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TASMANIAN INDUSTRIAL COMMISSION

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

Tasmanian Trades and Labor Council
(T.3077 of 1991)

CLEANING AND PROPERTY SERVICES AWARD

Award variation - insertion of "Parental Leave" clause in lieu of "Maternity Leave" clause

ORDER –

**No. 4 of 1992
(Consolidated)**

THE **CLEANING AND PROPERTY SERVICES AWARD** IS VARIED BY DELETING ALL THE CLAUSES CONTAINED THEREIN AND INSERT IN LIEU THEREOF THE FOLLOWING:

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1. TITLE

This award shall be known as the "Cleaning and Property Services Award."

2. SCOPE

This award is established in respect of the property service industry which includes, without limiting the generality thereof, the provision of cleaning, pollution control, general maintenance, repair and ancillary security services in both domestic and non-domestic premises.

3. ARRANGEMENT

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4. DATE OF OPERATION

This award shall come into effect on and from 1 January 1993.

It is a term of this award (arising from the decision of the Tasmanian Industrial Commission in the State Wage Case of 13 August 1991) that the union undertakes, until 30 November 1991, not to pursue any extra claims, award or overaward, except when consistent with those principles.

5. SUPERSESSION AND SAVINGS

This award incorporates and supersedes No. 4 of 1991 (Consolidated) and 5 of 1991, Nos 1, 2 and 3 of 1992.

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

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 organisation of employees in respect of whom award interest has been determined:

the Australian Liquor, Hospitality and Miscellaneous Workers Union, Tasmanian Branch, and the officers of that organisation and their members who are engaged in the industry specified in Clause 2 - Scope;
- (d) the following organisations of employers in respect of whom award interest has been determined:

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- (i) the Retail Traders Association of Tasmania, and the officers of that organisation and their members who are engaged in the industry specified in Clause 2 - Scope;
- (ii) the Tasmanian Confederation of Industries.

7. DEFINITIONS

- (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 local show day, is agreed on by the employee and the employer, therefore making a total of 11 paid public holidays per year.
- (b) **'Union'** means the Australian Liquor, Hospitality and Miscellaneous Workers Union, Tasmanian Branch.

8. WAGE RATES

1. WAGE RATES

- (a) An adult employee's wage rate is inclusive of the base rate of pay set out hereunder and the appropriate supplementary payment for that grade as specified in subclause 2. - Supplementary Payments of this clause.

	Base Rate Per Week
	\$
Property Service Employee	
Grade I	339.50
Grade II	362.10
Grade III	393.40

- (b) Classifications

For the purposes of subclause (a) hereof, an employee shall be assigned to the appropriate classification provided they are appointed by the employer to perform tasks and duties and undertake responsibilities within the scope of the indicative tasks and duties and responsibilities and the definition of that classification grade and the employee has competency in the necessary skills to perform those tasks and duties at the standard required.

The classification grades are defined as follows:

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Property Service Employee Grade I

(i) Point of Entry

New employee

(ii) Description

Means an employee who performs generic cleaning tasks to restore or maintain premises by the removal of soiling and waste to a clean condition, provided that a Property Service Employee Grade I shall also mean a person who is employed by a Contractor in a private residence and/or establishment, to perform work of a hygienic nature including but not limited to cleaning and washing and in addition includes an employee engaged to perform basic office duties indicative of their grade.

(iii) Tasks, Duties and Responsibilities

Indicative of the tasks, duties and responsibilities which an employee at this level may perform are the following:

- . Cleaning -
General/hygiene/domestic/industrial/commercial/Retail etc.
- . Refuse removal
- . Use of chemicals
- . Locking doors and windows for access and egress to ensure the building is secure
- . Transportation
- . Basic keyboard record keeping and receptionist duties.

(iv) Induction Programme

An employee at this level shall undertake an internal induction programme which may include information on the enterprise, conditions of employment, introduction to other workers, training and career path opportunities, occupational health and safety, quality control, work and documentation procedures, personal presentation and use and care of machinery and/or equipment.

(v) Promotional Criteria

An employee remains at this level until they are capable of effectively performing through assessment or appropriate certification the tasks required

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of this function so as to enable them to progress to the next level as a position becomes available.

Property Service Employee Grade II

(i) Point of Entry

- . Property Service Employee Grade I
- . Completion of required training module.

(ii) Description

Means an employee who utilises the skills of Property Service Employee Grade I and who in addition regularly utilises cleaning skills and methods that are of a specialist nature.

(iii) Tasks, Duties and Responsibilities

In addition to the tasks of Property Service Employee Grade I the indicative tasks, duties and responsibilities which an employee at this level may perform are the following:

- . Client liaison/public relations eg. minor quoting.
- . Ordering and receiving of supplies and materials.
- . Specialised carpet cleaning.
- . Steam and pressure cleaning.
- . Window cleaning from a suspended apparatus.
- . Basic maintenance.
- . Securing premises as part of the task.
- . Intermediate Keyboard skills and performs administrative/secretarial duties.

