

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

s23 application for award or variation of award

Tasmanian Trades and Labor Council

(T13142 of 2008)

Private Sector Awards

Minister administering the *State Service Act 2000*

(T13143 of 2008)

Public Sector Awards

FULL BENCH:

PRESIDENT P L LEARY

DEPUTY PRESIDENT P C SHELLEY

COMMISSIONER T J ABEY

Wage Rates – State Wage Case 2008 – applications to vary private and public sector awards – Private Sector Awards – Public Sector Awards, other than named awards - award wage rates to be increased by \$19.00 per week - wage related allowances to be increased by 3.1% – meal allowance increased to \$14.60 - State Minimum Wage rate determined at \$546.10 - s.35(1)(b) – operative date ffpp 1 August 2008

CONCRETE PRODUCTS AWARD

ORDER BY CONSENT

**No 1 of 2008
(Consolidated)**

AMEND THE **CONCRETE PRODUCTS AWARD** BY DELETING ALL CLAUSES CONTAINED THEREIN AND INSERTING IN LIEU THEREOF THE FOLLOWING; AND THE AWARD IS CONSOLIDATED:

1. TITLE

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

2. SCOPE

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

3. ARRANGEMENT

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4. DATE OF OPERATION

This award shall come into operation from the first full pay period to commence on or after 1 August 2008.

5. SUPERSESION AND SAVINGS

This award incorporates and supersedes the Concrete Products Award No 1 of 2007 (Consolidated).

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

6. PARTIES AND PERSONS BOUND

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

- (a) all employers (whether members of a Registered Organisation or not) who are engaged in the industry specified in Clause 2 - Scope;
- (b) all employees (whether members of a Registered Organisation or not) for whom classifications appear in this award and who are engaged in the industry specified in Clause 2 - Scope;
- (c) the following organisations of employees in respect of whom award interest has been determined:
 - (i) the Australian Municipal, Administrative, Clerical and Services Union and the officers of that organisation and their members who are employed in the industry specified in Clause 2 - Scope; and
 - (ii) The Australian Workers' Union, Tasmania Branch and the officers of that organisation and their members who are employed in the industry specified in Clause 2 - Scope;
 - (iii) Transport Workers' Union of Australia (Victorian/Tasmanian Branch), and the officers of that organisation and their members who are employed in the industry specified in Clause 2 - Scope;
- (d) the following organisation of employers in respect of whom award interest has been determined:

Tasmanian Chamber of Commerce and Industry Limited.

7. DEFINITIONS

For the purposes of Division A:

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

For the purposes of Division B:

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

8. WAGE RATES

DIVISION A - EMPLOYEES ENGAGED IN THE PRODUCTION OF CONCRETE PRODUCTS

1. WAGES

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

| | Base Rate | Safety Net Adjustment | Weekly Wage Rate |
|---------|-----------|-----------------------|------------------|
| | \$ | \$ | \$ |
| GROUP A | 325.40 | 220.70 | 546.10 |

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

| | Base Rate | Safety Net Adjustment | Weekly Wage Rate |
|------------|-----------|-----------------------|------------------|
| | \$ | \$ | \$ |
| GROUP A. 1 | 325.40 | 220.70 | 546.10 |

- Operator concrete mixing machine with a rated capacity of less than 0.4 cubic metres but more than 0.12 cubic metres
- Colour mixer/applicator operator
- Reinforcement welding machine operator
- Moulder of other cement or concrete articles
- Repairer, and/or jointer
- Renderer facing concrete articles with float and trowel
- Mould assembler and/or stripper
- Concrete vibrator operator
- Splitter or cuber operator

Hydraulic flag press operator
 Operator bending, cutting and/or fixing bars, rods, or reinforcement - other
 Exposed aggregate maker - other - including setting up of moulds and making of reconstructed aggregate
 Machine operator not elsewhere included

| | | | |
|------------|--------|--------|--------|
| GROUP A. 2 | 325.40 | 220.70 | 546.10 |
|------------|--------|--------|--------|

Operator of concrete mixing machine with rated capacity less than 0.12 cubic metres or mixing by hand
 Pipe tester
 Stacker by hand of articles including bricks, blocks, tiles and pipes
 All other employees not elsewhere classified

GROUP B

| | | | |
|-------------------|--------|--------|--------|
| Motor Mechanic | 355.60 | 220.70 | 576.30 |
| Plant Maintenance | 355.60 | 220.70 | 576.30 |

GROUP C

| | | | |
|--------------------------------------|--------|--------|--------|
| (i) Mobile cranes - lifting capacity | | | |
| Up to 5 tonnes | 327.30 | 220.70 | 548.00 |
| Over 5 tonnes and up to 10 tonnes | 329.50 | 220.70 | 550.20 |
| Over 10 tonnes and up to 20 tonnes | 334.20 | 220.70 | 554.90 |
| Over 20 tonnes and up to 40 tonnes | 338.00 | 220.70 | 558.70 |
| Over 40 tonnes and up to 80 tonnes | 341.00 | 220.70 | 561.70 |
| Over 80 tonnes | 344.00 | 220.70 | 564.70 |
| (ii) Fork Lift Operators - | | | |
| Lifting capacity up to 5000kg | 325.40 | 220.70 | 546.10 |
| Lifting capacity over 5000kg | 328.70 | 220.70 | 549.40 |

NOTE: Where two or more fork lifts or cranes are engaged on any one lift the drivers thereof shall be paid an additional amount at the rate of \$4.40 per week for the time so occupied.

| | | | |
|--|--------|--------|--------|
| (iii) Front end and/or overhead loaders - | | | |
| Up to and including 0.75 cubic metres capacity | 330.00 | 220.70 | 550.70 |
| Over 0.75 cubic metres capacity and up to and including 2.25 cubic metres capacity | 334.90 | 220.70 | 555.60 |
| Over 2.25 cubic metres and up to and including 4.5 cubic metres capacity | 338.00 | 220.70 | 558.70 |

| | | | |
|--|--------|--------|--------|
| Over 4.5 cubic metres capacity | 342.40 | 220.70 | 563.10 |
| Up to 35 kW brake power | 325.40 | 220.70 | 546.10 |
| Over 35 kW brake power and up to 70 kW brake power | 328.70 | 220.70 | 549.40 |
| Over 70 kW brake power and up to 110 kW brake power | 333.10 | 220.70 | 553.80 |
| Over 110 kW brake power | 336.10 | 220.70 | 556.80 |
| 35 kW brake power or under towing trailer | 325.40 | 220.70 | 546.10 |
| (vi) Stiff legged derrick crane | 325.40 | 220.70 | 546.10 |
| (vii) Overhead traverser | 325.40 | 220.70 | 546.10 |
| (viii) Operator of dumper and any other power propelled vehicles | 325.40 | 220.70 | 546.10 |
| (ix) Truck drivers 3-6 tonnes operating within the industry | 325.40 | 220.70 | 546.10 |
| (x) Crane chaser | 325.40 | 220.70 | 546.10 |
| (xi) Boiler attendant | 325.40 | 220.70 | 546.10 |
| (xii) Central batching plant operator, operating machine in excess of 0.4 cubic metres and supplying 3 or more production centres within a factory | 325.40 | 220.70 | 546.10 |
| (xiii) Storeman | 325.40 | 220.70 | 546.10 |

