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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

ORDER -

No. 3 of 1989
(Consolidated)

AMEND THE **RESTAURANT KEEPERS AWARD** BY DELETING ALL CLAUSES APPEARING THEREIN AND INSERTING IN LIEU THEREOF THE FOLLOWING:

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1. TITLE

This award shall be known as the "Restaurant Keepers Award".

2. SCOPE

This award is established in respect of the industries of:

(a) Restaurant Keeper;
(b) Keeper of a boarding house accommodating 4 or more boarders;
(c) Keeper of a Hostel;
(d) Caterer;
(e) Keeper of an Unlicensed Residential Club; and
(f) Supplier of cooked or prepared food which is not to be consumed on the supplier's premises so long as the supplier is not within the jurisdiction of the Retail Trades Award.

3. ARRANGEMENT

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Supersession and Savings	5	4
Parties and Persons Bound	6	5
Definitions	7	6
Wage Rates	8	9

DIVISION A - Keeper of a Licensed Restaurant

DIVISION B - (a) Keeper of Boarding House Accommodation – 4 or more Boarders,
(b) Restaurant Keeper,
(c) Keeper of a Hostel,
(d) Caterer,
(e) Keeper of an Unlicensed Residential Club, and
(f) Take Away Food Establishment

DIVISION C - Industrial Catering

DIVISION D - Persons Employed in a Restaurant located in a Retail Store

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Payment of Wages	25	35
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CONDITIONS FOR EMPLOYEES IN DIVISION C

SUBJECT MATTER	CLAUSE NO.	PAGE NO.
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CONDITIONS FOR EMPLOYEES IN DIVISION D

SUBJECT MATTER	CLAUSE NO.	PAGE NO.
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Tea Money	47	47
Schedule 1: Formula for Trainees -		
Division A		49
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Division C		51
Division D		52

4. DATE OF OPERATION

This award shall come into operation from the first full pay period commencing 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. 4 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.

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6. PARTIES AND PERSONS BOUND

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

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

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

(c) the Federated Liquor and Allied Industries Employees' Union of Australasia - Tasmanian Branch and the officers of that organisation and their members employed in the industry specified in Clause 2 - Scope;

(d) the Federated Clerks Union of Australia, Tasmanian Branch and the officers of that organisation and their members employed in the industry specified in Clause 2 - Scope;

(e) the Shop, Distributive and Allied Employees' Association - Tasmanian Branch and the officers of that organisation and their members employed in the industry specified in Clause 2 - Scope;

(f) the Tasmanian Confederation of Industries;

(g) the Tasmanian Trades and Labor Council.

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7. DEFINITIONS

DIVISION A

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

'Part-time employee' is one who is engaged to work in accordance with the provisions of Clause 24 (Part-time Employees) hereof.

'Licensed Restaurant' means any restaurant that is licensed to sell and serve liquor.

'Bar attendant' shall mean any person usually employed for any time in any one day or night in supplying or dispensing or mixing of liquor in any portion of the licensed premises.

'Drink waiter or drink waitress' means an employee who is substantially engaged in serving drinks otherwise than over the bar.

PROVIDED that where these employees fill glasses with liquor themselves from a bar or the like they shall be classified as Bar Attendants.

'Cellarman' means an employee who is employed performing work in a cellar or room used for stocking beer, spirits or wine and whose duties include stocking bars, tapping beer, opening and distributing stocks or filling bottles with spirits or wine.

'Chef' means an employee engaged in the general supervision of the kitchen and staff employed therein and who may carry out duties of cook in any kitchen department.

'Second cook' means a cook carrying out all branches of cooking and who may be required to act in the capacity as chef during the chef's absence.

'Traineeship' is a system under the Australian Traineeship System comprising structured on-the-job training with an employer and off-the-job training in a Technical and Further Education College or other training provider approved by the Training Authority of Tasmania.

'Training agreement' means an agreement for training registered under the provisions of the Industrial and Commercial Training Act 1985.

'Trainee (ATS)' is an employee who is bound by the training agreement registered with the Training Authority of Tasmania.

'Union' shall mean the Federated Liquor and Allied Employees' Union of Australia, Tasmanian Branch.

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DIVISION B

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

'Part-time employee' is one who mutually agrees with his or her employer to work the hours prescribed in Clause 39 hereof.

'Catering contractor' means an employer who under an arrangement with his clients contracts to cater for private functions held at or away from the contractor's premises.

'Traineeship' is a system under the Australian Traineeship System comprising structured on-the-job training with an employer and off-the-job training in a Technical and Further Education College or other training provider approved by the Training Authority of Tasmania.

'Training agreement' means an agreement for training registered under the provisions of the Industrial and Commercial Training Act 1985.

'Trainee (ATS)' is an employee who is bound by the training agreement registered with the Training Authority of Tasmania.

'Union' shall mean the Federated Liquor and Allied Employees' Union of Australia, Tasmanian Branch.

DIVISION C

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

'Part-time employee' is one engaged to work in accordance with the provisions of Clause 24 hereof.

'Industrial caterer' shall mean an employer carrying on the business of catering and/or providing accommodation for an unlimited number of persons involved in Industrial Undertakings on location where catering is provided for on the basis of a minimum of 2 main meal times per day.

'Traineeship' is a system under the Australian Traineeship System comprising structured on-the-job training with an employer and off-the-job training in a Technical and Further Education College or other training provider approved by the Training Authority of Tasmania.

'Training agreement' means an agreement for training registered under the provisions of the Industrial and Commercial Training Act 1985.

'Trainee (ATS)' is an employee who is bound by the training agreement registered with the Training Authority of Tasmania.

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'Union' shall mean the Federated Liquor and Allied Employees' Union of Australia, Tasmanian Branch.

DIVISION D

'Casual employee' means any person specifically engaged to work on an irregular basis, as and when required by mutual consent between employer and employee, but does not include any person employed on a part-time or full-time basis.

'Part-time employee' is one engaged to regularly work for less hours per day or week than those prescribed for full-time employees.

'Traineeship' is a system under the Australian Traineeship System comprising structured on-the-job training with an employer and off-the-job training in a Technical and Further Education College or other training provider approved by the Training Authority of Tasmania.

'Training agreement' means an agreement for training registered under the provisions of the Industrial and Commercial Training Act 1985.

'Trainee (ATS)' is an employee who is bound by the training agreement registered with the Training Authority of Tasmania.

'Union' shall mean the Federated Liquor and Allied Employees' Union of Australia, Tasmanian Branch.

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8. WAGE RATES

DIVISION A
- Keeper of a Licensed Restaurant

1. ADULTS

Employees of a classification hereunder mentioned shall be paid the amount assigned opposite that classification

		Amount per Week $
(i)	Classification	
(a)	Chef or 1st Cook	356.10
(b)	2nd Cook or Relief Cook	323.60
(c)	Other Cook	312.90
(d)	Cook employed alone	310.20
(e)	Pantryman, Kitchenman, Pantrymaid, Kitchenmaid	299.90
(f)	Head Waiter/Waitress	323.60
(g)	Other Waiters/Waitresses (food or drink)	302.50
(h)	Cashier	308.70
(i)	Host/Hostess	323.60
(j)	Useful and/or Cleaner	299.90
(k)	Bar Attendant	308.70
(l)	Cellarman	316.80

(ii) Employees in Charge

An employee required to direct other employees shall be paid per week above the highest paid employee under his direction the amount prescribed hereunder:-

(a) If required to direct not more than 5 employees - $9.00 per week extra.