(iv) Promotional Criteria

An employee remains at this level until they are capable of effectively performing through assessment or appropriate certification the tasks required of this function so as to enable them to progress to the next level as a position becomes available.

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Property Service Employee Grade III

(i) Point of Entry

- . Property Service Employee Grade II
- . Completion of required training module.

(ii) Description

Means an employee who utilises the skills of Property Service Employee Grade II and in addition is a principal supervisor responsible for employees at Property Service Employee Grades I and II levels and/or generally superintends property including property maintenance and quality control.

(iii) Tasks, Duties and Responsibilities

In addition to the tasks of Property Service Employee Grade II the indicative tasks, duties and responsibilities which an employee at this level may perform are the following:

- . Implementing and overseeing quality control techniques and procedures.
- . Use of a well developed level of inter-personal and communicative skills.
- . Supervises, directs and guides other employees and assists in the provision of training and induction.
- . Exercises discretion within the scope of this grade.
- . Liaison with management, staff and clients.
- . Administrative and clerical duties required to undertake the tasks and duties of this level.
- . Duties requiring certified trade skills.
- . Co-ordination of other employees.
- . Detailed contract estimating.
- . Subject to management direction processes pay-roll reconciliation, completes profit and loss accounts and other general accounting duties.
- . Advanced keyboard duties incidental to other administrative tasks.

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(c) Leading Hands

An employee engaged as a Property Service Employee Grade I or II who is appointed by the employer as a leading hand shall be paid per week the following applicable allowance in addition to the classification rate:

	Amount Per Week \$
(i) In charge of 5 or less employees	11.70
(ii) In charge of 6 to 10 employees	15.10
(iii) In charge of more than 10 employees	20.10

PROVIDED THAT an employee engaged as a Property Service Employee Grade III shall not be entitled to receive a leading hand allowance.

2. SUPPLEMENTARY PAYMENTS

In addition to the weekly rate of pay prescribed in subclause 1. - Wage Rates of this clause, employees shall receive the additional supplementary payments as listed below. Such payments shall be added to the weekly rate and shall be payable for all purposes of the award.

	Supplementary Payment per Week \$
Property Service Employee	
Grade I	20.00
Grade II	18.60
Grade III	19.00

9. ANNUAL LEAVE

(a) Period of Leave

A period of 28 consecutive days leave, exclusive of days prescribed as holidays in Clause 17 - Holidays with Pay, of this award, shall be allowed annually to an employee other than a casual after 12 months continuous service (less the period of annual leave).

(b) Calculation of Continuous Service

- (i) 12 months' continuous service, for the purposes of this award shall mean 12 months from the commencement of employment. Such 12 months shall not be affected by the number of hours worked each week.
- (ii) Continuous service shall not be deemed to have been broken because of:

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- (a) absences of up to 91 days resulting from accidents, or illnesses which are covered by medical certificates, in accordance with Clause 29 - Sick Leave of this award;
- (b) absences of up to one month for any cause for which leave has been granted by the employer.

(c) Time of Taking Leave

Annual leave shall be taken at a time mutually agreed upon by the employer and the employee and in the absence of agreement at a time fixed by the employer after at least one month's notice to the employee.

Annual leave shall be taken within 12 months from the date when the right to annual leave accrued.

(d) Broken Leave

Annual leave shall be taken on one consecutive period or if the employer and employee agree, in two or more periods provided that:

- (i) one period shall be not less than 7 consecutive days ie 8 working days;
- (ii) there shall be a maximum of 5 single day periods in any 12 months.

(e) Payment for Period of Leave

- (i) Subject to the provisions of paragraph (ii) of this subclause, an employee before going on leave shall be paid the amount of wages he would have received in respect of the hours excluding overtime which he would have worked had he not been on leave during the relevant period. In addition thereto, he shall be paid a loading of 17.5 per cent.
- (ii) In the event of an employee's ordinary weekly hours of work having varied in the period during which the annual leave has accrued the number of hours per week on which leave payments are calculated shall be the average number of hours per week worked during the said period of accrual.

(f) Leave Allowed Before Due Date

An employer may allow annual leave to an employee before the right thereto has accrued due, but where it is taken in such a case a further period of annual leave shall not commence to accrue until after expiration of the 12 months in respect of which annual leave has been taken before it accrued.

Where leave has been granted to an employee pursuant to this subclause before the right thereto has accrued due and the employee subsequently leaves or is discharged from the service of the employer before completing the 12 months

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continuous service in respect of which the leave was granted, the employer may, for each completed month of the qualifying period of 12 months not served by the employee, deduct from whatever remuneration is payable upon the termination of the employment 1/12 of the amount of wage paid on account of the annual leave which amount shall not include any sums paid for any of the holidays prescribed by Clause 17 - Holidays with Pay of this award.

(g) Payment in Lieu Prohibited

Payment in lieu of annual leave shall not be made by an employer nor accepted by an employee except in accordance with all the requirements of this clause.

(h) An employee shall not work for any other employer covered by this award during the period he or she is on paid annual leave.

(i) Annual Leave Record

Every employer shall keep or cause to be kept an annual leave record showing the date of commencement of employment, the date on which the last leave became due and the date on which the last leave was taken.

