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TASMANIAN INDUSTRIAL COMMISSION

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

Tasmanian Trades and Labor Council
(T3077 of 1991)

HOSPITALS AWARD

COMMISSIONER R J WATLING

9 December 1992

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

ORDER -

No. 3 of 1992
(Consolidated)

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

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1. TITLE

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

2. SCOPE

This award is established in respect of the industry of providing hospital services.

3. ARRANGEMENT

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4. DATE OF OPERATION

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

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

5. SUPERSESSION AND SAVINGS

This award incorporates and supersedes No. 2 of 1992 (Consolidated).

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

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6. PARTIES AND PERSONS BOUND

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

- (a) all employers (whether members of a Registered Organization or not) who are engaged in the industry specified in Clause 2 - Scope;
- (b) all employees (whether members of a Registered Organization 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 Health Services Union of Australia Tasmania No. 1 Branch and the officers of that organization and their members employed in the industry specified in Clause 2 - Scope;
 - (ii) the Australian Nursing Federation, Tasmanian Branch and the officers of that organization and their members employed in the industry specified in Clause 2 - Scope; and
 - (iii) The Amalgamated Society of Carpenters and Joiners of Australia, Tasmanian Branch and the Officers of that organisation and their members employed in the industry specified in Clause 2 - Scope.
- (d) the following organisations of employers in respect of whom award interest has been determined: -
 - (i) the Tasmanian Confederation of Industries.

7. DEFINITIONS

'Ancillary and clerical staff' means all staff other than executive staff.

'Casual employee' means a person who either:

- (i) relieves a full-time or part-time employee; or
- (ii) is engaged temporarily for specific duties for a period not exceeding 8 weeks.

'Clerical staff' means those staff employed in any of the following classifications:

Catering Officer, Clerk, Senior Clerk or Clerk in Charge, Typist, Typist or Female Clerk in Charge, Office Assistant, Machinist, Stenographer.

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'Cook (qualified)' means a person who holds trade qualifications in cooking or a person who has passed a trade test conducted by the Tasmanian School of Hospitality or a person who has had 6 years continuous experience as a cook in a hospital or private medical establishment.

'Day worker' means an employee whose weekly ordinary hours of work are performed within the days Monday to Friday inclusive.

'Domestic Co-ordinator' means an employee who is responsible for the control and administration of Catering, Housekeeping and Laundry Services.

'Executive staff' means the Secretary.

'Full-time employee' means a person engaged to work for the full ordinary hours prescribed in Clause 26 - Hours.

'Group 1 Hospital' means Calvary Hospital and St. John's Hospital.

'Group 2 Hospital' means St. Helen's Hospital, St. Luke's Hospital and St. Vincent's Hospital.

'Group 3 Hospital' means other private hospitals.

'Home centre' means the town in which is situated the hospital at which the employee is employed.

'Hospital Aide' means an untrained unregistered employee who assists with nursing duties in a general hospital area.

'Medical staff' means all full-time medical staff and includes dental surgeons.

'Nursing Assistant' means an untrained unregistered employee who assists with nursing duties in a geriatric wing.

'Part-time employee' means a person, other than a full-time employee or casual employee engaged to work regularly in each pay period for less hours than an equivalently classified full-time employee.

'Part-time shift worker' means a person who holds a position on a roster prescribed in Clause 43(c) - Shift Work.

'Relevant award rate' means the rate specified for the appropriate year of service applicable to the employee in the appropriate classification in Clause 8 - Wages, excluding all allowances, loadings etc.

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'Roster' - for the purposes of Clause 43 - Shift Work, a roster is a document setting out clearly the names of the employees required to work in accordance with such roster, the days, dates and hours during which each employee is required to attend for duty.

'Shift worker' means an employee whose ordinary weekly hours of work are performed in accordance with a roster which regularly includes Saturdays and Sundays and notwithstanding includes all employees who are not dayworkers.

PROVIDED ALWAYS that to qualify as a shift worker under this definition, for the purpose only of calculating annual leave entitlements an employee shall be rostered to perform work on not less than 10 Saturdays and not less than 10 Sundays during any one leave year.

'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.

'Technical staff' means those staff employed in any of the following classifications:

Dietitian, Physiotherapist, Occupational Therapist or Speech Pathologist.

'Trainee Clerk' means a person employed by the employer under the terms of the Australian Traineeship System and any agreements attached thereto.

'Training Agreement' shall mean an agreement registered under the provisions of the Industrial and Commercial Training Act 1985.

'Year of service' shall mean 365 days of employment in an approved hospital, including rostered days off, public holidays, paid annual leave, and paid sick leave.

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8. WAGE RATES

1. WAGES

SUBDIVISION 1 - ANCILLARY SERVICE AND CLERICAL EMPLOYEES

Adult employees classified hereunder shall, except as otherwise specified, be paid the wage rate assigned to that classification.

AMOUNT PER WEEK
OF 37 1/2 HOURS
\$

1. Physiotherapist or Occupational Therapist or Speech Pathologist	
1st year of service	447.60
2nd year of service	468.20
3rd year of service	488.90
4th year of service	509.20
5th year of service	529.70
6th year of service and thereafter	550.60
2. Dietitians -	
1st year of service	471.30
2nd year of service	488.80
3rd year of service	532.70
4th year of service	579.00
5th year of service	625.40
6th year of service and thereafter	652.40
3. Catering Officer -	
1st year of service	518.20
2nd year of service and thereafter	532.00
4. Clerks - Adults -	
1st year of service	363.40
2nd year of service	373.10
3rd year of service	382.70
4th year of service	397.40
5th year of service	407.20
6th year of service	417.40
7th year of service	427.10
8th year of service and thereafter	438.40

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5. Senior Clerk - or Clerk-in-Charge -

1st year of service	449.20
2nd year of service	463.20
3rd year of service and thereafter	477.00

6. Typists -

1st year's adult experience	365.90
2nd year's adult experience	370.60
3rd year's adult experience	375.70

PROVIDED ALWAYS that an employee who has satisfactorily passed a typewriting test of 50 words per minute shall be paid a proficiency allowance at the rate of \$197 per annum.

7. Typist or Female Clerk-in-Charge -

1st year of adult experience	399.80
2nd year of adult experience	405.00
3rd year of adult experience and thereafter	409.80

8. Office Assistant -

1st year of adult experience	365.90
2nd year of adult experience	370.60
3rd year of adult experience and thereafter	375.70

9. Machinist -

1st year of adult experience	365.90
2nd year of adult experience	370.60
3rd year of adult experience	375.70
4th year of adult experience and thereafter	380.50

10. Stenographers - Class I -

1st year's adult experience	370.60
2nd year's adult experience	375.70
3rd year's adult experience	380.50
4th year's adult experience and thereafter	385.00

PROVIDED ALWAYS that -

- (i) no person or employee shall be appointed or promoted to a position classified within this class unless he/she has satisfactorily passed a stenography test at 80 words per minute.

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- (ii) A person or employee appointed or promoted to a position classified within this class who has satisfactorily passed a stenography test at one or other of the speeds undermentioned shall in addition to the abovementioned salary rates, be paid a proficiency allowance at the rate of -

100 words per minute \$394 per annum
 120 words per minute \$589 per annum

Stenographers - Class II -

1st year's adult experience	414.70
2nd year's adult experience	420.00
3rd year's adult experience and thereafter	424.90

AMOUNT PER WEEK
 \$

11. Switchboard Operator -

1st year of service	362.20
2nd year of service	370.10
3rd year of service	373.70
4th year of service and thereafter	376.50

12. Theatre Technician -

(a) (Unqualified)

1st year of service	386.60
2nd year of service	395.50
3rd year of service	399.10
4th year of service and thereafter	402.20

(b) Qualified (2 year diploma in Theatre Technology)

1st year of service	411.60
2nd year of service	421.00
3rd year of service	430.50

13. Carpenter -

1st year of service	432.80
2nd year of service	438.60
3rd year of service	444.30
4th year of service	455.40
5th year of service and thereafter	461.10

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14. Painter -

1st year of service	432.80
2nd year of service	438.60
3rd year of service	444.30
4th year of service	455.40
5th year of service and thereafter	461.10

A Carpenter or Painter, as determined by the employer, shall be paid an allowance at the rate of \$7.00 per week for the disability associated with any construction work. Other tradesmen, as determined by the employer, may be paid a pro rata allowance on a daily basis for similar work with a minimum payment of one fifth of the weekly rate.

PROVIDED THAT a Carpenter or Painter shall only be paid the allowance when actually engaged on construction work.