(b) If required to direct 6 to 10 employees - $11.80 per week extra.

(c) If required to direct over 10 employees - $14.80 per week extra.

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2. MINIMUM WAGE

(a) Notwithstanding the provisions of subclause 1 hereof, no adult employee shall be paid less than the rate of $241.10 per week.

(b) **PROVIDED** that payments for overtime, holiday and weekend penalties, special rates, and shift allowances prescribed in this award shall not be taken into account in the calculation of such minimum weekly rate of wage.

Where a minimum rate of pay as aforesaid is applicable to an employee for work in ordinary hours the same rate shall be applicable to the calculation of overtime and all other penalty rates, payments during sick leave and annual leave, and for all other purposes of this award.

3. 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 10 cents.

	%
17 years of age and under	60
18 years of age	75
19 years of age	90
20 years of age and over	100

4. APPRENTICES

The minimum rates of pay that may be paid by employers to apprentices shall be the undermentioned percentages of the total weekly rate prescribed for a First Cook (classification (a), of (i), subclause 1 hereof).

	Percentage of First Cook's Rate ($356.10)	
	%	$
First Year	50	178.10
Second Year	65	231.50
Third Year	80	284.90
Fourth Year	90	320.50

An apprentice, on completion of his apprenticeship, who is under the age of 20 shall be paid adult rates.

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5. WAGE RATES FOR CLERKS

Except as prescribed in (b) hereof, adult employees of a classification hereunder mentioned shall be paid the amount assigned opposite that classification.

		Amount per Week $
(a)	Adults	
1.	1st year's adult experience	289.90
	2nd year's adult experience	311.10
	3rd year's adult experience and thereafter	338.70
2.	An accountant or chief clerk wholly responsible for the office work and who prepares the balance sheet and profit and loss account	452.20
3.	A clerk who is in charge of and responsible for the work of -	
	(a) 5 or more employees	400.10
	(b) 3 or 4 employees	384.10
	(c) 2 employees	376.10

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

(b) Juniors

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 ($311.10) %	$
Under 16 years of age	40	124.40
16 to 17 years of age	45	140.00
17 to 18 years of age	55	171.10

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	Percentage of Second Year Adult Rate ($311.10)	
	%	$
18 to 19 years of age	70	217.80
19 to 20 years of age	80	248.90
20 to 21 years of age	90	280.00

PROVISO:

When determining the margin 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 which of awards of the Tasmanian Industrial Commission are established applicable to private industry employees, experience obtained after reaching the age of 18 years shall be counted as adult experience.

(c) Additional Payments

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

	Amount $
Under 16 years of age	1.00
16 to 17 years of age	1.20
17 to 18 years of age	1.30
18 to 19 years of age	1.40
19 to 20 years of age	1.80
20 to 21 years of age	1.90
21 years of age and over	2.50

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6. TRAINEES

The weekly wage payable to Trainees (ATS) shall be calculated in accordance with the formula prescribed in Schedule 1 to this award, viz.

	Amount per Week $
17 years of age	136.60
18 years of age	170.80
19 years of age	204.90
20 years of age	227.70

PROVIDED that the wage rate shall in no case be less than the minimum rate prescribed by the ATS guidelines, and the rate calculated shall be subject to any relevant adjustment as may be prescribed by the Tasmanian Industrial Commission.

DIVISION B

(a) Keeper of a Boarding House accommodating 4 or wore boarders;
(b) Restaurant Keeper;
(c) Keeper of a Hostel;
(d) Caterer;
(e) Keeper of an unlicensed Residential Club; and
(f) Take Away Food Establishment

1. ADULT EMPLOYEES

Employees of a classification hereunder mentioned shall be paid the margin assigned opposite that classification.

(i)	Classification	Amount per Week $
(a)	Chef or 1st Cook	336.20
(b)	2nd Cook or Relief Cook	315.10
(c)	Other Cook	309.90
(d)	Cook Employed Alone	307.10
(e)	Pantryman, Kitchenman, Pantrymaid, Kitchenmaid, Housemaid	296.20
(f)	Head Waiter/Waitress	305.10
(g)	Other Waiter/Waitress	298.30
(h)	Cafeteria or Canteen Counter Attendant	295.00
(i)	Manager or Manageress	318.00
(j)	Cashier	305.60
(k)	Laundryman	298.30
(l)	Night Porter	298.00

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(m)	Take-away service attendant -	
(i)	1st year's adult experience	289.90
(ii)	2nd year's adult experience	311.10
(iii)	3rd year's adult experience and thereafter	338.70

(ii) Employees in Charge

An employee required to direct other employees shall be paid per week above the highest paid employee under his direction the amount prescribed hereunder:-

(a) If required to direct not more than 5 employees - $9.00 per week extra.

(b) If required to direct 6 to 10 employees $11.80 per week extra.

(c) If required to direct over 10 employees - $14.80 per week extra.

2. JUNIORS

Junior employees shall be paid the undermentioned percentages of the appropriate adult total wage, calculated to the nearest 10 cents.

	%
16 years of age and under	54
17 years of age	60
18 years of age	75
19 years of age	90
20 years of age and over	100

PROVISO:

Current employees including casuals, as at 1 November 1988, are not to have their hours of work or wages reduced as a result of the introduction of a rate for juniors 16 years of age and under.

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3. APPRENTICES

The minimum rates of pay that may be paid by employers to apprentices shall be the undermentioned percentages of the total weekly rate prescribed for a First Cook in Division A (Keeper of a Licensed Restaurant) – subclause 1, classification (i) (a).

	Percentage of First Cook's Rate ($356.10) %	$
First Year	60	178.10
Second Year	65	231.50
Third Year	80	284.90
Fourth Year	90	320.50

An apprentice, on completion of his apprenticeship, who is under the age of 20 shall be paid adult rates.

4. WAGE RATES FOR CLERKS

Except as prescribed in subclause (b) hereof, adult employees of a classification hereunder mentioned shall be paid the amount assigned opposite that classification.

		Amount per Week $
(a)	Adults	
1.	1st year's adult experience	289.90
	2nd year's adult experience	311.10
	3rd year's adult experience and thereafter	338.70
2.	An accountant or chief clerk wholly responsible for the office work and who prepares the balance sheet and profit and loss account	452.20
3.	A clerk who is in charge of and responsible for the work of -	
	(a) 5 or more employees	400.10
	(b) 3 or 4 employees	384.10
	(c) 2 employees	376.10

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

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(b) Juniors

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 ($311.10) %	$
Under 16 years of age	40	124.40
16 to 17 years of age	45	140.00
17 to 18 years of age	55	171.10
18 to 19 years of age	70	217.80
19 to 20 years of age	80	248.90
20 to 21 years of age	90	280.00

PROVISO:

When determining the margin 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 applicable to private industry employees, experience obtained after reaching the age of 18 years shall be counted as adult experience.