(j) Proportionate Leave on Termination of Service

(i) Where an employee terminates the employment, or his employment is terminated by the employer before the expiration of any 12 monthly qualifying period, payment shall be made on the basis of:

(A) 4/52 of a week's wages for each completed week of continuous service.

(B) In the case of an employee whose service is terminated by the employer other than under the provisions of Clause 13 - Contract of Employment, subclause (e) of this award, a loading of 17.5% on all pro rata annual leave due shall be paid.

(ii) Where an employee has more than 12 months continuous service and that service is terminated by the employer through no fault of the employee, the employee shall be paid pro-rata annual leave loading.

10. CALL BACK

Any employee required to attend the employer's premises for any reason other than carrying out his rostered duties after leaving his place of employment (whether notified before or after leaving his place of employment) shall be paid a minimum of 4 hours pay at the appropriate rate for each such attendance. Except in the case of unforeseen circumstances arising, the employee shall not be required to work the full 4 hours if the job he was recalled to perform is completed within a shorter period.

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PROVIDED THAT this clause shall not apply where a period of duty is continuous (subject to a reasonable meal break) with the completion or commencement of ordinary working time.

PROVIDED FURTHER, that such employee shall be given at least 8 hours off duty before he is required to resume his ordinary hours. If such employee is requested to resume duty before 8 hours rest is given he shall be paid double time until he has been relieved from duty for a period of 8 hours.

11. COMPASSIONATE LEAVE

An employee shall on the death of a wife, husband, father, mother, child, stepchild, brother, sister, mother-in-law, father-in-law, stepmother, stepfather, grandfather, grandmother, be entitled upon application being made to, and approved by the employer, to leave up to and including the day of the funeral of such relative and such leave will be without deduction of pay not exceeding the number of ordinary hours worked by the employee in 3 ordinary days, provided that no payment shall be made in respect of an employee's rostered days off.

Proof of such death, in the form of a death notice or other written evidence, shall be furnished by the employee to the satisfaction of the employer, provided furthermore that this clause shall have no operation while the period of entitlement to leave under it coincides with any other period of entitlement to leave.

For the purpose of this clause the words 'wife' and 'husband' shall not include a wife or husband from whom the employee is separated, but shall include a person who lives with the employee as a de facto wife or husband.

12. CONSULTATIVE PROCEDURES

- (a) The parties to this Award are committed to cooperating positively to increase the efficiency, productivity and competitiveness of the industry and establishments covered by Clause 2 - Scope and to enhance the career opportunities and job security of employees in this industry.
- (b) At each enterprise, the employer, the employees and the relevant union, shall establish a consultative mechanism and procedures appropriate to the size, structure and needs of that enterprise. Measures raised by the employer, employees or Union for consideration with the objectives of subclause (a) herein shall be processed through that consultative mechanism and procedures.

13. CONTRACT OF EMPLOYMENT

- (a) Except in the case of casuals, employment under this award shall be by the week.
- (b) Casual employees shall be engaged by the hour.

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- (c) Except in the case of casuals, employment may be terminated only by the giving of one week's notice by either party or by the payment or forfeiture of one week's wages, as the case may be.
- (d) Casual employment may be terminated by one hour's notice on either side.
- (e) Nothing in this clause shall limit the right of the employer to instantly dismiss an employee for malingering, misconduct or neglect of duty provided that such malingering, misconduct or neglect of duty warrants instant dismissal.
- (f)
 - (i) An employer may direct an employee to carry out such duties as are within the limits of the employee's skill, competence and training consistent with the classification structure of this award provided that such duties are not designed to promote de-skilling.
 - (ii) An employer may direct an employee to carry out such duties and use such tools and equipment as may be required provided that the employee has been properly trained in the use of such tools and equipment.
 - (iii) Any direction issued by an employer pursuant to paragraphs (i) and (ii) herein shall be consistent with the employee's responsibilities to provide a safe and healthy working environment.

13. EXISTING WAGE RATES

Any employee who is at the date of this award in receipt of a wage rate in excess of that herein prescribed shall not have his wage rate reduced as a result of this award, however the amounts specified in subclause 2. - Supplementary Payments in Clause 8 - Wage Rates shall be fully absorbed into existing over-award payments provided at all times an employee is not paid any less than the appropriate base rate and supplementary payment specified in Clause 8 - Wage Rates.

14. FIRST AID

Where an employee is a qualified first aid attendant and is authorised to carry out the duties of a qualified first aid attendant, the employee shall be paid an additional amount, payable at the rate of \$5.70 per week of 38 hours.

15. GENERAL CONDITIONS

- (a) Clean overalls or coveralls shall be supplied to full-time and part-time employees on the completion of one month's service. Such overalls or coveralls shall remain the property of the employer.

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It is the responsibility of the employer to ensure that the overalls or coveralls are kept in good repair at all times.

(b) Boiling Water

Hot water shall be provided by the employer where practicable.

(c) Rubber Boots

Where employees are required to work in water they shall be supplied with rubber boots which shall remain the property of the employer.