15. Fitter -

1st year of service	432.80
2nd year of service	438.60
3rd year of service	444.30
4th year of service	455.40
5th year of service and thereafter	461.10

A Maintenance Fitter who holds a certificate of Competency as an Electric Welder, issued by the Department of Labour and Industry, who is required to carry out high-pressure welding to that Department's standards, on vessels or pipes carrying steam under pressure, shall be paid an allowance of 33 cents per hour in respect of time spent in performing such duties.

16. Electrical Mechanic -

1st year of service	432.80
2nd year of service	438.60
3rd year of service	444.30
4th year of service	455.40
5th year of service and thereafter	461.10

PROVIDED THAT an employee who is a holder of an 'A' Grade Wireman's Licence shall be paid an additional allowance of \$13.10 per week.

An Electrical Mechanic who is required by the employer to hold an 'A' Grade Wireman's Licence, and is required to perform work which must be performed by a person holding an 'A' Grade Wireman's Licence, shall be paid \$14.20 per week in addition to the above salary rates.

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17. Plumber

1st year of service	432.80
2nd year of service	438.60
3rd year of service	444.30
4th year of service	455.40
5th year of service and thereafter	461.10

- (a) A Plumber who is required by the employer to be registered by the appropriate State Authority shall in addition to the above salary rate be paid a Registration Allowance at the rate of \$15.40 per week.
- (b) A Registered Plumber, other than a Foreman Plumber (classified as such) who is required to act as the employers' nominee and to assume responsibility in his/her own name for the plumbing work of a hospital or department of a hospital shall be paid whilst acting as such nominee an allowance of \$39.50 per week.

PROVIDED THAT the employer shall provide a person employed as either an Electrical Mechanic or Maintenance Fitter with all hand, power or special tools necessary for the proper performance of such employee's duties.

Where the employer does not supply either an Electrical Mechanic or a Maintenance Fitter with hand tools or where an employee is required to provide his/her own tools for use in the service of the employer he/she shall be paid a tool allowance in accordance with the following rates:

Trade	Per Week \$
Electrical Mechanic	8.30
Maintenance Fitter	8.30
Plumber	10.25
Carpenter	10.25
Painter	8.30
Chef and Cook	4.65

PROVIDED THAT the above allowance shall not be subject to any premium or penalty additions.

18. Attendant Class I -

1st year of service	360.70
2nd year of service	364.60
3rd year of service	368.20
4th year of service and thereafter	371.20

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Attendant Class II -

1st year of service	375.30
2nd year of service	378.30
3rd year of service	384.50
4th year of service and thereafter	388.20

19. Ward Cleaner, Window Cleaner -

1st year of service	354.00
2nd year of service	357.60
3rd year of service	361.50
4th year of service and thereafter	364.60

20. (i) Gardener -

1st year of service	366.30
2nd year of service	370.00
3rd year of service	373.50
4th year of service and thereafter	376.30

(ii) Gardener-in-Charge -

1st year of service	381.10
2nd year of service	384.80
3rd year of service	393.50
4th year of service and thereafter	396.30

21. Kitchen Hand -

1st year of service	354.00
2nd year of service	357.60
3rd year of service	361.50
4th year of service and thereafter	364.60

22. Storeman -

1st year of service	374.40
2nd year of service	377.90
3rd year of service	381.60
4th year of service and thereafter	384.60

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23. Cooks - (Qualified)	
(a) Cook (as defined)	
1st year of service	432.80
2nd year of service	438.60
3rd year of service	444.30
4th year of service	454.90
5th year of service and thereafter	461.30
(b) Cook in Charge of 1 - 4 Cooks	
1st year of service	471.90
2nd year of service and thereafter	477.70
(c) Cook in Charge of more than 4 Cooks	484.90
24. Cook - (Unqualified) -	417.20
25. General Repairs or Handyman -	
1st year of service	376.70
2nd year of service	380.60
3rd year of service	384.20
4th year of service and thereafter	386.90
26. Wardsmaid, Kitchenmaid, Theatremaid, Waitress and Housemaid -	
1st year of service	354.00
2nd year of service	357.50
3rd year of service	361.50
4th year of service and thereafter	364.60
27. Head Waitress -	
1st year of service	365.60
2nd year of service and thereafter	368.60
28. Laundryhand, Washing Machine Hand, Linen Sorter -	
1st year of service	355.90
2nd year of service	359.60
3rd year of service	363.10
4th year of service and thereafter	366.30
29. Laundryhand-in-Charge	
1st year of service	368.20
2nd year of service and thereafter	371.20

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30. Hospital Aide -

1st year of service	360.70
2nd year of service	364.60
3rd year of service	368.20
4th year of service and thereafter	371.20

31. Nursing Assistant (when engaged in an Aged Person's Home or a Geriatric Wing of a Private Hospital) -

1st year of service	370.80
2nd year of service	376.60
3rd year of service	382.70
4th year of service and thereafter	393.90

31A. Domestic Co-ordinator (St Vincents)

1st year of service	532.00
2nd year of service and thereafter	576.60

32. Domestic Supervisor or Housekeeper -

1st year of service	396.10
2nd year of service and thereafter	401.00

33. Assistant Domestic Supervisor or Housekeeper -

1st year of service	380.00
2nd year of service and thereafter	384.70

34. Dressmaker-in-Charge -

1st year of service	383.40
2nd year of service	387.00
3rd year of service and thereafter	390.00

35. Dressmaker -

1st year of service	369.40
2nd year of service	373.00
3rd year of service	376.80
4th year of service and thereafter	379.60

PROVIDED ALWAYS that in addition to the above salary a dressmaker with formal qualifications equivalent to a 2 year part-time Technical College Certificate, or qualifications deemed equivalent by the controlling authority shall be paid a qualification allowance at the rate of \$204 per annum. The foregoing rate shall not be subject to premium or penalty addition.

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36. Machinist Seamstress -

1st year of service	357.90
2nd year of service	361.90
3rd year of service	365.60
4th year of service and thereafter	368.60

37. Therapy Assistant -

1st year of service	374.20
2nd year of service	379.00
3rd year of service	396.10
4th year of service	400.90

PROVIDED THAT this classification shall be restricted to an employee carrying out treatment programmes established by a qualified Physiotherapist, Occupational Therapist or Speech Pathologist.

38. Apprentices

The salary rate for apprentices shall be -

	Percentage of First Year of Service of the relevant Tradesman's Rate Four-year term %
First year of apprenticeship	44.5
Second year of apprenticeship	57.5
Third year of apprenticeship	75.0
Fourth year of apprenticeship	88.0

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SUBDIVISION 2 - EXECUTIVE STAFF

The provisions of this section shall apply to employees mentioned and defined in the subclause titled "For the purposes of Division A" of Clause 7 - Definitions.

	AMOUNT PER WEEK OF 37 1/2 HOURS \$
Secretary	
(a) St. Johns and Calvary	
1st year of service	726.90
2nd year of service and thereafter	742.20
(b) St. Lukes	
1st year of service	619.90
2nd year of service	630.80
3rd year of service and thereafter	644.90
(c) Other Hospitals	
1st year of service	499.80
2nd year of service and thereafter	513.00
(d) Accountant St. Johns (present occupant only)	
1st year of service	577.90
2nd year of service	592.10
3rd year of service and thereafter	605.80
(e) Administrative Officer, St. Helen's Hospital (occupant as at 15.3.1983)	605.80

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2. WAGE RATES JUNIORS

Junior workers not elsewhere provided for shall be paid the following amounts as wages: -

	% OF WAGE RATE FOR CLERK-ADULT 1ST YEAR OF SERVICE HEREIN	AMOUNT PER WEEK OF 37 1/2 HOURS \$
(a) Clerks, Typists, Stenographers -		
Under 17 years of age	53	192.60
17 to 18 years of age	61	221.70
18 to 19 years of age	71	258.00
19 to 20 years of age	81	294.40
20 to 21 years of age	90	327.10

(b) Domestic and other juniors not elsewhere provided for -

	% OF WAGE RATE FOR WARDSMAID ETC 1ST YR OF SERVICE HEREIN	AMOUNT PER WEEK \$
Under 17 years of age	52	184.10
17 to 18 years of age	61	215.90
18 to 19 years of age	72	254.90
19 to 20 years of age	83	293.80
20 to 21 years of age	91	322.10

PROVIDED ALWAYS that a junior employee paid under this item shall not receive less than:

57.5% at 18 years
75% at 19 years
88% at 20 years

of the first increment of the classification range which would be appropriate to an adult performing the same type of work.

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3. MEAL CHARGES

The maximum amount that shall be charged or deducted where an employee receives a meal from his/her employer shall be: -

Lunch or Evening Meal	Rate Per Meal
Two or three courses	\$2.90
Single hot or cold main course	\$2.30
Single (other) course i.e. soup or sweet	\$2.10
All breakfasts	\$2.10

PROVIDED ALWAYS that -

- (i) A minimum charge of \$2.10 applies for each meal taken.
- (ii) In each case where a one, two or three course meal is ordered and charged for as above, no extra charge is to be levied for either beverages, toast, bread, butter or condiments.