(c) Additional Payments

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

	Amount $
Under 16 years of age	1.00
16 to 17 years of age	1.20
17 to 18 years of age	1.30
18 to 19 years of age	1.40
19 to 20 years of age	1.80
20 to 21 years of age	1.90
21 years of age and over	2.50

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4. TRAINEES

The weekly wage payable to Trainees (ATS) shall be calculated in accordance with the formula prescribed in Schedule 1 to this award, viz.

	Amount per Week $
17 years of age	133.60
18 years of age	167.10
19 years of age	200.50
20 years of age	222.70

PROVIDED that the wage rate shall in no case be less than the minimum rate prescribed by the ATS guidelines, and the rate calculated shall be subject to any relevant adjustment as may be prescribed by the Tasmanian Industrial Commission.

DIVISION C
- Industrial Catering

1. ADULT EMPLOYEES

Employees of a classification hereunder mentioned shall be paid the amount assigned opposite that classification.

		Amount per Week $
(i)	Classification	
(a)	Chef or 1st Cook	337.90
(b)	2nd Cook or Relief Cook	319.30
(c)	Other Cook	315.30
(d)	Waiter/Waitress	301.60
(e)	Kitchenman/Kitchenmaid, Housemaid Cleaner	297.90
(f)	Laundress/Laundry Hand	298.60
(g)	(i) Storeman Grade 1 A storeman and/or packer during the first 2 months of service	308.90
	(ii) Storeman Grade 2 A storeman and/or packer after 2 months of service	310.60
(h)	Useful/all others	294.70

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(ii) Employees in Charge

An employee required to direct other employees shall be paid above the highest paid employee under his direction the amount prescribed hereunder:-

(a) If required to direct not more than 5 employees - $9.00 per week extra.

(b) If required to direct 6 to 10 employees - $11.80 per week extra.

(c) If required to direct over 10 employees - $14.80 per week extra.

2. JUNIORS

Junior employees shall be paid the undermentioned percentages of the appropriate adult total wage, calculated to the nearest 10 cents.

	%
16 years of age and under	54
17 years of age	60
18 years of age	75
19 years of age	90
20 years of age and over	100

PROVISO:

Current employees including casuals, as at 1 November 1988, are not to have their hours of work or wages reduced as a result of the introduction of a rate for juniors 16 years of age and under.

3. APPRENTICES

The minimum rates of pay that may be paid by employers to apprentices shall be the undermentioned percentages of the total weekly rate prescribed for a First Cook in Division A (Keeper of a Licensed Restaurant) - subclause 1, classification (i) (a).

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	Percentage of First Cook's Rate ($356.10) %	$
First year	50	178.10
Second year	65	231.50
Third year	80	284.90
Fourth year	90	320.50

An apprentice, on completion of his apprenticeship, who is under the age of 20 shall be paid adult rates.

4. TRAINEES

The weekly wage payable to Trainees (ATS) shall be calculated in accordance with the formula prescribed in Schedule 1 to this award, viz.

	Amount per Week $
17 years of age	135.10
18 years of age	168.90
19 years of age	202.70
20 years of age	225.20

PROVIDED that the wage rate shall in no case be less than the minimum rate prescribed by the ATS guidelines, and the rate calculated shall be subject to any relevant adjustment as may be prescribed by the Tasmanian Industrial Commission."

DIVISION D
- Persons Employed in a Restaurant Located in a Retail Store

1. ADULT EMPLOYEES

Employees of a classification mentioned shall be paid the amount assigned opposite that classification.

(i) Classification		Amount per Week $
(a)	Chef or 1st Cook	336.20
(b)	2nd Cook or Relief Cook	315.10
(c)	Other Cook	309.90
(d)	Cook Employed Alone	307.10

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(e)	Pantryman, Kitchenman, Pantrymaid Kitchenmaid, Housemaid/all others	296.20
(f)	Read Waiter/Waitress	305.10
(g)	Other Waiters/Waitresses	298.30
(h)	Cafeteria or Canteen Counter Attendant	295.00
(i)	Manager or Manageress	318.00
(j)	Cashier	305.60

(ii) Employees in Charge

An employee required to direct other employees shall be paid per week above the highest paid employee under his direction the amount prescribed hereunder:-

(a) If required to direct not more than 5 employees - $9.00 per week extra.

(b) If required to direct 6 to 10 employees - $11.80 per week extra.

(c) If required to direct over 10 employees - $14.80 per week extra.

2. JUNIORS

Junior employees shall be paid the undermentioned percentages of the appropriate adult total wage calculated to the nearest 10 cents.

	%
16 years of age and under	54
17 years of age	60
18 years of age	75
19 years of age	90
20 years of age and over	100

PROVISO:

Current employees including casuals, as at 1 November 1988, are not to have their hours of work or wages reduced as a result of the introduction of a rate for juniors 16 years of age and under.

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3. APPRENTICES

The provisions of subclause 3 (Apprentices) of Division B (Keeper of a Boarding House etc.) hereof, shall also apply to this Division.

4. TRAINEES

The weekly wage payable to Trainees (ATS) shall be calculated in accordance with the formula prescribed in Schedule 1 to this award, viz.

	Amount per Week $
17 years of age	134.50
18 years of age	168.10
19 years of age	201.70
20 years of age	224.10

PROVIDED that the wage rate shall in no case be less than the minimum rate prescribed by the ATS guidelines, and the rate calculated shall be subject to any relevant adjustment as may be prescribed by the Tasmanian Industrial Commission."

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CONDITIONS FOR EMPLOYEES IN DIVISION A
- **Keeper of a Licensed Restaurant**

9. ANNUAL LEAVE

(a) Period of Leave

A period of 28 consecutive days' leave shall be allowed annually to an employee on weekly hire after 12 months' continuous service (less the period of annual leave).

(b) Leave to be given and taken

The annual leave shall be given and taken within a period of 6 months of such leave falling due and, except as provided in subclause (c) hereof. payment shall not be made or accepted in lieu thereof.

(c) Proportionate Leave on Termination of Service

Where an employee on weekly hiring is engaged for a period of less than 12 months or whose employment is terminated within the period by the employer through no fault of the employee, or the employee lawfully leaves the employment, the employee shall be paid at his ordinary rate of wage as follows:-

twelve and two thirds hours for each completed month of continuous service.

(d) Annual Leave Exclusive of Public Holidays

The annual leave prescribed by this clause shall be exclusive of any of the holidays mentioned in Clause 18 (Holidays with Pay) hereof, and if any such holiday falls within the period of an employee's annual leave, another day or days shall be added to that leave for each such holiday so falling.

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

(e) Calculation of Service

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 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.

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(f) Payment for period of leave

(i) Employees other than Take-away Service Attendants and Clerks

All employees, before going on annual leave, shall be paid the amount of wages they would have received in respect of the ordinary time they would have worked had they not been on leave during the relevant period. In addition thereto, all employees, other than casual or part-time employees, shall be paid an amount equivalent to the minimum wage as prescribed in subclause 2 (Minimum Wage), Division A, Clause 8 (Wage Rates). Part-time employees shall receive a pro rata amount of the additional payment prescribed in this subclause.