2. LEADING HANDS

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

| | |
|--------------------------------------|------------------|
| In charge of two employees | \$14.20 per week |
| In charge of three to six employees | \$19.40 per week |
| In charge of more than six employees | \$22.80 per week |

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

3. DISABILITY ALLOWANCE

In addition to the wage rates prescribed all employees classified in this division shall be paid a disability allowance of \$14.00 per week in recognition of and compensation for the disabilities generally associated with the industry for which this award is established.

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

4. EMPLOYEES NOT CLASSIFIED

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

DIVISION B - CARTERS AND DRIVERS

1. WAGES

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

| | Base Rate \$ | Safety Net Adjustment \$ | Weekly Wage Rate \$ |
|---|--------------------|--------------------------------|---------------------------|
| Employee driving motor vehicle having maker's capacity of - | | | |
| 1.2 tonnes or less | 325.40 | 220.70 | 546.10 |
| Over 1.2 tonnes but not over 3 tonnes | 325.70 | 220.70 | 546.40 |
| Over 3 tonnes but under 6 tonnes | 330.20 | 220.70 | 550.90 |
| 6 tonnes and over but under 7 tonnes | 330.90 | 220.70 | 551.60 |
| 7 tonnes and over but under 8 tonnes | 331.90 | 220.70 | 552.60 |
| 8 tonnes and over but under 9 tonnes | 332.60 | 220.70 | 553.30 |
| 9 tonnes and over but under 10 tonnes | 333.10 | 220.70 | 553.80 |
| 10 tonnes and over but under 11 tonnes | 334.20 | 220.70 | 554.90 |
| 11 tonnes and over but under 12 tonnes | 335.10 | 220.70 | 555.80 |
| 12 tonnes and over but under 13 tonnes | 335.70 | 220.70 | 556.40 |
| 13 tonnes and over but under 14 tonnes | 336.80 | 220.70 | 557.50 |
| 14 tonnes and over but under 15 tonnes | 337.60 | 220.70 | 558.30 |
| 15 tonnes and over but under 16 tonnes | 338.30 | 220.70 | 559.00 |
| 16 tonnes and over but under 17 tonnes | 339.10 | 220.70 | 559.80 |
| 17 tonnes and over but under 18 tonnes | 339.50 | 220.70 | 560.20 |
| 18 tonnes and over but under 19 tonnes | 340.90 | 220.70 | 561.60 |
| 19 tonnes and over but under 20 tonnes | 341.50 | 220.70 | 562.20 |

Motor (not being a tractor) drawing trailer for loaded single-axle trailer, \$2.00 per day extra, or for an empty single-axle trailer, \$1.25 cents per day extra.

For any other loaded trailer, \$2.50 per day extra, or any other empty trailer, \$1.60 per day extra.

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

Additional amounts for an employee collecting money

| | |
|-------------------------------------|------|
| | \$ |
| For any amount handled up to \$20 | 0.60 |
| Over \$20 but not exceeding \$200 | 1.30 |
| Over \$200 but not exceeding \$600 | 3.30 |
| Over \$600 but not exceeding \$1000 | 4.90 |
| Over \$1000 | 6.30 |

DIVISION C - CLERKS

1. WAGES

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

| | Base Rate \$ | Safety Net Adjustment \$ | Weekly Wage Rate \$ |
|---|--------------------|--------------------------------|---------------------------|
| (i) 1st year's adult experience | 325.40 | 220.70 | 546.10 |
| 2nd year's adult experience | 325.40 | 220.70 | 546.10 |
| 3rd year's adult experience & thereafter | 326.60 | 220.70 | 547.30 |
| (ii) An accountant or chief clerk wholly responsible for the office work and who prepares the balance sheet and profit and loss account | 435.80 | 222.70 | 658.50 |
| (iii) A clerk who is in charge of and responsible for the work of - | | | |
| (1) Five or more employees | 385.90 | 220.70 | 606.60 |
| (2) Three or four employees | 370.20 | 220.70 | 590.90 |
| (3) Two employees | 360.10 | 220.70 | 580.80 |

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

2. 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 | 1.10 |
| 16 to 17 years of age | 1.50 |
| 17 to 18 years of age | 1.50 |
| 18 to 19 years of age | 2.70 |
| 19 to 20 years of age | 3.10 |

| | |
|--------------------------|------|
| 20 to 21 years of age | 3.20 |
| 21 years of age and over | 3.80 |

DIVISION D - JUNIOR WORKERS

- (a) The minimum rates of wages that may be paid to junior workers not elsewhere provided for in this award shall be the undermentioned percentage of the appropriate adult weekly wage rate prescribed in Division A - Employees engaged in the Production of Concrete Products, Part 1 - WAGES, calculated to the nearest 10 cents.

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

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

- (b) Junior Carters and Drivers

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

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

- (c) Junior Clerks

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

| | |
|-----------------------|--|
| | Percentage of second year adult experience % |
| Under 16 years of age | 40 |
| 16 to 17 years of age | 45 |
| 17 to 18 years of age | 55 |
| 18 to 19 years of age | 70 |
| 19 to 20 years of age | 80 |
| 20 to 21 years of age | 90 |

PROVIDED further when determining the amount payable to an employee attaining the age of 21 years, who has been employed as a junior clerk in the

trades or groups of trades in respect of which the awards of the Tasmanian Industrial Commission relating to private industry employees are established, experience obtained after reaching the age of 18 years shall be counted as adult experience.

DIVISION E - SUPPORTED WAGE SYSTEM

(a) Eligibility criteria

Subject to this division an employer may engage employees at a supported wage rate (as set out in subclause (c) of this division) who meet the impairment criteria for receipt of a Disability Support Pension and who, because of their disability, are unable to perform the range of duties to the competence level normally required for the class of work for which they are engaged.