4. TOOL ALLOWANCE

In addition to the wage rates prescribed in subclause 1 of this division the undermentioned classifications shall be paid the following tool allowance per week –

	\$
Carpenter	7.60
Painter	6.20
Fitter	6.20
Electrical Mechanic	6.20

PROVIDED THAT -

- (i) the employer shall provide a person employed as either an electrical mechanic or maintenance fitter with all hand, power or special tools necessary for the proper performance of such employee's duties.
- (ii) where an employer does not supply either an electrical mechanic or maintenance fitter with hand tools or where an employee is required to provide his own tools for use in the service of his/her employer he shall be paid a tool allowance in accordance with the above rates.

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5. REMOTE CALL ALLOWANCE

The amount to be paid under the conditions prescribed in Clause 40 - Remote Call is 82.60 cents per hour.

6. WAGE RATES - TRAINEE CLERKS (AS DEFINED)

The minimum weekly wage rate payable to a Trainee Clerk (as defined) shall be determined by the following method of calculation: -

By taking the appropriate wage rate for a junior clerk as prescribed in Clause 8, Division A, subclause 2, classification (a) of this award then multiplying it by 39 (which represents the actual number of weeks spent on the job) and dividing it by 52.

PROVIDED that the wage determined by this calculation shall in no case be less than the minimum rate (as varied from time to time) prescribed by the Australian Traineeship System Guidelines.

PROVIDED ALWAYS that the Trainee Clerk (as defined) wage rate shall be calculated in multiples of ten cents with any result of 5 cents or more being taken to the next ten cents.

9. ACCOMMODATION AND OTHER REQUIREMENTS

- (a) Suitable healthy accommodation shall be provided for employees, and where practicable single bedrooms.
- (b) Linen, cutlery, crockery, and blankets shall be provided by the employer free of cost to the employee.
- (c) Dressing rooms, luncheon rooms, and conveniences shall be provided for all non-resident employees. Proper, suitable, comfortable and healthy accommodation shall be provided for all resident employees.

10. ANCILLARY AND CLERICAL STAFF (AS DEFINED) SPECIAL CONDITIONS

- (a) Probation

All other things being equal, all employees who have completed 3 months' service shall have preference over casual employees in a claim to any position.

- (b) Promotion

Promotion shall be by merit provided that no employee with a claim to seniority shall be passed over without having his/her claim investigated or adjusted.

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(c) Aged and Infirm Workers

Where an aged or infirm worker is unable to earn the minimum rates of wages prescribed by this award for the particular class of work which he/she has been offered, a lower rate may be fixed and paid under licence granted by the Secretary for Labour under Section 79 of the Industrial Relations Act 1984.

(d) Foul or Nauseous Linen

Employees of the laundry staff who are required to handle unusually foul or nauseous linen as defined by an officer or employee nominated by the employer shall be paid an amount of \$7.40 per week extra.

Part-time employees shall be paid 1/38th of the weekly allowance when so engaged for each hour worked.

(e) Calculation of Service

In calculating the number of year's service of an employee in order to ascertain the rate of wages to which such employee will be entitled the total experience in the capacity in question shall be taken.

11. ANNUAL LEAVE

(a) Period of Leave

(i) Day Workers

Subject to the provisions of Clauses 15 - Casual Employees and 36 - Part-time Employees hereof, a period of 152 hours leave in the case of the 38 hour week employees and 150 hours leave in the case of 37 1/2 hour week employees to be taken in a period of 28 consecutive days, shall be allowed annually to an employee after 12 months' continuous service (less the period of annual leave).

(ii) Shift Workers

In addition to the leave hereinbefore prescribed, shift workers (as defined) shall be allowed 38 hours leave, to be taken in a period of 7 consecutive days' leave including non-working days.

Where an employee with 12 months' continuous service is engaged for part of the 12 monthly period as a shift worker, he/she shall be entitled to have the period of annual leave hereinbefore prescribed increased by 7.6 hours for each two months he/she is continuously engaged as aforesaid.

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(iii) Part-Time Employees

Part-time employees (excluding employees who attract the 20% loading) shall be entitled to annual leave based on the number of ordinary hours worked in the leave year.

The leave entitlement shall be calculated as follows:

$$\frac{\text{Part-Time Hours worked p.a.} \\ \text{(including any period of annual leave)}}{\text{Full-time Hours p.a.}} \times \frac{\text{Full-Time Leave entitlement}}{1} =$$

(iv) Executive Staff

Executive staff (as defined) shall receive 5 weeks' annual leave in cases where such staff are required in the normal course of their duties to attend meetings of the controlling body or its subcommittees outside of their normal working hours. In all other cases annual leave entitlement shall be 4 weeks per annum.

(v) Acting Executive Staff

Where during a period of time staff are acting in an executive position which requires their attendance at meetings of the controlling body or its subcommittees outside of their normal working hours they shall be entitled to an additional one week's leave on a pro rata basis.

(b) Annual Leave Exclusive of Public Holidays

Subject to this subclause the annual leave prescribed by this clause shall be exclusive of any of the holidays prescribed by Clause 26 - Holidays, and if any such holiday falls within an employee's period of annual leave and is observed on a day which in the case of that employee would have been an ordinary working day there shall be added to the period of annual leave time equivalent to the ordinary time which the employee would have worked if such day had not been a holiday.

Notwithstanding the foregoing provisions, a shift worker (including a part-time shift worker) shall have added to his/her period of annual leave one day for each statutory holiday mentioned in Clause 26 - Holidays, whether or not such holiday is observed on a day which, for that employee would have been a rostered day off.

This shall not apply to a statutory holiday which is observed on a Saturday or on a Sunday.

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Notwithstanding any other of the foregoing provisions, a part-time shift worker whose place upon a roster does not rotate (by agreement between the relevant parties and persons bound by this award and the employees concerned) shall only have his/her period of annual leave extended by the addition of one day for each statutory holiday mentioned in Clause 26 - Holidays hereof upon which he/she is rostered to work.

This shall not apply in respect to a statutory holiday which is observed on a Saturday or a Sunday.

(c) Broken Leave

Leave allowed under the provisions of this clause shall be given and taken in not more than 2 separate periods unless the employer and the employee otherwise agree.

(d) Time of Taking Leave

Annual leave shall be given at a time fixed by the employer within a period not exceeding 6 months from the date when the right to annual leave accrued and after not less than 2 weeks' notice to the employee.

(e) Payment in Lieu Prohibited

Except as provided in subclause (g) payment shall not be made or accepted in lieu of annual leave.

(f) Payment for Period of Leave

Each employee before going on leave shall be paid the amount of wages he/she would have received in respect of the ordinary time which he would have worked had he/she not been on leave during the relevant period and no deduction shall be made for board and lodging.

Payment calculated in accordance with the provisions of this clause should be made for the full weeks of leave taken at the time, unless otherwise specified by the employee.

Payment shall be made not later than 12 noon on the last day of work prior to going on leave.

(g) Proportionate Leave on Ending Service

If after one month of continuous service in respect of weekly employees in any qualifying 12 monthly period an employee lawfully leaves his/her employment or his/her employment is terminated by the employer through no fault of the employee, the employee shall be paid at his/her ordinary rate of wages as follows:

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- (i) Day workers - 12.67 hours for each completed month of continuous service.
- (ii) Shift workers - 15.83 hours for each completed month of continuous service in addition to such entitlements established under the provisions of subclause (b) hereof.
- (iii) Part-time employees

- Shift workers - 9.6% of the normal hours worked in each completed month of continuous service in addition to such entitlements established under the provisions of subclause (b) hereof.

- Day workers - 7.7% of the normal hours worked in each completed month of continuous service.

Service shall be deemed to be continuous if the employee was engaged as a part-time employee (as defined) during the relevant period.

(h) Annual Leave Allowance

During a period of annual leave an employee shall be paid an allowance by way of additional salary calculated on the wages prescribed for the relevant classification in Clause 8, Division A, subclause 1, as follows:

Day Worker: an employee who during the period of such recreation leave would have worked on day work only - an allowance calculated at the rate of 17 1/2% of his/her normal salary plus, where applicable, any higher duty allowance or all purpose payment payable to the employee concerned.

Shift Worker: an employee who but for the period of recreation leave would have worked shift work - an allowance calculated at the rate of 17 1/2% of his/her normal salary plus, where applicable, any higher duty allowance or all purpose payment payable to the employee concerned provided that an employee who would have received shift payments as prescribed by Clause 43 - Shift Work, had he/she not been on recreation leave during the relevant period, and such shift payment would have entitled him/her to a greater monetary amount than an allowance of 17 1/2% of his/her normal salary, then his/her recreation leave allowance shall be calculated as an amount equivalent to the shift payment he/she would have received in accordance with his/her projected shift roster.

