of reconstructed aggregate 13. Machine operator not elsewhere included			
Group A. 2	310.10	16.00	326.10
1. Operator of concrete mixing machine with rated capacity less than 0.12 cubic metres or mixing by hand 2. Pipe tester 3. Stacker by hand of articles including bricks, blocks, tiles and pipes 4. All other employees not elsewhere classified			
Group B			
1. Motor Mechanic	355.60	16.00	371.60
2. Plant Maintenance	355.60	16.00	371.60
Group C			
1. Mobile cranes -			
Lifting capacity -			
Up to 5 tonnes	327.30	16.00	343.30
Over 5 tonnes and up to 10 tonnes	329.50	16.00	345.50
Over 10 tonnes and up to 20 tonnes	334.20	16.00	350.20
Over 20 tonnes and up to 40 tonnes	338.00	16.00	354.00
Over 40 tonnes and up to 80 tonnes	341.00	16.00	357.00
Over 80 tonnes	344.00	16.00	360.00
2. Fork Lift Operators -			
Lifting capacity up to 5000kg	324.50	16.00	340.50
Lifting capacity over 5000kg	328.70	16.00	344.70

NOTE: Where two or more fork lifts or cranes are engaged on any one lift the drivers thereof shall be paid an additional amount at the rate of $3.00 per week for the time so occupied.

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3.	Front end and/or overhead loaders -			
	Up to and including 0.75 cubic metres capacity	330.00	16.00	346.00
	Over 0.75 cubic metres capacity and up to and including 2.25 cubic metres capacity	334.90	16.00	350.90
	Over 2.25 cubic metres and up to and including 4.5 cubic metres capacity	338.00	16.00	354.00
	Over 4.5 cubic metres capacity	342.40	16.00	358.40
4.	Tractor (pneumatic tyred) using power operated attachments -			
	Up to 35 kW brake power	322.20	16.00	338.20
	Over 35 kW brake power and up to 70 kW brake power	328.70	16.00	344.70
	Over 70 kW brake power and up to 110 kW brake power	333.10	16.00	349.10
	Over 110 kW brake power	336.10	16.00	352.10
5.	Tractor (pneumatic tyred) without power operated attachments -			
	35 kW brake power or under towing trailer	322.20	16.00	338.20
6.	Stiff legged derrick crane	321.20	16.00	337.20
7.	Overhead traverser	323.60	16.00	339.60
8.	Operator of dumper and any other power propelled vehicles	316.30	16.00	332.30
9.	Truck drivers 3-6 tonnes operating within the industry	325.00	16.00	341.00
10.	Crane chaser	313.40	16.00	329.40
11.	Boiler attendant	314.90	16.00	330.90
12.	Central batching plant operator, operating machine in excess of 0.4 cubic metres and supplying 3 or more production centres within a factory	323.60	16.00	339.60

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13.	Storeman	312.90	16.00	328.90

2. LEADING HANDS

A 'Leading Hand' is one who is directed to control, supervise and take responsibility for the work performed by 2 or more employees. He shall be paid the rate prescribed for the highest class of work so supervised with the following additions provided that where his own classified rate is higher than the rate for the highest class of work so supervised he shall be paid that rate with the following additions:-

In charge of 2 employees $9.60 per week
In charge of 3 to 6 employees $12.80 per week
In charge of more than 6 employees $15.20 per week

The above additional rates shall be applicable for all purposes covered by this award.

3. JUNIOR WORKERS

The minimum rates of wages that may be paid to junior workers not elsewhere provided for in this award shall be the undermentioned percentage of the appropriate adult weekly wage rate prescribed in subclause 1 hereof calculated to the nearest 10 cents.

	%
Under 17 years of age	70
17 to 18 years of age	80
18 years of age and over	Adult Rate

Junior workers shall only be employed at work suitable for juniors according to their age and not work suitable only for and usually performed by adults.

4. DISABILITY ALLOWANCE

In addition to the wage rates prescribed all employees classified in this division shall be paid a disability allowance of $9.40 per week in recognition of and compensation for the disabilities generally associated with the industry for which this award is established.

This allowance shall be paid for all purposes of this award.

5. EMPLOYEES NOT CLASSIFIED

Wage rates of employees not specifically provided for in this award shall be as prescribed in the appropriate award covering their craft or calling.

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DIVISION B - CARTERS AND DRIVERS

1. WAGES

The minimum weekly wage rate that shall be paid by employers to adult employees of the undermentioned classifications shall be as follows:

	Base Rate $	Safety Net Adjustment $	Weekly Wage Rate $
Employee driving motor vehicle having maker's capacity of -			
1.2 tonnes or less	322.00	16.00	338.00
Over 1.2 tonnes but not over 3 tonnes	325.70	16.00	341.70
Over 3 tonnes but under 6 tonnes	330.20	16.00	346.20
6 tonnes and over but under 7 tonnes	330.90	16.00	346.90
7 tonnes and over but under 8 tonnes	331.90	16.00	347.90
8 tonnes and over but under 9 tonnes	332.60	16.00	348.60
9 tonnes and over but under 10 tonnes	333.10	16.00	349.10
10 tonnes and over but under 11 tonnes	334.20	16.00	350.20
11 tonnes and over but under 12 tonnes	335.10	16.00	351.10
12 tonnes and over but under 13 tonnes	335.70	16.00	351.70
13 tonnes and over but under 14 tonnes	336.80	16.00	352.80
14 tonnes and over but under 15 tonnes	337.60	16.00	353.60
15 tonnes and over but under 16 tonnes	338.30	16.00	354.30
16 tonnes and over but under 17 tonnes	339.10	16.00	355.10
17 tonnes and over but under 18 tonnes	339.50	16.00	355.50
18 tonnes and over but under 19 tonnes	340.90	16.00	356.90
19 tonnes and over but under 20 tonnes	341.50	16.00	357.50

Motor (not being a tractor) drawing trailer for loaded single-axle trailer, $1.39 per day extra, or for an empty single-axle trailer, 78 cents per day extra.

For any other loaded trailer, $1.79 per day extra, or any other empty trailer, $1.00 per day extra.

Provided that not more than one trailer shall be drawn at any one time.

Additional amounts for an employee collecting money -

	$
For any amount handled up to $20	0.60
Over $20 but not exceeding $200	1.10
Over $200 but not exceeding $600	2.10
Over $600 but not exceeding $1000	3.20
Over $1000	4.20

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2. WAGES FOR JUNIORS

The minimum weekly wage rate to be paid to a junior shall be the following stated percentages of the total wage payable to an adult for the class of work performed:-

	%
Under 19 years of age	70
19 and under 20 years of age	80
Over 20 years of age	Adult Rate

DIVISION C - CLERKS

1. WAGES

The minimum weekly wage rate that may be paid by employers to adult employees of the undermentioned classifications shall be as follows:

		Base Rate $	Safety Net Adjustment $	Weekly Wage Rate $
1.	1st year's adult experience	279.70	16.00	295.70
	2nd year's adult experience	300.00	16.00	316.00
	3rd year's adult experience & thereafter	326.60	16.00	342.60
2.	An accountant or chief clerk wholly responsible for the office work and who prepares the balance sheet and profit and loss account	435.80	16.00	451.80
3.	A clerk who is in charge of and responsible for the work of -			
	(a) 5 or more employees	385.90	16.00	401.90
(b)	3 or 4 employees	370.20	16.00	386.20
(c)	2 employees	360.10	16.00	376.10

'Employees' in this subdivision shall mean any male or female clerk, typist or stenographer and shall include the clerk-in-charge.

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2. JUNIORS

The minimum weekly wage rate that may be paid to juniors shall be the undermentioned percentages of the second year adult weekly wage rate adjusted to the nearest 10 cents.

