IN THE TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T.2146 of 1989

IN THE MATTER OF AN APPLICATION BY THE TASMANIAN TRADES AND LABOR COUNCIL TO VARY **ALL PRIVATE AND PUBLIC SECTOR AWARDS AND AGREEMENTS** TO INCREASE WAGE RATES AND ALLOWANCES GENERALLY AND TO REVIEW THE WAGE FIXATION PRINCIPLES

AND

T.2147 of 1989

IN THE MATTER OF AN APPLICATION BY THE BUILDING WORKERS' INDUSTRIAL UNION OF AUSTRALIA (TASMANIAN BRANCH) TO VARY THE **BUILDING TRADES AWARD** RE BASE RATE FOR TRADES PERSON IN DIVISION A. AND TO INCREASE WORK RELATED ALLOWANCES

AND

T.2152 of 1989

IN THE MATTER OF AN APPLICATION BY THE TASMANIAN PUBLIC SERVICE ASSOCIATION TO VARY **NOMINATED AWARDS AND AGREEMENTS** RE SALARIES, ALLOWANCES AND AWARD RESTRUCTURING

AND

T.2167 of 1989

IN THE MATTER OF AN APPLICATION BY THE TASMANIAN TEACHERS FEDERATION TO VARY **NOMINATED AWARDS** TO INCREASE SALARIES AND SALARY-RELATED ALLOWANCES

CONSEQUENT ON THE DECISION OF THE AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION IN THE NATIONAL WAGE DECISION OF 7 AUGUST 1989

ORDER -

No. 1 of 1990
(Consolidated)

AMEND THE **TEXTILE AWARD** BY DELETING ALL CLAUSES CONTAINED THEREIN AND INSERTING IN LIEU THEREOF THE FOLLOWING:

1. TITLE

This award shall be known as the "Textile Award".

2. SCOPE

This award is established in respect of the trade of manufacture of cloth and all woven materials and/or fabrics and/or knitted articles.

3. ARRANGEMENT

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4. DATE OF OPERATION

This award shall come into operation from the beginning of the first full pay period to commence on or after 23 November 1989.

PROVIDED that it is a term of this award (arising from the decision of the Tasmanian Industrial Commission State Wage Case of 30 October 1989) that the union(s) undertake(s), for the duration of the principles determined by that decision, not to pursue any extra claims, award or overaward, except where consistent with those principles.

5. SUPERSESSION AND SAVINGS

This award incorporates and supersedes No. 2 of 1988 (Consolidated), No. 1 of 1989 and No. 2 of 1989.

PROVIDED 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 employed 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 Amalgamated Footwear and Textile Workers Union of Australia, Tasmanian Branch and the officers of that organisation and their members who are employed in the industry specified in Clause 2 - Scope;

(ii) the Amalgamated Society of Carpenters and Joiners of Australia, Tasmanian Branch and the officers of that organisation and their members who are employed in the industry specified in Clause 2 - Scope;

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

(iv) the Federated Clerks Union of Australia, 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:

the Tasmanian Confederation of Industries.

7. DEFINITIONS

FOR EMPLOYEES IN DIVISION B - CLERKS

(a) **`Casual employee'** means any person who is employed on a casual basis and includes any person who is employed for a period not exceeding 5 days at any one time.

(b) **`Clerk'** includes book-keepers, time-keepers, cashiers, typists and/or stenographers, calculating and/or accounting machine operators, switchboard attendants.

(c) A **`part-time'** employee is one engaged to regularly work for less hours per day or week than those prescribed for full-time employees.

(d) **`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 EMPLOYEES IN DIVISION C - AUXILIARY SERVICES

(a) **`Canteen worker'** means a person employed for the greater part of her working time supervising, cooking, doing kitchen work, waitress duties, and being responsible for canteen and mobile cash sales.

(b) **`Casual employee'** means any person who is employed on a casual basis and includes any person who is employed for a period not exceeding 5 days at any one time.

(c) **`Cleaner'** means a person employed for the greater part of his or her working time in cleaning work of any description on premises or in bringing into or maintaining premises in a clean condition, whatever may be the nature of his or her duties.

(d) **`Part-time employee'** refers to an employee who is engaged for less than 40 hours per week as a day worker or shift worker.

(e) **`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.

(f) **`Watchman'** means a person employed to watch, guard or protect premises and/or property.

8. WAGE RATES

DIVISION A - MANUFACTURING SECTION

1. WAGE RATES

(a) The rates of pay of employees engaged in the knitting, hosiery and allied manufacturing and fabricating industries shall be in accordance with those prescribed in the award known as the Textile Industry Award, made by the Australian Conciliation and Arbitration Commission.

(b) Any disputes arising in respect of the provisions of subclause (a) above to be referred to the Tasmanian Industrial Commission whose decision shall be final.

DIVISION B - CLERKS

1. WAGE RATES

The wage rates set out hereunder shall be the rates payable to adult employees classified herein.

		Amount per Week $
(a)	1st year's adult experience	290.40
	2nd year's adult experience	311.50
	3rd year's adult experience	339.10
	4th year's adult experience	349.80
	5th year's adult experience	357.90
	6th year's adult experience & thereafter	371.10
(b)	An accountant or chief clerk wholly responsible for the office work and who prepares the balance sheet and profit and loss account	452.60
(c)	A clerk who is in charge of and responsible for the work of -	
	(i) 5 or more employees	400.60
	(ii) 3 or 4 employees	384.60
	(iii) 2 employees	376.70

2. JUNIORS

(a) The minimum rates of wages that may be paid to juniors shall be the undermentioned percentages of the second year adult rate, adjusted to the nearest 10 cents.

	Percentage of Second Year Adult Rate %	Amount per Week $
Under 16 years of age	40	124.60
16 to 17 years of age	45	140.20
17 to 18 years of age	55	171.30
18 to 19 years of age	70	218.10
19 to 20 years of age	80	249.20
20 to 21 years of age	90	280.40

(b) **PROVISO**

When determining the rate 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 awards of the Tasmanian Industrial Commission are established, experience obtained after reaching the age of 19 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 per Week $
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	1.50
19 to 20 years of age	1.90
20 to 21 years of age	2.00
21 years of age and over	2.60

'Employees' in this Division shall mean any male or female clerk, typist or stenographer and shall include the Clerk-in-Charge.

DIVISION C - AUXILIARY SERVICES

1. WAGE RATES

The wage rates set out hereunder shall be the rates payable to adult employees classified herein.

(a)	Watchman	307.10
(b)	Pastrycook	343.90
(c)	Cook-in-Charge	330.80
(d)	Cook other	310.30
(e)	Canteen worker	290.70
(f)	Employee responsible for canteen work and mobile cash sales	294.70
(g)	Employee in charge of canteen stores	302.60
(h)	Cleaner	306.30
(i)	Gardener	308.90
(j)	Greenkeeper	316.30
(k)	Gatekeeper	302.10
(l)	Leading hands: in charge of up to 10 employees $14.20 per week extra.	

2. JUNIORS

The minimum rates of pay that may be paid to junior employees shall be the undermentioned percentages of the appropriate adult total wage calculated to the nearest ten cents.

	%
16 years of age	50
16 1/2 years of age	55
17 years of age	59
17 1/2 years of age	64
18 years of age	69
18 1/2 years of age	75
19 years of age	80
19 1/2 years of age	85
20 years of age	100

Notwithstanding anything elsewhere contained in this clause a junior after three years experience, or upon attaining the age of 20 years, shall be paid the appropriate rate prescribed for an adult employee in the classification in which he or she is employed.

CONDITIONS FOR EMPLOYEES IN DIVISION A - MANUFACTURING

9. CONDITIONS OF EMPLOYMENT

(a) The conditions of employment of employees engaged in the knitting, hosiery and allied manufacturing and fabricating industries shall be in accordance with those prescribed in the award known as the Textile Industry Award, made by the Australian Conciliation and Arbitration Commission.

(b) Any disputes arising in respect of the provisions of subclause (a) above shall be referred to the Tasmanian Industrial Commission whose decision shall be final.

CONDITIONS FOR EMPLOYEES IN DIVISION B - CLERKS

10. ANNUAL LEAVE

(a) Period of Leave

A period of 28 consecutive days leave shall be allowed annually to an employee after 12 months continuous service (less the period of annual leave) as an employee on weekly engagement in any occupation to which this award applies.

(b) Seven Day Shift Workers

In addition to the leave hereinbefore prescribed 7 day shift workers who are rostered to work regularly on Sundays and/or holidays, shall be allowed 7 consecutive days leave including non working days. Where an employee with 12 months continuous service is engaged for part of the 12 month period as a 7 day shift worker he shall be entitled to have the period of annual leave prescribed in subclause (a) of this clause increased by half a day for each month he is continually engaged as aforesaid.

(c) Annual Leave Exclusive of Public Holidays

Subject to this subclause, the annual leave prescribed by this clause shall be exclusive of any of the holidays prescribed by Clause 15 - Holidays with Pay of this award, and if any such holiday falls within an employee's period of annual leave and is observed on a day which, in the case of that employee would have been an ordinary working day, there shall be added to the period of annual leave, time equivalent to the ordinary time which the employee would have worked had such day not been a holiday.

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

(d) Broken Leave

Employees covered by this award shall participate in any ballot which may take place regarding annual leave arrangements, and further they shall conform with the decisions of the majority of the employees in that particular work place.

Notwithstanding the foregoing annual leave may be taken in any period and/or combination agreed by the employer and an employee.

(e) Calculation of Continuous Service

For the purpose of this clause, service shall be deemed to be continuous notwithstanding:

(i) any interruption or termination of the employment by the employer if such interruption or termination has been made merely with the intention of avoiding obligations hereunder in respect of leave of absence;

(ii) any absence from work on account of personal sickness or accident or on account of leave lawfully granted by the employer; or

(iii) any absence with reasonable cause, proof whereof shall be upon the employee.