PROVIDED that this division does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers' compensation legislation or any provision of this award relating to the rehabilitation of employees who are injured in the course of their current employment.

PROVIDED FURTHER that this division does not apply to employers in respect of their facility, program, undertaking, service or the like which receives funding under the *Disability Services Act 1986* and fulfils the dual role of service provider and sheltered employer to people with disabilities who are in receipt of or are eligible for a disability support pension, except with respect to an organisation which has received recognition under Section 10 or under Section 12A of the above Act, or if a part only has received recognition, that part.

(b) For the purposes of this division:

'Supported Wage System' means the Commonwealth Government System to promote employment for people who cannot work at full award wages because of a disability.

'Accredited Assessor' means a person accredited by the management unit established by the Commonwealth under the Supported Wage System to perform assessments of an individual's productive capacity within the Supported Wage System.

'Disability Support Pension' means the pension available under the Commonwealth pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991*, as amended from time to time, or any successor to that scheme.

'Assessment instrument' means the form provided for under the Supported Wage System that records the assessment of the productive capacity of the person to be employed under the Supported Wage System.

(c) Supported wage rates

Employees to whom this division applies shall be paid the applicable percentage of the minimum rate of pay prescribed by this award for the class of work which the person is performing according to the following schedule:

| Assessed capacity (paragraph (d)) | Percentage of prescribed award rate |
|--------------------------------------|-------------------------------------|
| 10% | 10 |
| 20% | 20 |
| 30% | 30 |
| 40% | 40 |
| 50% | 50 |
| 60% | 60 |
| 70% | 70 |
| 80% | 80 |
| 90% | 90 |

PROVIDED that the minimum amount payable shall be not less than \$66 per week.

(d) Assessment of capacity

For the purpose of establishing the percentage of the award rate to be paid to a supported wage employee under this award, the productive capacity of the employee will be assessed in accordance with the Supported Wage System and documented in an assessment instrument by either:

- (i) the employer and a union party to the award, in consultation with the employee or, if desired by any of these;
- (ii) the employer and an accredited Assessor from a panel agreed by the parties to the award and the employee.

(e) Lodgement of assessment instrument

- (i) All assessment instruments under the conditions of this division, including the appropriate percentage of the award wage to be paid to the employee, shall be lodged by the employer with the Registrar of the Tasmanian Industrial Commission.
- (ii) All assessment instruments shall be agreed and signed by the parties to the assessment, provided that where a union which is party to the award, is not a party to the assessment, it shall be referred by the Registrar of the Tasmanian Industrial Commission to the union by certified mail and shall take effect unless an objection is notified to the Registrar of the Tasmanian Industrial Commission within 10 working days.

(f) Review of assessment

The assessment of the applicable percentage shall be subject to annual review or earlier on the basis of a reasonable request for such a review. The process of review shall be in accordance with the procedures for assessing capacity under the Supported Wage System.

(g) Other terms and conditions of employment

Where an assessment has been made, the applicable percentage shall apply to the wage rate only. Employees covered by the supported wage provisions of this division shall be entitled to the same terms and conditions of employment as all other workers covered by this award who are paid on a pro rata basis.

(h) Workplace adjustment

An employer wishing to employ a person under the provisions of this division shall take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve re-design of job duties, working time arrangements and work organisation in consultation with other workers in the area.

(i) Trial Period

- (i) In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this division for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.
- (ii) During that trial period the assessment of capacity shall be undertaken and the proposed wage rate for a continuing employment relationship shall be determined in accordance with paragraphs (d) and (e).
- (iii) The minimum amount payable to the employee during the trial period shall be no less than \$66 per week or such greater amount as is agreed from time to time between the parties.
- (iv) Work trials should include induction or training as appropriate to the job being trialed.
- (v) Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment shall be entered into based on the outcome of assessment under subclause (c) hereof.

DIVISION F – MINIMUM WAGE

(a) Minimum Wage

No employee shall be paid less than the minimum wage.

(b) Amount of Adult Minimum Wage

(i) The minimum wage for full-time adult employees not covered by Division E - Supported Wage System is \$546.10 per week.

(ii) Adults employed under a supported wage system clause shall continue to be entitled to receive the wage rate determined under that clause. Provided that such employees shall not be paid less than the amount determined by applying the percentage in the supported wage system clause applicable to the employee concerned to the amount of the minimum wage specified in subclause (b)(i).

(iii) Adults employed as part-time or casual employees shall continue to be entitled to receive the wage rate determined under the casual and part-time clauses of the award. Provided that such employees shall not be paid less than pro rata the minimum wage specified in subclause (b)(i) according to the number of hours worked.

(c) How the Minimum Wage Applies to Juniors

(i) The wage rates provided for juniors by this award continue to apply unless the amount determined under subclause (c)(ii) is greater.

(ii) The minimum wage for an employee to whom a junior rate of pay applies is determined by applying the percentage in the junior wage rates clause applicable to the employee concerned to the relevant amount in subclause (b)(i).

(d) Application of Minimum Wage to Certain Employees

Due to existing applicable award wage rates being greater than the relevant proportionate minimum wage, this clause will not apply to employees falling within the scope of the National Training Wage (Tasmanian Private Sector) Award and Trainees undertaking an apprenticeship.

(e) Application of Minimum Wage to Award Rates Calculation

The minimum wage:

(i) applies to all work in ordinary hours;

- (ii) applies to the calculation of overtime and all other penalty rates, superannuation, payments during personal leave, long service leave and annual leave, and for all other purposes of this award; and
- (iii) is inclusive of the arbitrated safety net adjustment provided by the July 2008 State Wage Case Decision (T13142 of 2008) and all previous safety net and state wage case adjustments.

CONDITIONS FOR EMPLOYEES IN DIVISION A - EMPLOYEES ENGAGED IN THE PRODUCTION OF CONCRETE PRODUCTS

9. ALLOWANCES

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

- (a) Lumpers of cement or concrete articles (in and out of tanks) \$0.37 per hour in respect of such time actually spent in tanks containing water with a minimum payment as for four hours.
- (b) For work done away from the employer's place of business:
 - (i) the fares necessarily expended in going from and to the employee's residence to and from his work;
 - (ii) for work done at a distance from the employer's place of business if the employee is unable to return to his home the same night and the employer does not provide board and lodging \$16.30 per day for the first seven days and thereafter \$113.90 per week.
- (c) Bituminous Sprayer:

An employee spraying or using bituminous and other similar preparations on exterior surface shall be paid \$0.37 per hour or part of an hour whilst so engaged.
- (d) An employee engaged on the preparation and/or the application of epoxy based materials shall be paid an allowance of \$0.52 per hour, or part of an hour whilst so engaged.
- (e) Sand Blasting - An employee required to use a sand blasting machine shall be paid an allowance of \$0.52 per hour or part thereof.