	Percentage of Second Year Adult Weekly Wage Rate %
Under 16 years of age	40
16 to 17 years of age	45
17 to 18 years of age	55
18 to 19 years of age	70
19 to 20 years of age	80
20 to 21 years of age	90

PROVIDED further when determining the amount payable to an employee attaining the age of 21 years, who has been employed as a junior clerk in the trades or groups of trades in respect of which the awards of the Tasmanian Industrial Commission relating to private industry employees are established, experience obtained after reaching the age of 18 years shall be counted as adult experience.

3. ADDITIONAL PAYMENTS

In addition to the weekly rates prescribed herein the following additional amounts per week shall be paid to stenographers, audio-typists, teletypists, accounting machine, computer, data processing, tabulating machine, card punch and verifier operators.

	Amount $
Under 16 years of age	1.00
16 to 17 years of age	1.20
17 to 18 years of age	1.30
18 to 19 years of age	1.60
19 to 20 years of age	1.90
20 to 21 years of age	2.00
21 years of age and over	2.60

9. ALLOWANCES

The following allowances are in addition to the rates provided in Clause 8 - Wage Rates.

(a) Lumpers of cement or concrete articles (in and out of tanks) 24 cents per hour in respect of such time actually spent in tanks containing water with a minimum payment as for 4 hours.

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(b) For work done away from the employer's place of business:

(1) the fares necessarily expended in going from and to the employee's residence to and from his work;

(2) for work done at a distance from the employer's place of business if the employee is unable to return to his home the same night and the employer does not provide board and lodging $15.80 per day for the first 7 days and thereafter $110.40 per week.

(c) Bituminous Sprayer:

An employee spraying or using bituminous and other similar preparations on exterior surface shall be paid 24 cents per hour or part of an hour whilst so engaged.

(d) An employee engaged on the preparation and/or the application of epoxy based materials shall be paid an allowance of 34 cents per hour, or part of an hour whilst so engaged.

(e) Sand Blasting - An employee required to use a sand blasting machine shall be paid an allowance of 35 cents per hour or part thereof.

10. ANNUAL LEAVE

(a) An employee (other than a casual) who has been continuously employed by the employer for at least one year (less the period of annual leave) shall for each completed year of such service, be entitled to leave of absence for a period equal to 28 consecutive days, the period to be reckoned in addition to any of the holidays prescribed by this award.

(b) In respect to a period of annual leave an employee (other than a casual) shall be paid whichever is the greater of:-

(i) The amount of wages he would have received in respect to the ordinary time which he would have worked had he not been on leave during the relevant period, For the purpose of this clause **'amount of wages'** shall include:

Wages prescribed by Clause 8 - Wage Rates of this award, shift work premiums according to roster or public holiday shifts; leading hand allowances, first aid allowances, service grants; incentive bonus scheme payments on the basis of average weekly earning during ordinary hours over the preceding 13 weeks.

The following items will not be included when assessing an employee's 'amount of wages':-

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Overtime; camping allowances; travelling allowances; disability rates; car allowances; meal allowances.

OR (ii) The wage prescribed by Clause 8 - Wage Rates of this award plus leading hand and first aid allowances where appropriate plus a loading of 17 1/2 per cent calculated on the sum of the above wage, leading hand and first aid allowances, where appropriate.

(c) Annual leave, by agreement between the employer and the employee concerned, may be given and taken in more than one period and may be taken before the right thereto has accrued.

(d) Should the employment be terminated by either party before the completion of any twelve months' period of employment, the employee shall be paid 1/12th of the total amount of wages (as defined in subclause (b) (i) of this clause) that he earned during his period of employment or since he last became entitled to and proceeded on annual leave, less any payments made in respect to annual leave taken before the right thereto had accrued.

(e) Calculation of Continuous Service

For the purpose of this clause, service shall be deemed to be continuous notwithstanding any absence from work on account of personal sickness or accident.

In calculating the period of 12 months continuos service any such absence as aforesaid shall not, except to the extent of not more than 91 days in any 12 monthly period, be taken into account in calculating the period of 12 months continuous service.

PROVIDED however this limitation shall not apply to an injury for which compensation is payable under an Act of Parliament relating to Workers' Compensation in respect of a period of less than 12 months.

(f) Each employee, before going on leave, shall be paid the amount to which he would be entitled according to the provisions of subclause (b) hereof.

(g) The annual leave provided for by this clause shall be allowed and shall be taken within a period not exceeding 6 months from the date when the right to annual leave accrued and after not less than 2 weeks notice to the employee.

(h) Where an employer intends temporarily to close (or reduce to nucleus) his establishment or a section thereof for the purposes (inter alia) of allowing annual leave to the employees concerned or a majority of them he may give in writing to such employees one month's notice (or, in the case of any employees engaged after giving of such notice, notice on the date of the employee's engagement) that he elects to apply the provisions of this subclause; and thereupon:

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(i) any such employee who at the date of closing is entitled to his annual holiday shall be given his annual holiday commencing on and from the date of closing with pay as prescribed by this clause. In addition he shall be paid 1/12th of his amount of wages for any period of employment after the accrual of his right to the annual holiday and up to but excluding the date of closing;

(ii) any such employee who at the date of closing is not entitled to his annual holiday shall be given leave without pay on and from the date of closing and shall be paid 1/12th of his amount of wages for the period of his employment since the commencement thereof or since he last became entitled to annual leave (whichever is the later) and up to but excluding the date of closing, together with pay for any trade or public holiday during such leave for which he is entitled to payment; and

(iii) the next twelve-monthly qualifying period of employment for every such worker shall commence on and from the date of closing.

In this subclause 'date of closing' in relation to each worker means the first day of his annual holiday or leave pursuant to this subclause.

(iv) An employer may close down his plant for one or 2 separate periods for the purpose of granting annual leave in accordance with this subclause. If the employer closes down his plant in 2 separate periods one of those periods shall be for a period of at least 21 consecutive days. Provided that where the majority of the employees in the plant or section concerned agree the employer may close down his plant in accordance with this subclause in 2 separate periods neither of which is of at least 21 consecutive days, or in 3 separate periods. In such cases the employer shall advise the employees concerned of the proposed dates of each close down before asking them for their agreement.

(v) (i) An employer may close down his plant, or a section or sections thereof for a period of at least 21 consecutive days and grant the balance of the annual leave due to an employee in one continuous period in accordance with a roster.

(ii) An employer may close down his plant, or a section or sections thereof for a period of less than 21 consecutive days and allow the balance of the annual leave due to an employee in one or 2 continuous periods either of which may be in accordance with a roster. In such cases the granting and taking of annual leave shall be subject to the agreement of the employer and the majority of employees in the plant, or a section or sections thereof respectively and before asking the employees concerned for their agreement the employer shall advise them of the proposed date of the close down or close downs and the details of the annual leave roster.

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11. CHANGE ROOM

A change room shall be provided by the employer for the use of the employees for changing clothes, and such room shall be to the satisfaction of the Secretary for Labour.

Employers shall provide suitable facilities to ensure that employees' clothing that becomes wet during the course of the employment shall be dry at the commencement of the following day or shift.

12. CLOTHING AND SAFETY BOOTS

(a) Overalls or other suitable protective clothing shall be provided where the nature of the work caused undue wear or deterioration to normal working clothes if requested by the employee provided that one set of such clothing shall be supplied to permanent employees only after 2 months service, and thereafter at intervals of not less than 4 months provided further the administration of this subclause may be varied by mutual consent.

(b) Up to 3 pairs of safety boots per annum shall be provided by the employer on production of satisfactory evidence that any boots issued previously are no longer serviceable.

(c) In the case of a new employee who leaves within a period of 4 weeks of commencement he will be charged the cost of boots and clothing supplied but this charge will be reduced by 25 per cent for each completed week he has worked.

13. COMPASSIONATE LEAVE

(a) An employee shall be entitled to a maximum of 2 days leave without deduction of pay on each occasion of the death within the State of the employee's wife, husband, de facto wife, de facto husband, father, mother, brother, sister, child, mother-in-law, father-in-law, step-child, step-father, step-mother, grand-father or grand-mother.