(ii) Take-away Service Attendants and Clerks (Division B only)

(a) All employees before going on leave shall be paid the amount of wages they would have received in respect of the ordinary time which they would have worked had they not been on leave during the relevant period.

(b) In addition thereto all employees (including part-time employees engaged to work 20 or more hours per week) shall receive a loading of 17 1/2 percent on payments made for annual leave as prescribed in paragraph (a) hereof. Such loading shall not apply to proportionate leave on termination of service.

(g) Pro rata for Part-Time Employees on Termination

For the purposes of calculation a part-time employee's payment shall be determined by:

$$\frac{\text{average number of hours worked each week in the accrual period}}{38} \times \text{12 2/3 hours for each completed month of service}$$

For payment of annual leave to part-time employees the 10 percent loading shall be paid for all purposes. The pro rata loading outlined in subclause (f) of this clause shall also apply.

10. BOARD AND LODGING

The amount that may be deducted from the wages prescribed for adult employees shall be as follows:

(a) Board and lodging - $50.00 per week
(b) Board only - $46.00 per week
(c) Lodging only - $ 3.00 per week

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For persons not on adult wages the percentage of the adult rate as outlined in Clause 8 – Wage Rates, shall be applied when determining the above for such persons.

The employer may deduct $2.50 for each meal supplied to the employee and $1.00 for morning and afternoon tea.

11. BREAKAGES

An employer shall not charge a sum against nor deduct from the wages of an employee in respect of breakages of crockery or other utensils except in the case of wilful misconduct.

12. CASUAL EMPLOYEES

(a) A casual employee (as defined) shall be engaged for a minimum period of 2 hours; each engagement shall stand alone and shall be paid at the rate of one thirty-eighth of the appropriate weekly wage prescribed in Clause 8, plus:

(i) 25% for all work performed Monday to Friday, inclusive.
(ii) 75% for all work performed on Saturday.
(iii) 100% for all work performed on Sundays.
(iv) 150% for all work performed on Public Holidays.

(b) The provisions of subclauses (a), (b) and (c), Clause 19 (Hours of Work), and subclauses (a), (b), (c), (d) and (e), Clause 23 (Overtime and other Penalty Rates) shall not apply to casual employees.

(c) Trainee

An employee, engaged as a casual, for in-house training purposes may be engaged for up to two, two-hour shifts over a two-week period and this rate shall not be subject to the provision of subclause (a) (i) of this clause. No employee shall be engaged under this provision without the employer participating in appropriate discussions with the Tasmanian Confederation of Industries and the Federated Liquor and Allied Industries Employees Union of Australia, Tasmanian Branch, and approval being granted by both organisations.

PROVISO:

Current employees including casuals, as at 1 November 1988, are not to have their hours of work or wages reduced as a result of the introduction of a rate for juniors 16 years of age and under.

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13. CHANGE ROOM, TOILET ACCOMMODATION, AND FIRST AID EQUIPMENT

Provision of the above facilities shall be in accordance with those prescribed in the Industrial Safety, Health and Welfare Act 1977 and Regulations made thereto.

14. COMPASSIONATE LEAVE

An employee shall on the death of a wife, husband, father, mother, child, step-child, brother, sister, mother-in-law, father-in-law, step-mother, step-father, grand-father, grand-mother, 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.

15. EXISTING WAGE RATES

An employee who is at present in receipt of a wage rate in excess of that herein prescribed shall not have his wage rate reduced as a result of this award.

16. FULL WEEK'S WAGES

Employees other than those engaged in a part-time or casual basis, shall, notwithstanding anything contained in Section 79 of the Industrial Relations Act 1984, 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 in Clause 19 hereof, and, in addition thereto, such overtime or other penalty rates, if any, that may have occurred during the relevant period.

17. GRIEVANCE PROCEDURE

With respect to each of the employers covered by this award, disputes or grievance between it and its employees or any of them shall be settled in accordance with the procedures set out below:

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(a) Any grievance, claim or dispute which arises shall, where possible, be settled by discussion on the job between the employee and the management.

(b) If the matter is not resolved at this level, the matter will be further discussed between the affected employee, the union delegate and the management.

(c) If no agreement is reached, the relevant union organiser and delegate will discuss the matter with representatives of the employer.

(d) Should the matter still not be resolved the following procedures may be followed:

(i) A joint discussion shall be held between representatives of the Tasmanian Confederation of Industries and the Federated Liquor and Allied Industries Employees Union of Australia, Tasmanian Branch;

(ii) If the matters are not finalised they shall be referred to the Tasmanian Industrial Commission.

(e) Whilst the foregoing procedure is being followed work shall continue normally without bans or limitations. Where it is agreed that there is an existing custom, work shall continue in accordance with that custom, but in other cases, the work shall continue in accordance with the direction of the company. No party shall be prejudiced as to the final settlement by the continuance of work in accordance with this subclause.

18. HOLIDAYS WITH PAY

(a) All employees (other than casual employees) 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) which are taken and not worked, shall be at the normal rate of pay which would have applied to the employee concerned when, if it were not for such holiday, he had been at work.

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

(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.

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(e) An employee shall not be required to take a rostered day off on any of the holidays prescribed by (a) hereof notwithstanding the following:

Provided it is mutually agreed between the employer and the employee:

(i) payment of one day of ordinary pay may be made to the employee on the immediate succeeding pay day;

(ii) a rostered day off with pay may be observed on a working day within 28 days of the holiday concerned;

(iii) one day with pay may be added to the employee's annual leave entitlement. In the absence of mutual agreement between the employer and the employee this provision will apply.

19. HOURS OF WORK

(a) Ordinary Hours and Spread of Hours

The ordinary hours of work for employees, other than part-time employees, shall be an average of 38 per week to be worked in 5 days or shifts as outlined in subclause (e) of this clause.

The time worked, exclusive of meal breaks, shall be worked within a spread of 10 hours from commencing time. In the case of employers working under (1)(vi) as outlined in subclause (e) of this clause the spread shall be 12 hours.

(b) Rostered Days Off (RDO) and Rostered Leisure Time (RLT)

(i) Each employee shall be entitled to two full days off each week known as Rostered Days Off (RDO).

(ii) Rostered Leisure Time (RLT) shall mean the time accrued as outlined below in subclause (e) Methods of Implementation.

(c) Rosters

A roster for all employees engaged on weekly hire showing normal starting and finishing time, rostered days off and the surname and initials of each employee shall be prepared by the employer and shall be posted in a conspicuous place or places accessible to the employees concerned. The roster shall be alterable by mutual consent at any time or by amendment of the roster on 2 days 1 notice. Where practicable one week's notice of rostered day or days off shall be given provided that the days off may be changed by mutual consent or through absence through sickness or other cause over which the employer has no control.

Such roster shall be open to inspection by an accredited official of the Federated Liquor and Allied Industries Employees Union at all reasonable times.