(d) Rubber Gloves

Where employees are required to clean toilets, or to use acids or other injurious substances they shall be supplied with rubber gloves, which shall remain the property of the employer.

(e) Protective Clothing

Where an employee is required to work in wet weather he shall be supplied by the employer with suitable wet weather clothing including a waterproof coat or cape, waterproof hat, trousers and boots; such clothing shall remain the property of the employer.

17. HOLIDAYS WITH PAY

(a) (i) All employees (other than casuals) shall be allowed the following days as paid holidays:

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), Recreation Day (where Hobart Regatta Day is not observed), Christmas Day and Boxing Day.

(ii) Where any of the aforementioned holidays fall on a Saturday, Sunday or Rostered Day Off and are observed on the Saturday, Sunday or Rostered Day Off respectively, then the following ordinary working day shall be regarded as a holiday for the purposes of this award.

(b) Payment for the holidays mentioned in subclause (a) which are taken and not worked, shall be at the normal rate of pay which would have applied to the employee concerned when, if it were not for such holiday, he had been at work.

(c) Payment to an employee for work performed on holidays mentioned in subclause (a) shall be at the rates prescribed elsewhere in this award.

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- (d) Subject to agreement being reached between the employer and the employee/s concerned, any of the holidays mentioned in subclause (a)(i) hereof may be worked at ordinary time and another working day substituted for the holiday concerned.

18. HOURS OF WORK - FULL-TIME EMPLOYEES ONLY

(a) Ordinary Hours of Work

- (i) Part-time and casual employees are excluded from the provisions of this clause.
- (ii) Ordinary hours of work shall be an average of 38 per week to be worked on any day of the week, Saturday and Sunday inclusive in one of the following manners:
- (A) 38 hours within a work cycle of one week; or
 - (B) 76 hours within a work cycle of two weeks; or
 - (C) 114 hours within a work cycle of three weeks; or
 - (D) 152 hours within a work cycle of four weeks.

Different methods of implementation of a 38 hour week may apply to various groups or sections of employees in the establishment concerned.

- (iii) Ordinary hours may be worked in not more than 8 hours on any day but may be worked in one or two periods.

PROVIDED THAT unless agreement is otherwise reached between the employer and the Union a shift worked in two periods shall not exceed a spread of 14 hours, commencing before 6.00 am or finishing after 10.00 pm.

PROVIDED FURTHER that the employer and the employee/s in any section or sections may agree that the ordinary working hours are to exceed 8 on any day to a maximum of 12 on any day, thus averaging a 38 hour week at greater frequency.

(b) Payment for Ordinary Hours of Work

Full-time employees shall be paid the wage prescribed for a week of 38 hours including supplementary payments as prescribed in Clause 8 - Wage Rates and in addition thereto such overtime and other penalty rates that may have occurred during the relevant period.

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(c) Day Workers

Subject to the provisions of subclause (a) hereof the ordinary hours for day workers shall extend from 6.00 am to 6.00 pm on any day.

(d) Shift Workers

Subject to subclause (a) hereof an employee rostered to work ordinary hours on shift work Monday to Friday inclusive shall be paid as follows:

- (i) Payment of a 15% premium for a shift finishing after 6.00 pm, at or before 10.00 pm or for a shift commencing before 6.00 am.
- (ii) Payment of a 20% premium for a shift that commences or finishes after 10.00pm.

The above premiums shall be paid in addition to the appropriate rate of pay prescribed in Clause 8 - Wage Rates.

- (iii) Payment of a 20% premium for a shift worked in two periods. In addition the amount prescribed for excess fares in Clause 32(d) - Travelling Time and Expenses shall be paid.

PROVIDED THAT the period of a meal break shall be deemed a continuation of the shift where one of these two periods extends beyond 4 hours, a paid crib break of 20 minutes shall be given in lieu of the meal interval entitlement of Clause 19 - Meal and Meal Allowance and the rest period entitlement of Clause 25 - Rest Period of this award.

PROVIDED FURTHER that unless written agreement is otherwise reached between the employer and the union a shift worked in two periods shall not exceed a spread of 14 hours, commencing before 6.00 am or finishing after 10.00 pm.

(e) Rate for Ordinary Hours on Saturday, Sunday and Public Holidays

For employees whose ordinary hours are worked on a Saturday, Sunday or Public Holiday payment shall be made subject to the following prescription provided that in the case of shift workers, the premium prescribed in subclause (c) hereof shall not apply:

- (i) Saturday Work

Between midnight on Friday and midnight on Saturday payment shall be at time and a half rates.

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(ii) Sunday Work

Between midnight on Saturday and midnight on Sunday payment shall be at double time.

(iii) Public Holiday Work

Between midnight on the preceding day and midnight on the day of the public holiday payment shall be at double time and one half.

(iv) Full-time employees required to work on a Sunday or a holiday as prescribed in Clause 16 - Holidays with Pay of this award shall receive a minimum of 3 hours pay at the appropriate rate.