PROVIDED ALWAYS that such allowance shall:

- (i) be calculated on the basis of a maximum period in any one leave year of 4 weeks' recreation leave in the case of a day worker and 5 weeks' recreation leave in the case of a shift worker;

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- (ii) not apply to proportionate recreation leave accrued by an employee in the leave year of the year of termination of service where such employee voluntarily resigns or whose services are terminated for disciplinary or other good reason.

(i) 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.

(j) Employer Instigated Cancellation of Leave

- (i) If, as a consequence of an employer instigated cancellation of approved annual leave (whether agreed or otherwise by the employee, and irrespective of when such cancellation notification is given) an employee incurs a monetary loss directly associated with pre-established annual leave holiday arrangements, and such loss is deemed to be unrecoverable, the employee shall be entitled to recover such otherwise unrecoverable costs from the employer.

PROVIDED THAT such claims must be verified by the production of receipts or other form of documentation indicating the prior expenditure incurred associated with pre-holiday arrangements. This information is to be accompanied by written notification, from the person or organisation with whom or which the payment was made, stating the amount which is not recoverable.

PROVIDED FURTHER that the employer shall only be liable to pay that portion of the payment declared unrecoverable, which is not subject to an insurance claim or payment.

- (ii) An employee who, during a period of annual leave, responds to an employer instigated request to return to work during such a period of annual leave shall be entitled to redeem from the employer any travel and other associated costs incurred in returning to work and the subsequent resumption of annual leave. Such costs are deemed to be those in excess of costs normally incurred by the employee in travelling daily to and from work.

The reimbursement of costs associated with the resumption of annual leave would only apply when the period of leave was deemed to be continuous, save only for the interruption occasioned by the return to work.

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Claims for reimbursement of travel and other associated costs must be accompanied by receipts and any other form of documentation which would be appropriate to the circumstances of the claim.

- (iii) An employee, on returning to work in response to an employer instigated request, shall be recredited with one day's annual leave for each day or part thereof the employee is deemed to be at work. The employee shall be entitled to observe such additional recredited day or days in addition to that unused portion of approved annual leave (which the employee would have observed but for the interruption occasioned by his return to work) immediately upon the expiration of the period of duty for which the employer recalled the employee.

Provided that an employee may elect to take the balance of unused leave and recredited days at a later date.

12. APPRENTICES

- (a) Except where otherwise specifically determined by this award the terms and conditions of the employment of apprentices in respect of period of indenture, form and effect of indenture, assignment of indenture, cancellation of, and determination of disputes in relation to indentures, proportionate number of apprentices to journeymen employed, preparatory education and trade experience for such course in each trade, attendance of apprentices at compulsory classes and time off for attendance thereat, payment for examinations passed, and disciplinary measures, shall be in accordance with the provisions of the Industrial and Commercial Training Act 1985 and the regulations made thereunder.
- (b) The ordinary hours of employment of apprentices shall not in any case exceed those of a journeyman.
- (c) No apprentice under the age of 18 years shall be required to work overtime or shift work unless he/she so desires. No apprentice shall, except in any emergency, work or be required to work overtime or shift work at times which would prevent his/her attendance at any course of instruction as required by the Industrial and Commercial Training Act 1985 and the regulations made thereunder.
- (d) Apprentices attending technical colleges or schools and presenting reports of satisfactory conduct shall be reimbursed all fees paid by them.

13. BREAKAGES

Except in the case of proved carelessness, an employee shall not be required to pay for any breakages occurring in the ordinary course of his/her specified duties.

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14. CALL BACK

Except where otherwise specifically provided an employee recalled to work overtime after leaving his/her employer's premises (whether notified before or after leaving such premises) shall be paid at the appropriate overtime rate applicable to his/her salary:

- (i) for the first recall a minimum payment of 4 hours work; and
- (ii) for each subsequent recall a minimum payment of 3 hours work.

PROVIDED ALWAYS that time reasonably spent in getting to and from work shall be regarded as time worked.

PROVIDED FURTHER that an employee who is recalled to work within two hours of his or her normal starting time shall be paid at overtime rates with a minimum payment of two hours at double time.

15. CASUAL EMPLOYEES

A casual employee (as defined) for working ordinary time shall be paid per hour 1/38th of the weekly rates prescribed for the work he/she performs plus 20%; such additional amount to be payment in lieu of annual leave, sick leave and public holidays.

Casual employees' terms of engagement shall be by the hour and they shall be provided with a minimum of 2 hours work or, alternatively, paid for a minimum of 2 hours on each occasion they are required to attend for work. However, where work practices are such that it is inappropriate to apply the conditions stipulated by this provision, such conditions may be varied by mutual agreement between the employees, the relevant employee organisation and the employer.

16. CLIMATIC AND OR ISOLATION ALLOWANCES

Employees who are employed in the municipalities of Queenstown, Strahan or Zeehan shall be paid an allowance as provided for similar employees employed in public hospitals.

17. CLOSE CALL

- (a) An employee may be required by the employer to remain on 'close' call (that is on call for duty and not allowed to leave the precincts).
- (b) An employee held on close call shall:
 - (i) if not required to commence work be paid a minimum payment equivalent to 6 hours at his/her normal salary; or

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- (ii) if required to commence work be paid in accordance with the appropriate overtime rate. Provided that such payment shall be at least equivalent to the minimum payment set forth in Clause 14 - Call Back.

18. COMPASSIONATE LEAVE

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

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

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

19. CONSULTATIVE PROCEDURES

The parties to this award are committed to co-operating positively to increase the efficiency, productivity and competitiveness of the industries and establishments covered by Clause 2 - Scope and to enhance the career opportunities and job security of employees in these industries and establishments.

At each enterprise or establishment, the employer, the employees and the relevant union or unions, shall establish a consultative mechanism and procedures appropriate to the size, structure and needs of that enterprise or establishment. Measures raised by the employer, employees or union of unions for consideration consistent with the objectives of subclause (a) herein shall be processed through that consultative mechanism and procedures.

20. CONTRACT OF EMPLOYMENT

- (a) Except as hereinafter provided, employment shall be by the fortnight. Any employee not specifically engaged as a casual employee shall be deemed to be employed by the fortnight.
- (b) An employee (other than a casual employee) willing to work, who works for less than a full working fortnight, shall be entitled to a full fortnight's wages.

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- (c) Employment shall be terminated by 2 weeks' notice given by either side or by the payment or forfeiture of 2 weeks' wages, as the case may be. This shall not affect the right of the employer to dismiss an employee for serious misconduct or serious neglect of duty, in which case wages shall be paid up to the time of dismissal only.
- (d) Employees other than those engaged on a part-time or casual basis, shall, notwithstanding anything contained in Section 49 of the Industrial Relations Act 1984, be paid the weekly wage prescribed for a week of 38 hours for each week that he/she is ready, willing and available for work during the hours prescribed herein, and in addition thereto, such overtime and other penalty rates, if any, that may have occurred during the relevant periods.
- (e) An employer shall not, in exercising his/her power of termination in this clause make any distinction, exclusion or preference on the basis of sex, other than a distinction, exclusion or preference based on the inherent requirements of a particular job.
- (f) An employer may direct an employee to carry out such duties as one within the limits of an employee's skill, competence and training consistent with the classification structure of the award.
- (g) This provision should not deny such employee any award entitlement which might be applicable for performing work at a higher classification; nor should the provision enable the employer to pay an employee at a rate lower than the substantive classification for performing work of a lower classification.

21. DEDUCTION OF UNION SUBSCRIPTIONS

The employer, on receipt of an authority from the employee shall deduct union subscriptions quarterly in advance from the wages of that employee and forward the amount deducted to the office of the appropriate registered employee organization.

22. EMPLOYEE HANDLING CASH

An employee other than a person classified as a senior clerk or executive staff (as defined) who in the performance of his/her duties is required to handle cash shall receive a cash handling allowance based on the following criteria:

exceeding \$20 per week, but not exceeding \$100 per week
- 50 cents per week;

exceeding \$100 per week, but not exceeding \$200 per week
- \$1.00 per week;

exceeding \$200 per week, but not exceeding \$600 per week
- \$1.80 per week;

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exceeding \$600 per week, but not exceeding \$1000 per week
- \$2.70 per week;

exceeding \$1000 per week - \$3.60 per week.

PROVIDED THAT this allowance shall not apply where an employee is not held personally responsible for making good any cash shortages.