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(d) Meal Interval

No person shall be employed for more than 5 hours continuously without an interval of at least 30 minutes for a meal not to be taken before the completion of 2 hours work.

(e) 38-Hour Week

(i) Methods of Implementation

The ordinary hours of work shall be an average of 38 per week to be worked on one of the following bases:

(1) seven hours thirty six minutes per day (this option shall not apply to persons covered by Division D); or

(2) eight hours per day on four days and six hours on one day in each week (this option shall not apply to persons covered by Division D); or

(3) eight hours per day on nine days and four hours on one day; or

(4) eight hours per day on nineteen days with accumulated rostered leisure time in form of a rostered leisure day; or

(5) eight hours per day, with an accumulation of rostered leisure time in form of rostered leisure days that can be stored up to a maximum of seven before being taken; or

(6) eight to ten ordinary hours per day to achieve a rate of rostered leisure days at a greater frequency over a, one, two., three or four-week period. In such cases rostered leisure days may accumulate up to a maximum of seven. The Rostered Leisure Time, where practicable, shall be continuous with normal rostered day or days off, in sub-paragraphs (1) to (6) above.

(ii) Implementation of Hours

(1) In such 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. A representative of the Federated Liquor and Allied Industries Employees Union of Australia, Tasmanian Branch, and the Tasmanian Confederation of Industries may join in such consultation.

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(2) If agreement cannot be reached on the Method of Implementation, or has not been resolved within 3 months of the operative dates (15 August 1987 in the case of Divisions A, B and C, and 15 June 1987 in the case of Division D) the procedures as outlined in Clause 17, Grievance Procedure, shall apply.

(3) Subject to the provisions of (ii)(2). The Method of Implementation shall be notified in writing to the Federated Liquor and Allied Industries Employees Union of Australia, Tasmanian Branch, and the Tasmanian Confederation of Industries.

(4) Where notification of the Method of Implementation is not given in accordance with (ii)(2) of this subclause, the Method of Implementation shall be (e)(i)(3) for all provisions of this award.

(f) Rest Periods

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

Notwithstanding the foregoing, in the case of part-time and casual employees, they shall only be entitled to the 10 minute rest period if they work at least 3 hours and the second 5 minute rest period if they work at least a further 2 hours.

The rest periods prescribed in this subclause shall be given and taken in the employer's time.

This subclause shall not apply on a Saturday morning when the establishment is open for business until 12.00 noon.

20. 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.

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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) hereof, 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) hereof, 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) hereof.

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(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) hereof, maternity leave shall include special maternity leave.

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(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), 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) hereof 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.

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(ii) An employee, upon expiration of the notice required by paragraph (i) hereof, shall be entitled to the position which she held immediately before proceeding on maternity leave, or in the case of an employee who was transferred to a safe job pursuant to subclause (c) 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.

21. MEAL ALLOWANCES

An employee required to work overtime for not less than one and a half hours and who has not been notified the day before that he or she will be so required to work shall be paid $4.90 for each meal or be provided with a meal, without charge, by the employer.

PROVIDED that a meal allowance will only be paid in circumstances whereby an employee has worked at least 6 hours in ordinary time prior to the commencement of the overtime.

22. MIXED FUNCTIONS

(a) An employee engaged for half or more than half of one day on duties carrying a higher rate than his or her ordinary classification shall be paid at the higher rate for the whole of such day. If for less than half of one day he or she shall be paid the 'higher rate for the time so worked.

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(b) A higher paid employee shall, when necessary, relieve a lower paid employee without loss of pay.

(c) The provisions of this clause shall not apply to an employee who relieves another employee who is taking time off in accordance with subclauses (e)(i)(2), (3), (4), (5) and (6) of Clause 19 (Hours of Work).

23. OVERTIME AND OTHER PENALTY RATES

(a) **Overtime** - For all time of duty outside the ordinary hours of duty each day or in excess of the hours prescribed in Clause 19, Hours of Work, of this award, 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 2 hours and double time thereafter. For the purposes of computing overtime each day shall stand alone.

(b) **Saturday Work** - All time worked during ordinary hours on a Saturday shall be paid for at the rate of time and a half.

For all time worked outside ordinary hours payment shall be made at the rate of time and three quarters for the first 2 hours and double time thereafter.

(c) **Sunday Work** - All time worked on a Sunday shall be paid for at the rate of double time.

(d) **Holiday Work** - All time worked on any of the holidays mentioned in Clause 18 hereof shall be paid at the rate of double time and one half.

(e) **Rostered Day Off** - An employee required to work on his or her rostered day off shall be paid at the rate of double time with a minimum payment of 2 hours. Such minimum shall not apply where the overtime is continuous from the previous day's duty.

Rostered Day Off for the purposes of this subclause shall be the two normal rostered days off outlined in subclause (b)(i) of Clause 19 (Hours of Work).

(f) **Rostered Leisure Time** - shall mean the time accrued and taken as Rostered Leisure Time under the provisions of subclause (b)(ii) of Clause 19 (Hours of Work). Where the day has not been substituted for other Rostered Leisure Time and the employee is required to work on that day, payment shall be time and a half for the first two hours and double time thereafter.

NOTE: Payment of the outlined penalties in subclauses (a), (b), (c), (d), (e) and (f) in this subclause shall be based on the ordinary hourly rate determined by dividing the appropriate weekly wage rate of the classification in which the employee is working by 38.

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(g) **Shift Allowance**

An employee required to work prior to 7.00a.m. or after 7.00p.m. shall be paid an additional sum of 98 cents per hour or part thereof, provided that the maximum payment to a casual employee shall not exceed $1.01 cents per day.

24. PART-TIME EMPLOYEES

A **'part-time'** employee (as defined) may be engaged in any of the classifications mentioned in Division A. Clause 8, provided such employee accepts employment on the following terms:-

(a) The ordinary hours of work of part-time employees shall be:

not less than 3 hours and not longer than 8 hours per day,
not less than 3 days a week and not more than 5 days a week,
not less than 9 hours a week and not more than 35 hours a week.

All time worked in excess of the hours outlined in this subclause shall be overtime and paid for at the rates prescribed in Clause 23 (Overtime and Other Penalty Rates).

(b) Payment for part-time work shall be based on the ordinary hourly rate determined by dividing the appropriate weekly wage rate of the classification in which the employee is working by 38 plus 10 per cent. The additional 10 per cent prescribed shall be regarded also as ordinary wages for the payment of annual leave, compassionate leave, sick leave and work not performed on a holiday. A part-time employee shall be entitled to these provisions on a pro rata basis as outlined in the appropriate clause.

PROVISO:

Current employees including casuals, as at 1 November 1988, are not to have their hours of work or wages reduced as a result of the introduction of a rate for juniors 16 years of age and under.

25. PAYMENT OF WAGES

(a) All wages, including overtime, shall be paid on a day mutually agreed by the employer and a majority of the employees. Notwithstanding payment shall be no later than Thursday in the week of payment. An employee whose rostered day off or rostered leisure time off falls on a pay day shall be paid his wages before going off duty prior to his day off unless otherwise agreed between employer and employee. Employees who are paid their wages at any time other than during working hours shall, if kept waiting more than 15 minutes, be paid overtime rates for all such waiting time.