In cases of personal sickness or accident or absence with reasonable cause, an employee to become entitled to the benefit of this subclause shall inform the employer, in writing if practicable, within 24 hours of commencement of such absence or within 4 hours of the commencement of the next working day or shift, of his inability to attend and the estimated duration of his absence.

Any absence from work by reason of any cause not being a cause specified in this subclause shall not be deemed to break the continuity of service for the purpose of this clause unless the employer, during the absence notifies the employee in writing that such absence will be regarded as having broken the continuity of service.

In cases of individual absenteeism such notice shall be given in writing to the employee concerned but in cases of concerted or collective absenteeism, notice may be given to employees by the posting up of a notification in the plant in the manner in which general notifications to employees are usually made in the plant and by posting to each union whose members have participated in such concerted or collective absenteeism a copy of same not later than the day it is posted up in the plant.

The notice to an individual employee may be given by delivering same to him personally or by posting it to his last recorded address in which case it will be deemed to have reached him in due course of post.

In calculating the period of 12 months continuous service any absence from work not exceeding 91 working days in a qualifying period of 12 months on account of sickness or accident shall be taken into account in calculating the period of 12 months continuous service.

(f) Calculation of Service

Service before the date of this award shall be taken into consideration for the purpose of calculating annual leave, but an employee shall not be entitled to leave or payment in lieu thereof for any period in respect of which leave or payment in lieu thereof has been allowed.

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

(g) Calculation of Month

For the purpose of this clause, a month shall be reckoned as commencing with the beginning of the first day of employment or period of employment in question and as ending at the beginning of the day which in the last month in question, has the same date number as that which the commencing day had in its month and if there be no such day in such subsequent month shall be reckoned as ending at the end of such subsequent month.

(h) Leave to be Taken

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

(i) Time of Taking Leave

Annual leave shall be given at a time fixed by the employer within a period not exceeding in the case of an employee taking the leave in one period, 6 months, or in the case of an employee taking the leave in 2 or 3 periods, 9 months from the date when the right to annual leave accrued and after not less than 2 months notice to the employee.

(j) Leave Allowed Before Due Date

An employer may allow annual leave to an employee before the right thereto has accrued due, but where leave is taken in such a case a further period of annual leave shall not commence to accrue until after the 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 continuous service in respect of which the leave was granted, the employer may, for each one complete 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, one twelfth 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 15 - Holidays with Pay of this award.

(k) Payment for Period of Leave

Each employee other than a continuous shift worker before going on leave shall be paid the amount of wage he would have received in respect of the ordinary time which he would have worked had he not been on leave during the relevant period.

A continuous shift worker shall be paid the amount of wage he would have received in respect of the ordinary hours which he would have worked in accordance with his roster or projected roster.

For the purposes of this subclause the wage rate applicable shall include the following:

(i) wage rates;
(ii) leading hand allowance;
(iii) any overaward payment;
(iv) minimum wage;
(v) weekend penalty rates (seven day continuous shift workers only).

PROVIDED that the wage rate applicable shall not include any of the following:

(i) shift allowance;
(ii) special rates;
(iii) overtime payments.

(l) Loading on Annual Leave

(i) In addition to the wage rate prescribed in subclause (k) of this clause, employees other than 7-day continuous shift workers shall whilst on annual leave receive a loading of 17 1/2% calculated on the award rate.

(ii) 7-day continuous shift workers shall be entitled to annual leave loading calculated as follows:

(a) a 17 1/2% loading calculated on the award wage exclusive of shift allowances, weekend penalty rates or overtime; or

(b) weekend penalty rates in accordance with his projected roster as prescribed in subclause (k) of this clause, whichever is the greater.

(iii) The annual leave loading prescribed herein shall not apply to pro rata leave entitlement on termination.

(m) Proportionate Leave on Termination

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

12.67 hours for each completed month of service.

Notwithstanding anything elsewhere contained in this subclause, an employee who is retrenched by the employer on or after the 23 August, 1974 on account of the effect of the 25% reduction in tariffs and or removal of quotas of knitted shirts and or outerwear, and the employer verifies same by signing an application for readjustment assistance, then the employee shall be paid at his ordinary rate of wages for 12.67 hours for each completed month of service in the current qualifying period.

PROVIDED that where any employee has been employed for a period in excess of 12 months and who receives pro rata entitlement in accordance with this subclause the "ordinary rate of pay" shall include any additional amounts prescribed in subclause (k) of this clause.

In the case of an employee who has been employed for less than 12 months the "ordinary rate of pay" shall not include the additional amounts prescribed in subclause (k) of this clause.

11. CASUAL EMPLOYEES

A casual employee (as defined) for working ordinary time shall be paid per hour one-fortieth (one thirty-eighth from 30 September 1990) of the weekly rates prescribed for the work which he or she performs. In addition thereto a casual employee shall receive 15 per cent of the ordinary hourly rate in respect of each hour for which he or she is paid; such additional amount to be payment in lieu of annual leave, sick leave, and public holidays.

12. CLOTHING

Where an employer requires an employee to wear outer clothing or protective clothing of a distinctive colour or style such clothing shall be supplied by the employer without cost to the employee. The cost of repair and replacement of such clothing shall likewise be the responsibility of the employer.

13. 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.

14. ESTIMATING SERVICE

In estimating the number of years service of an employee the total clerical experience in the service of every employer in the trades or groups of trades in respect of which awards of the Tasmanian Industrial Commission are established shall be taken into account.

15. HOLIDAYS WITH PAY

(a) 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), the first Monday in November (where Hobart Regatta Day is not observed), Christmas Day and Boxing Day.

(b) Payment for the holidays mentioned in subclause (a) of this clause 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) of this clause shall be at the rates prescribed elsewhere in this award.

16. HOURS

(a) Subject to subclause (e) hereof and Clause 17 - Implementation of 38-Hour Week of this division, the ordinary hours of work shall be an average of 38 per week to be worked between the hours of 6.30am and 6.00pm Monday to Friday on the following basis:

(i) 38 hours within a work cycle not exceeding seven consecutive days; or

(ii) 76 hours within a work cycle not exceeding fourteen consecutive days; or

(iii) 114 hours within a work cycle not exceeding twenty-one consecutive days; or

(iv) 152 hours within a work cycle not exceeding twenty-eight consecutive days; or

(v) 152 hours within a work cycle not exceeding twenty-eight consecutive days in establishments where the method of banking of rostered days off has been agreed to.

(b) The hours of work prescribed in this clause shall, excepting for a meal break of not less than 30 minutes nor more than 60 minutes, be continuous on each day. Such meal break shall be taken between the hours of 11.00am and 3.00pm.

(c) Except where overtime is worked for a period not exceeding one hour after normal finishing time, no employee shall work for more than five hours without a break of not less than 30 minutes for a meal.

(d) Employees other than those engaged as provided for in Clause 11 - Casual Employees and Clause 21 - Part-time Employees, of this division shall be paid the weekly wage prescribed for a week of 38 hours for each week that he is ready, willing and available for work during the hours prescribed herein, and in addition thereto, such overtime or penalty rates, if any, that may have occurred during the relevant period.

(e) Shifts may be worked between the hours of 6.00am and 11pm.

'Morning Shift' shall mean a shift commencing at 6.00am

'Afternoon Shift' shall mean a shift finishing after 6.00pm but no later than 11.00pm

Employees engaged on morning or afternoon shift shall be paid at the rate of $25.30 per week in addition to the ordinary rates payable to day workers, irrespective of whether such shift is regarded as morning or afternoon shift, whether permanent or rotating.

The shift allowance shall be paid each shift on the basis of $5.06 per shift worked each day.

17. IMPLEMENTATION OF 38-HOUR WEEK

(a) Subject to Clause 16 - Hours, and except as provided elsewhere in this award the method of implementing the 38-hour week may be one of the following:

(i) by employees working less than 8 ordinary hours each day; or

(ii) by employees working less than 8 ordinary hours on one or more days each week; or

(iii) by fixing one day in which all employees will be off during a particular work cycle; or

(iv) by rostering employees off on various days of the week during a particular work cycle so that each employee has one day off during that cycle; or

(v) by accruing an entitlement to rostered days off up to a maximum of ten days, or as otherwise mutually agreed and thereby averaging 38 hours over a period not exceeding twelve months.

(b) In each establishment, an assessment should be made as to which method of implementation best suits the business and the proposal shall be discussed with the employees concerned, the objective being to reach agreement on the method of implementation. Subsequently, such method may be altered by mutual agreement.

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

(d) Except as provided in subclause (e) of this clause where the method of the employee working ordinary hours provides a day or days off during a particular work cycle, such day or days off may be taken by mutual agreement between the employer and employee concerned and in the absence of agreement the employer shall provide the employee with 24 hours notice for the time of taking such day or days off.

(e) The day or days scheduled to be the day or days off in accordance with subclauses (a)(iii), (iv) and (v) of this clause may be worked as an ordinary day or days without penalty when substituted by another day or days by agreement between the employer and the employee concerned or, where a number of employees are concerned, by agreement between the employer and the majority of employees.

(f) Where a system of working is adopted to allow one rostered day off in each four week cycle or the banking of rostered days off, an employee shall not be entitled to more than 13 such rostered days off in any twelve month period.

18. MATERNITY LEAVE

(a) Eligibility for Maternity Leave

An employee who becomes pregnant, shall upon production to her employer of a certificate from a duly qualified medical practitioner stating the presumed date of her confinement, be entitled to maternity leave provided that she has had not less than 12 months' continuous service with that employer immediately preceding the date upon which she proceeds upon such leave.

For the purposes of this clause:

(i) an employee shall include a part-time employee but shall not include an employee engaged upon casual or seasonal work;

(ii) maternity leave shall mean unpaid maternity leave.

(b) Period of Leave and Commencement of Leave

(i) Subject to subclauses (c) and (f) of this clause the period of maternity leave shall be for an unbroken period of from 6 to 52 weeks and shall include a period of 6 weeks compulsory leave to be taken immediately following confinement.

(ii) An employee shall, not less than 10 weeks prior to the presumed date of confinement, give notice in writing to her employer stating the presumed date of confinement.