(f) Rostered Time Off

(i) An employee shall be entitled to two consecutive days off duty in any week Saturday and Sunday inclusive provided that where an employer requires the employee to work on either of these days the employee shall be paid in accordance with Clause 20 - Overtime.

PROVIDED FURTHER that these days shall be in addition to any time off arising out of the method of working a 38 hour week.

(ii) Where the method of working a 38 hour week provides for a rostered day off (RDO) duty in any work cycle the following provisions shall apply:

(A) An RDO shall be in addition to the days off prescribed in subclause (a) hereof.

(B) Substitute RDO's

An RDO may be worked and the RDO substituted for another working day provided the employer and employee's concerned so agree.

(C) Notice of RDO's

Except where an RDO is substituted for another working day the employer shall provide an employee with at least four weeks notice of the week day that is to be observed as the RDO.

(D) Accumulation of RDO's

Where an employer and employee/s concerned so agree RDO's may be accumulated to a maximum of 10 days in any year and taken at a mutually agreed time.

(E) In the absence of agreement at site level the observance of the RDO will occur by rostering employees off on various days of the week during a

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particular work cycle so that each employee has one week day off during that cycle.

(F) Sickness

An employee shall not be entitled to claim sick leave payment for a RDO nor will the employee's sick pay entitlement be reduced as a result of the sickness or injury on that day.

19. MEAL AND MEAL ALLOWANCE

- (a) A meal interval of at least 30 minutes or not more than one hour shall be allowed to an employee after the completion of at least 3 hours work and before the completion of 5 hours work.
- (b) An employee who is required to work overtime for more than two hours shall be paid a meal allowance of \$5.00.

20. OVERTIME

- (a) For all time of duty in excess of, or outside of, ordinary hours the rates of pay shall be time and one-half for the first 2 hours and double time thereafter. In computing overtime each day's work shall stand alone.
- (b) For the purposes of computing overtime the ordinary rate of pay shall be determined by dividing the weekly rate of pay by 38.
- (c) Time off in lieu of payment for overtime work may be taken by an employee. The amount of time off shall be calculated on the basis of the appropriate overtime rate. This alternative to the payment of penalty rates shall only apply by agreement between the employer and the employee concerned.
- (d) For the purpose of determining overtime entitlements of an employee, any employee who works ten minutes or more past the time fixed for ceasing work shall be paid overtime for all time worked after the time fixed for ceasing work.
- (e) Overtime worked immediately prior to the employees usual starting time for work shall be paid as overtime but the time so worked shall be deemed to be part of the employees ordinary hours of work.

21. 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.

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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.

'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.

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(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 than 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 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.

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(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 resume work at a time nominated by the employer which shall not exceed four 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.

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- (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.
- (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.

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- (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.
- (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).

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'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:

- (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;

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- (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.
- (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.

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(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.

(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.

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(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.

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:

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- (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 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;

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- (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 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;

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(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.

(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.

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(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.

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:

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'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;
- (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.

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(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.

(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

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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.

(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).

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(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.

(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 for the purposes of paragraph (a)(v) hereof.
- (v) Nothing in this part shall be construed as requiring an employer to engage a replacement employee.

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22. PART-TIME AND CASUAL EMPLOYEES

(a) Definitions

(i) Part-time Employees

A part-time employee is one engaged to regularly work for less hours per day or week than those prescribed for a full-time employee.

(ii) Casual Employees

A casual employee is one who is employed on a casual basis and shall not include an employee engaged as a part-time employee.

(b) Ordinary Hours of Employment

An employee's constant number of hours per week shall be as determined between the employer and employee pursuant to the contract of service. Once the hours have been established they shall not be varied by either party otherwise than:

(i) the giving of at least one week's notice; or

(ii) by mutual consent.

Nothing in this clause shall have the effect so as to preclude an employee from receiving any other rights existing under this award.

In no circumstances shall an employee be required to work a shift in more than 2 periods.

The ordinary hours of work for a part-time or casual employee shall not exceed 8 on any day and may be worked in one or two periods.

PROVIDED THAT the employer and employees concerned in any section or sections may agree that the ordinary hours of work may exceed 8 hours on any day to a maximum of 12 hours provided further that the ordinary hours worked in any week shall not exceed 38 hours.

(c) Payment for Ordinary Hours of Work

Part-time employees shall be paid the wage prescribed for the employee's constant number of hours for each week that the employee is ready, willing and available for work during the hours prescribed and in addition thereto such overtime rates that may have occurred during the relevant period.

Subject to subclause (b) hereof a part-time or casual employee for working ordinary hours shall be paid per hour in accordance with the following scale calculated for the work performed subject to subclauses 1. - Wage Rates and 2. - Supplementary Payments of Clause 8 - Wage Rates.

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(i) Part-time employees		(ii) Casual Employees	
Day	Percentage of Appropriate Weekly Rate	Day	Percentage of Appropriate Weekly Rate
Monday to Friday	3.3	Monday to Friday	4
Saturday	4.3	Saturday	5.3
Sunday	5.8	Sunday	7
Holiday	7.2	Holiday	8.8

PROVIDED THAT hourly rates are to be calculated to the nearest whole cent with fractions less than 0.5 cents being disregarded.