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An employee paid in accordance with (b)(iii) shall be paid, on termination on the next week day not being a public holiday.

(b) Wages may be paid at intervals of up to a fortnight by one of the following means:

(i) cash;
(ii) cheque; and
(iii) payment into a financial institution of the employee's choice, without cost to the employee.

An employee may alter the interval and means of payment by giving 3 months notice.

(c) At the time of payment of wages each employee shall be issued with a docket or pay envelope showing gross wage, overtime and penalty payments, specific deductions and net wage.

26. PENALTY RATES NOT CUMULATIVE

Where time worked is required to be paid for at more than the ordinary rate such time shall not be subject to more than one penalty, but shall be subject to that penalty which is to the employee's greatest advantage.

27. PREFERENCE OF EMPLOYMENT

(a) Preference in engagement of employees shall be given equally to persons in the following categories who are available and suitable:-

(i) members of the Tasmanian Branch of the appropriate union;

(ii) persons who are prepared to give forthwith a written undertaking to apply to join the Tasmanian Branch of the appropriate union within fourteen days;

(iii) conscientious objectors.

If there is more than one person applying for employment within any or all of these categories, the employer shall have freedom to select any one or more of such persons in his or its discretion.

(b) An employer shall dismiss an employee who fails to honour a written undertaking to apply to join the Tasmanian Branch of the appropriate union.

(c) Conscientious objectors shall pay a sum equivalent to the subscription to the Tasmanian Branch of the appropriate union to a charity to be agreed upon between the person concerned and the union and in default of agreement to Consolidated Revenue. The payment shall be made at the same time and on the same conditions as apply to payment of subscriptions to the union.

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(d) This clause shall not apply in respect of engagement of employees in the following categories:

(i) employees sought for confidential or managerial positions;

(ii) owners of businesses or their spouses.

28. RIGHT OF ENTRY OF UNION OFFICIALS

(a) For the purposes of interviewing employees on legitimate union business or on matters arising out of this award a duly accredited representative of the Federated Liquor and Allied Trades Employees' Union shall have the right to enter the employer's premises on the following conditions:

(i) That he produces his authority to such person as may be appointed by the employer.

(ii) That he interviews employees only at such times and places as will not interfere with their work.

(iii) That, without the consent of the employer, the representative shall not visit the premises more than once in each week.

(iv) That if any employer alleges that a representative is unduly interfering with his work or is creating dissatisfaction amongst his employees or is offensive in his methods or is committing a breach of any of the 'previous conditions, such employer may refuse the right of entry, but the representative shall have the right to bring such refusal before the Secretary for Labour.

29. SHOP STEWARD

An employee appointed shop steward in the work place in which he is employed shall, upon notification to his employer be recognised as the accredited representative of the union to which he belongs, and he shall be allowed the necessary time during working hours to interview the employer or his representative on matters affecting employees whom he represents, provided that if the steward so requests it, he may be accompanied at such interviews by another employee, and/or by his union official.

30. 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:

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(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) the employee shall, wherever possible inform the employer of his inability to attend for work prior to the commencement of such absence. The employee shall, as far as may be practicable, state the nature of the illness or injury and the estimated duration of the absence;

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

(iv) he shall not be entitled in any year to sick leave credit in excess of 2 weeks of ordinary working time.

PROVIDED that during the first 3 months of employment sick leave shall accrue on the basis of 6.33 hours for each completed 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) Where the responsibility of a business and/or establishment is transferred from one employer to another the total accumulated sick leave of employees of that business and/or establishment shall continue to accrue for the purpose of subclause (b) hereof and will not be reduced or affected by such transfer.

(e) Supervision shall determine the requirement to replace absent employees based on operational requirements.

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31. TERMS OF ENGAGEMENT

(a) Excepting as provided in subclause (b) hereof, all employees (other than casual employees) shall be engaged by the week and shall be paid in accordance with the terms as outlined in Clause 25 (Payment of Wages).

Two days' notice shall be given by the employer or the employee to terminate the employment or, in lieu of such notice, by the payment or forfeiture of 2 days' wages as the case may be. This shall not affect the right of an employer to dismiss an employee without notice for misconduct or neglect of duty, in which case wages shall be paid up to the time of dismissal only.

PROVIDED that no employee shall be dismissed without notice for sickness, accident, or other reasonable cause if he or she informs the employer not later than 3 hours after the usual time for commencing work on any day of his or her inability to take up duty on that day and also, before that hour, informs the employer of his or her whereabouts and the reason for the absence.

When notice of termination of service has been given employees shall be paid within 24 hours from the expiry of such notice.

(b) During the first fortnight of engagement the employment may be terminated by the giving of one hour's notice by the employer or by the employee as the case may be.

32. TIME AND WAGES BOOK

(a) Time and wages book or sheets shall be provided by the employer and kept by each employee. Each employee shall enter the following:

(i) Full name.

(ii) Start and finish times as well as all times when all meal, broken shifts, tea breaks are taken.

(iii) The signature of the employee verifying the record is correct.

(b) The employer shall keep a record of the information as laid out in ,subclause 39(a). In addition he shall keep a record of the following:

(i) Address and date of birth if under 21 years.

(ii) Employee's work classification.

(iii) Whether full-time, part-time or casual.

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(iv) Award rate for the particular classification including hourly rate of pay, penalties, shift allowances, overtime and any other payments.

(v) Gross wage, any deductions and net wage with date of payment.

(c) Any alterations to the information kept by the employee as detailed in 32(a) must be initialled by the employee concerned.

(d) The employer shall keep such book or sheet available at all reasonable time and in a convenient place to which employee shall have access for the purpose of making such entries.

(e) Such book or sheet may be inspected by the official of the Federated Liquor and Allied Industries Employees' Union of Australia - Tasmanian Branch at all reasonable hours.

(f) A copy of this award shall be kept with time and wage book or sheets.

33. 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 $8.10 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.

34. TRAINEESHIPS (ATS)

(a) Notwithstanding anything elsewhere contained in this award, an employer shall employ Trainees within the Australian Traineeship System subject to the conditions contained in this clause.

(b) An objective of the Australian Traineeship system is to provide additional employment and training opportunities for young people. Accordingly, these opportunities shall be provided to the fullest extent possible.

Where possible, Traineeship positions shall be additional to normal staff members provided that no full time employee who is a member of the Union shall be displaced by a trainee.

(c) (i) A Trainee (ATS) shall attend an approved on and off-the job training course or program prescribed in the relevant training agreement or as notified to the trainee by the Training Authority of Tasmania. The off-the-job training period shall be for a minimum period of thirteen weeks in the 52 weeks training period.

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(ii) Trainees (ATS) may be engaged by employers who must be registered under the Training Authority of Tasmania. The employer shall ensure that the Trainee (ATS) is permitted to attend the prescribed off-the-job training course and is provided with on-the-job training approved by the Training Authority of Tasmania.