(iii) An employee shall give not less than 4 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.

(iv) 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 6 weeks immediately prior to her presumed date of confinement.

(v) 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 (iii) above, if such failure is occasioned by the confinement occurring earlier than the presumed date.

(c) Transfer to a Safe Job

Where in the opinion of a duly qualified 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 duly qualified medical practitioner. Such leave shall be treated as maternity leave for the purposes of subclauses (g), (h), (i) and (j) of this clause.

(d) Variation of Period of Maternity Leave

(i) Provided the addition does not extend the maternity leave beyond 52 weeks, the period may be lengthened once only, save with the agreement of the employer, by the employee giving not less than 14 days' notice in writing stating the period by which the leave is to be lengthened.

(ii) The period of 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.

(e) 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 4 weeks from the date of notice in writing by the employee to the employer that she desires to resume work.

(f) 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:

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

(b) 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 duly qualified 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 duly qualified 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 52 weeks.

(iii) For the purposes of subclauses (g), (h) and (i) of this clause, 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 (c) of this clause to the position she held immediately before such transfer.

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 salary or wage to that of her former position.

(g) Maternity Leave and Other Leave Entitlements

Provided the aggregate of leave including leave taken pursuant to subclauses (c) and (f) of this clause does not exceed 52 weeks:-

(i) an employee may, in lieu of or in conjunction with maternity leave, take any annual leave or any part thereof to which she is then entitled;

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

(h) Effect of Maternity Leave on Employment

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 an award.

(i) 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.

(j) Return to Work After Maternity Leave

(i) An employee shall confirm her intention of returning to her work by notice in writing to the employer given not less than 4 weeks prior to the expiration of her period of maternity leave.

(ii) An employee, upon expiration of the notice required by paragraph (i) above, shall be entitled to the position which she held immediately before proceeding on maternity leave case of an employee who was transferred to a safe job pursuant to subclause (c) of this clause to the position which she held immediately before such transfer. 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 salary or wage to that of her former position.

(k) 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 under this subclause, 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 clause, 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) Provided that nothing in this subclause shall be construed as requiring an employer to engage a replacement employee.

(v) A replacement employee shall not be entitled to any of the rights conferred by this clause except where her employment continues beyond the 12 months' qualifying period.

19. OCCUPATIONAL SUPERANNUATION

(a) Definitions

'The fund' shall mean TASPLAN or an alternative fund as referred to in subclause (c) hereof provided that such alternative fund is approved in accordance with the Commonwealth Operational Standards for Occupational Superannuation Funds and endorsed by the Tasmanian Industrial Commission.

'Eligible employee' shall mean an employee, whether weekly, part-time or casual, who has had at least 3 months continuous service with an employer subject to this award. Provided that in the case of an employee who has so qualified with one employer, that employee shall not be required to serve the qualifying period with any subsequent employer subject to this award.

'Ordinary time earnings' shall mean the classification rate including loadings for shift work, part-time or casual work and any permanent all purpose allowances but shall exclude overtime payments, leave loading, annual and/or long service leave payments on termination of employment and allowances in the nature of a reimbursement (such as meal money).

(b) Contributions

(i) An employer shall, at least monthly, make a contribution equivalent to 3% of ordinary time earnings into the fund in respect of all eligible employees (as defined).

(ii) In the case of eligible casual and part-time employees, contributions shall become payable following the completion of 38 hours work each calendar month.

(c) Alternative Funds

(i) An employer shall not be required to pay a contribution on behalf of any eligible employee into more than one fund for the same period of employment.

(ii) Where an employer is already, at the time this clause is included in the award, paying on behalf of an eligible employee a contribution of not less than 3% of ordinary time earnings into an alternative fund (as referred to in subclause (a) hereof) then the employer may continue to use that fund provided that contributions are made in accordance with this clause.

(iii) Where an alternative fund (as referred to in subclause (a) hereof) is in use for the majority of employees in a particular establishment then such alternative fund may be used for the purposes of this clause provided that contributions are made as herein prescribed.

(iv) Where agreement is reached between an employer and a union an alternative fund (as referred to in subclause (a) hereof) and endorsed by the Tasmanian Industrial Commission may be used for the purposes of contributions payable under this clause.

(d) Exemptions

For the purpose of subclause (c) hereof, the following companies are exempted from contributing to the nominated fund as defined in subclause (a) Definitions, hereof. Contributions shall be made in accordance with subclause (b) Contributions, hereof into the approved funds set out below:

Company	Fund
Bonds Weaving Mills	Bonds Retirement Plan
Coats Patons Handknittings	Coats Patons (Australia) Employees' Retirement Fund
James Nelson (Tasmania) Pty Ltd	James Nelson Superannuation Fund

Sheridan Textiles Hobart	Australian Retirement Fund
Tascot Templeton	Australian Retirement Fund

(e) Date of Operation

The provisions of this clause shall operate from, and contributions shall be payable from, the first pay period to commence on or after 31 October 1989.

20. OVERTIME

(a) For all time of duty in excess of ordinary hours or before the time fixed for commencing work or after the time fixed for ceasing work, payment shall be made at the rate of time and a half for the first three hours and double time thereafter.

(b) An employee who is recalled to work overtime after a period of one hour from the time fixed for ceasing work, whether or not he has been notified before ceasing work, shall receive a minimum payment as for three hours worked.

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

(d) Where requested by an employee and agreed to by an employer, time off in lieu of payment for overtime may be taken. Time off shall be calculated by multiplying the hours worked by the appropriate overtime rate. Alternatively time off equivalent to the period of overtime worked may be taken in which case the employee shall be paid the appropriate penalties for such overtime work less the single time component for time taken in lieu of payment.

(e) For the purpose of determining the hourly rate for the payment of overtime, the appropriate weekly rate shall be divided by 40. **PROVIDED THAT** the divisor shall be reduced to 38 as from 30 September 1990.

21. PART-TIME EMPLOYEES

(a) Part-time employees engaged to work twenty or more hours per week shall be entitled to the holidays, annual leave and sick leave as prescribed in Clauses 15 - Holidays with Pay, 10 - Annual Leave and 27 - Sick Leave, of this award, provided that payment thereof shall be made at the rate normally paid to such employees for a similar period of time worked. The wage rates payable per hour shall be one-fortieth (one thirty-eighth as from 30 September 1990) of the relevant rate above set out.

(b) Part-time employees engaged to work less than 20 hours per week shall be paid per hour one-fortieth (one thirty-eighth as from 30 September 1990) of the weekly rates prescribed for the work he or she performs. In addition thereto such employees shall receive 15 per cent of the ordinary hourly rate in respect of each hour for which he or she is paid; such additional amount to be payment in lieu of annual leave, sick leave and public holidays.

22. PAYMENT OF WAGES

(a) Wages shall be paid weekly (in cash, by cheque or by direct transfer to an employee's bank account) during the employer's time not later than Thursday of each week.

PROVIDED that where agreement is reached with a majority of employees wages may be paid fortnightly.

(b) On the completion of the first full pay period and when any change is made in the weekly rate the employee shall be notified in writing of the amount of wages to which he is entitled, the amount of deduction made therefrom and the net amount being paid to him. **PROVIDED ALWAYS** that such notification shall be given not less often than once in each year of service.

(c) Where an employer elects to pay employees by direct transfer the employer shall pay to employees, in addition to any other entitlements, an amount to cover government fees and charges for one deposit and one withdrawal per pay.

PROVIDED FURTHER THAT this payment shall only be made where payment by direct transfer is introduced subsequent to 30 September 1989.

23. PENALTY PROVISIONS

The penalty rates prescribed in Clauses 20 - Overtime, 26 - Saturday, Sunday and Holiday Work of this award are applicable to full-time, part-time and casual employees.

PROVIDED that the said penalty rates shall be calculated on the ordinary time rate excluding any loading payable as follows:

Time and one half equates to 1.7 x the ordinary hourly rate.

Double time equates to 2.2 x the ordinary hourly rate.

Double time and one half equates to 2.7 x the ordinary hourly rate.

24. REST PERIOD

Employees shall be allowed a rest period between the start of work and the midday meal break and a rest period between the resumption of work after midday meal break and the cessation of work for the day. One rest period shall be of 10 minutes duration and one of 5 minutes duration to be taken at such times as may be mutually arranged between the employer and the employees.

PROVIDED that the second rest period may be taken at the work station. This proviso shall not apply to those employees involved in continuous keyboard operation.

25. RIGHT OF ENTRY OF UNION OFFICIALS

(a) For the purpose of interviewing employees on legitimate union business, an officer of an organisation of employees, accredited as hereinafter provided, may enter the employer's premises during regular meal or crib-time of employees on each day of the week on the following conditions:

(i) that he produces his authority to the gatekeeper or such other person as may be appointed by the employer for that purpose;

(ii) that he interviews employees only at recognised places where they are taking their meal or crib;

(iii) that not more than one representative of each of not more than three unions be on the premises at any one time;

(iv) that no one representative visit the premises more than once in each week; and

(v) that if the employer alleges that a representative is unduly interfering with his work or is offensive in his methods, or is creating dissatisfaction amongst his employees, or is committing such 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 an organisation if he be the holder for the time being of a certificate which has not been cancelled or revoked, signed by the Secretary and bearing the seal of the organisation and bearing the signature of the holder. The certificate shall be in the following form or in a form not materially different therefrom:

(Name of Organisation)

This is to certify that ..... whose signature appears hereunder, is a duly accredited representative of the abovenamed organisation for the purpose of the Textile Award.

.....
Secretary

(Seal)

.....
Signature of Holder of Certificate

(This certificate is not transferable)

(c) For the purpose of section 77 of the Industrial Relations Act 1984, the following organisation of employees shall be recognised:

the Federated Clerks Union of Australia, Tasmanian Branch.

26. SATURDAY, SUNDAY AND HOLIDAY WORK

(a) Payment for work on a Saturday shall be at the rate of time and a half for the first three hours and double time thereafter.

(b) Payment for work on a Sunday shall be at the rate of double time.