10. ANNUAL LEAVE

- (a) An employee (other than a casual) who has been continuously employed by the employer for at least one year (less the period of annual leave) shall for each completed year of such service, be entitled to leave of absence for a period equal to

28 consecutive days, the period to be reckoned in addition to any of the holidays prescribed by this award.

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

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

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

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

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

OR

(ii) The wage prescribed by Clause 8 - Wage Rates of this award plus leading hand and first aid allowances where appropriate plus a loading of 17½ percent calculated on the sum of the above wage, leading hand and first aid allowances, where appropriate.

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

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

(e) Calculation of Continuous Service

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

In calculating the period of 12 months continuous service any such absence as aforesaid shall not, except to the extent of not more than 91 days in any 12

monthly period, be taken into account in calculating the period of 12 months continuous service.

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

- (f) Each employee, before going on leave, shall be paid the amount to which he would be entitled according to the provisions of subclause (b) hereof.
- (g) The annual leave provided for by this clause shall be allowed and shall be taken within a period not exceeding six months from the date when the right to annual leave accrued and after not less than two weeks notice to the employee.
- (h) Where an employer intends temporarily to close (or reduce to nucleus) his establishment or a section thereof for the purposes (inter alia) of allowing annual leave to the employees concerned or a majority of them he may give in writing to such employees one month's notice (or, in the case of any employees engaged after giving of such notice, notice on the date of the employee's engagement) that he elects to apply the provisions of this subclause; and thereupon:
 - (i) any such employee who at the date of closing is entitled to his annual holiday shall be given his annual holiday commencing on and from the date of closing with pay as prescribed by this clause. In addition he shall be paid 1/12th of his amount of wages for any period of employment after the accrual of his right to the annual holiday and up to but excluding the date of closing;
 - (ii) any such employee who at the date of closing is not entitled to his annual holiday shall be given leave without pay on and from the date of closing and shall be paid 1/12th of his amount of wages for the period of his employment since the commencement thereof or since he last became entitled to annual leave (whichever is the later) and up to but excluding the date of closing, together with pay for any trade or public holiday during such leave for which he is entitled to payment; and
 - (iii) the next 12 monthly qualifying period of employment for every such worker shall commence on and from the date of closing.

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

- (iv) An employer may close down his plant for one or two separate periods for the purpose of granting annual leave in accordance with this subclause. If the employer closes down his plant in two separate periods one of those periods shall be for a period of at least 21 consecutive days.

PROVIDED that where the majority of the employees in the plant or section concerned agree the employer may close down his plant in accordance with this subclause in two separate periods neither of which is of at least 21

consecutive days, or in three separate periods. In such cases the employer shall advise the employees concerned of the proposed dates of each close down before asking them for their agreement.

- (v) (1) An employer may close down his plant, or a section or sections thereof for a period of at least 21 consecutive days and grant the balance of the annual leave due to an employee in one continuous period in accordance with a roster.
- (2) An employer may close down his plant, or a section or sections thereof for a period of less than 21 consecutive days and allow the balance of the annual leave due to an employee in one or two continuous periods either of which may be in accordance with a roster. In such cases the granting and taking of annual leave shall be subject to the agreement of the employer and the majority of employees in the plant, or a section or sections thereof respectively and before asking the employees concerned for their agreement the employer shall advise them of the proposed date of the close down or close downs and the details of the annual leave roster.

11. BEREAVEMENT LEAVE

- (a) An employee shall be entitled to a maximum of two days leave without deduction of pay on each occasion of the death within the State of the employee's wife, husband, de facto wife, de facto husband, father, mother, brother, sister, child, mother-in-law, father-in-law, step-child, step-father, step-mother, grand-father or grand-mother.
- (b) On each occasion the employee travels outside the State in connection with the death of one of the relatives specified an additional two days without deduction of pay provided proof is given.

- (c) Unpaid Bereavement Leave

An employee may take unpaid bereavement leave by agreement with the employer.

- (d) Casual Employees

- (i) Subject to the evidentiary requirements in subclause (a), casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of an immediate family or household member.
- (ii) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.

- (iii) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

12. CHANGE ROOM

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

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

13. CLOTHING AND SAFETY BOOTS

- (a) Overalls or other suitable protective clothing shall be provided where the nature of the work caused undue wear or deterioration to normal working clothes if requested by the employee provided that one set of such clothing shall be supplied to permanent employees only after two months service, and thereafter at intervals of not less than four months provided further the administration of this subclause may be varied by mutual consent.
- (b) Up to three pairs of safety boots per annum shall be provided by the employer on production of satisfactory evidence that any boots issued previously are no longer serviceable.
- (c) In the case of a new employee who leaves within a period of four weeks of commencement he will be charged the cost of boots and clothing supplied but this charge will be reduced by 25 percent for each completed week he has worked.

14. CONTRACT OF EMPLOYMENT

- (a) Weekly Employment

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

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

breakdown of machinery or any stoppage of work by any cause for which the employer cannot reasonably be held responsible.

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

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

15. CRIB ROOM

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

16. DISTANT WORK

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

17. FIRST AID OUTFIT

In each workshop, and at other places where employees are regularly employed, the employer shall observe relevant legislation and regulations regarding first aid facilities. Any employee appointed by the employer to perform first aid duty, in addition to his ordinary duties, shall be paid \$1.85 per day in addition to his ordinary rate

18. FLOWER-POT MACHINES

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

19. HOLIDAY AND SUNDAY WORK

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

20. HOLIDAYS WITH PAY

- (a) Double time shall be the rate payable for all work done on Sundays and double time and one half shall be the rate payable for all work done on public holidays, with a minimum payment as for four hours work. In the event of an employee attending for work but not required, he shall be paid a minimum payment as for 3 hours work.
- (b) All employees (other than casuals) shall be entitled to the holidays hereinafter mentioned without deduction of pay or day or days substituted by Act of Parliament or Proclamation in lieu of such holidays as follows:

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

- (c) By agreement between the employer and his employee other days may be substituted for the said days or any of them as to such employer's undertaking.
- (d) Should 25 December in any year occur on a Saturday or a Sunday, the following Monday and Tuesday shall, for the purposes of this award, be deemed to be Christmas Day and Boxing Day respectively. Likewise should the first of January in any year occur on a Saturday or a Sunday the following Monday shall be deemed to be New Year's Day.
- (e) Where an employee is absent from his or her employment on the working day before or the working day after a public holiday without reasonable excuse or without the consent of the employer, the employee shall not be entitled to payment for such a holiday.