(iii) The employer shall provide a level of supervision in accordance with the approved Training Plan during the Traineeship period.

(iv) The employer agrees that the overall training program will be monitored by officers of the Training Authority of Tasmania and that training records of work books may be utilised as part of this monitoring process.

(d) (i) The Trainee (ATS) shall be engaged for a period of twelve months as a full-time employee provided that the Trainee (ATS) shall be subject to a satisfactory probation period of up to one month.

(ii) The Trainee (ATS) is permitted to be absent from work without loss of continuity of employment to attend the off-the-job training in accordance with the Training Agreement.

(iii) Where the employment of a Trainee (ATS) by an employer is continued after the completion of the traineeship period, such traineeship period shall be counted as service for the purposes of the award. Subject to Clause 27, (Preference of Employment), trainees who complete this training shall be given preference in employment at the workplace at which they were trained, if a vacancy is available.

(iv) Overtime and broken shifts shall not be worked by Trainees (ATS) except to enable the requirements of the Training Plan to be effected. No Trainee (ATS) shall work overtime or shiftwork on their own.

(v) All other terms and conditions of this award shall apply unless specifically varied by this clause.

(vi) The Union shall be afforded reasonable access to Trainees (ATS) for the purposes of explaining the role and functions of the union.

(e) A monitoring Committee with representatives of the Union and appropriate employer organisation and governments shall be established in Tasmania to consider and resolve issues put to it and to monitor the progress of traineeships implemented under the provisions of this award.

(f) The operation of this clause shall not affect existing training programs established by any employers that are outside the operation of the Australian Traineeship System.

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35. TRAVELLING FACILITIES

When an employee is detained at work, having completed overtime, until it is too late to travel by the last regular conveyance to his or her usual place of residence, the employer shall provide a conveyance from the place of employment to the employee's home free of charge to the employee.

36. UNIFORMS

Where special uniforms, including white coats and/or other uniform types of dress are required to be worn, they shall be provided by the employer and shall remain the property of the employer. Such uniforms shall either be laundered at the employers' expense or at the option of the employer by the employee and the employee shall be paid $2.00 per week in the case of weekly employees or, in the case of casual or part-time employees, 5 cents per hour for each hour worked, with a minimum payment of 50 cents per week.

Ordinary white aprons, cuffs, collars, caps or facings, usually worn by female employees, shall either be laundered at the employer's expense or at the option of the employer, the employee shall be paid 60 cents per week in addition to the employee's weekly wage.

An employee on commencing employment shall sign a receipt of item/s of uniform. Such receipt shall list the Item/s of uniform and value of same. Upon ceasing employment if the employee does not return item/s of uniform in accordance with receipt the employer shall be entitled to deduct the value as stated on the receipt from the employee's termination wages.

Records of receipt shall be available for inspection by an official of the union. In the case of genuine wear and tear, damage, loss, theft that is not the employee's fault this provision shall not apply.

Any disagreement concerning the value of item/s of uniform and any other aspect of this subclause shall be determined in accordance with Clause 17 - Grievance Procedure.

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CONDITIONS FOR EMPLOYEES IN DIVISION B

(a) Keeper of a Boarding House Accommodating 4 or more boarders;
(b) Restaurant Keepers;
(c) Keeper of a Hostel;
(d) Caterer;
(e) Keeper of an Unlicensed Residential Club;
(f) Take Away Food Establishment.

37. GENERAL CONDITIONS

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

Clause 9. Annual Leave
10 Board and Lodging
11. Breakages
12. Casual Employees
13. Change Room, Toilet Accommodation and First Aid Equipment
14. Compassionate Leave
16. Full Week's Wages
18. Holidays with Pay
19. Hours of Work
20 Maternity Leave
22. Mixed Functions
25. Payment of Wages
26. Penalty Rates not Cumulative
27. Preference of Employment
28. Right of Entry of Union Officials
29. Shop Steward
30. Sick Leave
31. Terms of Engagement
32. Time and Wages Book
33. Tool Allowance
34. Travelling Facilities
35. Uniforms

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38. NIGHT SHIFT ALLOWANCE

Hall or night porters, and lift attendants who are regularly employed on night shift (i.e. a period of duty commencing at or before midnight and continuing for not less than 4 hours after midnight), shall be paid 10% more than ordinary rate for such shifts.

39. OVERTIME AND OTHER PENALTY RATES

The provisions of Clause 23 (Overtime and Other Penalty Rates), shall apply to all employees in this division with the following exceptions:

(a) In addition to the provision in Clause 23(a) (Overtime), all overtime worked by employees of restaurant keepers or caterers between midnight and 6.30a.m. shall be paid for at the rate of double time.

(b) Subclause 23(g) (Shift Allowance), shall not apply to employees in this division.

40. PART-TIME EMPLOYEES

The provisions of Clause 24, Part-time Employees (as defined) shall apply to all employees in this division except the 10 percent loading for all purposes shall not apply.

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CONDITIONS FOR EMPLOYEES IN DIVISION C - Industrial Catering

41. GENERAL CONDITIONS

The provisions of the following clauses shall also apply to this Division.

Clause 9. Annual Leave
11. Breakages
12. Casual Employees
13. Change Room, Toilet Accommodation and First Aid Equipment
14. Compassionate Leave
15 Existing Wage Rates
16. Full Week's Wages
18. Holidays with Pay
19 Hours of Work
20. Maternity Leave
21. Meal Allowances
22. Mixed Functions
24. Part-time Employees
25. Payment of Wages
26. Penalty Rates Not Cumulative
27. Preference of Employment
28. Right of Entry of Union Officials
29. Shop Steward
30. Sick Leave
31. Terms of Engagement
32. Time and Wages Book
33. Tool Allowance
34. Traineeships (ATS)
35. Travelling Facilities
36. Uniforms

42. OVERTIME AND OTHER PENALTY RATES

The provisions of Clause 23 (Overtime and Other Penalty Rates), shall apply to all employees in this division except subclause (g). In its place the following shall apply:

An employee required to work prior to 7.00a.m. or after 7.00p.m. shall be paid an additional 23 cents per hour or part thereof provided that the maximum payment to a casual employee shall not exceed 60 cents per day.

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CONDITIONS FOR EMPLOYEES IN DIVISION D

Persons employed In a Restaurant located in a Retail Store

43. CONTRACT OF EMPLOYMENT

(a) With the exception of employees engaged as specified in Clause 12 (Casual Employees) hereof, all employment shall be by the week and the employment of an employee will not be terminated except for misconduct which would justify instant dismissal without at least one week's notice being given by the employer to the employee and the employee shall likewise give to the employer one week's notice of his intention to terminate his employment. if one week's notice be not given by the employer or employee, one week's wages shall be paid or forfeited as the case may be. In the case of misconduct wages shall be paid up to the time of dismissal only.

Any dispute on what constitutes misconduct shall be determined by the Secretary for Labour whose decision shall be final.

(b) An employee shall be entitled to receive on request a reference on termination of services. Such reference shall contain at least the commencing and finishing dates of service and shall become the absolute property of the employee. Any prospective or future employer shall return the reference to the employee within 7 days of having received it.