(c) Payment for work on any of the holidays mentioned in Clause 15 - Holidays with Pay of this division shall be at the rate of double time and a half.

(d) Where requested by an employee and agreed to by an employer, time off in lieu of payment for overtime may be taken. Time off shall be calculated by multiplying the hours worked by the appropriate overtime rate. Alternatively time off equivalent to the period of overtime worked may be taken in which case the employee shall be paid the appropriate penalties for such overtime work less the single time component for time taken in lieu of payment.

(e) For the purpose of determining the hourly rate for work on a Saturday, Sunday or holiday the appropriate weekly rate shall be divided by 40.

PROVIDED that the divisor shall be reduced to 38 as from 30 September 1990.

27. 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, as soon as possible and where practicable within one hour of the commencement of the employee's normal working day, 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 Tasmanian Industrial Commission), 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;

(iv) he shall not be entitled in any year to sick leave in excess of seventy-six hours of ordinary working time.

PROVIDED that during the first three months of employment, sick leave shall accrue on the basis of 6.33 hours for each completed calendar month of service with the employer.

(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.

(d) For the purpose only of sick leave entitlements provided in this clause and where a textile industry business is transmitted from an employer to another employer and a worker who at the time of such transmission was an employee of the transmittor in that business becomes an employee of the transmittee within one week of such transmission:

(i) the continuity of the employment of the employee shall be deemed not to have been broken by reasons of such transmission;

(ii) the period of employment which the employee has had with the transmittor or any prior transmittor shall be deemed to be employment of the employee with the transmittee;

(iii) **`transmission'** for the purpose of this subclause includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and `transmitted' has a corresponding interpretation.

(e) Where an employee is absent due to illness in accordance with this clause on the week day he is to take off in accordance with Clause 17 - Implementation of 38-Hour Week of this division, he shall not be entitled to sick leave nor shall his sick leave entitlement be reduced as a result of illness on that day.

28. TEA MONEY

(a) An employee who has worked six or more hours during ordinary time and who is required to work overtime for more than one and a half hours shall either be supplied with an adequate meal by the employer or be paid $4.90 meal money.

(b) Any dispute as to what constitutes an adequate meal shall be referred to and decided by the Tasmanian Industrial Commission.

(c) The payment prescribed in subclause (a) of this clause shall be made on the day on which the overtime is worked.

29. TERMINATION OF EMPLOYMENT

With the exception of casual employees employment shall be terminated by giving of a 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 neglect of duty or misconduct, and in such cases the wages shall be paid up to the time of dismissal only.

PROVIDED that during the first two weeks of employment termination may be effected by either party by the giving of one day's notice or the payment or forfeiture of a day's pay as the case may be.

CONDITIONS FOR EMPLOYEES IN DIVISION C - AUXILIARY SERVICES

30. ALLOWANCES

Tool Allowance

All employees engaged in classifications that are proclaimed as trades under the Industrial and Commercial Training Act 1985 shall either be supplied with all tools by the employer or be paid a tool allowance of not less than $8.30 per week.

PROVIDED that such allowance shall not be subject to adjustment when computing payments for shift penalty rates, for weekend or holiday work, for overtime or for any other purpose.

31. ANNUAL LEAVE

(a) Period of Leave

A period of twenty-eight days leave, including non-working days, shall be allowed annually to an employee after twelve months' continuous service (less the period of annual leave) as an employee on weekly engagement in any one or more of the occupations to which the award applies.

An employee on weekly engagement shall accrue annual leave prior to 1 January, 1984, at the rate of 3.07 hours for each forty ordinary working hours worked and from 1 January, 1984, at a rate of 2.923 hours for each 38 ordinary working hours worked.

(b) Seven-Day Shift Workers

In addition to the leave hereinbefore prescribed, seven-day shift workers, that is shift workers, who are rostered to work regularly on Sundays and holidays, shall be allowed seven consecutive days' leave, including non-working days. Where an employee with 12 months' continuous service prior to 1 January, 1984, is engaged for part of the twelve-monthly period as a seven-day shift worker, he shall be entitled to have the period of 28 consecutive days annual leave prescribed in subclause (a) of this clause increased by 0.78 of one hour for each week he is continuously engaged as aforesaid, and from 1 January, 1984, he shall be entitled to have the period of 28 consecutive days' annual leave prescribed in subclause (a) of this clause increased by 0.73 of one hour for each week he is continuously engaged as aforesaid.

(c) Annual Leave Exclusive of Public Holidays

Subject to this subclause, the annual leave prescribed by this clause shall be exclusive of any of the holidays prescribed by Clause 39 - Holidays with Pay of this award, and if any such holiday falls within an employee's period of annual leave and is observed on a day which, in the case of that employee would have been an ordinary working day, there shall be added to the period of annual leave, time equivalent to the ordinary time which the employee would have worked had such a day not been a holiday.

(d) Broken Leave

Employees covered by this award shall participate in any ballot which may take place regarding annual leave arrangements, and further they shall conform with the decisions of the majority of the employees in that particular work place.

(e) Calculation of Continuous Service

For the purpose of this clause, service shall be deemed to be continuous notwithstanding:

(i) any interruption or termination of the employment by the employer if such interruption or termination has been made merely with the intention of avoiding obligations hereunder in respect of leave of absence;

(ii) any absence from work on account of personal sickness or accident or on account of leave lawfully granted by the employer; or

(iii) any absence with reasonable cause, proof whereof shall be upon the employee.

In cases of personal sickness or accident or absence with reasonable cause, an employee to become entitled to the benefit of this subclause shall inform the employer, in writing if practicable, within 24 hours of commencement of such absence or within 4 hours of the commencement of the next working day or shift, of his inability to attend and the estimated duration of his absence.

Any absence from work by reason of any cause not being a cause specified in this subclause shall not be deemed to break the continuity of service for the purpose of this clause unless the employer, during the absence notifies the employee in writing that such absence will be regarded as having broken the continuity of service.

In cases of individual absenteeism such notice shall be given in writing to the employee concerned but in cases of concerted or collective absenteeism, notice may be given to employees by the posting up of a notification in the plant in the manner in which general notifications to employees are usually made in the plant and by posting to each union whose members have participated in such concerted or collective absenteeism a copy of same not later than the day it is posted up in the plant.

The notice to an individual employee may be given by delivering same to him personally or by posting it to his last recorded address in which case it will be deemed to have reached him in due course of post.

In calculating the period of 12 months' continuous service any absence from work not exceeding 21 working days in a qualifying period of 12 months on account of sickness or accident shall be taken into account in calculating the period of 12 months' continuous service.

In cases where an employee proceeds on leave without pay, with the consent of the employer in a qualifying period of 12 months the amount of annual leave entitlement shall be reduced by 2.923 hours for each week.

(f) Calculation of Service

Service before the date of this award shall be taken into consideration for the purpose of calculating annual leave, but an employee shall not be entitled to leave or payment in lieu thereof for any period in respect of which leave or payment in lieu thereof has been allowed.

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

(g) Calculation of Month

For the purposes of this clause, a month shall be reckoned as commencing with the beginning of the first day of employment or period of employment in question and as ending at the beginning of the day which in the last month in question, has the same date number as that which the commencing day had in its month and if there be no such day in such subsequent month shall be reckoned as ending at the end of each subsequent month.

(h) Leave to be Taken

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

(i) Time of Taking Leave

Annual leave shall be given at a time fixed by the employer within a period not exceeding in the case of an employee taking the leave in one period, 6 months, or in the case of an employee taking the leave in 2 or 3 periods, 9 months from the date when the right to annual leave accrued and after not less than 2 months' notice to the employee.

(j) Leave Allowed Before Due Date

An employer may allow annual leave to an employee before the right thereto has accrued due, but where leave is taken in such a case a further period of annual leave shall not commence to accrue until after the 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' continuous service in respect of which the leave was granted, the employer may, for each one complete 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, one-twelfth 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 39 - Holidays with Pay of this award.

(k) Payment for Period of Leave

Each employee other than a continuous shift worker before going on leave shall be paid the amount of wage he would have received in respect of the ordinary time which he would have worked had he not been on leave during the relevant period.

A continuous shift worker shall be paid the amount of wage he would have received in respect of the ordinary hours which he would have worked in accordance with his roster or projected roster.

For the purpose of this subclause the wage rate applicable shall include the following:

(i) wage rates;
(ii) leading hand allowance;
(iii) any over-award payment;
(iv) minimum wage;
(v) weekend penalty rates (seven day continuous shift workers only).

PROVIDED that the wage rate applicable shall not include any of the following:

(i) shift allowances;
(ii) special rates;
(iii) overtime payments.

(l) Loading on Annual Leave

(i) In addition to the wage rate prescribed in subclause (k) of this clause employees other than seven-day continuous shift workers shall whilst on annual leave receive a loading of 17 1/2% calculated on the award rate:

(a) a 17 1/2% loading calculated on the award wage exclusive of shift allowances, weekend penalty rates or overtime; or

(b) weekend penalty rates in accordance with his projected roster as prescribed in subclause (k) of this clause, whichever is the greater.

(ii) The annual leave loading prescribed herein shall not apply to pro rata leave entitlement on termination.

(m) Proportionate Leave on Termination

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

2.923 hours in respect of each completed week of service.

Notwithstanding anything elsewhere contained in this subclause, an employee who is retrenched by the employer on or after 23 August, 1974, on account of the effect of the 25% reduction in tariffs and or removal of quotas of knitted shirts and/or outerwear and the employer verifies same by signing an application for readjustment assistance then the employee shall be paid at his ordinary rate of wages for 2.923 hours in respect of each completed week of service in the current qualifying period.

PROVIDED that where any employee has been employed for a period in excess of 12 months and who receives pro rata entitlement in accordance with this subclause the `ordinary rate of pay' shall include any additional amounts prescribed in subclause (k) of this clause.

In the case of an employee who has been employed for less than 12 months the `ordinary rate of pay' shall not include the additional amounts prescribed in subclause (k) of this clause.