(b) On each occasion the employee travels outside the State in connection with the death of one of the relatives specified an additional 2 days without deduction of pay provided proof is given.

14. CONTRACT OF EMPLOYMENT

(a) Weekly Employment

Other than casuals, all employees shall be engaged by the week, except during the first week of employment which shall be on a daily basis.

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(b) Termination of all weekly engagements shall require one week's notice on either side given at any time during the week or by the payment or forfeiture of one week's wages as the case may be. This shall not affect the right of the employer to dismiss an employee without notice for misconduct (and in such cases the wages shall be paid up to the time of dismissal only) or to deduct payment for any day the employee cannot be usefully employed because of any strike or through any breakdown of machinery or any stoppage of work by any cause for which the employer cannot reasonably be held responsible.

(c) To obtain the benefit of weekly employment an employee must be ready, available and willing to work on the days and during the hours prescribed for an ordinary day's work less only prescribed and agreed upon remissions. Pro rata reductions of pay may be made for unauthorised absences.

(d) Casual Employment

Any person employed other than on terms of weekly employment shall be paid 20 per centum in addition to the appropriate rate prescribed in subclause 1, Division A of Clause 8 - Wage Rates.

15. CRIB ROOM

A crib room shall be provided by the employer with sufficient accommodation together with heating facilities for the number of employees habitually using same, and such rooms and accommodation shall be to the satisfaction of the Secretary for Labour.

16. DISTANT WORK

Where an employee is engaged on work distant from his place of engagement and is unable to return home each evening and is required to board or camp, any additional expense to which he is put shall be paid by the employer. In all such cases the necessary travelling expenses and/or other transport shall be provided by the employer, and such allowances as are fair and equitable shall be paid, and in all such cases employees shall be paid at the ordinary prescribed rates whilst travelling.

17. FIRST AID OUTFIT

In each workshop, and at other places where employees are regularly employed, the employer shall observe relevant legislation and regulations regarding first aid facilities. Any employee appointed by the employer to perform first aid duty, in addition to his ordinary duties, shall be paid $1.20 per day in addition to his ordinary rate.

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18. FLOWER-POT MACHINES

Employees working flower-pot machines shall be suitably supplied by the employer with overalls or similar suitable apparel.

19. HOLIDAY AND SUNDAY WORK

(a) All work performed on Sundays shall be paid for at the rate of double the ordinary rates.

(b) All work performed on any of the holidays mentioned in Clause 20 - Holidays with Pay hereof shall be paid for at the rate of double time and one half.

20. HOLIDAYS WITH PAY

(a) Double time shall be the rate payable for all work done on Sundays and double time and one half shall be the rate payable for all work done on public holidays, with a minimum payment as for 4 hours work. In the event of an employee attending for work but not required, he shall be paid a minimum payment as for 3 hours work.

(b) All employees (other than casuals) shall be entitled to the holidays hereinafter mentioned without deduction of pay or day or days substituted by Act of Parliament or Proclamation in lieu of such holidays as follows:

New Year's Day, Australia Day, Hobart Regatta Day (south of Oatlands), Labour Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Show Day (as defined in Clause 7 - Definitions), Recreation Day (where Hobart Regatta Day is not observed), Christmas Day and Boxing Day.

(c) By agreement between the employer and his employee other days may be substituted for the said days or any of them as to such employer's undertaking.

(d) Should 25 December in any year occur on a Saturday or a Sunday, the following Monday and Tuesday shall, for the purposes of this award, be deemed to be Christmas Day and Boxing Day respectively. Likewise should the first of January in any year occur on a Saturday or a Sunday the following Monday shall be deemed to be New Year's Day.

(e) Where an employee is absent from his or her employment on the working day before or the working day after a public holiday without reasonable excuse or without the consent of the employer, the employee shall not be entitled to payment for such a holiday.

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21. HOURS OF WORK

The ordinary hours of work shall average 38 hours per week, over a maximum work cycle of four weeks, to be worked in period not exceeding eight hours each, continuously except for meal breaks, Monday to Friday, between 6.00am and 6.00p.m. in respect of day work and as prescribed in Clause 36 - Shift Allowance hereof, in respect of shift work (except that this spread of hours may be varied by mutual agreement between the employer and the employee directly affected, or where more than one employee is affected, by agreement of a majority thereof.)

PROVIDED that work done outside the spread of hours fixed in accordance with this clause for which overtime rates are payable shall be deemed for the purposes of this clause to be part of the ordinary hours of work when otherwise the ordinary hours worked would be less than those prescribed herein.

22. IMPLEMENTATION OF 38-HOUR WEEK

The method of implementing the 38-hour week shall be determined by agreement between the employer and the majority of employees directly affected, from one or more of the following:

(a) By employees working less than eight ordinary hours each day.

(b) By employees working less than eight ordinary hours one or more days each week.

(c) By all employees having one week day off excluding public holidays, in each twenty day work cycle, eight hours being worked on each of the other nineteen days of those four weeks.

The day off is to be nominated by the employer:

(i) By fixing one week day upon which all or any number of employees will be off during a particular twenty day work cycle.

(ii) By rostering employees off on various week days during a particular twenty day work cycle.

Subject to operational requirements, preference shall be given to days off being arranged to suit individual requests.

(d) **PROVIDED** that the ordinary hours may be worked by such other method that is agreed upon between the employer and the majority of employees directly affected.

(e) Circumstances may arise where different methods of implementing a 38-hour week apply to various groups of sections of employees in the plant or establishment concerned.

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(f) The day scheduled to be the day off in accordance with this clause may be worked as an ordinary working day without penalty when substituted by another day by agreement between the employer and the employee directly affected, or where a number of employees are directly affected, by agreement between the employer and a majority of the employees in respect of whom a substitute day-off is sought.

(g) Excluding circumstances beyond the control of the employer and except as otherwise herein is provided, not less than seven days advance notice is to be given concerning the days off thus allocated to employees by the application of the foregoing arrangements.

(h) The procedure for resolving special, anomalous or extraordinary problems shall be applied in accordance with Clause 33 - Resolution of Disputes, of this award. The procedure shall be applied without delay.

(i) In any calendar year, where twenty days annual leave is taken there shall be a maximum of twelve rostered days off. Provided that for lesser periods of annual leave taken the above will apply on a proportionate basis.

23. INCLEMENT WEATHER

Each employee shall be paid an allowance at ordinary rates for time lost through inclement weather, subject to the following conditions:-

(i) That weather shall not be regarded as inclement for the purposes of this clause unless the employer, or his representative on the job, and the employee or a representative of the employee agree that it shall be so regarded. Failing such agreement, weather shall not be regarded as inclement and work shall continue;

(ii) That any intermission of work owing to inclement weather so regarded as such as aforesaid shall immediately cease and work shall be immediately resumed on the employer or his representative calling for a resumption of work;

(iii) That an employee shall not be entitled to payment as provided for in this clause unless he remains on the job until a decision to cease work for the day has been made by agreement between the employer or his representative and the employee or his representative;

(iv) That the intermission of work by employees who would be exposed to working in inclement weather so regarded in accordance with this clause shall not be a ground for intermission of work in places where employees are not so exposed to or who are not called upon to work in such inclement weather;

(v) That during an intermission of work owing to inclement weather the employer or his representative may require an employee to perform such work as may be necessary in some section of the works other than the employee's usual place of employment; and

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(vi) That an employer or his representative notifies an employee that his services will not be required on the following day the employee shall not be entitled to payment as prescribed by this clause for that day.

24. LOSS OF CLOTHING

The employer shall be responsible up to a maximum of $315 for an employee's clothing which may be destroyed by fire in a changing house or other shelter provided that such destruction is not in any way caused by the employee's own act or neglect.

