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TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984
s23 application for award or variation of award

Australian Municipal, Administrative, Clerical and Services Union
(T8603 of 1999)

Aerated Waters Award
Barristers and Solicitors Award
Broadcasting and Television Award
Clerical and Administrative Employees (Private Sector) Award
Disability Service Providers Award
Estate Agents Award
Fuel Merchants Award
Furnishing Trades Award
Independent Schools (Non-Teaching Staff) Award
Insurance Award
Marine Boards Award
Medical Practitioners (Private Sector) Award
Photographic Industry Award
Public Accountants Award
Restaurant Keepers Award
Retail Trades Award
Shipping Award
Softgoods Award
Textile Award
Totalizator Agency Award
Wholesale Trades Award

The Australian Workers' Union, Tasmania Branch
(T8613 of 1999)

Australian Cement Holdings Enterprise Award
Automotive Industries Award
Bootmakers Award
Butter and Cheesemakers Award
Clay and Mud Products Award
Concrete Products Award
Civil Construction and Maintenance Award
Dairy Processing Award
Pasminco Hobart Smelter Enterprise Award
Farming and Fruit Growing Award
Fish Aquaculture and Marine Products Award
Horticulturists Award
Meat Processing Industry Award
Metal and Engineering Industry Award
Monumental Masons Award
Optical Industries Award
Pasminco Rosebery (Mining) Award
Plant Nurseries Award
Produce Award

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Public Vehicles Award
Quarrymens Award
Rubber Trades Award
Shellfish Industry Award
Timber Merchants Award
Wireworking Award

The Australasian Meat Industry Employees Union, Tasmanian Branch
(T8621 of 1999)

Meat Processing Industry Award
Meat Retailing Award

Shop, Distributive and Allied Employees Association, Tasmanian Branch
(T8624 of 1999)

Automotive Industries Award
Bootmakers Award
Hairdressers Award
Insurance Award
Retail Pharmacy Award
Retail Trades Award
Timber Merchants Award
Wholesale Trades Award

Australian Liquor, Hospitality and Miscellaneous Workers Union - Tasmanian Branch

(T8628 of 1999, T8629 of 1999 and T8630 of 1999)

Cleaning and Property Services Award
Fibreglass and Plastics Award
Health and Fitness Centres Award
Ice Cream Makers Award
Laundry and Dry Cleaning Award
Miscellaneous Workers Award
Security Industry Award
Veterinary Services Award
Wholesale Plant Bakeries Award
Baking Industry Award
Hotels, Resorts, Hospitality and Motels Award
Licensed Clubs Award

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FULL BENCH:
DEPUTY PRESIDENT B R JOHNSON
COMMISSIONER R J WATLING
COMMISSIONER P A IMLACH

Award variation - nominated private sector awards - meal allowance - increase to reflect CPI movements - applications granted - operative ffpp 27 September 1999

PASMINCO HOBART SMELTER ENTERPRISE AWARD

ORDER BY CONSENT -

No. 2 of 1999

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AMEND THE **PASMINCO HOBART SMELTER ENTERPRISE AWARD** IN THE FOLLOWING MANNER:

Delete Part V Clause 5 - Overtime and insert in lieu thereof the following:

"5. OVERTIME

Award Employees (excluding Part X - Waterside Workers)

Day Workers

- (a) For all work done by day workers before or after the times of the day mentioned in Part V, Clause 1 - Hours of Work hereof, or on Saturday, overtime shall be paid at the rate of double time.

Shift Workers

- (b) Shift workers shall be paid at the rate of double time for all time of duty beyond 8 hours per day, except where the excess time of duty is:
- (i) by arrangement between the employees themselves;
 - (ii) for the purpose of effecting the customary rotation of shifts and of reliefs.
- (c) Shift work shall be rostered for periods of not less than a fortnight, but shifts may be changed from time to time as may be necessary for the operation of the works.

PROVIDED that:

- (i) unless an employee is given 48 hours' notice of change of shift; or
- (ii) unless not less than 7 clear days' notice is given of change of employees' days off,

overtime at the rate of double time shall be paid for work performed on such changed shift or day off, irrespective of the number of hours otherwise worked in any fortnight.

- (d) A shift worker required to work overtime immediately after working ordinary hours shall be paid a minimum of one hour's work at the appropriate rate provided that except in the case of unforeseen circumstances arising the employee shall not be required to work the full hour if the job which he/she is held back to perform is completed within a shorter period.

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Overtime - General

- (e) Except as otherwise provided in subclause (f) hereof, in computing overtime each day's or shift's work shall stand alone. For such purpose a day shall be deemed to commence at 11.45 pm.

Notwithstanding the foregoing, a shift worker (whether or not he/she has been given notice of change of shift pursuant to subclause (c) of this clause) who concludes work of 8 hours on his/her regularly rostered shift at 11.45 pm and is then required to immediately commence his/her changed rostered shift commencing at 11.45 pm and finishing at 7.45 am shall be paid double the ordinary rate for such second consecutive shift.

- (f) An employee who works so much overtime between the termination of his/her ordinary work on one day and the commencement of his/her ordinary work on the next day that he/she 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/she has had 10 consecutive hours off duty without loss of pay for ordinary time of duty occurring during such absence.