21. HOURS OF WORK

The ordinary hours of work shall average 38 hours per week, over a maximum work cycle of four weeks, to be worked in period not exceeding eight hours each, continuously except for meal breaks, Monday to Friday, between 6.00 am and 6.00 pm in respect of day work and as prescribed in Clause 35 - Shift Allowance hereof, in respect of shift work (except that this spread of hours may be varied by mutual agreement between the

employer and the employee directly affected, or where more than one employee is affected, by agreement of a majority thereof.)

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

22. IMPLEMENTATION OF 38-HOUR WEEK

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

- (a) By employees working less than eight ordinary hours each day.
- (b) By employees working less than eight ordinary hours one or more days each week.
- (c) By all employees having one week day off excluding public holidays, in each 20 day work cycle, eight hours being worked on each of the other 19 days of those four weeks.

The day off is to be nominated by the employer:

- (i) By fixing one week day upon which all or any number of employees will be off during a particular 20 day work cycle.
- (ii) By rostering employees off on various week days during a particular 20 day work cycle.

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

- (d) **PROVIDED** that the ordinary hours may be worked by such other method that is agreed upon between the employer and the majority of employees directly affected.
- (e) Circumstances may arise where different methods of implementing a 38-hour week apply to various groups of sections of employees in the plant or establishment concerned.
- (f) The day scheduled to be the day off in accordance with this clause may be worked as an ordinary working day without penalty when substituted by another day by agreement between the employer and the employee directly affected, or where a number of employees are directly affected, by agreement between the employer and a majority of the employees in respect of whom a substitute day-off is sought.

- (g) Excluding circumstances beyond the control of the employer and except as otherwise herein is provided, not less than seven days advance notice is to be given concerning the days off thus allocated to employees by the application of the foregoing arrangements.
- (h) The procedure for resolving special, anomalous or extraordinary problems shall be applied in accordance with Clause 33 - Resolution of Disputes, of this award. The procedure shall be applied without delay.
- (i) In any calendar year, where 20 days annual leave is taken there shall be a maximum of 12 rostered days off.

PROVIDED that for lesser periods of annual leave taken the above will apply on a proportionate basis.

23. INCLEMENT WEATHER

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

- (a) That weather shall not be regarded as inclement for the purposes of this clause unless the employer, or his representative on the job, and the employee or a representative of the employee agree that it shall be so regarded. Failing such agreement, weather shall not be regarded as inclement and work shall continue;
- (b) That any intermission of work owing to inclement weather so regarded as such as aforesaid shall immediately cease and work shall be immediately resumed on the employer or his representative calling for a resumption of work;
- (c) That an employee shall not be entitled to payment as provided for in this clause unless he remains on the job until a decision to cease work for the day has been made by agreement between the employer or his representative and the employee or his representative;
- (d) That the intermission of work by employees who would be exposed to working in inclement weather so regarded in accordance with this clause shall not be a ground for intermission of work in places where employees are not so exposed to or who are not called upon to work in such inclement weather;
- (e) That during an intermission of work owing to inclement weather the employer or his representative may require an employee to perform such work as may be necessary in some section of the works other than the employee's usual place of employment; and
- (f) That an employer or his representative notifies an employee that his services will not be required on the following day the employee shall not be entitled to payment as prescribed by this clause for that day.

24. LOSS OF CLOTHING

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

25. MEAL INTERVALS AND ALLOWANCES

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

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

- (b) An employee required to work beyond his usual meal time shall be paid at the rate of time and one half until he is allowed his meal break.
- (c) An employee required to work overtime for more than two hours without being notified on the previous day or earlier that he will be required to work shall either be supplied with a meal by the employer or paid \$14.60 for the first meal and after each further four hours worked an employee shall be paid \$14.60 for a meal. If an employee pursuant to notice has provided a meal or meals and is not required to work overtime or is required to work less than the amount advised, he shall be paid as above prescribed for meals which he has provided but which are surplus.
- (d) An employee who is required to work for more than two hours beyond his normal ceasing time in any day shall be allowed a break of 20 minutes at going rates before overtime work is commenced. After each further four hours worked an employee shall be entitled to a crib time of 20 minutes without deduction of pay, if the employee continues working after such crib time.

The employer and employee may agree to any variation of these provisions to suit the circumstances of the work in hand.

PROVIDED that the employer shall not be required to make any payment in respect of any time allowed in excess of 20 minutes.

26. MIXED FUNCTIONS

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

27. NON-CONTINUOUS SHIFT WORK

- (a) For work done at any time during a shift (other than a day shift) the ordinary rate of pay shall be increased by 15 percent per shift.
- (b) A shift worker shall be allowed 20 minutes crib-time in each shift, which shall be counted as time worked, and paid for as such.
- (c) Shift rosters shall specify the commencing and finishing time of the ordinary working hours of the respective shifts.
- (d) A shift worker who, during a period of engagement on shift work, works on night shift only without some regular weekly rotation with another shift, or with day work, shall be paid at the rate of time and a quarter for all time worked during ordinary working hours for such night shift provided such night shift continues for not less than five successive nights.

'Afternoon Shift' means any shift finishing after 6.00 pm and at or before midnight.

'Night Shift' means any shift finishing subsequent to midnight and at or before 8.00 am.

28. OVERTIME

- (a) For all work done outside of the ordinary starting or ceasing times of work, or in excess of eight hours on any one day or shift Monday to Friday inclusive the rate of time and one half for the first two hours and double time thereafter shall be paid.
- (b)
 - (i) If, on the instructions of the employer, an employee reports for overtime work on a Saturday, he shall be paid for a minimum of four hours work at the prescribed rate. In the event of an employee attending for work but not required, he shall be paid the minimum of four hours work at the prescribed rate;
 - (ii) An employee recalled to work overtime, Monday to Friday inclusive, after leaving his employer's business premises (whether notified before or after leaving the premises) shall be paid for a minimum of four hours work at the appropriate overtime rate for each time he is so recalled.
- (c) When overtime work is necessary it shall, wherever reasonably practicable, be so arranged that employees have at least 10 consecutive hours off duty between the work of successive days. An employee (other than a casual employee) who works so much overtime between the termination of his ordinary work on one day and the commencement of his ordinary work on the next day that he has not had at least 10 consecutive hours off duty between those times shall, subject to this subclause be released after completion of such overtime until he has had 10 consecutive

hours off duty without loss of pay for ordinary working time occurring during absence.