25. MEAL INTERVALS AND ALLOWANCES

(a) Employees other than shift workers shall be entitled to a meal break of not less than 30 minutes and not more than one hour to be taken not later than five hours after the commencement of work for the day.

PROVIDED that where ordinary hours of work on any specified day do not exceed six hours, those hours may be worked without a meal break by agreement of the majority of employees and the employer concerned.

(b) An employee required to work beyond his usual meal time shall be paid at the rate of time and one half until he is allowed his meal break.

(c) An employee required to work overtime for more than two hours without being notified on the previous day or earlier that he will be required to work shall either be supplied with a meal by the employer or paid $9.25 for the first meal and after each further four hours worked an employee shall be paid $9.25 for a meal. If an employee pursuant to notice has provided a meal or meals and is not required to work overtime or is required to work less than the amount advised, he shall be paid as above prescribed for meals which he has provided but which are surplus.

(d) An employee who is required to work for more than two hours beyond his normal ceasing time in any day shall be allowed a break of 20 minutes at going rates before overtime work is commenced. After each further four hours worked an employee shall be entitled to a crib time of 20 minutes without deduction of pay, if the employee continues working after such crib time.

The employer and employee may agree to any variation of these provisions to suit the circumstances of the work in hand**.** Provided that the employer shall not be required to make any payment in respect of any time allowed in excess of 20 minutes.

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26. MIXED FUNCTIONS

An employee engaged for more than 2 hours on one day or shift on duties carrying a higher rate than his ordinary classification shall be paid the higher rate for such day or shift. If for two hours or less during a shift or day he shall be paid the higher rate for the time so worked.

27. NON-CONTINUOUS SHIFT WORK

(a) For work done at any time during a shift (other than a day shift) the ordinary rate of pay shall be increased by 15 per centum per shift.

(b) A shift worker shall be allowed 20 minutes crib-time in each shift, which shall be counted as time worked, and paid for as such.

(c) Shift rosters shall specify the commencing and finishing time of the ordinary working hours of the respective shifts.

(d) A shift worker who, during a period of engagement on shift work, works on night shift only without some regular weekly rotation with another shift, or with day work, shall be paid at the rate of time and a quarter for all time worked during ordinary working hours for such night shift provided such night shift continues for not less than 5 successive nights.

'Afternoon Shift' means any shift finishing after 6 p.m. and at or before midnight.

'Night Shift' means any shift finishing subsequent to midnight and at or before 8 am.

28. OVERTIME

(a) For all work done outside of the ordinary starting or ceasing times of work, or in excess of 8 hours on any one day or shift Monday to Friday inclusive the rate of time and one half for the first 2 hours and double time thereafter shall be paid.

(b) (i) If, on the instructions of the employer, an employee reports for overtime work on a Saturday, he shall be paid for a minimum of 4 hours work at the prescribed rate. In the event of an employee attending for work but not required, he shall be paid the minimum of 4 hours work at the prescribed rate;

(ii) An employee recalled to work overtime, Monday to Friday inclusive, after leaving his employer's business premises (whether notified before or after leaving the premises) shall be paid for a minimum of 4 hours work at the appropriate overtime rate for each time he is so recalled.

(c) When overtime work is necessary it shall, wherever reasonably practicable, be so arranged that employees have at least 10 consecutive hours off duty between the

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work of successive days. An employee (other than a casual employee) who works so much overtime between the termination of his ordinary work on one day and the commencement of his ordinary work on the next day that he has not had at least 10 consecutive hours off duty between those times shall, subject to this subclause be released after completion of such overtime until he has had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during absence.

If on the instruction of his employer such an employee resumes or continues work without having had such 10 consecutive hours off duty he shall be paid at double rates until he is released from duty for such period and he shall then be entitled to be absent until he has had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

In computing overtime, each day's work shall stand alone.

(d) The rostered day prescribed in paragraphs (c)(i) and (c)(ii) of Clause 22 - Implementation of a 38 Hour Week, may be worked where that is required by the employer in which case, in addition to the payment of any accrual which has not previously been paid, the employee shall be paid as follows:

For work performed in ordinary hours at the rate of time and a half, and for work outside ordinary hours, at the rate of double time. This penalty rate to apply until 31 January 1983, when normal overtime rates of tore and a half for the first two hours and double time thereafter shall apply.

29. PARENTAL LEAVE

Subject to the terms of this clause employees are entitled to maternity, paternity and adoption leave and to work part-time in connection with the birth or adoption of a child.

PART A - MATERNITY LEAVE

(a) Nature of Leave

Maternity leave is unpaid leave.

(b) Definitions

For the purpose of this part:

'Employee' includes a part-time employee but does not include an employee engaged upon casual or seasonal work.

'Paternity leave' means leave of the type provided for in Part B - Paternity Leave.

'Child' means a child of the employee under the age of one year.

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'Spouse' includes a de facto or a former spouse.

'Continuous service' means service under an unbroken contract of employment and includes:

(i) any period of leave taken in accordance with this clause;

(ii) any period of part-time employment worked in accordance with this clause; or

(iii) any period of leave or absence authorised by the employer or by the award.

(c) Eligibility for Maternity Leave

(i) An employee who becomes pregnant, upon production to her employer of the certificate required by subclause (d) hereof, shall be entitled to a period of up to 52 weeks maternity leave provided that such leave shall not extend beyond the child's first birthday. This entitlement shall be reduced by any period of paternity leave taken by the employee's spouse in relation to the same child and apart from paternity leave of up to one week at the time of confinement shall not be taken concurrently with paternity leave.

(ii) Subject to subclauses (f) and (i) hereof the period of maternity leave shall be unbroken and shall, immediately following confinement, include a period of six weeks compulsory leave.

(iii) The employee must have had at least 12 months continuous service with that employer immediately preceding the date upon which she proceeds upon such leave.

(d) Certificate

At the time specified in subclause (e) hereof the employee must produce to her employer:

(i) a certificate from a registered medical practitioner stating that she is pregnant and the expected date of confinement;

(ii) a statutory declaration stating particulars of any period of paternity leave sought or taken by her spouse and that for the period of maternity leave she will not engage in any conduct inconsistent with her contract of employment.

(e) Notice Requirements

(i) An employee shall, not less that ten weeks prior to the presumed date of confinement, produce to her employer the certificate referred to in paragraph (d)(i).

(ii) An employee shall give not less than four weeks notice in writing to her employer of the date upon which she proposes to commence maternity leave

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stating the period of leave to be taken and shall, at the same time, produce to her employer the statutory declaration referred to in paragraph (d)(ii).

(iii) An employer by not less than 14 days notice in writing to the employee may require her to commence maternity leave at any time within the six weeks immediately prior to her presumed date of confinement.

(iv) An employee shall not be in breach of this clause as a consequence of failure to give the stipulated period of notice in accordance with paragraph (ii) hereof if such failure is occasioned by the confinement occurring earlier than the presumed date.

(f) Transfer to a Safe Job

Where in the opinion of a registered medical practitioner, illness or risks arising out of the pregnancy or hazards connected with the work assigned to the employee make it inadvisable for the employee to continue at her present work, the employee shall, if the employer deems it practicable, be transferred to a safe job at the rate and on the conditions attaching to that job until the commencement of maternity leave.

If the transfer to a safe job is not practicable, the employee may, or the employer may require the employee to, take leave for such period as is certified necessary by a registered medical practitioner. Such leave shall be treated as maternity leave for the purposes of subclauses (j), (k), (l) and (m) hereof.

(g) Variation of Period of Maternity Leave

(i) Provided the maximum period of maternity leave does not exceed the period to which the employee is entitled under subclause (c) hereof:

(1) the period of maternity leave may be lengthened once only by the employee giving not less than 14 days' notice in writing stating the period by which the leave is to be lengthened;

(2) the period may be further lengthened by agreement between the employer and the employee.