Notwithstanding anything contained in this clause, an employer may by giving not less than one month's prior notice to an entitlement falling due, grant Tuesday, 24 April, 1984, as part of any annual leave entitlement falling due during 1984.

(n) In the case of an employee where employment is terminated after 1 January, 1984, and who has accrued an entitlement to proportionate leave in accordance with subclause (a) of this clause in respect of a period up to 1 January, 1984, he shall be paid for that period on the following basis:

$$\frac{\text{Number of hours accrued}}{40} \times \text{appropriate weekly wage}$$

up to 1 January, 1984.

32. BEREAVEMENT 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.

33. BLOOD DONORS

A weekly employee who attends a recognised clinic for the purpose of donating blood during working hours shall (subject to the normal manning requirements) be allowed the necessary leave without loss of pay, provided that he shall not be entitled to payment with respect to time lost in excess of 2 hours on each occasion. An employee shall notify his employer as soon as possible of the time and date upon which he is intending to be absent for the purpose of donating blood.

34. CASUAL EMPLOYEES

An employee who is employed as a casual (as defined) shall receive a loading of 20% in addition to the ordinary rate. Provided that if a casual is required to cease work for a period in excess of 2 hours and then resumes work on the same day, he shall receive a loading of 50% of the ordinary rate for the second period of work. The abovementioned loading shall be in lieu of annual leave, sick leave and payment for public holidays.

35. DEDUCTION FROM WAGES

(a) Except as provided in subclause (b) of this clause no deductions shall be made from the wages of any employee for any purpose except with the written consent of the employee or by reason of statutory compulsion or any order of a court.

(b) An employer shall have the right to deduct from an employee's wages any monies overpaid through clerical and/or computer error, the method to recover such overpayment shall be mutually agreed between the employer and the employee; provided further that where an employee subsequently leaves or is discharged from the service of the employer the employer may deduct from whatever remuneration is payable upon the termination of the employment an amount equal to the amount of overpayment.

36. EMPLOYEES NOT SPECIFIED

Any employees not specifically provided for herein shall be paid the wage rates of the appropriate award covering his craft or calling.

37. GENERAL CONDITIONS

The provisions of the following clauses in Division B - Clerks shall also apply to employees in this Division:

Clause 18 - Maternity Leave
Clause 27 - Sick Leave

38. GRIEVANCE PROCEDURE

(a) Where an employee or the shop steward has submitted a request or complaint concerning any matter directly connected with employment or job conditions to a foreman or a more senior representative of management and has not received satisfaction the employee may refer the matter to a shop steward or if the matter has been raised by a shop steward he may refer the matter to the appropriate executive of the employer concerned.

(b) The matter shall be discussed between the shop steward and the appropriate executive.

(c) If the matter is not settled between the shop steward and the appropriate executive of the employer the matter shall then be referred by the shop steward to the Secretary of the Union and a meeting shall be arranged between the employer and if the employer so desires his Association and the Union and a conference shall take place as soon as practicable.

(d) If the matter is not settled in accordance with subclause (c) of this clause the matter shall be referred to the Tasmanian Industrial Commission for determination.

(e) Where the above procedures are followed work shall continue normally. No party shall be prejudiced as to the final settlement by the continuance of work in accordance with this subclause.

(f) Notwithstanding anything contained in the preceding subclauses of this clause the parties shall be free to exercise their rights if the dispute is not finalised without unreasonable delay.

(g) This clause shall not apply to any dispute as to a bona fide safety issue.

39. HOLIDAYS WITH PAY

(a) 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), the first Monday in November (where Hobart Regatta Day is not observed), Christmas Day and Boxing Day.

(b) Payment for the holidays mentioned in subclause (a) of this clause 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) Christmas Day, etc. Falling at Weekends

(i) Where Christmas Day falls on a Saturday or on a Sunday, the following Monday and Tuesday shall be observed as Christmas Day and Boxing Day respectively.

(ii) Where Boxing Day falls on a Saturday, the following Monday shall be observed as Boxing Day.

(iii) Where New Year's Day falls on a Saturday or on a Sunday the following Monday shall be observed as New Year's Day, and the said Saturday and/or Sunday shall be deemed not to be holidays.

(d) Other Holidays as may be Gazetted, etc.

Where a special public holiday is proclaimed by Order-in-Council or otherwise gazetted by the authority of the State Government, such day shall be deemed to be a holiday for the purpose of this award.

(e) Termination - Prior to Easter/Christmas

Notwithstanding anything to the contrary contained in his award any employer shall give to any employee a notice of termination of engagement expiring or taking effect as dismissal within 14 days of the date on which any of the Easter or Christmas/New Year holidays fall or are observed, such employer shall pay to the employee so dismissed, a day's pay for each such holiday falling or being observed within 14 days of termination of the engagement, unless the engagement is terminated by the employer by reason of the misconduct of the employee; provided that this subclause shall not apply to any employee who at the date of the expiration of such notice shall not have been employed by the employer concerned for at least one month immediately preceding the expiration of such notice; provided further that when any holiday is observed on a non-working day, the employee concerned shall not be entitled to payment for such holiday.

40. HOURS

(a) Subject to Clause 41 - Implementation of 38-Hour Week, Clause 48 - Procedures for In-plant Discussions and Clause 49 - Shifts, of this section and subject to the exceptions hereinafter provided, the ordinary hours of work from 1 January, 1984, shall be an average of 38 per week to be worked on one of the following bases:

(i) 38 hours within a work cycle not exceeding seven consecutive days; or

(ii) 76 hours within a work cycle not exceeding fourteen consecutive days; or

(iii) 114 hours within a work cycle not exceeding twenty-one consecutive days; or

(iv) 152 hours within a work cycle not exceeding twenty-eight consecutive days; or

(v) 152 hours within a work cycle not exceeding twenty-eight consecutive days in establishments where the method of banking of rostered days off have been agreed to.

(b) The ordinary hours of work prescribed herein may be worked on any day or all of the days of the week, Monday to Friday (other than seven-day continuous shift workers).

(c) The ordinary hours of work for day workers prescribed herein shall be worked continuously, except for meal breaks, at the discretion of the employer between 7.00am and 6.00pm and by shift workers (not being seven-day continuous shift workers) in not more than five shifts in accordance with the provisions of Clause 48 - Shifts of this award.

(d) The ordinary hours of work prescribed herein shall not exceed 10 hours on any day. Provided that in any arrangement of ordinary working hours where the ordinary working hours are to exceed 8 on any day, the arrangement of hours shall be subject to the agreement of the employer and the majority of employees in the plant or section or sections concerned.

(e) The usual starting and/or finishing time in any factory or part thereof shall not be altered except on seven days' notice to the appropriate shop steward or representative of the Union.

(f) Where the ordinary hours of work on any specified day do not exceed 6 hours, these hours may be worked without a meal break by agreement of the majority of employees and the employer concerned.

(g) The provisions of this clause shall not apply to Classification (b) - Pastry Cook mentioned in Clause 8 - Wage Rates; Division C - Auxiliary Services, whose hours of work shall be those prescribed for this class of employee in Clause 8 - Wage Rates; Division A - Manufacturing Section of this award.

41. IMPLEMENTATION OF 38-HOUR WEEK

(a) From 1 January, 1984, ordinary hours of work shall be 38 or an average of 38 per week as provided in Clause 40 - Hours and Clause 49 - Shifts, of this award.

(b) Except as provided in subclauses (e) and (f) of this clause the method of implementation of the 38-hour week may be any one of the following:

(i) by employees working less than 8 ordinary hours each day; or

(ii) by employees working less than 8 ordinary hours on one or more days each week; or

(iii) by fixing one day on which all employees will be off during a particular work cycle; or

(iv) by rostering employees off on various days of the week during a particular work cycle so that each employee has one day off during that cycle; or

(v) by accruing an entitlement to rostered days off up to a maximum of six days and thereby averaging 38 hours over a period not exceeding 6 months.

(c) In each plant, an assessment should be made as to which method of implementation best suits the business and the proposal shall be discussed with the employees concerned, the objective being to reach agreement on the method of implementation prior to 1 January, 1984. Subsequently, such method may be altered by mutual agreement.

(d) In the absence of agreement at plant level, the procedure for resolving grievances shall be applied in accordance with Clause 38 - Grievance Procedure, of this award. This procedure shall be applied without delay.

(e) Subject to the provisions of Clause 40 - Hours, subclause (d) and Clause 49 - Shifts, subclause (k) (iv) of this award, the employer and majority of employees in the plant or section or sections concerned may agree that the ordinary working hours are to exceed 8 on any day, thus enabling a day off to be taken more frequently than would otherwise apply.

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

(g) Notice of Days Off

(i) Except as provided in subclause (h) of this clause, in cases where by virtue of the arrangement of his ordinary working hours, an employee, in accordance with subclauses (b) (iii) (iv) and (v) of this clause is entitled to a day or days off during his work cycle, such employee shall be advised by the employer at least four weeks in advance of the day or days he is to take off.

(ii) Where a system of working is adopted to allow one rostered day off in each four week cycle or the banking of rostered days off an employee shall not be entitled to more than 12 such rostered days off in any 12 months period.

(h) Substitute Days

The day or days scheduled to be the day or days off in accordance with subclauses (b) (iii), (iv) and (v) of this clause may be worked as an ordinary working day or days without penalty when substituted by another day or days by agreement between the employer and the employee concerned or where a number of employees are concerned by agreement between the employer and the majority of the employees.

42. MEAL BREAKS

(a) Day Workers - Two-shift Workers

(i) A meal interval of not less than 30 minutes and not more than one hour shall be allowed each day or shift.

(ii) Unless directed by the employer no work shall be performed by an employee during his unpaid meal interval.

(iii) Time-and-one-half rates shall be paid to any employee required to work during his meal interval.

(iv) No employee shall be compelled to work more than five hours without a break for a meal.

(v) Each employee shall have a meal interval fixed and having been fixed it shall not be altered except by mutual agreement or on 7 days notice to the shop steward, or where there is now shop steward, on notice to the Secretary of the Union or in the event of an emergency such as a power break-down.