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

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

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

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

29. PARENTAL LEAVE

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

- (a) Definitions

For the purposes of this clause:

- (i) **'Child'** means a child of the employee under the age of one year except for adoption of a child where 'child' means a person under the age of five years who is placed with the employee for the purposes of adoption, other than a child or step-child of the employee or of the parent of the employee or a child who has previously lived continuously with the employee for a period of six month or more.
- (ii) **'Continuous service'** means service under an unbroken contract of employment and includes:
- (1) any period of leave taken in accordance with this clause;
 - (2) any period of part-time employment worked in accordance with this clause; or
 - (3) any period of leave or absence authorised by the employer or by the award.

- (iii) **'Employee'** includes a part-time employee but does not include an employee engaged upon casual work, unless that work has been under a continuous contract of employment of at least 12 months.
- (iv) **'Female employee'** means an employed female who is pregnant or is caring for a child she has borne or a child who has been placed with her for adoption purposes.
- (v) **'Male employee'** means an employed male who is caring for a child borne of his spouse or a child placed with the employee for adoption purposes.
- (vi) **'Primary care-giver'** means a person who assumes the principal role of providing care and attention to a child.
- (vii) **'Spouse'** includes a de facto or a former spouse.

(b) Entitlement

- (i) After twelve months continuous service, parents are entitled to a combined total of 52 weeks unpaid parental leave on a shared basis in relation to the birth or adoption of their child. For mothers, maternity leave provisions apply and for male employees, paternity leave provisions apply. Adoption leave provisions apply in the case of adoption.
- (ii) Subject to subclause (c) (vi), parental leave is to be available to only one parent at a time, in a single unbroken period, except that both parents may simultaneously take:
 - (1) for maternity and paternity leave, an unbroken period of up to one week at the time of the birth of the child;
 - (2) for adoption leave, an unbroken period of up to three weeks at the time of placement of the child.
- (iii) Unless otherwise agreed between the employee and the employer, parental leave shall be granted and taken in accordance with the notice given by the employee as specified below.

(c) Maternity Leave

- (i) An employee must provide notice to the employer in advance of the expected date of commencement of parental leave. The notice requirements are:
 - (1) of the expected date of confinement (included in a certificate from a registered medical practitioner stating that the employee is pregnant) – at least 10 weeks;
 - (2) of the date on which the employee proposes to commence maternity leave and the period of leave to be taken – at least 4 weeks.

- (ii) Where the employee gives notice under (d) (i) the employee must also provide a statutory declaration stating particulars of any period of paternity leave sought or taken by her spouse, and that for the period of maternity leave she will not engage in any conduct inconsistent with her contract of employment.
- (iii) An employee will not be in breach of this clause if failure to give the stipulated notice is occasioned by confinement occurring earlier than the presumed date or other compelling circumstances.
- (iv) An employee may commence maternity leave at any time within six weeks immediately prior to the expected date of birth.
- (v) Where an employee continues to work within the six week period immediately prior to the expected date of birth, or where the employee elects to return to work within six weeks after the birth of the child, an employer may require the employee to provide a medical certificate stating that she is fit to work on her normal duties.
- (vi) Special Maternity Leave
 - (1) 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 the employee may take unpaid special maternity leave of such periods as a registered medical practitioner certifies as necessary.
 - (2) Where an employee is suffering from an illness not related to the direct consequences of the confinement, an employee may take any paid personal leave to which she is entitled in lieu of, or in addition to, special maternity leave.
 - (3) Where an employee not then on maternity leave suffers illness related to her pregnancy, she may take any paid personal leave to which she is then entitled and such further unpaid special maternity leave as a registered medical, practitioner certifies as necessary before her return to work. The aggregate of paid personal leave, special maternity leave and parental leave, including paternity leave taken by her spouse, may not exceed 52 weeks.
- (vii) Transfer to a safe job
 - (1) Where an employee is pregnant and, in the opinion of a registered medical practitioner, illness or risks arising out of the pregnancy or hazards connected with the work assigned to the employee make it inadvisable for the employee to continue at her present work, the employee will, 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.

- (2) If the transfer to a safe job is not practicable, the employee may elect, or the employer may require the employee to commence parental leave for such period as is certified necessary by a registered medical practitioner.

(d) Paternity Leave

- (i) A male employee will provide to the employer at least 10 weeks prior to each proposed period of paternity leave:
 - (1) that a certificate from a registered medical practitioner which names his spouse, states that she is pregnant and the expected date of confinement, or states the date on which the birth took place, and
 - (2) written notification of the proposed dates on which the period of paternity leave will start and finish and
 - (3) a statutory declaration stating:
 - (A) that period of paternity leave will be taken to become the primary care-giver of a child;
 - (B) particulars of any period of maternity leave sought or taken by the mother, and
 - (C) that for the period of paternity leave, the employee will not engage in any conduct inconsistent with their contract of employment.
 - (4) The employee will not be in breach of this subclause if the failure to give the required period of notice is because of the birth occurring earlier than expected, the death of the mother of the child, or other compelling circumstances.

(e) Adoption leave

- (i) The employee will notify the employer at least ten weeks in advance of the date of commencement of adoption leave and the period of leave to be taken. An employee may commence adoption leave prior to providing such notice, where through circumstances beyond the control of the employee, the adoption of a child takes place earlier.
- (ii) Before commencing adoption leave, an employee will provide the employer with a statutory declaration stating:
 - (1) the employee is seeking adoption leave to become the primary care-giver of the child;

- (2) particulars of any period of adoption leave sought or taken by any other person in respect of that child, and
 - (3) that for the period of adoption leave the employee will not engage in any conduct inconsistent with their contract of employment.
- (iii) An employer may require an employee to provide confirmation from the appropriate government authority of the placement.
 - (iv) Where the placement of a child for adoption with an employee does not proceed or continue, the employee will notify the employer immediately and the employer will nominate a time not exceeding four weeks from receipt of notification for the employee's return to work.
 - (v) An employee will not be in breach of this subclause as a consequence of failure to give the stipulated periods of notice if such failure results from a requirement of an adoption agency to accept earlier or later placement of a child, the death of an adoptive parent or other compelling circumstances.
 - (vi) An employee seeking to adopt a child is entitled to unpaid leave for the purpose of attending any compulsory interviews or examinations as are necessary as part of the adoption procedure. The employee and the employer should agree on the length of the unpaid leave. Where agreement cannot be reached, the employee is entitled to take up to two days unpaid leave. Where paid leave is available to the employee, the employer may require the employee to take such leave instead.