(ii) The period of maternity leave may, with the consent of the employer, be shortened by the employee giving not less than 14 days' notice in writing stating the period by which the leave is to be shortened.

(h) Cancellation of Maternity Leave

(i) Maternity leave, applied for but not commenced, shall be cancelled when the pregnancy of an employee terminates other than by the birth of a living child.

(ii) Where the pregnancy of an employee then on maternity leave terminates other than by the birth of a living child, it shall be the right of the employee to

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resume work at a time nominated by the employer which shall not exceed 4 weeks from the date of notice in writing by the employee to the employer that she desires to resume work.

(i) Special Maternity Leave and Sick Leave

(i) Where the pregnancy of an employee not then on maternity leave terminates after 28 weeks other than by the birth of a living child then:

(1) she shall be entitled to such period of unpaid leave (to be known as special maternity leave) as a registered medical practitioner certifies as necessary before her return to work; or

(2) for illness other than the normal consequences of confinement she shall be entitled, either in lieu of or in addition to special maternity leave, to such paid sick leave as to which she is then entitled and which a registered medical practitioner certifies as necessary before her return to work.

(ii) Where an employee not then on maternity leave suffers illness related to her pregnancy, she may take such paid sick leave as to which she is then entitled and such further unpaid leave (to be known as special maternity leave) as a registered medical practitioner certifies as necessary before her return to work, provided that the aggregate of paid sick leave, special maternity leave and maternity leave shall not exceed the period to which the employee is entitled under subclause (c) hereof.

(iii) For the purposes of subclauses (j), (k) and (l) hereof, maternity leave shall include special maternity leave.

(iv) An employee returning to work after the completion of a period of leave taken pursuant to this subclause shall be entitled to the position which she held immediately before proceeding on such leave or, in the case of an employee who was transferred to a safe job pursuant to subclause (f) hereof, to the position she held immediately before such transfer.

Where such position no longer exists but there are other positions available, which the employee is qualified for and the duties of which she is capable of performing, she shall be entitled to a position as nearly comparable in status and pay to that of her former position.

(j) Maternity Leave and Other Leave Entitlements

(i) Provided the aggregate of any leave including leave taken under this part, does not exceed the period to which the employee is entitled under subclause (c) hereof, an employee may, in lieu of or in conjunction with maternity leave, take any annual leave or long service leave or any part thereof to which she is entitled.

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(ii) Paid sick leave or other paid authorised award absences (excluding annual leave or long service leave), shall not be available to an employee during her absence on maternity leave.

(k) Effect of Maternity Leave on Employment

Subject to this part, notwithstanding any award or other provision to the contrary, absence on maternity leave shall not break the continuity of service of an employee but shall not be taken into account in calculating the period of service for any purpose of any relevant award or agreement.

(l) Termination of Employment

(i) An employee on maternity leave may terminate her employment at any time during the period of leave by notice given in accordance with this award.

(ii) An employer shall not terminate the employment of an employee on the ground of her pregnancy or of her absence on maternity leave, but otherwise the rights of an employer in relation to termination of employment are not hereby affected.

(m) Return to Work After Maternity Leave

(i) An employee shall confirm her intention of returning to work by notice in writing to the employer given not less than four weeks prior to the expiration of her period of maternity leave.

(ii) An employee, upon returning to work after maternity leave or the expiration of the notice required by paragraph (i) hereof, shall be entitled to the position which she held immediately before proceeding on maternity leave or, in the case of an employee who was transferred to a safe job pursuant to subclause (f) hereof, to the position which she held immediately before such transfer or in relation to an employee who has worked part-time during the pregnancy the position she held immediately before commencing such part-time work.

Where such position no longer exists but there are other positions available for which the employee is qualified and the duties of which she is capable of performing, she shall be entitled to a position as nearly comparable in status and pay to that of her former position.

(n) Replacement Employees

(i) A replacement employee is an employee specifically engaged as a result of an employee proceeding on maternity leave.

(ii) Before an employer engages a replacement employee the employer shall inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.

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(iii) Before an employer engages a person to replace an employee temporarily promoted or transferred in order to replace an employee exercising her rights under this part, the employer shall inform that person of the temporary nature of the promotion or transfer and of the rights of the employee who is being replaced.

(iv) Nothing in this part shall be construed as requiring an employer to engage a replacement employee.

PART B - PATERNITY LEAVE

(a) Nature of Leave

Paternity leave is unpaid leave.

(b) Definitions

For the purpose of this part:

'Employee' includes a part-time employee but does not include an employee engaged upon casual or seasonal work.

'Maternity leave' means leave of the type provided for in Part A - Maternity Leave (and includes special maternity leave).

'Child' means a child of the employee or the employee's spouse under the age of one year.

'Spouse' includes a de facto or a former spouse.

'Primary care-giver' means a person who assumes the principal role of providing care and attention to a child.

'Continuous service' means service under an unbroken contract of employment and includes:

(i) any period of leave taken in accordance with this clause;

(ii) any period of part-time employment worked in accordance with this clause; or

(iii) any period of leave or absence authorised by the employer or by the award.

(c) Eligibility for Paternity Leave

A male employee, upon production to his employer of the certificate required by subclause (d) - Certification shall be entitled to one or two periods of paternity leave, the total of which shall not exceed 52 weeks, in the following circumstances:

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(i) an unbroken period of up to one week at the time of confinement of his spouse;

(ii) a further unbroken period of up to 51 weeks in order to be the primary care-giver of a child provided that such leave shall not extend beyond the child's first birthday. This entitlement shall be reduced by any period of maternity leave taken by the employee's spouse and shall not be taken concurrently with that maternity leave.

The employee must have had at least 12 months continuous service with that employer immediately preceding the date upon which he proceeds upon either period of leave.

(d) Certification

At the time specified in subclause (e) the employee must produce to his employer:

(i) a certificate from a registered medical practitioner which names his spouse, states that she is pregnant and the expected date of confinement or states the date of which the birth took place;

(ii) in relation to any period to be taken under paragraph (c)(ii) hereof, a statutory declaration stating:

(1) he will take that period of paternity leave to become the primary care-giver of the child;

(2) particulars of any period of maternity leave sought or taken by his spouse; and

(3) for the period of paternity leave he will not engage in any conduct inconsistent with his contract of employment.

(e) Notice Requirements

(i) The employee shall, not less than ten weeks prior to each proposed period of leave, give the employer notice in writing stating the dates on which he proposes to start and finish the period or periods of leave and produce the certificate and statutory declaration required in subclause (d) hereof.

(ii) The employee shall not be in breach of this subclause as a consequence of failure to give the notice required in paragraph (i) hereof if such failure is due to:

(1) the birth occurring earlier than the expected date; or

(2) the death of the mother or the child; or

(3) other compelling circumstances.

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(iii) The employee shall immediately notify his employer of any change in the information provided pursuant to subclause (d) hereof.

(f) Variation of Period of Paternity Leave

(i) Provided the maximum period of paternity leave does not exceed the period to which the employee is entitled under subclause (c) hereof:

(1) the period of paternity leave provided by paragraph (c)(ii) may be lengthened once only by the employee giving not less than 14 days notice in writing stating the period by which the leave is to be lengthened;

(2) the period may be further lengthened by agreement between the employer and the employee.

(ii) The period of paternity leave taken under paragraph (c)(ii) hereof may, with the consent of the employer, be shortened by the employee giving not less than 14 days notice in writing stating the period by which the leave is to be shortened.

(g) Cancellation of Paternity Leave

Paternity leave, applied for under paragraph (c)(ii) hereof but not commenced, shall be cancelled when the pregnancy of the employee's spouse terminates other than by the birth of a living child.

(h) Paternity Leave and Other Leave Entitlements

(i) Provided the aggregate of any leave, including leave taken under this part, does not exceed the period to which the employee is entitled under subclause (c) hereof, an employee may, in lieu of or in conjunction with paternity leave, take any annual leave or long service leave or any part thereof to which he is entitled.