If, on the instructions of his/her employer, any employee resumes work without having had such 10 hours off duty, he/she shall be paid at double rates until he/she is relieved from duty to take such rest period and he/she shall then be entitled to be absent until he/she has had 10 consecutive hours off duty without deduction of pay for ordinary time of duty occurring during such absence.

PROVIDED that time off duty without loss of pay shall not be regarded as time worked for the computation of overtime or other penalty rates.

In the case of day workers, such rest period shall be exclusive of crib time set out in Part V, Clause 1 - Hours of Work, subclause (a) hereof.

- (g) Where an employee continues to work on the instructions of his/her employer after working for 4 hours or more at overtime rates before his/her ordinary starting time, he/she shall be paid at double time for his/her work until he/she shall have been relieved for at least 10 hours.

PROVIDED that he/she shall not be entitled to payment for any such rest period.

- (h) An employee recalled to work overtime after leaving his/her employer's works shall be paid a minimum of 4 hours' work at the appropriate rate for each time he/she is so recalled.

PROVIDED that, except in the case of unforeseen circumstances arising, the employee shall not be required to work the full 4 hours if the job he/she was recalled to perform is completed within a shorter period.

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- (i) Subject to any custom now prevailing under which an employee is required to hold himself/herself in readiness for a call back, an employee required to hold himself/herself in readiness to work after ordinary hours, shall, until released, be paid standing-by time at ordinary rates from the time from which he/she is so to hold himself/herself in readiness.

Meal Period and Allowances

- (j) For work done by day workers during the normal crib time and thereafter until a meal break is allowed, payment shall be made at the rate of double time.
- (k) An employee shall not work for more than 5 hours without a break for a meal.
- (l) An employee working overtime shall be allowed a crib time of 20 minutes without deduction of pay after each 4 hours of overtime worked, if the employee continues to work after such crib time.

An employer and the employee may agree to any variation of this provision to meet the circumstances of the work in hand.

- (m) Before starting overtime immediately after working ordinary hours, a meal break of 20 minutes shall be allowed without deduction of pay, unless the period of overtime is 1 1/2 hours or less. An employer and the employee may agree to any variation of this provision to meet the circumstances of the work in hand.
- (n) An employee required to work overtime for more than one and one half hours without being notified the day before that the employee will be so required to work, shall be supplied with a meal by the employer or paid \$10.00 for each meal.
- (o) If an employee, pursuant to notice, has provided a meal or meals and is not required to work overtime, the employee shall be paid \$10.00 for each meal.

Provisions covering changes between Day and Shift Work

- (p) When day workers are rostered to and perform shift work for 5 or more successive shifts there shall be added to the rates prescribed for day-work the shift allowance prescribed in Part IV, Clause 1 - Shift Allowance thereof.
- (q) When day workers work less than 5 successive shifts, overtime at the rates prescribed for day workers shall be paid instead of the allowance for shift work.
- (r) When a day worker is required to change from day work to night shift commencing at 11.45 pm on the same day he/she shall be allowed to cease work at 3.45 pm without loss of pay for ordinary hours of employment on that day.

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PROVIDED that the time off duty without loss of pay shall not be regarded as time worked for the purpose of computation of overtime or other penalty rates.

- (s) When a day worker is required to change to shift work he/she shall be given a minimum of 48 hours notice of such change. Where a lesser period of notice is given the employer shall either instruct the employee to work his/her ordinary day work hours, or pay him/her for such ordinary hours occurring but not worked within the period of such minimum notice.

Transport of Employees Required to Work Overtime

- (t) An employee recalled to work overtime after leaving his/her employer's premises shall be provided by the employer with transport to and from his/her place of work before commencing and after concluding such overtime.
- (u) Where an employee is required to work overtime or an additional shift immediately before or following on from his/her ordinary work or rostered shift, he/she shall be provided by the employer with transport to or from his/her home, notwithstanding that he/she may have been notified previously of the requirement to work such overtime.
- (v) Where an employee is required to work organised overtime at weekends or holidays, and that overtime commences and finishes at normal working times, and normal transport is available at the start and finish of such overtime, then the provisions of subclauses (w) and (x) hereof shall not apply.
- (w) Where the time occupied in transporting an employee to his/her home after working overtime exceeds 15 minutes, such additional time shall be paid for at the appropriate plant overtime rate.
- (x) As an alternative to the employer providing transport in accordance with the provisions of subclauses (t), (u) and (v) hereof, the employee concerned may elect to use his/her own vehicle, in which case he/she shall be paid a travelling allowance of 27.5 cents per kilometre for the actual road distance involved in travelling by the most direct route and such travelling allowance shall be limited to a maximum of 32 kilometres on each occasion of work performed as aforesaid.
- (y) The foregoing provisions shall not apply to employees who, as an integral part of their job, are required to regularly work overtime immediately preceding or following their ordinary hours of work."

OPERATIVE DATE

This Order shall come into operation from the first full pay period to commence on or after 27 September 1999.

P A Imlach
COMMISSIONER

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27 September 1999