(f) Parental Leave and Other Entitlements

An employee may in lieu of or in conjunction with parental leave, access any annual leave or long service leave entitlements which they have accrued subject to the total amount of leave not exceeding 52 weeks.

(g) Part time work

(i) Entitlement

With the agreement of the employer:

- (1) An employee may work part-time in one or more periods at any time from the date of birth of the child until its second birthday or, in relation to adoption, from the date of placement of the child until the second anniversary of the placement.
- (2) A female employee may work part-time in one or more periods while she is pregnant where part-time employment is, because of the pregnancy, necessary or desirable.

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

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

(iii) Pro Rata Entitlements

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

(iv) Transitional Arrangements - Annual Leave

(1) An employee working part-time under this subclause shall be entitled to any leave accrued in respect of a period of full-time employment, as if the employee was still working full-time, in the position held prior to taking leave.

(2) (A) A full-time employee shall be entitled to annual leave accrued in respect of a period of part-time employment under this subclause, as if the employee was working part-time in the position held, immediately before resuming full-time work.

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

(v) Transitional Arrangements - Personal Leave

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

(vi) Part-time Work Agreement

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

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

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

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

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

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

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

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

(vii) Termination of Employment

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

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

(viii) Extension of Hours of Work

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

(ix) Nature of Part-time Work

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

(x) Inconsistent Award Provisions

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

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

- (2) establishing quotas as to the ratio of part-time to full-time employees;
- (3) prescribing a minimum or maximum number of hours a part-time employee may work; or
- (4) requiring consultation with, consent of or monitoring by a union;

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

(h) Replacement Employees

- (i) A replacement employee is an employee specifically engaged as a result of an employee proceeding on parental leave or working part time in accordance with this clause.
- (ii) A replacement employee may be employed part-time. The provisions of this subclause in relation to annual leave and personal leave apply to the part-time employment of replacement employees.
- (iii) Before an employer engages a replacement employee under this paragraph, the employer shall inform the person of the temporary nature of the employment and of the rights of the employee who is being replaced. Specifically, the employer must advise that the period of engagement is subject to variation or change in the event that the employee on leave exercises the right to vary the period of leave.
- (iv) Unbroken service as a replacement employee shall be treated as continuous service.
- (v) Nothing in this subclause shall be construed as requiring an employer to engage a replacement employee.

(i) Return to Former Position after a Period of Parental Leave or Part Time Work

Unless otherwise agreed between employee and employer, and consistent with the provisions of this clause

- (i) An employee will give at least four weeks' notice prior of their intention to return to work after a period of parental leave or part time work in accordance with this clause.
- (ii) An employee will be entitled to the position which they held immediately before proceeding on parental leave or part time work. In the case of an employee transferred to a safe job pursuant to subclause (c) (vii) of this clause, the employee will be entitled to return to the position they held immediately before such transfer.

- (iii) During the period of parental leave an employee shall be entitled to return to work at any time, as agreed between the employer and the employee, provided that the employer may require notice of not more than four weeks.
- (iv) An employee shall be entitled to extend the period of parental leave on one occasion, provided that the employer may require notice of not more than four weeks.

By mutual agreement between the employee and the employer, the period of leave may be further extended.

(j) Redundancy

- (i) If a position held by an employee prior to taking parental leave is likely to be made redundant before the employee returns to work, the employer must advise the employee of the impending redundancy, provide an opportunity for consultation and shall not disadvantage the employee by virtue of the taking of parental leave.
- (ii) Where such position no longer exists but there are other positions available which the employee is qualified for and is capable of performing, the employee will be entitled to a position as nearly comparable in status and pay to that of their former position.

(k) Right To Request Variation To Parental Leave Provision

- (i) An employee entitled to parental leave pursuant to the provisions of this clause may request the employer to allow the employee:
 - (1) to extend the period of simultaneous unpaid parental leave up to a maximum of eight weeks;
 - (2) to extend the period of unpaid parental leave by a further continuous period of leave not exceeding 12 months;
 - (3) to return from a period of parental leave on a part-time basis until the child reaches school age,to assist the employee in reconciling work and parental responsibilities.
- (ii) The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

(l) Communication During Parental Leave

- (i) Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:
 - (1) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
 - (2) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.
- (ii) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.
- (iii) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with (l)(i)(1).

30. PAYMENT OF WAGES

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

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

31. PERSONAL LEAVE

The provisions of this clause apply to full-time and regular part-time employees (on a pro rata basis) but do not apply to casual employees. The entitlements of casual employees are set out in subclause (i).

(a) Definitions

The term 'immediate family' includes:

- (i) spouse (including a former spouse, a de facto spouse and a former de facto spouse) of the employee. A de facto spouse means a person of the opposite sex to the employee who lives with the employee as his or her husband or wife on a bona fide domestic basis; and
 - (ii) child or an adult child (including an adopted child, a step child or an ex-nuptial child), parent, grandparent, grandchild or sibling of the employee or spouse of the employee.
- (b) Amount of Paid Personal Leave
- (i) Paid personal leave is available to an employee, when they are absent:
 - (1) due to personal illness or injury; or
 - (2) for the purposes of caring for an immediate family or household member who is sick and requires the employee's care and support or who requires care due to an unexpected emergency.
 - (ii) he shall not be entitled to such leave of absence for any period in respect of which he is entitled to workers' compensation;
 - (iii) he shall not be entitled in any year (whether in the employment of one employer or of more) to personal leave credit in excess of two weeks of ordinary working time.
 - (iv) for the purposes of administering subclause (b)(iii) an employer may within one month of this award coming into operation or within two 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.
- (c) Personal leave shall accumulate from year to year so that any balance of the period specified in (b)(iii) which has in any year not been allowed to an employee by an employer as paid personal 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 personal leave prescribed in respect of that year;
- (d) An employer shall not be required to make any payment in respect of accumulated personal leave credits to an employee who is discharged or leaves his employment, or for any time an employee is absent from work without producing satisfactory evidence of personal illness.
- Sickness on a rostered day off:
- (e) Where an employee is sick or injured on the week day he is to take off in accordance with subclause (c) Clause 22 - Implementation of 38-Hour Week

hereof, he shall not be entitled to personal pay nor will his personal pay entitlement be reduced as a result of his sickness or injury that day.