(ii) Paid sick leave or other paid authorised award absences (excluding annual leave or long service leave) shall not be available to an employee during his absence on paternity leave.

(i) Effect of Paternity Leave on Employment

Subject to this part, notwithstanding any award or other provision to the contrary, absence on paternity leave shall not break the continuity of service of an employee but shall not be taken into account in calculating the period of service for any purpose of any relevant award or agreement.

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(j) Termination of Employment

(i) An employee on paternity leave may terminate his employment at any time during the period of leave by notice given in accordance with this award.

(ii) An employer shall not terminate the employment of an employee on the ground of his absence on paternity leave, but otherwise the rights of an employer in relation to termination of employment are not hereby affected.

(k) Return to Work after Paternity Leave

(i) An employee shall confirm his intention of returning to work by notice in writing to the employer given not less than four weeks prior to the expiration of the period of paternity leave provided by paragraph (c)(ii) hereof.

(ii) An employee, upon returning to work after paternity leave or the expiration of the notice required by paragraph (i) hereof, shall be entitled to the position which he held immediately before proceeding on paternity leave, or in relation to an employee who has worked part-time under this clause to the position he held immediately before commencing such part-time work.

Where such position no longer exists but there are other positions available which the employee is qualified for and is capable of performing, he shall be entitled to a position as nearly comparable in status and pay to that of his former position.

(l) Replacement Employees

(i) A replacement employee is an employee specifically engaged as a result of an employee proceeding on paternity leave.

(ii) Before an employer engages a replacement employee the employer shall inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.

(iii) Before an employer engages a person to replace an employee temporarily promoted or transferred in order to replace an employee exercising his rights under this part, the employer shall inform that person of the temporary nature of the promotion or transfer and of the rights of the employee who is being replaced.

(iv) Nothing in this part shall be construed as requiring an employer to engage a replacement employee.

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PART C - ADOPTION LEAVE

(a) Nature of Leave

Adoption leave is unpaid leave.

(b) Definitions

For the purpose of this part:

'Employee' includes a part-time employee but does not include an employee engaged upon casual or seasonal work.

'Child' means a person under the age of five years who is placed with the employee for the purposes of adoption, other than a child or stepchild of the employee or of the spouse of the employee or a child who has previously lived continuously with the employee for a period of six months or more.

'Relative adoption' occurs where a child, as defined, is adopted by a grandparent, brother, sister, aunt or uncle (whether of the whole blood or half blood or by marriage).

'Primary care-giver' means a person who assumes the principal role of providing care and attention to a child.

'Spouse' includes a de facto spouse.

'Continuous service' means service under an unbroken contract of employment and includes:

(i) any period of leave taken in accordance with this clause;

(ii) any period of part-time employment worked in accordance with this clause, or

(iii) any period of leave or absence authorised by the employer or by the award.

(c) Eligibility

An employee, upon production to the employer of the documentation required by subclause (d) hereof shall be entitled to one or two periods of adoption leave, the total of which shall not exceed 52 weeks, in the following circumstances:

(i) an unbroken period of up to three weeks at the time of the placement of the child;

(ii) an unbroken period of up to 52 weeks from the time of the child's placement in order to be the primary care-giver of the child. This leave shall not extend beyond one year after the placement of the child and shall not be taken

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concurrently with adoption leave taken by the employee's spouse in relation to the same child. This entitlement of up to 52 weeks shall be reduced by:

(1) any period of leave taken pursuant to paragraph (i) hereof; and

(2) the aggregate of any periods of adoption leave taken or to be taken by the employee's spouse;

The employee must have had at least 12 months continuous service with that employer immediately preceding the date upon which he or she proceeds upon such leave in either case.

(d) Certification

Before taking adoption leave the employee must produce to the employer:

(i) (1) A statement from an adoption agency or other appropriate body of the presumed date of placement of the child with the employee for adoption purposes; or

(2) A statement from the appropriate government authority confirming that the employee is to have custody of the child pending application for an adoption order.

(ii) In relation to any period to be taken under paragraph (c)(ii) hereof, a statutory declaration stating:

(1) the employee is seeking adoption leave to become the primary care-giver of the child;

(2) particulars of any period of adoption leave sought or taken by the employee's spouse; and

(3) for the period of adoption leave the employee will not engage in any conduct inconsistent with his or her contract of employment.

(e) Notice Requirements

(i) Upon receiving notice of approval for adoption purposes, an employee shall notify the employer of such approval and within two months of such approval, shall further notify the employer of the period or periods of adoption leave the employee proposes to take. In the case of a relative adoption the employee shall notify as aforesaid upon deciding to take a child into custody pending an application for an adoption order.

(ii) An employee who commences employment with an employer after the date of approval for adoption purposes shall notify the employer thereof upon commencing employment and of the period or periods of adoption leave which the employee proposes to take. Provided that such employee shall not be

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entitled to adoption leave unless the employee has not less than 12 months continuous service with that employer immediately preceding the date upon which he or she proceeds upon such leave.

(iii) An employee shall, as soon as the employee is aware of the presumed date of placement of a child for adoption purposes but no later than 14 days before such placement, give notice in writing to the employer of such date, and of the date of the commencement of any period of leave to be taken under paragraph (c)(i) hereof.

(iv) An employee shall, ten weeks before the proposed date of commencing any leave to be taken under paragraph (c)(ii) hereof give notice in writing to the employer of the date of commencing leave and the period of leave to be taken.

(v) An employee shall not be in breach of this part as a consequence of failure to give the stipulated period of notice in accordance with paragraphs (iii) and (iv) hereof if such failure is occasioned by the requirement of an adoption agency to accept earlier or later placement of a child, the death of the spouse or other compelling circumstances.

(f) Variation of Period of Adoption Leave

(i) Provided the maximum period of adoption leave does not exceed the period to which the employee is entitled under subclause (c) hereof:

(1) the period of leave taken under paragraph (c)(ii) hereof may be lengthened once only by the employee giving not less than 14 days notice in writing stating the period by which the leave is to be lengthened;

(2) the period may be further lengthened by agreement between the employer and employee.

(ii) The period of adoption leave taken under paragraph (c)(ii) hereof may, with the consent of the employer, be shortened by the employee giving not less than 14 days notice in writing stating the period by which the leave is to be shortened.

(g) Cancellation of Adoption Leave

(i) Adoption leave, applied for but not commenced, shall be cancelled should the placement of the child not proceed.

(ii) Where the placement of a child for adoption purposes with an employee then on adoption leave does not proceed or continue, the employee shall notify the employer forthwith and the employer shall nominate a time not exceeding four weeks from receipt of notification for the employee's resumption of work.

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(h) Special Leave

The employer shall grant to any employee who is seeking to adopt a child, such unpaid leave not exceeding two days, as is required by the employee to attend any compulsory interviews or examinations as are necessary as part of the adoption procedure. Where paid leave is available to the employee the employer may require the employee to take such leave in lieu of special leave.

(i) Adoption Leave and Other Entitlements

(i) Provided the aggregate of any leave, including leave taken under this part, does not exceed the period to which the employee is entitled under subclause (c) hereof, an employee may, in lieu of or in conjunction with adoption leave, take any annual leave or long service leave or any part thereof to which he or she is entitled.

(ii) Paid sick leave or other paid authorised award absences (excluding annual leave or long service leave), shall not be available to an employee during the employee's absence on adoption leave.

(j) Effect of Adoption Leave on Employment

Subject to this part, notwithstanding any award or other provision to the contrary, absence on adoption leave shall not break the continuity of service of an employee but shall not be taken into account in calculating the period of service for any purpose of any relevant award or agreement.

(k) Termination of Employment

(i) An employee on adoption leave may terminate the employment at any time during the period of leave by notice given in accordance with this award.

(ii) An employer shall not terminate the employment of an employee on the ground of the employee's application to adopt a child or absence on adoption leave, but otherwise the rights of an employer in relation to termination of employment are not hereby affected.