23. ENTERPRISE FLEXIBILITY

- (a) Notwithstanding anything contained in this award, but subject to the provisions of this clause, an agreement may be entered into between an employer and all or some of the employees engaged by that employer.
- (b) An agreement shall be subject to the following requirements: -
 - (i) The majority of employees affected by the change must genuinely agree to the change.
 - (ii) The agreement taken as a whole shall not confer a lesser benefit to any employee than is available under the award.
 - (iii) The relevant union or unions shall be advised by the employer of the intention to commence discussions with employees on an agreement under this clause.
 - (iv) The relevant union or unions must be a party to the agreement.
 - (v) The relevant union or unions shall not unreasonably oppose any agreement.
- (c) Any enterprise agreement shall be signed by the parties, being the employer and the union or unions, and contains the following: -
 - (i) The term of the agreement.
 - (ii) The parties covered by the agreement.
 - (iii) The classes of employees covered by the agreement.
 - (iv) The means by which a party may retire from the agreement.
 - (v) The means by which the agreement may be varied.
 - (vi) Where appropriate, the means by which any dispute arising in respect to the agreement may be resolved.
- (d) Any agreement which seeks to vary a provision of this award shall be referred to the Tasmanian Industrial Commission.

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24. GRIEVANCE PROCEDURE

The following procedure shall be observed in the resolution of grievances and in the settling of disputes.

- (a) In the event of a grievance or dispute arising, the employee shall attempt to resolve the grievance with his/her immediate supervisor. The accredited union job steward shall be present if requested by either party.
- (b) Should the grievance or dispute not be settled by the discussions referred to in subclause (a), a representative of the union shall discuss the matter in dispute with a representative of the employer.
- (c) If the grievance is still unresolved, the matter should be referred to senior management and the senior local or state union representative.
- (d) Should the foregoing steps fail to satisfactorily resolve the dispute, the matter shall be referred to the Tasmanian Industrial Commission whose decision shall be final and binding on both parties.
- (e) Without prejudice to either party and except where a bona fide safety issue is involved, work shall continue in accordance with the award while matters in dispute between them are being processed in accordance with the preceding procedure.
- (f) Except where a bona fide safety issue is involved, until the grievance is determined work shall continue normally in accordance with the custom and practice existing before the grievance arose while discussions take place. No party shall be prejudiced as to the final settlement by the continuance of work.
- (g) Each employer will formulate policies and practices in accordance with these procedures, which shall be circulated to all employees throughout each hospital or home.

All new employees shall be handed a copy of these procedures on commencement of employment.

25. HIGHER DUTIES ALLOWANCE

- (a) An employee, other than a member of the clerical, technical or executive staff (as defined), engaged continuously for 2 hours or more on duties carrying a higher rate than his/her ordinary classification shall be paid the higher rate for such day or shift. If for less than 2 hours he/she shall be paid the higher rate for the time so worked.
- (b) An employee engaged as clerical, technical or executive staff (as defined) who for a period of 5 consecutive working days or more, performs the duties of an employee with a higher classification, then that employee shall be paid the minimum rate applicable to the higher paid classification.

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26. HOLIDAYS

- (a) All employees, other than shift workers, casual employees and part-time employees engaged to work less than 20 hours per week shall be entitled to the following holidays without deduction from their weekly wages:

Christmas Day, Boxing Day, New Year's Day, Australia Day, Cup Day (half day), Hobart Regatta Day (south of Oatlands), Eight Hours Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Show Day (as defined in Clause 7) and Recreation Day in those districts where Hobart Regatta Day is not observed, or such other day as may be observed in the locality in lieu of any of the aforementioned holidays.

PROVIDED that the half-day Cup Day shall mean one half of any ordinary rostered shift on that day.

- (b) Payment for the holidays mentioned in subclause (a) which are taken and not worked, shall be at the normal rate of pay which would have applied to the employee concerned, when if it were not for such holiday, he/she had been at work.
- (c) Where an employee who is entitled to holidays in accordance with subclause (a) is required to work on any of the holidays mentioned in that subclause, either for part or the whole of such day he/she shall in the case of a shift worker be paid at the rate prescribed in Clause 43 - Shift Work, and in the case of a day worker be paid at the overtime rate prescribed in Clause 35 - Overtime.
- (d) An employee required to work on any of the holidays mentioned in subclause (a), where such holiday applies at his/her normal place of work but because his/her duties require the employee to work at a place where the holiday does not apply, shall have the time in lieu of such holiday added to his/her annual leave entitlement.

27. HOURS

- (a) Hours of Work - Day Workers
- (i) The ordinary hours of work for day work employees shall be 37 1/2 per week for clerical and technical staff and 38 hours per week for all other day work employees to be worked in 5 days Monday to Friday inclusive in continuous periods of 7 1/2 hours and 8 hours per day respectively except for a meal break of not more than one hour's duration to be taken between 7.00 a.m. and 7.00 p.m. on such days.

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PROVIDED ALWAYS that the spread of hours or daily hours prescribed may be altered as to all or a section of the employees by mutual agreement between the employer, the employees and the branch secretary of the union in the area concerned.

PROVIDED FURTHER that work performed by day workers other than by agreement as prescribed above prior to 7.00 a.m. and after 7.00 p.m. shall be paid for at overtime rates but shall be deemed, for the purposes of this subclause, to be part of the employees ordinary hours of work where his/her ordinary hours of work within the period 7.00 a.m. to 7.00 p.m. in any week, have been less than 37 1/2 or 38 whichever is applicable.

- (ii) Part-time employees engaged to work in a day work situation but outside the spread of hours specified in paragraph (i) hereof shall receive penalty rates as follows:

Monday to Saturday - time and one half for the first two hours, double time thereafter;

Sunday - double time;

public holidays - double time and a half.

PROVIDED ALWAYS that this paragraph shall not apply to positions in existence as at 14 June 1984 where the employee(s) involved had, prior to that date, been paid as shift workers and to such additional positions as may be agreed between a hospital board and the appropriate union(s).

- (b) Hours - Shift Workers

The ordinary hours of shift workers shall not exceed:

8 in any one day; nor
48 in any one week; nor
88 in any 14 consecutive days; nor
152 in the 28 day accounting period.

Subject to the following conditions shift workers shall work such time as the employer may require:

- (i) a shift shall consist of not more than 8 hours, inclusive of crib time;
- (ii) except at the regular change-over of shifts an employee shall not be required to work more than one shift in each 24 hours;
- (iii) 25 minutes shall be allowed to shift workers each shift for crib which shall be counted as time worked.

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PROVIDED ALWAYS that subject to mutual agreement between the employer, the employee(s) and the secretary of the appropriate branch, day shift employees shall be allowed to extend their paid 25 minutes' crib time by not more than 35 minutes each day, which excess shall be exclusive of time worked and unpaid.

Part-time shift workers, as defined, shall be entitled to the provisions of this subclause with the following exceptions:

- (i) Hours - the maximum hours in any one fortnight shall be eighty, provided that the maximum hours in 28 consecutive days shall not exceed 152 hours;
 - the maximum hours in any one day shall be eight (except where such hours are worked in accordance with the provisions of paragraph (ii) above).

Any time worked outside of these hours shall be paid at the rate of double time.

- (ii) Meal breaks - the paid meal break prescribed by paragraph (iii) above shall be given to all employees who work in excess of four hours.

(c) Executive Staff (as defined)

Except as provided in Clause 36 - Part-time Employees, the ordinary hours of work shall be 37 1/2 per week, to be worked at such times as may be mutually arranged between the employer and the employee concerned.

Where no assistant secretary or accountant is employed a secretary may be paid an allowance in lieu of overtime where he/she is required to perform additional duties which, in the opinion of the employer, would entitle such officer to be paid an allowance for same.

28. IMPLEMENTATION OF THE 38-HOUR WEEK

(a) Method of Implementation

- (i) Employers will endeavour to implement the 38-hour week in the form of one paid day off in every two consecutive fortnightly pay periods (i.e. the 19-day month).
- (ii) However, where an employer encounters operational difficulties in implementation of the 19-day month, discussion may take place with the union on an alternative method of introduction. In the event of disagreement, the matter shall be referred to the Tasmanian Industrial Commission whose decision shall be final and binding. The onus in those proceedings is on the employer to prove the 19-day month creates operational difficulties.

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(iii) The accrued day off shall be rostered to fall on a day of the week other than a Saturday or Sunday. The employer will endeavour to ensure that the accrued day off is rostered to fall either the day immediately before or immediately after rostered days off.

(b) Calculation of Allowances

In the calculation of overtime rates, afternoon and night shift allowances and the additional rates for work on Saturdays, Sundays and Public Holidays, the hourly rate shall be calculated at 1/38th of the weekly rate.