(b) Short-shift Workers

(i) Where a short shift of up to and including 5 hours is worked, 10 minutes shall be allowed as opportunity offers to such short-shift workers each shift for crib which shall be counted as time worked.

(ii) Where a short shift over 5 hours and less than 8 hours is worked and no meal interval is given, 20 minutes shall be allowed, as opportunity offers, to such short-shift workers each shift for crib which shall be counted as time worked.

43. MISCELLANEOUS CONDITIONS

(a) Where an employee is required to carry firearms and ammunition they shall be provided by the employer who shall also pay the gun licence fee.

(b) Where it is necessary for an employee to attend a Court on the employer's or employer's clients' behalf in connection with any matter arising out of or in connection with his duties, the time so occupied shall count as time worked.

(c) Where an employee is required to work in rain, a waterproof coat or cape shall be provided by the employer.

(d) Where an employee is required to carry a torch it shall be provided and maintained by the employer.

(e) Where a cleaner is required to use a hose on any place for one hour or more continuously on any day or to use a hose on any place above the floor surface on which he is working or when in the course of his duties he is required to use a polish stripping agent, rubber boots and such protective clothing as is considered necessary shall be provided by the employer for the use of the employee.

44. MIXED FUNCTIONS

An employee engaged for more than half of one day or shift on duties carrying a higher rate than his or her classification shall be paid the higher rate for such day or shift. If for less than one-half of one day or shift, he or she shall be paid the higher rate for the time so worked.

45. OVERTIME

(a) Payment for Working Overtime

Except as provided in Clause 49 - Shifts, of this section, of this award for all work done outside ordinary hours the rate of pay shall be time and a half for the first three hours and double time thereafter, such double time to continue until the completion of overtime work. For the purpose of this clause, ordinary hours shall mean the hours worked in an establishment in accordance with Clauses 40 - Hours, 41 - Implementation of 38-Hour Week, 48 - Procedures for In-plant Discussions and 49 - Shifts, of this award.

PROVIDED that the ordinary hours of a night shift finishing on Saturday morning shall not be subject to overtime rates.

PROVIDED ALWAYS that an employee required to work overtime on a Saturday shall be afforded at least three hours work or paid for three hours at the appropriate rate, except where such overtime is continuous with a shift or rostered work period or overtime commenced on the day previous. From 1 January 1984, the hourly rate when computing overtime shall be determined by dividing the appropriate weekly rate by 38, even in cases when an employee works more than 38 ordinary hours in a week.

(b) The 38 ordinary hours of work each week may be worked in 4 days without incurring overtime penalties provided that the hours on any day shall not exceed ten hours and provided the provisions of Clause 49 - Shifts, subclause (a) (iii) of this award, provided further that mutual agreement is obtained.

(c) (i) Employees required to work overtime for more than 2 hours without being notified on the previous working day or earlier, that they will be required to work, shall be paid a meal allowance of $4.90 for each subsequent meal. Where the employee so requests, such payment shall be made before the overtime is worked. If the notice is given and overtime is not worked (except as a result of a breakdown in machinery or plant, or due to reasons beyond the control of the employer), the meal allowance prescribed herein shall be paid.

(ii) Irrespective of whether or not a meal allowance is paid as a result of working overtime, a second meal break shall be taken not later than 4 hours after the completion of the first meal break where such overtime continues after the first meal break.

(d) (i) A casual employee who works in excess of 8 hours in any one day shall be paid at the rate of time and one half for the first three hours and double time thereafter.

(ii) For work performed by casual employees on Saturdays, payment shall be at the rate of time and one half.

(iii) For work performed by casual employees on Sundays or public holidays, payment shall be at double the ordinary rate.

(e) Juniors under 18 years of age, for each period of overtime worked, shall be paid 5 cents up to two hours and 2.6 cents for each additional hour in addition to their overtime earnings and any tea money to which they might be entitled.

(f) Youths under 18 years of age and females required to work overtime shall be paid overtime at the rate of time and a half to a maximum of 3 hours in any one day, Monday to Saturday inclusive, and 10 hours in one week and double time thereafter.

(g) All females and males under the age of 16 years shall not work overtime for more than 200 hours in a calendar year. Provided that further overtime shall be allowed when the Union cannot supply competent and suitable labour and the consent of the Union is first obtained. If the Union refuses to give such consent the matter shall be referred to the Tasmanian Industrial Commission.

(h) Rest Period After Overtime

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 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 such 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.

The provisions of this subclause shall apply in the case of shift workers as if 8 hours were substituted for 10 hours when overtime is worked:

(i) for the purpose of changing shift rosters; or

(ii) where a shift worker does not report for duty and a day worker or a shift worker is required to replace such shift worker; or

(iii) where a shift is worked by arrangement between the employees themselves.

(i) Callback

An employee recalled to work overtime after leaving his employer's business premises (whether notified before or after leaving the premises) shall be paid a minimum of 3 hours work at the appropriate rate for each time he is so recalled: provided that, except in the case of unforeseen circumstances arising, the employee shall not be required to work the full 3 hours if the job he was recalled to perform is completed within a shorter period.

This subclause shall not apply in cases where it is customary for an employee to return to his employer's premises to perform a specific job outside his ordinary working hours or where the overtime is continuous (subject to a reasonable meal break) with the completion or commencement of ordinary working time.

Overtime worked in the circumstances specified in this subclause shall not be regarded as overtime for the purpose of subclauses (c) and (h) of this clause where the actual time worked is less than 3 hours on such recall or each of such recalls.

(j) Compulsory Overtime

(i) An employer may require any employee to work reasonable overtime at overtime rates, and such employee shall work overtime in accordance with such requirement.

(ii) The organisation party to this award shall not in any way, whether directly or indirectly, be a party to or be concerned in any ban, limitation, or restriction upon the working of overtime in accordance with the requirements of this subclause.

(iii) This subclause shall remain in operation until otherwise determined by the authority competent so to do.

(k) Transport of Employee

When an employee, after working overtime or a shift for which he has not been regularly rostered finishes work at a time when his usual or other reasonable means of transport are not available, the employer shall provide him with a conveyance to his home or, pay his ordinary wages for the time reasonably occupied in reaching his home.

46. PAYMENT OF WAGES

(a) From 1 January, 1984, wages shall be paid as follows:

(i) Employee who actually works 38 ordinary hours each week

In the case of an employee whose ordinary hours of work are arranged in accordance with Clause 41 - Implementation of 38-Hour Week, subclause (b) (i) and(ii) of this award so that he works 38 ordinary hours each week, wages shall be paid weekly, fortnightly or monthly according to the actual ordinary hours worked each week, fortnight or month.

(ii) Employee who works an average of 38 ordinary hours each week

Subject to subclause (b) of this clause, in the case of an employee whose ordinary hours of work are arranged in accordance with Clause 41 - Implementation of 38-Hour Week, subclause (b) (iii) (iv) and (v) of this award, so that he works an average of 38 ordinary hours each week during a particular work cycle, wages shall be paid weekly, fortnightly or monthly, according to a weekly average of ordinary hours worked even though more or less than 38 ordinary hours may be worked in any particular week of the work cycle.

Special Note - Explanation of Averaging System

As provided in this subclause an employee whose ordinary hours may be more or less than 38 in any particular week of a work cycle, is to be paid his wages on the basis of an averaging of 38 ordinary hours so as to avoid fluctuating wage payments each week. An explanation of the averaging system of paying wages is set out below:

(1) Clause 41 - Implementation of 38-Hour Week, provides in subclause (b) (iii) and (iv) that in implementing a 38-hour week the ordinary hours of an employee may be arranged so that he is entitled to a day off, on a fixed or rostered day basis, during each work cycle. It is in these circumstances that the averaging system would apply.

(2) If the 38-hour week is to be implemented so as to give an employee a day off in each work cycle this would be achieved if, during a work cycle of 28 consecutive days (that is, over four consecutive weeks) the employee's ordinary hours were arranged on the basis that for three of the four weeks he worked 40 ordinary hours each week and in the fourth week he worked 32 ordinary hours.

In such a case the averaging system applies and the weekly wage rates for ordinary hours of work applicable to the employee shall be the average weekly wage rates set out for the employee's classification in Clause 8 - Wage Rates, Division C - Auxiliary Services subclause 1 - Wage Rates of this award, and shall be paid each week even though more or less than 38 hours are worked that week. In effect, under the averaging system, the employee accrues a 'credit' each day he works actual ordinary hours in excess of the daily average of which would otherwise be 7 hours 36 minutes. This 'credit' is carried forward so that in the week of the cycle that he works on only four days, his actual pay would be for an average of 28 ordinary hours, even though, that week, he works only a total of 32 ordinary hours.

Consequently, for each day an employee works 8 ordinary hours he accrues a 'credit' of 24 minutes (0.4 hours). The maximum 'credit' the employee may accrue under this system is 0.4 hours on 18 days; that is, a total of 7 hours 36 minutes.

(3) Clause 41 - Implementation of 38-Hour Week provides in subclause (b) (v) that in implementing a 38 hour week an employee may accrue his rostered days off to a maximum of 6 days. In such cases the averaging system as detailed in paragraph (ii) above applies and the employee accrues a credit which is carried forward for a period of 6 months.

(4) As provided in subclause (b) of this clause, an employee will not accrue a 'credit' for each day he is absent from duty other than on annual leave, long service leave, public holiday, paid sick leave, bereavement leave or jury service. When an employee is absent from duty because of annual leave, bereavement leave or jury service, his entitlement is determined in accordance with the appropriate award provision dealing with such entitlements.

(5) Where in establishments the 38-hour week is implemented in accordance with subclause (b) of this clause an employee who works shift work and who is entitled to payment of a shift allowance as provided by Clause 49 - Shifts of this award, shall accrue a 'credit' of a shift allowance in direct proportion to the ordinary hours accrued for the purpose of his rostered day or days off.