(l) Return to Work After Adoption Leave

(i) An employee shall confirm the intention of returning to work by notice in writing to the employer given not less than four weeks prior to the expiration of the period of adoption leave provided by paragraph (c)(ii) hereof.

(ii) An employee, upon returning to work after adoption leave, shall be entitled to the position held immediately before proceeding on such leave or in relation to an employee who has worked part-time under this clause the position held immediately before commencing such part-time work.

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Where such position no longer exists but there are other positions available which the employee is qualified for and is capable of performing, the employee shall be entitled to a position as nearly comparable in status and pay to that of the employee's former position.

(m) Replacement Employees

(i) A replacement employee is an employee specifically engaged as a result of an employee proceeding on adoption leave.

(ii) Before an employer engages a replacement employee the employer shall inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.

(iii) Before an employer engages a person to replace an employee temporarily promoted or transferred in order to replace an employee exercising rights under this part, the employer shall inform that person of the temporary nature of the promotion or transfer and of the rights of the employee who is being replaced.

(iv) Nothing in this part shall be construed as requiring an employer to engage a replacement employee.

PART D - PART-TIME WORK

(a) Definitions

For the purposes of this part:

'Male employee' means an employed male who is caring for a child born of his spouse or a child placed with the employee for adoption purposes.

'Female employee' means an employed female who is pregnant or is caring for a child she has borne or a child who has been placed with her for adoption purposes.

'Spouse' includes a de facto spouse.

'Former position' means the position held by a female or male employee immediately before proceeding on leave or part-time employment under this part whichever first occurs or, if such position no longer exists but there are other positions available for which the employee is qualified and the duties of which he or she is capable of performing, a position as nearly comparable in status and pay to that of the position first mentioned in this definition.

'Continuous service' means service under an unbroken contract of employment and includes:

(i) any period of leave taken in accordance with this clause;

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(ii) any period of part-time employment worked in accordance with this clause; or

(iii) any period of leave or absence authorised by the employer or by the award.

(b) Entitlement

With the agreement of the employer:

(i) A male employee may work part-time in one or more periods at any time from the date of birth of the child until its second birthday or, in relation to adoption, from the date of placement of the child until the second anniversary of the placement.

(ii) A female employee may work part-time in one or more periods while she is pregnant where part-time employment is, because of the pregnancy, necessary or desirable.

(iii) A female employee may work part-time in one or more periods at any time from the seventh week after the date of birth of the child until its second birthday.

(iv) In relation to adoption a female employee may work part-time in one or more periods at any time from the date of the placement of the child until the second anniversary of that date.

(c) Return to Former Position

(i) An employee who has had at least 12 months continuous service with an employer immediately before commencing part-time employment after the birth or placement of a child has, at the expiration of the period of such part-time employment or the first period, if there is more than one, the right to return to his or her former position.

(ii) Nothing in paragraph (i) hereof shall prevent the employer from permitting the employee to return to his or her former position after a second or subsequent period of part-time employment.

(d) Effect of Part-time Employment on Continuous Service

Commencement on part-time work under this clause, and return from part-time work to full-time work under this clause, shall not break the continuity of service or employment.

(e) Pro Rata Entitlements

Subject to the provisions of this part and the matters agreed to in accordance with subclause (h) hereof, part-time employment shall be in accordance with the provisions of this award which shall apply pro rata.

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(f) Transitional Arrangements - Annual Leave

(i) An employee working part-time under this part shall be paid for and take any leave accrued in respect of a period of full-time employment, in such periods and manner as specified in the annual leave provisions of this award, as if the employee were working full-time in the class of work the employee was performing as a full-time employee immediately before commencing part-time work under this part.

(ii) (1) A full-time employee shall be paid for and take any annual leave accrued in respect of a period of part-time employment under this part, in such periods and manner as specified in this award, as if the employee were working part-time in the class of work the employee was performing as a part-time employee immediately before resuming full-time work.

(2) Provided that, by agreement between the employer and the employee, the period over which the leave is taken may be shortened to the extent necessary for the employee to receive pay at the employee's current full-time rate.

(g) Transitional Arrangements - Sick Leave

An employee working part-time under this part shall have sick leave entitlements which have accrued under this award (including any entitlements accrued in respect of previous full-time employment) converted into hours. When this entitlement is used, whether as a part-time employee or as a full-time employee, it shall be debited for the ordinary hours that the employee would have worked during the period of absence.

(h) Part-time Work Agreement

(i) Before commencing a period of part-time employment under this part the employee and the employer shall agree:

(1) that the employee may work part-time;

(2) upon the hours to be worked by the employee, the days upon which they will be worked and commencing times for the work;

(3) upon the classification applying to the work to be performed; and

(4) upon the period of part-time employment.

(ii) The terms of this agreement may be varied by consent.

(iii) The terms of this agreement or any variation to it shall be reduced to writing and retained by the employer. A copy of the agreement and any variation to it shall be provided to the employee by the employer.

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(iv) The terms of this agreement shall apply to the part-time employment.

(i) Termination of Employment

(i) The employment of a part-time employee under this clause, may be terminated in accordance with the provisions of this award but may not be terminated by the employer because the employee has exercised or proposes to exercise any rights arising under this clause or has enjoyed or proposes to enjoy any benefits arising under this clause.

(ii) Any termination entitlements payable to an employee whose employment is terminated while working part-time under this clause, or while working full-time after transferring from part-time work under this clause, shall be calculated by reference to the full-time rate of pay at the time of termination and by regarding all service as a full-time employee as qualifying for a termination entitlement based on the period of full-time employment and all service as a part-time employee on a pro rata basis.

(j) Extension of Hours of Work

An employer may request, but not require, an employee working part-time under this clause to work outside or in excess of the employee's ordinary hours of duty provided for in accordance with subclause (h).

(k) Nature of Part-time Work

The work to be performed part-time need not be the work performed by the employee in his or her former position but shall be work otherwise performed under this award.

(l) Inconsistent Award Provisions

An employee may work part-time under this clause notwithstanding any other provisions of this award which limits or restricts the circumstances in which part-time employment may be worked or the terms upon which it may be worked including provisions:

(i) limiting the number of employees who may work part-time;

(ii) establishing quotas as to the ratio of part-time to full-time employees;

(iii) prescribing a minimum or maximum number of hours a part-time employee may work; or

(iv) requiring consultation with, consent of or monitoring by a union;

and such provisions do not apply to part-time work under this clause.

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(m) Replacement Employees

(i) A replacement employee is an employee specifically engaged as a result of an employee working part-time under this part.

(ii) A replacement employee may be employed part-time. Subject to this subclause, subclauses (e), (f), (g), (h), (i) and (l) of this part apply to the part-time employment of replacement employees.

(iii) Before an employer engages a replacement employee under this subclause, the employer shall inform the person of the temporary nature of the employment and of the rights of the employee who is being replaced.

(iv) Unbroken service as a replacement employee shall be treated as continuous service as provided for in paragraph (a) Definitions, **'Continuous service'** of this part.

(v) Nothing in this part shall be construed as requiring an employer to engage a replacement employee.

30. PAYMENT OF WAGES

All wages shall be paid weekly in the employer's time. Payment shall be made on the job, in cash or with the consent of the employee and the employer wages may be paid by cheque or into a nominated account, and in the event of termination of employment where one week's notice has been given shall be paid within fifteen minutes of such termination.

In the event of such payment not being made, waiting time at ordinary rates shall be paid for all time in excess of such 15 minutes, provided that when dismissals have been made by other than a week's notice, payment shall be made within 24 hours.

31. PREFERENCE TO UNIONISTS

Preference of employment shall be given to financial members of the Australian Workers' Union.

32. PROTECTIVE CLOTHING

(a) When an employee is called upon to work in water he shall be provided with suitable boots and waders which shall be worn by him.