(c) Absences on Leave Without Pay

As no paid employment existed, 24 minutes for each day of absence should be deducted from the accrued day off.

(d) Absence on Public Holidays and Compassionate Leave

Days of paid absence on public holidays and compassionate leave shall count toward the accrued day off on full pay.

(e) Public Holidays

(i) Where an accrued day off falls on a public holiday, a substituted accrued day off should be taken as soon as possible.

(ii) Public holidays taken accrue towards an accrued day off.

29. LICENCE ALLOWANCE

An employee directed by the employer to drive vehicles requiring a licence issued by the Transport Commission, shall upon presentation of his/her current licence to the employer, be reimbursed the cost of the driver's licence fee.

This provision shall not apply to employees who drive on an occasional basis only.

30. LIFTING OF PATIENTS

No employee shall be required or permitted to lift or carry by hand any patient who is unable to provide reasonable assistance and weighs over 25 kg without the assistance of another person.

PROVIDED THAT where any patient, who is unable to provide reasonable assistance, weighs over 76 kg, no employee who is of the opinion that additional assistance is necessary shall be required or permitted to lift or carry by hand such patient without the assistance of 2 other persons.

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The expression 'lift' shall include the following:

- (a) raising a patient in bed;
- (b) raising or moving a patient who has fallen;
- (c) removing a patient from a bed to a chair, wheelchair, commode, trolley, bath or other conveyance or receptacle;
- (d) removing a patient from a chair, wheelchair, commode, trolley, bath or other conveyance or receptacle to a bed or other place.

31. MEALS

- (a) Meal Times - Day Workers Only

Time not exceeding one hour and not less than 45 minutes shall be allowed for each meal.

- (b) Meal Allowance

Where the duties of an employee require him/her to travel from his/her headquarters, and he/she is more than 10 miles or 16 kilometres therefrom at his/her normal meal hour, that employee shall, subject to this paragraph be paid:

- (i) In the case of a meal purchased by the employee at any hotel, boarding house, or public eating place, a meal allowance at the following rates:

Meal	Rate of Allowance \$
Breakfast	5.80
Lunch (or midday meal)	6.40
Dinner (or evening meal)	11.30

- (ii) In the case of a meal provided by the employee a meal allowance of \$1.90 for each meal so provided.
- (iii) These rates shall be adjusted from time to time in accordance with the General Conditions of Service Award.

- (c) Work During Meal Break

Subject to existing customs and practices a day worker who is directed to work during his/her recognized meal break shall, for all work performed during such period and thereafter until a meal break is allowed, be paid at the rate of time and a half of his/her normal salary rate.

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32. NOTICE BOARD

The employer shall provide a notice board of reasonable dimensions to be erected in a prominent position in his/her establishment upon which accredited union representatives shall be permitted to post formal union notices, signed or counter-signed by the representative posting same.

33. OCCUPATIONAL SUPERANNUATION

1. DEFINITIONS

For the purpose of this clause: -

- (i) **'Fund'** means the Health Employees Superannuation Trust Australia (HESTA) or any other superannuation scheme agreed to after consultation between the unions and the Tasmanian Confederation of Industries that conforms to the Commonwealth Government's operational standards for Occupational Superannuation.
- (ii) **'Employer'** means a health establishment within the scope of this award.
- (iii) **'Eligible Employee'** means a person engaged on a full-time or part-time basis who has completed four consecutive weeks of time worked from the date of engagement in any period of employment but does not include an 'intermittent employee' (as defined).
- (iv) **'Contractor'** means an organisation which provides services within the premises of an 'employer' (as defined).
- (v) **'Intermittent Employee'** means an employee engaged on a casual basis or an employee engaged on a recurring basis in relieving work who does not complete four consecutive weeks of time worked from the date of engagement in any period of employment.
- (vi) **'Ordinary Pay'** means the ordinary weekly remuneration including shift penalties for rostered work, prior to any deduction for board and lodging, but excluding overtime, annual leave loading, annual leave and/or long service leave payments on termination of employment, uniform allowances and any allowance not paid on a permanent all purpose basis.

2. CONTRIBUTIONS

- (i) The employer or contractor as the case may be shall, subject to the provisions of this clause, pay at least monthly to the Trustee of the Fund on behalf of each eligible employee a contribution calculated at the rate of 3% of such employee's ordinary pay for the preceding month.

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- (ii) The contribution payable under paragraph (i) hereof shall apply from 1 April 1989 or from the date on which an employee becomes an eligible employee, whichever is the later.
- (iii) Contributions for intermittent employees shall be made in accordance with paragraph (vii) hereof.
- (iv) An employer shall not be required to contribute in respect to any contractors' employees.
- (v) A contractor subject to another award of this Commission or the Australian Industrial Relations Commission that is required by such an award to make contributions in respect of its employees to another occupational superannuation fund, shall not be required to make contributions as herein provided.
- (vi) An employer or a contractor shall not be required to make a contribution for: -
 - (a) any period of unpaid leave including leave without pay and unpaid absences due to maternity or sick leave or for any period for which an entitlement to workers' compensation is claimed but for which no payment is made.
 - (b) any period of unauthorised absence for which the employee is not paid.
- (vii) An employer or a contractor shall not be required to make any contributions in respect of an eligible employee who is engaged for less than 10 hours in each week.

Provided that an eligible employee for whom monthly contributions are not made in accordance with paragraph (i) hereof, or an intermittent employee whose aggregated gross ordinary pay (as defined) calculated to 30 June each year exceeds \$3500 (to be adjusted on the 1st July each year by the percentage movement in ABS - Average Weekly Earnings for the preceding twelve months), shall be eligible for a contribution of 3% of such aggregated pay. Such contribution shall be paid to the Trustee of the Fund by the employer or contractor as the case may be prior to 31 August that year.
- (viii) Entitlements to the provisions for death and disablement (in respect of superannuation) are limited, in all circumstances, to those provided for by the terms of the Fund and no liability shall accrue to an employer or contractor in respect of such provisions where the employer or contractor has satisfied the provisions of this clause.
- (ix) Where an employee covered by this award fails to complete or refuses to complete the documentation necessary to join the Fund, the employer shall: -

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- (a) inform the employee of the Commission's decision dated 27 February 1989 in Matters T1009 and 1010 of 1987 and T1445, 1469, 1470, 1527 and 1597 of 1988; and
- (b) provide to the employee a copy of a pro forma "Application for Membership" of the Fund.

In the event that the employee still refuses to join the Fund, the employer shall advise the Tasmanian Confederation of Industries and the employee's union for referral of the matter to the monitoring committee established in accordance with subclause 3. of this clause.

Provided that where the above procedures are observed the employer shall not be deemed to be in breach of the award by virtue of the fact that no contributions have been made on behalf of the employee. However, following consideration of the matter by the monitoring committee and subject to any decision made by the committee, where an employee fails to complete or refuses to complete the documentation necessary to join the Fund the employer shall contribute for the employee to the Fund in accordance with the provisions of this clause.

3. MONITORING

- (i) The parties to the award shall establish a monitoring committee for the purposes of monitoring the implementation of superannuation. The Committee shall consider any matter raised in respect of this clause.
- (ii) The first review shall take place on 1 July 1990 and every 12 months thereafter.
- (iii) Where agreement cannot be reached the matter will be referred to the Tasmanian Industrial Commission.

34. OVERTIME - DAY WORKERS

- (a) The employer may require any employee to work reasonable overtime at overtime rates, and such employee shall work overtime in accordance with such requirement. No overtime shall be worked without the prior approval of the employer.
- (b) For all time worked in excess of the ordinary hours of work the following payments shall be made:
 - (i) Monday to Friday inclusive - time and a half for the first 2 hours and double time thereafter;
 - (ii) Saturday - time and a half for the first 2 hours and double time thereafter;
 - (iii) Sunday - double time;

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(iv) public holidays - double time and one half.

PROVIDED ALWAYS that an employee who holds a position which regularly requires him/her to work on public holidays shall, where mutually agreeable, be paid, in addition to any paid time off in lieu granted by the employer concerned, at the rate of time and a half of his/her ordinary rate for the first 8 hours worked during his/her normal spread of hours, and thereafter in accordance with the overtime rate set forth in subclause (b) hereof. Provided that no employee shall receive in the aggregate more than the equivalent double time and a half of his/her ordinary rate.