44. GENERAL CONDITIONS

The provisions of the following clauses shall also apply to this Division.

Clause 9. Annual Leave
11. Breakages
12. Casual Employees
14. Compassionate Leave
15. Existing Wage Rates
18. Holidays with Pay
19. Hours of Work
20. Maternity Leave
22. Mixed Functions
25. Payment of Wages
27. Preference of Employment
28. Right of Entry of Union Officials
29. Shop Steward
30. Sick Leave
33. Tool Allowance
34. Traineeships (ATS)
35. Travelling Facilities
36. Uniforms

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45. OVERTIME AND OTHER PENALTY RATES

The provisions of Clause 23 (Overtime and Other Penalty Rates), shall apply to all employees in this division except subclause 23(g) (Shift Allowance), shall not apply.

46. PART-TIME EMPLOYEES

(a) Part-time employees (as defined) may be engaged in any of the classifications mentioned in Division D. Clause 8, provided such employee accepts employment on the following terms.

(b) The ordinary hours of work for a part-time employee shall be less than 40 per week, less than 8 hours per day, but not less than 3 hours per day, not more than 5 days per week and not less than 9 hours each week. Preference of employment for increased hours shall be given to part-time employees, up to the limits prescribed in this subclause over employing casual employees provided that such employees accept said hours.

(c) The provisions of Clause 45 (Overtime and Other Penalty Rates) hereof, and Clauses 18 (Holidays with Pay), 9 (Annual Leave), and 30 (Sick Leave) shall apply to part-time employees.

(d) Payment for part-time work shall be based on the ordinary hourly rate determined by dividing the appropriate wage rate of the classification in which the employee is working by 38.

PROVISO:

Current employees including casuals, as at 1 November 1988, are not to have their hours of work or wages reduced as a result of the introduction of a rate for juniors 16 years of age and under.

47. TEA MONEY

(a) An employee 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 Secretary for Labour.

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(c) The payment prescribed in subclause (a) shall be made on the day on which the overtime is worked and prior to the meal break being taken.

(d) **PROVIDED** that a meal allowance will only be paid in circumstances whereby an employee has worked at least 6 hours in ordinary time prior to the commencement of the overtime.

A. Robinson
DEPUTY PRESIDENT

9 December 1989

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SCHEDULE 1 - RESTAURANT KEEPERS AWARD

WAGE RATES FOR TRAINEES
DIVISION A

Wage rates for trainees in Division A (KEEPER OF LICENSED RESTAURANT) shall be calculated in accordance with the following formula:

(1) The average adult rate shall be the average amount of the weekly adult rates applicable to the undermentioned classifications in Clause 8 (Wage Rates), viz:

Classifications Subclause 1 (Adults):	Amount per Week $
Pantryman, Kitcherman, Pantrymaid, Kitchenmaid, useful and/or cleaner	299.90
Other Waiters/Waitresses (food and drink)	302.50
Cashier, Bar Attendant	308.70
Cellerman	316.80
Office employee: First year of adult experience	289.90
Average adult rate Division A:	$303.60

(2) Junior rates shall be based on the average adult rate, viz.:

	% of average adult rate	Amount per Week $
17 years of age	60	182.20
18 years of age	75	227.70
19 years of age	90	273.20
20 years of age	100	303.60

(3) TRAINEE RATES shall be based upon 39/52nds of the junior rates, viz.:

	Amount per Week $
17 years of age	136.60
18 years of age	170.80
19 years of age	204.90
20 years of age	227.70

T2146 of 1989
Rates current at 23.11.89

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DIVISION B

Wage rates for trainees in Division B (KEEPER OF A BOARDING HOUSE; RESTAURANT KEEPER; KEEPER OF A HOSTEL; CATERER; KEEPER OF AN UNLICENSED RESIDENTIAL CLUB; AND TAKE AWAY FOOD ESTABLISHMENT) shall be calculated in accordance with the following formula:

(1) The average adult rate shall be the average amount of the weekly adult rates applicable to the undermentioned classifications in Clause 8 (Wage Rates), viz:

Classifications Subclause 1 (Adult Employees):	Amount per Week $
Pantryman, Kitchenman, Pantrymaid, Kitchenmaid	296.20
Other Waiter/Waitresses, Laundryman	298.30
Cafeteria or Canteen Counter Attendant	295.00
Cashier	305.60
Take Away Service Attendant (1st year's experience), Office Employee (1st year's adult experience)	289.90
Average adult rate Division B:	$297.00

(2) Junior rates shall be based on the average adult rate, viz.:

	% of average adult rate	Amount per Week $
17 years of age	60	178.20
18 years of age	75	222.80
19 years of age	90	267.30
20 years of age	100	297.00

(3) TRAINEE RATES shall be based upon 39/52nds of the junior rates, viz.:

	Amount per Week $
17 years of age	133.60
18 years of age	167.10
19 years of age	200.50
20 years of age	222.70

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DIVISION C

Wage rates for trainees in Division C (INDUSTRIAL CATERING) shall be calculated in accordance with the following formula:

(1) The average adult rate shall be the average amount of the weekly adult rates applicable to the undermentioned classifications in Clause 8 (Wage Rates), viz:

Classifications Subclause 1 (Adult Employees):	Amount per Week $
Waiter/Waitress	301.60
Kitchenmaid, Kitchenman, Housemaid, Cleaner	297.90
Laundress, Laundry Hand	298.60
Storeman Grade 1	308.90
Useful	294.70
Average adult rate Division C:	$300.30

(2) Junior rates shall be based on the average adult rate, viz.:

	% of average adult rate	Amount per Week $
17 years of age	60	180.20
18 years of age	75	225.20
19 years of age	90	270.30
20 years of age	100	300.30

(3) TRAINEE RATES shall be based upon 39/52nds of the junior rates, viz.:

	Amount per Week $
17 years of age	135.10
18 years of age	168.90
19 years of age	202.70
20 years of age	225.20

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DIVISION D

Wage rates for trainees in Division D (PERSONS EMPLOYED IN A RESTAURANT LOCATED IN A RETAIL STORE) shall be calculated in accordance with the following formula:

(1) The average adult rate shall be the average amount of the weekly adult rates applicable to the undermentioned classifications in Clause 8 (Wage Rates), viz:

Classifications Subclause 1 (Adult Employees):	Amount per Week $
Pantryman, Kitcheman, Pantrymaid, Kitchemaid, Housemaid	296.20
Other Waiter/Waitress	298.30
Cafeteria or Canteen Counter Attendant	295.00
Cashier	305.60
Average adult rate Division D:	$298.80

(2) Junior rates shall be based on the average adult rate, viz.:

	% of average adult rate	Amount per Week $
17 years of age	60	179.30
18 years of age	75	224.10
19 years of age	90	268.90
20 years of age	100	298.80

(3) TRAINEE RATES shall be based upon 39/52nds of the junior rates, viz.:

	Amount per Week $
17 years of age	134.50
18 years of age	168.10
19 years of age	201.70
20 years of age	224.10

T2146 of 1989
Rates current at 23.11.89