PROVIDED FURTHER that the rate of payment specified in this subclause for a holiday shall refer to work performed on any of the days specified in Clause 17 - Holidays with Pay subject to provisions of sub clause (d) of that clause.

(d) Minimum Start

A part-time or casual employee shall be engaged for a minimum period of two hours for each separate engagement at the appropriate rate of pay, provided that in exceptional circumstances the employer may, with the agreement of the Australian Liquor, Hospitality and Miscellaneous Workers Union, Tasmanian Branch, engage an employee for a lesser number of hours than two hours as prescribed herein.

(e) Overtime - Part-time and Casual Employees

(i) A part-time or casual employee required to work in excess of the ordinary hours of work specified in subclause (b) hereof or in excess of 5 consecutive days in one week period shall be paid per hour in accordance with the following scale calculated for the work performed subject to clause 8 - Wage Rates, subclause 1. - Wage Rates and subclause 2. - Supplementary Payments

(ii) Part-time employees

<u>Day</u>	<u>Percentage of Appropriate Rate</u>
Monday to Saturday First 2 hours of day or shift	4.3

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Thereafter	5.8
6.00 pm Saturday to midnight Sunday	5.8
Public Holiday	7.2
(iii) Casual Employees	
Monday to Saturday First 2 hours of day or shift	5.3
Thereafter	7.0
6.00 pm Saturday to midnight Sunday	7.0
Public Holiday	8.8

(iv) Time Off in Lieu

Time off in lieu of payment for overtime work may be taken by an employee. The amount of time off shall be calculated in accordance with the scale set out in paragraphs (ii) and (iii) of this subclause. This alternative to the payment of overtime rates shall only apply by agreement between the employer and the employee/s concerned.

(v) Overtime prior to Start of Work

Overtime worked immediately prior to the employees usual starting time for work shall be paid as overtime but the time so worked shall be deemed to be part of the employees ordinary hours of work.

(vi) For the purpose of determining overtime entitlements of an employee, any employee who works ten minutes or more past the time fixed for ceasing work shall be paid overtime for all time worked after the time fixed for ceasing work.

(vii) In computing overtime each days' work shall stand alone.

23. PAYMENT OF WAGES

The employer shall specify a time and place at which wages and other monies are to be paid to the employees other than employees engaged for less than one week. The time so specified shall not be more than 48 hours from the time when such wages become due and shall not be later than Thursday in the week. Any employee who is not paid at

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the time so specified shall be deemed to be working during the time he is kept waiting. Casual employees shall be paid within one hour of the termination of the employment.

Payment may be made weekly or fortnightly as agreed between the employer and the employee.

Such payment shall be in cash, or by cheque or by direct bank deposit into an account nominated by the employee. The employer may determine the method of payment.

Where payment is to be made by cheque or direct bank deposit and such cheque is not met on presentation such bank deposit is not made at the time specified, otherwise than in circumstances beyond the control of the employer waiting time shall be paid.

24. PREFERENCE OF EMPLOYMENT

Preference of employment shall be given to members of the Australian Liquor, Hospitality and Miscellaneous Workers Union provided that such preference shall extend to persons who, not being members, undertake to become, and within 14 days of so undertaking do in fact become, and remain members of the Australian Liquor, Hospitality and Miscellaneous Workers Union.

A person who objects to joining the union on genuine conscientious grounds shall be exempted from the requirement to join on condition that he contributes an amount equivalent to the annual union subscription to a charity agreed on between him and the union or, in the absence of agreement on an appropriate charity, that he pay such amount to the Secretary for Labour for payment to Consolidated Revenue.

25. REFERENCE OF DISPUTES

Any dispute concerning this award shall be settled in the following manner:

- (a) negotiation between the employer and the Union Shop Steward;
- (b) where there is no shop steward available or where the dispute is not settled within the provisions of subclause (a) of this clause, by negotiation between the Union and employer representatives;
- (c) failing agreement being reached within the provisions of subclause (b) of this clause, the Union or the employer may refer the matter to the Tasmanian Industrial Commission for decision.
- (d) at any stage of this procedure either party may call a seven (7) day cooling-off period during which work shall continue uninhibited from industrial action during this period.

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26. REST PERIOD

Employees shall be allowed a rest period of 10 minutes without loss of pay after each 3 hours of consecutive work provided that where the employer and employee/s agree a rest period once fallen due may be deferred and taken at a later time on that day or be taken at such times on any day that best suits the business' needs.