(b) Where a man's place of work is outside the factory building and he is required to carry on such work in the rain, his employer shall furnish him with a waterproof overcoat, rubber boots and sou'wester which shall be worn by him whilst so employed.

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(c) All protective clothing supplied pursuant to this clause shall be as follows:

(i) issued in good and clean condition;

(ii) retained by the employee during his period of employment and shall be renewed by the employer when necessary;

(iii) fumigated before being transferred from one employee to another;

(iv) shall remain the property of the employer.

(d) The loss of such protective clothing due to any cause arising out of the neglect or misuse by the employee shall be a charge against his wages, provided that no charge shall be made in respect of reasonable wear and tear.

33. RESOLUTION OF DISPUTES

Any industrial dispute arising during the currency of the award shall be dealt with as follows:

(a) The matter should first be discussed between the employee and his immediate supervisor. At the employee's option his delegate may also be present.

(b) If not settled, the matter shall be submitted by the shop steward or union representative to the industrial officer or other appropriate officer of the employer.

(c) If not settled, the matter shall be formally submitted by the State Secretary or other appropriate official of the union concerned to the employer.

(d) Until the matter is determined in accordance with the above procedure, work shall continue normally. All parties to the award, the employer, its officials, the unions and their members, will take all possible action to settle any dispute within 7 days of notification of the dispute to the employer.

(e) No party shall be prejudiced as to final settlement by the continuance of work in accordance with this subclause.

(f) In the event of an employee being given instant dismissal the employer will notify the appropriate union steward or official as soon as possible.

The union will notify the employer of a dispute if it is contended by the union that there are reasons why the dismissal is incorrect.

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34. REST PERIODS

All employees shall be entitled to 2 rest intervals of 7.1/2 minutes duration during the first and second half of the day or shift, to be taken at such times as will not interfere with the continuity of work. Such intervals are to be counted as time worked. Provided that in lieu of the above provisions and by agreement between the employer and the majority of the employees at a particular plant one break of 15 minutes duration per day may be taken at a mutually agreeable time.

35. RIGHT OF ENTRY OF UNION OFFICIALS

For the purposes of interviewing employees on legitimate Union business a duly accredited representative of the Australian Workers' Union shall have the right to enter (during any non-working time after notifying the employer or his representative, or with the employer's consent, at any other time) the portion of any employer's establishment in which any of the classes of labour covered by this award are employed. If any representative is unduly interfering with, or is creating dissatisfaction amongst employees, or is offensive in his methods, the employer may refuse the right of entry.

36. SHIFT ALLOWANCE

Employees working on afternoon or night shifts shall be paid 15 per cent extra for such shifts.

37. SICK LEAVE

(a) An employee, other than one engaged as a casual who is absent from work on account of personal illness or on account of injury by accident shall be entitled to leave of absence without deduction of pay, subject to the following conditions and limitations:

(i) he shall not be entitled to such leave of absence for any period in respect of which he is entitled to workers' compensation;

(ii) he shall, within 48 hours of the commencement of such absence, inform the employer of his inability to attend for work, and as far as may be practicable, state the nature of the illness or injury and the estimated duration of the absence;

(iii) he shall prove to the satisfaction of the employer (or in the event of a dispute, the Secretary for Labour) that he was unable on account of such illness or injury to attend for work on the day or days for which the sick leave is claimed;

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(iv) he shall not be entitled in any year (whether in the employment of one employer or of more) to sick leave credit in excess of 2 weeks of ordinary working time.

(v) For the purpose of administering paragraph (iv) of this subclause, an employer may within one month of this award coming into operation or within 2 weeks of the employee entering his employment require an employee to make a sworn declaration or other written statement as to what paid leave of absence he has had from any employer during the then current year, and upon such statement the employer shall be entitled to rely and act.

(b) Sick leave shall accumulate from year to year so that any balance of the period specified in subclause (a) (iv) of this clause which has in any year not been allowed to an employee by an employer as paid sick leave shall be credited to the employee, and subject to the conditions hereinbefore prescribed shall be allowed by that employer in a subsequent year without diminution of the sick leave prescribed in respect of that year;

(c) An employer shall not be required to make any payment in respect of accumulated sick leave credits to an employee who is discharged or leaves his employment, or for any time an employee is absent from work without producing satisfactory evidence of personal illness.

Sickness on a rostered day off:

(d) Where an employee is sick or injured on the week day he is to take off in accordance with subclause (c) Clause 22 - Implementation of 38-Hour Week hereof, he shall not be entitled to sick pay nor will his sick pay entitlement be reduced as a result of his sickness or injury that day.

(e) An employee who is absent on the ordinary working day preceding and/or the ordinary working day following a rostered day off shall not be entitled to payment of sick pay for the day or days unless he produces to the employer a certificate from a duly qualified medical practitioner. Providing that if satisfactory evidence of sickness or injury acceptable to the employer is produced then the necessity of a medical certificate may be waived.

38. TERMINATION OF SERVICE

One week's notice shall be given by either party to terminate the contract of service. In lieu of such notice, the employer to pay one week's wages or the employee to forfeit one week's wages as the case may be. Provided that an employee may be dismissed for wilful misconduct or neglect of duty, or when employment cannot be provided owing to a breakdown of machinery, fire, or any other interruptions of operations or other cause beyond the employer's control.

Provided further that during the first week of service the employment may be terminated by either party giving an hour's notice.

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39. TOOLS ETC.

The employer shall supply his employees with all the requisite tools and gloves for the performance of their duties.

40. TRANSFER FROM JOB TO JOB

An employee transferred by the employer from one job to another job on the same day shall be paid for the time spent in travelling as for time worked.

41. WATERPROOF CLOTHING OR PAYMENT IN LIEU

(a) If an employee is required to work in a wet place or in a heavy rain he shall be provided with gum boots or oilskins, or both, so as to protect him from getting wet.

(b) A place shall be deemed to be wet when water, other than rain, is continually dropping from overhead so as to saturate the clothing of the employee if unprotected and/or when water in the place where the employee is standing is over 2 inches deep.

(c) Rain shall be deemed to be heavy when, if the employee works therein as required, his clothing will become saturated.

42. WASHING FACILITIES

Reasonable washing facilities for the use of the employees shall be provided by the employer with a supply of running water and hot water where practicable, and such shall be to the satisfaction of the Secretary for Labour.

CONDITIONS FOR EMPLOYEES IN DIVISION B - CARTERS AND DRIVERS

43. GENERAL CONDITIONS

The provisions of the following clauses in Division A shall also apply to employees in this division:

Clause Nos. 10. Annual Leave
13. Compassionate Leave
16. Distant Work
19. Holiday and Sunday Work
20. Holidays with Pay
21. Hours of Work
26. Mixed Functions

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28. Overtime
29. Parental Leave
30. Payment of Wages
35. Right of Entry of Union Officials
37. Sick Leave
38. Termination of Service
41. Waterproof Clothing or Payment in Lieu

CONDITIONS FOR EMPLOYEES IN DIVISION C - CLERKS

44. ESTIMATING SERVICE

In estimating the number of years experience of any employee in order to ascertain the minimum rate of wage to which such employee may be entitled, the total experience in the service of every employer in the building trade or otherwise shall be taken.

45. GENERAL CONDITIONS

The provisions of the following clauses in Division A shall also apply to employees in this division.

Clause Nos. 10. Annual Leave
13. Compassionate Leave
19. Holiday and Sunday Work
20. Holidays with Pay
21. Hours of Work
29. Parental Leave
30. Payment of Wages
35. Right of Entry of Union Officials
37. Sick Leave
38. Termination of Service

46. OVERTIME

For all time of duty in excess of the ordinary hours, payment shall be made at the rate of time and a half for the first 4 hours and double time thereafter.

In computing overtime each day's work shall stand alone.

F.D. Westwood
PRESIDENT

31 January 1996

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