(b) Absences from Duty

(i) An employee whose ordinary hours are arranged in accordance with Clause 41 - Implementation of 38- Hour Week, subclause (b) (iii) (iv) and (v) of this award and who is paid wages in accordance with subclause (a) of this clause and is absent from duty (other than on annual leave, long service leave public holidays, paid sick leave, bereavement leave or jury service) shall, for each day he is so absent, lose average pay for that day calculated by dividing his average daily pay rate by 8.

(ii) **PROVIDED** that, when such an employee is absent from duty for a whole day without pay he will not accrue a `credit' because he would not have worked ordinary hours that day in excess of 7 hours 36 minutes for which he would have otherwise been paid. Consequently, during the week of the work cycle he is to work less than 38 ordinary hours he will not be entitled to average pay for that week. In that week, the average pay will be reduced by the amount of the `credit' he does not accrue for each whole day during the work cycle he is absent.

The amount by which an employee's average weekly pay will be reduced when he is absent from duty (other than on annual leave, long service leave, public holidays, paid sick leave, bereavement leave or jury service), is to be calculated as follows:

$$\text{Total of `credits' not accrued during cycle} \times \frac{\text{average weekly pay}}{38}$$

Examples:

(An employee's ordinary hours are arranged so that he works 8 ordinary hours on 5 days of each week for 3 weeks and 8 ordinary hours on four days of the fourth week).

1. Employee takes one day off without authorisation in first week of cycle.

1st week	= average weekly pay <u>less</u> one day's pay (i.e. less 1/5th)
2nd and 3rd weeks	= average weekly pay each week

4th week	= average weekly pay less credit not accrued on day of absence.
	= average weekly pay less 0.4 hours x $\frac{\text{average weekly pay}}{38}$

2. Employee takes each of the 4 days off without authorisation in the fourth week.

Week of Cycle	Payment
1st, 2nd and 3rd weeks	= average weekly pay each week
4th week	= average weekly pay less 4/5ths of average weekly pay for the four days absent less total of credits not accrued that week
	= 1/5 average weekly pay less 4 x 0.4 hours x $\frac{\text{average weekly pay}}{38}$
	= 1/5 average weekly pay less 1.6 hours x $\frac{\text{average weekly pay}}{38}$

(c) In establishments where wages are paid weekly such payment shall not be made later than Thursday; provided that shift workers finishing work on Friday mornings shall be paid their wages before ceasing work.

(d) Wages shall be paid during working hours. Any employee kept waiting for his or her wages beyond the ordinary working hour shall be paid at overtime rates for such waiting time.

(e) The provisions of subclauses (c) and (d) of this clause shall not have application in circumstances where it is not reasonably practicable for a company to comply with its obligations thereunder on account of causes for which it cannot reasonably be held responsible. Proof of the existence of such a circumstance shall be upon the Company. In such circumstances the Company shall pay wages as soon as it is reasonably practicable for it to do so. Provided further that if an employee is stood down on his or her normal pay day the employee may collect his or her wages without being entitled to a penalty payment for that attendance pursuant to Clause 52 - Terms of Engagement, subclause (g) of this award.

(f) Where the services of an employee are dispensed with his or her wage shall be paid on the day of dismissal or forwarded by post on the day following; provided that in the case of an employee whose ordinary hours are arranged in accordance with Clause 41 - Implementation of 38-Hour Week, subclause (b) (iii) (iv) and (v) of this award and is paid average pay and who has not taken the day or days off due to him during the work cycle in which his employment is terminated, the wages due to the employee shall include the total of credits accrued during the work cycle as detailed in the Special Note following Clause 46 - Payment of Wages, subclause (b) (iii) of this award; provided further that where an employee has taken a day or days off during the work cycle in which his employment is terminated the wages due to that employee shall be reduced by the total of credits which have not accrued during the cycle.

(g) Not more than 2 days' pay of each employee shall be kept in hand by an employer.

(h) Payment of wages is to be made on the day before a holiday if a holiday falls on the pay day. Provided that such payment may not include overtime, piecework and/or bonus earnings earned on the last day preceding the holiday. These payments may be made on the subsequent pay day.

(i) On or prior to pay day the employer shall notify each employee in writing:

(i) the gross amount of wages inclusive of overtime and other earnings;

(ii) the amount paid as overtime or such information as will enable the amount paid as overtime to be calculated by the employee;

(iii) the amount paid for payment by results work;

(iv) the amount paid as shift allowance if applicable;

(v) details of make up of payment made in respect of annual leave when leave is taken or on termination of employment;

(vi) the amount deducted for taxation purposes;

(vii) particulars of all other deductions; and

(viii) the net amount paid.

The notice setting forth the above particulars shall remain the property of the employee.

(j) Where an employer and employee agree, the employee may be paid his wages by cheque or by direct payment into the employee's bank account without a requirement for the employer to provide encashment facilities.

(k) Wages may be paid fortnightly or monthly subject to agreement being reached with the employee.

(l) Calculation of Hourly Rate

Except as provided in subclause (b) (i) of this clause, hourly rates shall be calculated by dividing the appropriate weekly rate by 38.

47. PERIOD OF TRANSITION

Any employee whose ordinary hours of work between the 1 January, 1984 and 24 January, 1984, inclusive, exceeded an average of thirty eight per week as provided in Clause 41 - Implementation of 38-Hour Week, shall:

(a) be paid an amount of 1/38th of that employee's ordinary rate of pay for each hour at ordinary time actually worked in excess of an average of thirty eight per week; or

(b) be given leave on full pay equivalent to the total number of hours at ordinary time actually worked in excess of an average of thirty eight per week, in addition to any other leave to which the employee is entitled.

48. PROCEDURES FOR IN-PLANT DISCUSSIONS

(a) Procedures shall be established for in-plant discussions, the objective being to agree on the method of implementing the 38-hour week in accordance with Clauses 40 - Hours, 41 - Implementation of 38-Hour Week, and 49 - Shifts, of this award and entailing an objective review of current practices to establish where improvements can be made and implemented.

(b) The procedures should allow for in-plant discussions to continue even though all matters may not be resolved by 1 January, 1984.

(c) The procedures should make suggestions as to the recording of understandings reached and methods of communicating agreements and understandings to all employees, including the overcoming of language difficulties.

(d) The procedures should allow, for the monitoring of agreements and understandings reached in-plant.

(e) In cases where agreement cannot be reached in-plant in the first instance or where problems arise after initial agreements or understandings have been achieved in-plant, a formal monitoring procedure shall apply. The basic steps in this procedure shall be as applies in Clause 38 - Grievance Procedure of this award.

(f) Separate to these procedures the employer organisations may provide assistance and guidance to their members on the subject matters to be dealt with in plant discussions and on other relevant matters.

(g) There shall be an on-going character attached to the review of practices to establish where improvements can be made and implemented.

49. SHIFTS

(a) **`Day shift'** shall mean a shift worked between the hours of 7.00am and 6.00pm provided that in cases where employees are required to work overtime commencing at 6.00am for a period exceeding 4 consecutive weeks they shall be deemed to be engaged on a morning shift.

`Morning shift' shall mean a shift commencing at 6.00am.

`Afternoon shift' shall mean a shift finishing after 6.00pm but not later than midnight.

`Night shift' shall mean a shift the finishing time of which shall be after midnight but not later than 8.00am.

`Permanent night shift' shall mean a shift which is applicable to an employee who:

(i) during a period of engagement works night shift only; or

(ii) remains on night shift for a longer period than 4 consecutive weeks; or

(iii) works on a night shift which does not rotate or alternate with another shift or with day work so as to give him at least one-third of his working time off night shift in each shift cycle.

`Short shift' shall mean a shift of not less than 20 ordinary working hours per week.

PROVIDED that, to meet extraordinary circumstances, the foregoing hours may be varied by mutual agreement in writing between the employer concerned and the Secretary of the local branch of the Union. In the event of any dispute the matter shall be referred to the Tasmanian Industrial Commission for decision.

PROVIDED ALWAYS that by mutual agreement between the employer and his employees and with the concurrence of the Union, the hours of duty prescribed herein for a `night shift' worker may be worked in 4 shifts. Under any such arrangement, all hours of duty beyond 9 hours, even if they come within the starting and finishing time of a shift, shall be paid for at overtime rates.

(b) Subject to the provisions of this clause employees under 18 years of age are prohibited from working before 6.00am or after 11.00pm.

(c) Employees engaged on shifts (other than `day shift' as herein defined) shall be paid at the rate of $7.70 per day in addition to the ordinary rates payable to day workers, irrespective of whether such shift is regarded as morning, afternoon, or night shift, whether permanent or rotating.

PROVIDED that employees engaged on the permanent night shift shall be paid at the rate of $15.50 per day in addition to the ordinary rate payable to day workers.

(d) Any employee who is employed on a Sunday shall for all time worked on that day be paid at the rate of double time. Provided that when by mutual agreement between an employer and his employee and with the consent of the Union, shifts are rearranged to commence on Sunday instead of Monday, ordinary rates shall be paid for Sunday work.

(e) As far as practicable, employees shall work shifts in rotation.

(f) Short shifts of employees over 18 years of age may be worked at the discretion of the employer. For work done on such shifts other than the day shift as defined in subclause (a) of this clause, payment shall be made at the rate of $7.80 per day in addition to the rates payable to day shift workers.

(g) (i) All time worked by a shift worker (other than a 7 day continuous shift worker as defined) between midnight on Sunday and 7.00am on Monday shall be paid for at the rate of time and one half for the first 3 hours and double time thereafter.

(ii) Starting the week's hours on a Sunday night any employee who is employed on a Sunday shall, for all time worked on that day, be paid at the rate of double time.

Provided that where by mutual agreement between an employer and his employees and with the consent of the Union, shifts are rearranged to commence on Sunday instead of Monday, ordinary rates shall be paid for Sunday Work.

(h) An employee who is required to change from one shift to another without 2 days notice of such change of shift shall be paid $11.40 extra as compensation, but this shall not apply during any period where power restrictions are operating.