- (c) Unless the period of overtime is one and a half hours or less, an employee before starting overtime shall be allowed a meal break of 20 minutes which shall be paid for at ordinary rates. An employer and an employee may agree to any variation of this provision to meet the circumstances of the work in hand provided that no employee shall be required to work more than 5 hours without a break for a meal.
- (d) An employee required to work for more than 2 hours without being notified on the previous day or earlier that he/she will be so required shall either be supplied with a meal by the employer or paid \$5.00 in lieu thereof.
- (e) No organization of employees shall in any way directly or indirectly be a party to or be concerned in any ban, limitation, or restriction on the working of overtime as prescribed by this clause.
- (f) The calculation of the overtime penalty prescribed in subclause (b) hereof in the case of an employee in receipt of a loading in lieu of sick leave, annual leave and public holidays shall be based upon the relevant award rate (as defined).

PROVIDED that where there is agreement between the employer and the employee, time off in lieu of overtime may be taken at the penalty rate equivalent.

PROVIDED FURTHER that such agreement involves the employee indicating that he/she has had an opportunity to consult with a relevant union official.

PROVIDED ALWAYS that such agreement may be discontinued by mutual consent of both parties or at the request of one such party.

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35. 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.

PART A - MATERNITY LEAVE

(a) Nature of Leave

Maternity leave is unpaid leave.

(b) Definitions

For the purpose of this part:

'Employee' includes a part-time employee but does not include an employee engaged upon casual or seasonal work.

'Paternity leave' means leave of the type provided for in Part B - Paternity Leave.

'Child' means a child of the employee under the age of one year.

'Spouse' includes a de facto or a former spouse.

'Continuous service' means service under an unbroken contract of employment and includes:

- (i) any period of leave taken in accordance with this clause;
- (ii) any period of part-time employment worked in accordance with this clause; or
- (iii) any period of leave or absence authorised by the employer or by the award.

(c) Eligibility for Maternity Leave

- (i) An employee who becomes pregnant, upon production to her employer of the certificate required by subclause (d) hereof, shall be entitled to a period of up to 52 weeks maternity leave provided that such leave shall not extend beyond the child's first birthday. This entitlement shall be reduced by any period of paternity leave taken by the employee's spouse in relation to the same child and apart from paternity leave of up to one week at the time of confinement shall not be taken concurrently with paternity leave.
- (ii) Subject to subclauses (f) and (i) hereof the period of maternity leave shall be unbroken and shall, immediately following confinement, include a period of six weeks compulsory leave.

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(iii) The employee must have had at least 12 months continuous service with that employer immediately preceding the date upon which she proceeds upon such leave.

(d) Certificate

At the time specified in subclause (e) hereof the employee must produce to her employer:

- (i) a certificate from a registered medical practitioner stating that she is pregnant and the expected date of confinement;
- (ii) a statutory declaration stating particulars of any period of paternity leave sought or taken by her spouse and that for the period of maternity leave she will not engage in any conduct inconsistent with her contract of employment.

(e) Notice Requirements

- (i) An employee shall, not less than ten weeks prior to the presumed date of confinement, produce to her employer the certificate referred to in paragraph (d)(i).
- (ii) An employee shall give not less than four weeks notice in writing to her employer of the date upon which she proposes to commence maternity leave stating the period of leave to be taken and shall, at the same time, produce to her employer the statutory declaration referred to in paragraph (d)(ii).
- (iii) An employer by not less than 14 days notice in writing to the employee may require her to commence maternity leave at any time within the six weeks immediately prior to her presumed date of confinement.
- (iv) An employee shall not be in breach of this clause as a consequence of failure to give the stipulated period of notice in accordance with paragraph (ii) hereof if such failure is occasioned by the confinement occurring earlier than the presumed date.

(f) Transfer to a safe job

Where in the opinion of a registered medical practitioner, illness or risks arising out of the pregnancy or hazards connected with the work assigned to the employee make it inadvisable for the employee to continue at her present work, the employee shall, if the employer deems it practicable, be transferred to a safe job at the rate and on the conditions attaching to that job until the commencement of maternity leave.

If the transfer to a safe job is not practicable, the employee may, or the employer may require the employee to, take leave for such period as is certified necessary by a registered medical practitioner. Such leave shall be treated as maternity leave for the purposes of subclauses (j), (k), (l) and (m) hereof.

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(g) Variation of Period of Maternity Leave

- (i) Provided the maximum period of maternity leave does not exceed the period to which the employee is entitled under subclause (c) hereof:
 - (1) the period of maternity leave may be lengthened once only by the employee giving not less than 14 days' notice in writing stating the period by which the leave is to be lengthened; .
 - (2) The period may be further lengthened by agreement between the employer and the employee.
- (ii) The period of maternity leave may, with the consent of the employer, be shortened by the employee giving not less than 14 days' notice in writing stating the period by which the leave is to be shortened.

(h) Cancellation of Maternity Leave

- (i) Maternity leave, applied for but not commenced, shall be cancelled when the pregnancy of an employee terminates other than by the birth of a living child.
- (ii) Where the pregnancy of an employee then on maternity leave terminates other than by the birth of a living child, it shall be the right of the employee to resume work at a time nominated by the employer which shall not exceed four weeks from the date of notice in writing by the employee to the employer that she desires to resume work.

(i) Special Maternity Leave and Sick Leave

- (i) Where the pregnancy of an employee not then on maternity leave terminates after 28 weeks other than by the birth of a living child then:
 - (1) she shall be entitled to such period of unpaid leave (to be known as special maternity leave) as a registered medical practitioner certifies as necessary before her return to work; or
 - (2) for illness other than the normal consequences of confinement she shall be entitled, either in lieu of or in addition to special maternity leave, to such paid sick leave as to which she is then entitled and which a registered medical practitioner certifies as necessary before her return to work.

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- (ii) Where an employee not then on maternity leave suffers illness related to her pregnancy, she may take such paid sick leave as to which she is then entitled and such further unpaid leave (to be known as special maternity leave) as a registered medical practitioner certifies as necessary before her return to work, provided that the aggregate of paid sick leave, special maternity leave and maternity leave shall not exceed the period to which the employee is entitled under subclause (c) hereof.
- (iii) For the purposes of subclauses (j), (k) and (l) hereof, maternity leave shall include special maternity leave.
- (iv) An employee returning to work after the completion of a period of leave taken pursuant to this subclause shall be entitled to the position which she held immediately before proceeding on such leave or, in the case of an employee who was transferred to a safe job pursuant to subclause (f) hereof, to the position she held immediately before such transfer.

Where such position no longer exists but there are other positions available, which the employee is qualified for and the duties of which she is capable of performing, she shall be entitled to a position as nearly comparable in status and pay to that of her former position.

(j) Maternity Leave and Other Leave Entitlements

- (i) Provided the aggregate of any leave including leave taken under this part, does not exceed the period to which the employee is entitled under subclause (c) hereof, an employee may, in lieu of or in conjunction with maternity leave, take any annual leave or long service leave or any part thereof to which she is entitled.
- (ii) Paid sick leave or other paid authorised award absences (excluding annual leave or long service leave), shall not be available to an employee during her absence on maternity leave.

(k) Effect of Maternity Leave on Employment

Subject to this part, notwithstanding any award or other provision to the contrary, absence on maternity leave shall not break the continuity of service of an employee but shall not be taken into account in calculating the period of service for any purpose of any relevant award or agreement.

(l) Termination of Employment

- (i) An employee on maternity leave may terminate her employment at any time during the period of leave by notice given in accordance with this award.

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- (ii) An employer shall not terminate the employment of an employee on the ground of her pregnancy or of her absence on maternity leave, but otherwise the rights of an employer in relation to termination of employment are not hereby affected.

(m) Return to Work After Maternity Leave

- (i) An employee shall confirm her intention of returning to work by notice in writing to the employer given not less than four weeks prior to the expiration of her period of maternity leave.
- (ii) An employee, upon returning to work after maternity leave or the expiration of the notice required by paragraph (i) hereof, shall be entitled to the position which she held immediately before proceeding on maternity leave or, in the case of an employee who was transferred to a safe job pursuant to subclause (f) hereof, to the position which she held immediately before such transfer or in relation to an employee who has worked part-time during the pregnancy the position she held immediately before commencing such part-time work.

Where such position no longer exists but there are other positions available for which the employee is qualified and the duties of which she is capable of performing, she shall be entitled to a position as nearly comparable in status and pay to that of her former position.

(n) Replacement Employees

- (i) A replacement employee is an employee specifically engaged as a result of an employee proceeding on maternity leave.
- (ii) Before an employer engages a replacement employee the employer shall inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.
- (iii) Before an employer engages a person to replace an employee temporarily promoted or transferred in order to replace an employee exercising her rights under this part, the employer shall inform that person of the temporary nature of the promotion or transfer and of the rights of the employee who is being replaced.
- (iv) Nothing in this part shall be construed as requiring an employer to engage a replacement employee.

PART B - PATERNITY LEAVE

(a) Nature of Leave

Paternity leave is unpaid leave.

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(b) Definitions

For the purpose of this part:

'Employee' includes a part-time employee but does not include an employee engaged upon casual or seasonal work.