27. RIGHT OF ENTRY OF UNION OFFICIALS

- (a) For the purpose of interviewing persons covered by this award, an officer of the Australian Liquor, Hospitality and Miscellaneous Workers Union, Tasmanian Branch, may enter the premises where such persons are employed on each day of the week subject to the following conditions:
- (i) that when requested he produce for the gatekeeper (or such other person as may be appointed by either the employer or the organisation responsible for the place in which persons covered by this award are working) some form of authority identifying him as an officer of the Union;
 - (ii) that employees are interviewed in such a manner as to avoid interference with their work;
 - (iii) that unless prior arrangements with the employer have been made, not more than 2 representatives shall be on the premises at the one time;
 - (iv) that if the employer alleges that a representative is interfering unduly with his work or is offensive in his methods, or is creating dissatisfaction amongst the employees concerned, or is committing a breach of the previous conditions, the employer may refuse the right of entry, but the representative shall have the right to bring such refusal before the Tasmanian Industrial Commission.
- (b) An officer shall be a duly accredited representative of the Union if the person is the holder of a certificate or letter which has not been cancelled or revoked, is signed by the Union Secretary and bears the signature of the holder.

28. SHOP STEWARD

An employee appointed steward or delegate in the shop, office, or department in which the person is employed shall, upon notification thereof to the employer, be recognised as the accredited representative of the Union and shall be allowed the necessary time during working hours to interview the employer or the employer's representative on matters affecting employees whom the person represents, provided that if the steward so requests it, the person may be accompanied at such interview by the person's union official.

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29. 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, after one month's employment, subject to the following conditions:
- (i) the employee shall not be entitled to such leave of absence for any period in respect of which the employee is entitled to workers' compensation;
 - (ii) the employee shall, prior to the commencement of such absence, inform the employer of the 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. Where such notification is not given, the employer shall be entitled to require as proof in accordance with subclause (iii) of this clause, a certificate of a medical practitioner. Provided that where he is genuinely unable to give notification prior to the commencement of the shift the requirements of subclause (iii) of this clause shall apply;
 - (iii) The employee shall provide proof that the employee was unable, on account of such illness or injury, to attend work on the day for which sick leave is claimed in the form of a sworn statutory declaration or a medical certificate provided by a qualified medical practitioner. In the case of absences of more than a single day an employer may request, prior to the employee's return to work, as proof a medical certificate.
 - (iv) the employee 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 purposes of administering paragraph (iv) above 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.

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30. SUNDAY AND HOLIDAY WORK (EXCLUDING PART-TIME AND CASUAL EMPLOYEES)

- (a) Payment shall be at the rate of double time for work performed on a Sunday.
- (b) Payment shall be at the rate of double time and a half for work performed on a holiday as prescribed in Clause 17 - Holidays with Pay of this award.
- (c) Employees required to work on a Sunday or a holiday as prescribed in Clause 17 - Holidays with Pay of this award, shall receive a minimum of 3 hours pay at the appropriate rate.
- (d) This clause shall not apply to employees engaged as part-time and casual employees (as defined). Payment for these categories of employees shall be made in accordance with Clause 22 - Part-time and Casual Employees.

31. SUPERANNUATION

- (a) Definitions
 - (i) **'ARF'** means the Australian Retirement Fund established by a Trust Deed and Articles on 11 July 1986.
 - (ii) **'Approved Fund'** means a Superannuation Scheme which is established in accordance with the Operational Standards for Occupational Superannuation Schemes and has received preliminary listing from the office of the Occupational Superannuation Commissioner - Interim Group.
 - (iii) **'Union'** means the Australian Liquor, Hospitality and Miscellaneous Workers Union, Tasmanian Branch.
 - (iv) **'Employer'** means an employer in terms of Clause 2 - Scope of this Award.
 - (v) **'Fund'** Means ARF or an approved fund as defined.
- (b) Fund
 - (i) For the purposes of this Award, contributions made by the employer in accordance with the provisions of subclause (d) - Employer Contributions shall be paid to the Treasurer of ARF.
 - (ii) All employers bound by this Award shall apply to and become a party to ARF and upon the acceptance of the Trustees of that Scheme of an application to become a participating employer to ARF, duly signed and executed by that employer, become a participating employer of ARF.

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(iii) An approved Superannuation Fund shall also mean such other Superannuation Scheme established and conforming with the Commonwealth's Operational Standards for Occupational Superannuation Funds as at 5 July 1988 subject to agreement from the Union or as determined by the Tasmanian Industrial Commission.

(c) Eligibility for Membership

(i) An employee having completed three months continuous service with the employer shall be eligible from the first entry date which next occurs to have contributions paid to the Fund subject to subclause (e) - Employee Contributions.

(ii) An employee shall be enrolled in the approved Superannuation Fund upon the acceptance of the Administrator of the Fund of a membership application form and shall be deemed to be a member of the scheme from his or her entry date as prescribed in subclause (c)(i) herein.

(iii) Subject to the provisions contained in subclause (c)(i) and (c)(ii) herein an employee who is a member of an approved Fund (as defined) and was having contributions paid in accordance with this Award at his or her previous place of employment shall continue to have contributions paid on his or her behalf from the date of commencing employment with their current employer.

(d) Employer Contributions

(i) Contributions shall be paid by the employer on the following basis:

<u>Ordinary Hours Worked in a Complete Week</u>	<u>Weekly Contributions</u>
38 hours or more	\$10.00
10 hours or more but less than 38	\$5.00
Less than 10 hours	\$1.80

(ii) Weekly contributions shall be paid to the Fund on at least a calendar monthly basis.