- (f) 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 personal 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.

- (g) Personal Leave for Personal Injury or Sickness

An employee is entitled to use the full amount of their personal leave entitlement including accrued leave for the purposes of personal illness or injury, subject to the conditions set out in this clause.

- (h) Personal Leave to Care for an Immediate Family or Household Member

- (i) An employee is entitled to use up to 10 days personal leave, including accrued leave, each year to care for members of their immediate family or household who are sick and require care and support or who require care due to an unexpected emergency, subject to the conditions set out in this clause.

Leave may be taken for part of a single day.

- (ii) By agreement between an employer and an individual employee, the employee may access an additional amount of their accrued personal leave for the purposes set out in paragraph (d)(i), beyond the limit set out in paragraph (d)(i). In such circumstances, the employer and the employee shall agree upon the additional amount that may be accessed.

- (i) Employee Must Give Notice

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

- (j) Evidence Supporting Claim

- (i) 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 personal leave is claimed;
- (ii) When taking leave to care for members of their immediate family or household who require care due to an unexpected emergency, the employee must, if required by the employer, establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the

emergency and that such emergency resulted in the person concerned requiring care by the employee.

(k) Unpaid Personal Leave

Where an employee has exhausted all paid personal leave entitlements, they are entitled to take unpaid personal leave to care for members of their immediate family or household who are sick and require care and support or who require care due to an unexpected emergency. The employer and the employee shall agree on the period. In the absence of agreement, the employee is entitled to take up to two days (up to a maximum of 16 hours) per occasion, provided the requirements of subclauses (i) and (j) are met.

(l) Casual Employees – Caring Responsibilities

Subject to the evidentiary and notice requirements in subclauses (i) and (j) casual employees are entitled to not be available to attend work, or to leave work if they need to care for members of their immediate family or household who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.

The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.

An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

32. PROTECTIVE CLOTHING

- (a) When an employee is called upon to work in water he shall be provided with suitable boots and waders which shall be worn by him.
- (b) Where a man's place of work is outside the factory building and he is required to carry on such work in the rain, his employer shall furnish him with a waterproof overcoat, rubber boots and sou'wester which shall be worn by him whilst so employed.
- (c) All protective clothing supplied pursuant to this clause shall be as follows:
 - (i) issued in good and clean condition;
 - (ii) retained by the employee during his period of employment and shall be renewed by the employer when necessary;

- (iii) fumigated before being transferred from one employee to another;
 - (iv) shall remain the property of the employer.
- (d) The loss of such protective clothing due to any cause arising out of the neglect or misuse by the employee shall be a charge against his wages, provided that no charge shall be made in respect of reasonable wear and tear.

33. RESOLUTION OF DISPUTES

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

- (a) The matter should first be discussed between the employee and his immediate supervisor. At the employee's option his delegate may also be present.
- (b) If not settled, the matter shall be submitted by the shop steward or union representative to the industrial officer or other appropriate officer of the employer.
- (c) If not settled, the matter shall be formally submitted by the State Secretary or other appropriate official of the union concerned to the employer.
- (d) Until the matter is determined in accordance with the above procedure, work shall continue normally. All parties to the award, the employer, its officials, the unions and their members, will take all possible action to settle any dispute within seven days of notification of the dispute to the employer.
- (e) No party shall be prejudiced as to final settlement by the continuance of work in accordance with this subclause.
- (f) In the event of an employee being given instant dismissal the employer will notify the appropriate union steward or official as soon as possible.

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

34. REST PERIODS

All employees shall be entitled to two rest intervals of 7 1/2 minutes duration during the first and second half of the day or shift, to be taken at such times as will not interfere with the continuity of work. Such intervals are to be counted as time worked.

PROVIDED that in lieu of the above provisions and by agreement between the employer and the majority of the employees at a particular plant one break of 15 minutes duration per day may be taken at a mutually agreeable time.

35. RIGHT OF ENTRY OF UNION OFFICIALS

Right of entry shall be in accordance with Section 77 of the *Industrial Relations Act 1984*.

36. SHIFT ALLOWANCE

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

37. TERMINATION OF SERVICE

One week's notice shall be given by either party to terminate the contract of service. In lieu of such notice, the employer to pay one week's wages or the employee to forfeit one week's wages as the case may be.

PROVIDED that an employee may be dismissed for wilful misconduct or neglect of duty, or when employment cannot be provided owing to a breakdown of machinery, fire, or any other interruptions of operations or other cause beyond the employer's control.

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

38. TOOLS ETC.

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

39. TRANSFER FROM JOB TO JOB

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

40. WATERPROOF CLOTHING OR PAYMENT IN LIEU

- (a) If an employee is required to work in a wet place or in a heavy rain he shall be provided with gum boots or oilskins, or both, so as to protect him from getting wet.
- (b) A place shall be deemed to be wet when water, other than rain, is continually dropping from overhead so as to saturate the clothing of the employee if unprotected and/or when water in the place where the employee is standing is over two inches deep.
- (c) Rain shall be deemed to be heavy when, if the employee works therein as required, his clothing will become saturated.

41. WASHING FACILITIES

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

CONDITIONS FOR EMPLOYEES IN DIVISION B - CARTERS AND DRIVERS

42. GENERAL CONDITIONS

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

Clause Nos

| | |
|----|--|
| 10 | Annual Leave |
| 13 | Compassionate Leave |
| 16 | Distant Work |
| 19 | Holiday and Sunday Work |
| 20 | Holidays with Pay |
| 21 | Hours of Work |
| 26 | Mixed Functions |
| 28 | Overtime |
| 29 | Parental Leave |
| 30 | Payment of Wages |
| 34 | Right of Entry of Union Officials |
| 36 | Personal Leave |
| 37 | Termination of Service |
| 40 | Waterproof Clothing or Payment in Lieu |

CONDITIONS FOR EMPLOYEES IN DIVISION C - CLERKS

43. ESTIMATING SERVICE

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

44. GENERAL CONDITIONS

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

| Clause Nos | |
|------------|-----------------------------------|
| 10 | Annual Leave |
| 13 | Compassionate Leave |
| 19 | Holiday and Sunday Work |
| 20 | Holidays with Pay |
| 21 | Hours of Work |
| 29 | Parental Leave |
| 30 | Payment of Wages |
| 31 | Personal leave |
| 34 | Right of Entry of Union Officials |
| 37 | Termination of Service |

45. OVERTIME

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

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