(i) Shift workers may be required to work until the completion of their shifts on holidays without the payment of holiday rates. Provided they are not required to work on the night shift commencing on a holiday. Where a holiday prescribed by this award is observed on a Monday, shift workers may be given time off on the shift commencing on the Sunday night preceding a holiday and in such event shall be required to work on the usual night shift commencing on the holiday without additional pay. Provided further that where an employee works two complete shifts on a holiday, both shifts shall be paid for as holiday shifts.

(j) Except for the regular changeover of shifts, no employee shall be required to change from one shift to another without a break of at least 12 hours.

(k) (i) **'Seven-day continuous shift work'** means work carried out with consecutive shifts of employees throughout the 24 hours of each of the 7 days of the week without interruption except during breakdowns or due to unavoidable causes beyond the control of the employer.

(ii) **`Sick pay'** - subject to the provisions of paragraph (iv) of this subclause where the ordinary hours of a roster provide for a rostered overtime shift then employees shall be entitled to claim sickness benefits at ordinary rates for absences occurring through illness on the rostered overtime shift.

(iii) **`Overtime'** work performed by 7-day continuous workers shall be paid at the rate of double time.

(iv) This subclause shall apply to shift workers on continuous work as hereinbefore defined. The ordinary hours of shift workers shall, from 1 January, 1984 average 38 per week inclusive of crib time and shall not exceed 152 hours in twenty-eight consecutive days. Provided that, where the employer and the majority of employees concerned agree, a roster system may operate on the basis that the weekly average of 38 ordinary hours is achieved over a period exceeding 28 consecutive days. Provided further that prior to 1 January 1984, the ordinary hours of such shift workers shall continue as prescribed as at 2 November, 1983. Subject to the following conditions, such shift workers shall work at such times as the employer may require:

(a) a shift shall consist of not more than 10 hours inclusive of crib time. Provided that in any arrangement of ordinary working hours where the ordinary working hours are to exceed 8 on any shift the arrangement of hours shall be subject to the agreement of the employer and the majority of employees concerned;

(b) except at the regular changeover of shifts, an employee shall not be required to work more than one shift in each twenty-four hours.

(l) 20 minutes shall be allowed each shift for a meal which shall be counted as time worked.

(m) Seven-day continuous shift workers for work done on a rostered shift, the major portion of which is performed on a Saturday, shall be paid at the rate of time and a half. Such extra rate shall be in substitution for and not cumulative upon the shift premium elsewhere prescribed.

(n) Seven-day continuous shift workers for work done on a rostered shift, the major portion of which is performed on a Sunday, shall be paid at the rate of double time. Such extra rate shall be in substitution for and not cumulative upon the shift premium elsewhere prescribed.

(o) Seven-day continuous shift workers for work done on a rostered shift, the major portion of which is performed on a holiday, shall be paid at the rate of double time. Such extra rate shall be in substitution for and not cumulative upon the shift premium elsewhere prescribed.

(p) A seven-day continuous shiftworker who is rostered to work regularly on Sundays and holidays, when his rostered day off falls on a public holiday prescribed by this clause shall, at the discretion of the employer, be paid for that day, prior to 1 January, 1984, 8 hours, and from 1 January, 1984, 7 hours 36 minutes, at the ordinary rate or, have an additional day added to his annual leave.

This subclause shall not apply when the holiday on which he is rostered off falls on a Saturday or Sunday.

(q) Notwithstanding anything contained elsewhere in this award in any area where by reason of the legislation of a State, summer time is prescribed as being in advance of the standard time of the State, the length of any shift:

(i) commencing before the time prescribed by the relevant legislation for the commencement of a summer time period; and

(ii) commencing on or before the time prescribed by such legislation for the termination of summer time period shall be deemed to be the number of hours represented by the difference between the time recorded by the clock at the beginning of the shift and the time so recorded at the end thereof, the time of the clock in each case to be set to the time fixed pursuant to the State legislation.

In this subclause the expressions `standard time' and `summer time' shall bear the same meaning as prescribed by the State legislation.

(r) Save as aforesaid all the provisions of the award shall apply to 7-day continuous shift workers.

50. SICKNESS ON DAY OFF ETC.

In addition to the provisions of Clause 27 - Sick Leave, of this award:

(a) From 1 January, 1984, where an employee is sick or injured on the week day he is to take off in accordance with Clause 41 - Implementation of 38-Hour Week, subclause (b) (iii), (iv) or (v) of this award, 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.

(b) 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.

51. SUNDAY AND HOLIDAY WORK

(a) All work done by employees on Sunday, other than 7-day shift workers, and those covered under Clause 49 - Shifts, subclause (d) of this award, shall be paid at the rate of double time.

(b) For all work done by employees on holidays as prescribed in Clause 39 - Holidays with Pay, subclause (a) of this award the following shall apply:

employees other than 7-day continuous shift workers shall be paid at the rate of double time and one half.

PROVIDED that an employee required to work on a Sunday or public holiday shall be afforded at least 3 hours work or paid for 3 hours at the appropriate rate except where such work is continuous with a shift or rostered work period or with overtime which commenced on the day previous.

(c) From 1 January, 1984, in the case of an employee whose ordinary hours of work are arranged in accordance with Clause 41 - Implementation of 38-Hour Week, subclauses (b) (iii), (iv), (v) or, (d) or (e), the day or days to be taken off shall not coincide with a public holiday fixed in accordance with Clause 39 - Holidays with Pay, subclauses (a), (b), (c), or (h) of this award or, subclause (b) of this clause.

PROVIDED that in the event that a public holiday is prescribed after an employee has been given notice of his day or days off in accordance with Clause 39 - Holidays with Pay, subclause (g), of this award and the public holiday falls on the day or days the employee is to take off, the employer shall allow the employee to take the day off on an alternative weekday.

52. TERMS OF ENGAGEMENT

(a) Contract of Employment

Employment in the industry covered by this award shall be by the week, except in the case of part-time workers and casual employees.

(b) An employee, to become entitled to payment under this award, shall be ready, willing and available for work at the times and during the hours usually worked by him.

(c) Termination of Employment

(i) Employment shall be terminated by a week's notice on either side, if the said notice is given before the expiry of the first half of any day or shift then that day or shift shall be counted as part of notice. If notice is given after the expiry of the first half of any day or shift then that day or shift shall not be counted as part of the week's notice.

(ii) Where an employer has given an employee notice of termination of employment, an employee on request shall be granted leave of absence without pay for one day to look for alternative employment.

Leave of absence so granted shall not constitute abandonment of employment.

(iii) When an employer or employee gives notice of termination of employment, the parties may mutually agree to the employment ending before the expiration of the period of notice, and in such cases wages shall be paid only up to the time of agreed termination.

(d) Notwithstanding anything elsewhere contained in this clause, the employer shall have the right to dismiss an employee without notice for inefficiency, neglect of duty, malingering, or misconduct, in which case wages shall be paid up to the time of dismissal only, or to deduct payment for any time the employee cannot be usefully

employed because of any strike or through any breakdown of machinery or any stoppage of work or by any cause for which the employer cannot reasonably be held responsible, or for a stand down of employees at any time when no work is offering; provided that, when a weekly employee has been given notice of termination, he shall not be stood down when no work is offering. Provided further, that such standing down of an employee shall not break the continuity of service for the purposes of annual leave, holidays and sick leave.

(e) Power and Other Stoppages

In the case of any power stoppage or breakdown of machinery or any stoppage of work by any cause for which the employer cannot reasonably be held responsible, any employee required to attend for work in accordance with this clause and does so attend shall be paid as for at least two hours' work at time rates. This provision will have no application where the employer can demonstrate that an attempt e.g. telegram, radio announcement etc., was made to notify the employee of the non-requirement to attend for duty. Provided further that payment shall be made at time rates to an employee who is kept on the employer's premises at the direction of the management in excess of two hours.

Where an employee commences work he shall be entitled to be paid as for at least three hour's work on that day.

(f) Termination of Employment Prior to a Holiday

Where the employer terminates the employment of an employee within 2 weeks prior to a day on which a holiday occurs, and such employee is re-engaged within a period of one month after such holiday or holidays the employee shall be paid for such holiday or holidays prescribed by the award, provided that such employee has been employed by the employer for a period of at least 2 weeks prior to the termination of employment.

(g) Part-time Employment

A part-time employee is one engaged for less than 38 hours per week as a day worker or a shift worker.

Such employees may be employed subject to the following conditions:

(i) they shall be employed for not less than 19 hours in any week;

(ii) if time workers, they shall be paid for each hour worked at the rate of at least 1/38th of the minimum weekly wage prescribed by this award for the class of work performed by them and if payment by result workers, they shall be paid at the appropriate payment by results rate payable under this award but in no case shall any of such employees be paid less than so much of the minimum weekly wage prescribed by the said award as is appropriate to the time worked by them;

(iii) the payment or deduction of payment in lieu of notice of termination of employment shall be calculated on a proportionate basis. For example, where an employee was rostered for twenty hours in the preceding week, then the pro rata amount is 19/38 of the rate of wage for the classification involved;

(iv) the total provisions of this award as regards annual leave, sick pay and public holidays shall apply to such part-time employees but they shall be paid in respect of the period of such annual leave and sick pay only in proportion to the average number of hours worked each week during the previous 6 months of if there is not a 6 month period of employment then the average on the actual period of employment. Provided that in the case of public holidays a part-time employee shall only be entitled to payment for the number of hours he would normally have worked had the day been an ordinary working day;

(v) save as aforesaid all the provisions of this award shall apply to such part-time employees.

(h) Notwithstanding anything elsewhere contained in this clause but subject to subclause (d) of this clause the first month of employment will be on a trial basis and may be terminated by two day's notice by either side except during the first week of employment when termination will be by one hour's notice on either side; provided that if the requisite notice is not given during this period the payment or forfeiture of one hour or two day's wages depending upon when termination is effected will be applied.

THE STAMP OF THE TASMANIAN INDUSTRIAL COMMISSION

R K Gozzi
COMMISSIONER

10 January 1990