(iii) An employer shall not be required to contribute during any period of unpaid leave. Furthermore an employer shall not be required to make additional contributions in respect of annual leave paid out on termination.

(iv) A pro rata deduction shall be made from the weekly contribution payable for any unauthorised absence of at least one day's duration.

(e) Employee Contributions

Subject to the rules of the fund, employees who may wish to make contributions to the fund additional to those being paid pursuant to subclause (d) - Employer

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Contributions herein, shall be so entitled. Such employees may either forward their own contribution directly to the Fund Administrators or, where it is practicable to do so, authorise the employer to pay into the fund from the employee's wages, amounts specified by the employee subject to the amount of contribution being expressed in whole dollars and any adjustment to the level of contribution being subject to 3 months notice in writing from the employee to the employer or such lesser period as they may both otherwise agree.

(f) Cessation of Contributions

An employee's eligibility for contributions to the fund will cease on the last day of employment with the employer and the employer shall not make any contributions to the fund in respect of any period beyond that last day of employment.

(g) Duration

This clause shall operate from the beginning of the first full pay period to commence on or after 15 March 1989 and shall remain in force for a period of two years.

32. TECHNOLOGICAL CHANGE

Notwithstanding the provisions of Clause 13 - Contract of Employment, where on account of the introduction or proposed introduction by an employer of mechanisation or technological changes, the employer terminates the employment of an employee who has been employed by him for the preceding twelve months, he shall give the employee three months' notice of the termination of his employment: provided that, if he fails to give such notice in full:

- (a) he shall pay the employee at the rate specified for the employee's classification in Clause 8 - Wage Rates, of this award, for a period equal to the difference between three months and the period of the notice given; and
- (b) the period of notice required by this subclause to be given shall be deemed to be service with the employer for the purposes of long service leave and annual leave, provided that the right of the employer to dismiss an employee for the reasons specified in subclause (e) of Clause 13 - Contract of Employment, shall not be prejudiced by the fact that the employee has been given notice pursuant to this subclause of the termination of the employees employment.

When an employer gives an employee notice of the termination of his employment on account of the introduction or proposed introduction of mechanisation or technological changes, within fourteen days thereafter he shall give notification in writing to the Secretary for Labour and Secretary of the Australian Liquor, Hospitality and Miscellaneous Workers Union, Tasmanian Branch, of that fact, stating the employee's name, address and usual occupation and the date when the employment terminated or will terminate in accordance with the notice given.

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32. TRAVELLING TIME AND EXPENSES

- (a) Where an employee is sent to work from an employer's recognised place of business the employer shall pay all travelling time from such place of business to the job and if the employee is required to return the same day to the employer's place of business the employer shall pay travelling time to the place of business. An employee sent for duty to a place other than his regular place of duty or required by his employer to attend a court of inquiry in connection with his employment shall be paid travelling time.
- (b) Where an employee is required to cease or to commence duty at a time when the usual means of conveyance are not available he shall, at the employer's expense, be conveyed to a point nearest his home or place of duty to which he ordinarily would proceed during ordinary hours by public conveyance.

PROVIDED THAT, where it was the practice previously to pay to employees employed at Llanherne Airport Terminal a travelling allowance, such employees shall receive an amount of \$2.85 for each day they are required to attend for duty.

- (c) An employee shall be reimbursed by the employer for all expenses incurred by the employee in using his private vehicle for the employer's purpose.
- (d) Where an employee is required to work a shift in 2 periods as prescribed in Clause 18 - Hours of Work (Full-time Employees Only) and Clause 22 - Part-time and Casual Employees of this award, the employee shall be paid an excess fares allowance of \$2.50 per day.

34. UNDERSTANDINGS

- (a) Classifications

The classification structure set out in Clause 8 - Wage Rates of this Award will be subject to a trial and test period of 6 months from the date of operation of this Award following which the parties may review the classification structure to overcome any problems or anomalies that have arisen during the trial period.

- (b) Employees are required to perform a broader range of tasks and accept increased responsibility for the work they perform in accordance with the classification structure set out in Clause 8 - Wage Rates.
- (c) The parties to this Award are committed to the on-going process of modernising the terms of this Award and to achieving more flexible arrangements for improved industry efficiency.

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(d) Cleaning Materials

- (i) Employees may be made accountable for the monitoring of stock in terms of possible inappropriate use and replacement subject to an appropriate system being introduced by the employer.
- (ii) Employees shall be accountable for abuses including over-use of cleaning material and stealing.

(e) Future Agreements

The Union agrees to enter into industrial agreements pursuant to Section 55 of the Industrial Relations Act to:

- (i) Establish a binding code of practice for employers who are members of the Association of Cleaning Contractors of Australia and the Tasmanian Confederation of Industries and for the regulation of probationary employment.
- (ii) Employment of junior administrative employees.

(f) Phase-in of New Classifications

Employers bound by this Award shall have 3 months from the date of operation prescribed herein to assign employees into the classification structure as set out in Clause 8 - Wage Rates.

P A Imlach
COMMISSIONER

16 December 1993