'Maternity leave' means leave of the type provided for in Part A - Maternity Leave (and includes special maternity leave).

'Child' means a child of the employee or the employee's spouse under the age of one year.

'Spouse' includes a de facto or a former spouse.

'Primary care-giver' means a person who assumes the principal role of providing care and attention to a child.

'Continuous service' means service under an unbroken contract of employment and includes:

- (i) any period of leave taken in accordance with this clause;
- (ii) any period of part-time employment worked in accordance with this clause; or
- (iii) any period of leave or absence authorised by the employer or by the award.

(c) Eligibility for Paternity Leave

A male employee, upon production to his employer of the certificate required by subclause (d) - Certification shall be entitled to one or two periods of paternity leave, the total of which shall not exceed 52 weeks, in the following circumstances:

- (i) an unbroken period of up to one week at the time of confinement of his spouse;
- (ii) a further unbroken period of up to 51 weeks in order to be the primary care-giver of a child provided that such leave shall not extend beyond the child's first birthday. This entitlement shall be reduced by any period of maternity leave taken by the employee's spouse and shall not be taken concurrently with that maternity leave.

The employee must have had at least 12 months continuous service with that employer immediately preceding the date upon which he proceeds upon either period of leave.

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(d) Certification

At the time specified in subclause (e) the employee must produce to his employer:

- (i) a certificate from a registered medical practitioner which names his spouse, states that she is pregnant and the expected date of confinement or states the date of which the birth took place;
- (ii) in relation to any period to be taken under paragraph (c)(ii) hereof, a statutory declaration stating:
 - (1) he will take that period of paternity leave to become the primary care-giver of the child;
 - (2) particulars of any period of maternity leave sought or taken by his spouse; and
 - (3) for the period of paternity leave he will not engage in any conduct inconsistent with his contract of employment.

(e) Notice Requirements

- (i) The employee shall, not less than ten weeks prior to each proposed period of leave, give the employer notice in writing stating the dates on which he proposes to start and finish the period or periods of leave and produce the certificate and statutory declaration required in subclause (d) hereof.
- (ii) The employee shall not be in breach of this subclause as a consequence of failure to give the notice required in paragraph (i) hereof if such failure is due to:
 - (1) the birth occurring earlier than the expected date; or
 - (2) the death of the mother or the child; or
 - (3) other compelling circumstances.
- (iii) The employee shall immediately notify his employer of any change in the information provided pursuant to subclause (d) hereof.

(f) Variation of Period of Paternity Leave

- (i) Provided the maximum period of paternity leave does not exceed the period to which the employee is entitled under subclause (c) hereof:
 - (1) the period of paternity leave provided by paragraph (c)(ii) may be lengthened once only by the employee giving not less than 14 days notice in writing stating the period by which the leave is to be lengthened;

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(2) the period may be further lengthened by agreement between the employer and the employee.

(ii) The period of paternity leave taken under paragraph (c)(ii) hereof may, with the consent of the employer, be shortened by the employee giving not less than 14 days notice in writing stating the period by which the leave is to be shortened.

(g) Cancellation of Paternity Leave

Paternity leave, applied for under paragraph (c)(ii) hereof but not commenced, shall be cancelled when the pregnancy of the employee's spouse terminates other than by the birth of a living child.

(h) Paternity Leave and Other Leave Entitlements

(i) Provided the aggregate of any leave, including leave taken under this part, does not exceed the period to which the employee is entitled under subclause (c) hereof, an employee may, in lieu of or in conjunction with paternity leave, take any annual leave or long service leave or any part thereof to which he is entitled.

(ii) Paid sick leave or other paid authorised award absences (excluding annual leave or long service leave) shall not be available to an employee during his absence on paternity leave.

(i) Effect of Paternity Leave on Employment

Subject to this part, notwithstanding any award or other provision to the contrary, absence on paternity leave shall not break the continuity of service of an employee but shall not be taken into account in calculating the period of service for any purpose of any relevant award or agreement.

(j) Termination of Employment

(i) An employee on paternity leave may terminate his employment at any time during the period of leave by notice given in accordance with this award.

(ii) An employer shall not terminate the employment of an employee on the ground of his absence on paternity leave, but otherwise the rights of an employer in relation to termination of employment are not hereby affected.

(k) Return to Work after Paternity Leave

(i) An employee shall confirm his intention of returning to work by notice in writing to the employer given not less than four weeks prior to the expiration of the period of paternity leave provided by paragraph (c)(ii) hereof.

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- (ii) An employee, upon returning to work after paternity leave or the expiration of the notice required by paragraph (i) hereof, shall be entitled to the position which he held immediately before proceeding on paternity leave, or in relation to an employee who has worked part-time under this clause to the position he held immediately before commencing such part-time work.

Where such position no longer exists but there are other positions available which the employee is qualified for and is capable of performing, he shall be entitled to a position as nearly comparable in status and pay to that of his former position.

(l) Replacement Employees

- (i) A replacement employee is an employee specifically engaged as a result of an employee proceeding on paternity leave.
- (ii) Before an employer engages a replacement employee the employer shall inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.
- (iii) Before an employer engages a person to replace an employee temporarily promoted or transferred in order to replace an employee exercising his rights under this part, the employer shall inform that person of the temporary nature of the promotion or transfer and of the rights of the employee who is being replaced.
- (iv) Nothing in this part shall be construed as requiring an employer to engage a replacement employee.

PART C - ADOPTION LEAVE

(a) Nature of Leave

Adoption leave is unpaid leave.

(b) Definitions

For the purpose of this part:

'Employee' includes a part-time employee but does not include an employee engaged upon casual or seasonal work.

'Child' means a person under the age of five years who is placed with the employee for the purposes of adoption, other than a child or stepchild of the employee or of the spouse of the employee or a child who has previously lived continuously with the employee for a period of six months or more.

'Relative adoption' occurs where a child, as defined, is adopted by a grandparent, brother, sister, aunt or uncle (whether of the whole blood or half blood or by marriage).

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'Primary care-giver' means a person who assumes the principal role of providing care and attention to a child.

'Spouse' includes a de facto spouse.

'Continuous service' means service under an unbroken contract of employment and includes:

- (i) any period of leave taken in accordance with this clause;
- (ii) any period of part-time employment worked in accordance with this clause, or
- (iii) any period of leave or absence authorised by the employer or by the award.

(c) Eligibility

An employee, upon production to the employer of the documentation required by subclause (d) hereof shall be entitled to one or two periods of adoption leave, the total of which shall not exceed 52 weeks, in the following circumstances:

- (i) an unbroken period of up to three weeks at the time of the placement of the child;
- (ii) an unbroken period of up to 52 weeks from the time of the child's placement in order to be the primary care-giver of the child. This leave shall not extend beyond one year after the placement of the child and shall not be taken concurrently with adoption leave taken by the employee's spouse in relation to the same child. This entitlement of up to 52 weeks shall be reduced by:
 - (1) any period of leave taken pursuant to paragraph (i) hereof; and
 - (2) the aggregate of any periods of adoption leave taken or to be taken by the employee's spouse;

The employee must have had at least 12 months continuous service with that employer immediately preceding the date upon which he or she proceeds upon such leave in either case.

(d) Certification

Before taking adoption leave the employee must produce to the employer:

- (i) (1) A statement from an adoption agency or other appropriate body of the presumed date of placement of the child with the employee for adoption purposes; or

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- (2) a statement from the appropriate government authority confirming that the employee is to have custody of the child pending application for an adoption order.
 - (ii) In relation to any period to be taken under paragraph (c)(ii) hereof, a statutory declaration stating:
 - (1) the employee is seeking adoption leave to become the primary care-giver of the child;
 - (2) particulars of any period of adoption leave sought or taken by the employee's spouse; and
 - (3) for the period of adoption leave the employee will not engage in any conduct inconsistent with his or her contract of employment.
- (e) Notice Requirements
- (i) Upon receiving notice of approval for adoption purposes, an employee shall notify the employer of such approval and within two months of such approval, shall further notify the employer of the period or periods of adoption leave the employee proposes to take. In the case of a relative adoption the employee shall notify as aforesaid upon deciding to take a child into custody pending an application for an adoption order.
 - (ii) An employee who commences employment with an employer after the date of approval for adoption purposes shall notify the employer thereof upon commencing employment and of the period or periods of adoption leave which the employee proposes to take. Provided that such employee shall not be entitled to adoption leave unless the employee has not less than 12 months continuous service with that employer immediately preceding the date upon which he or she proceeds upon such leave.
 - (iii) An employee shall, as soon as the employee is aware of the presumed date of placement of a child for adoption purposes but no later than 14 days before such placement, give notice in writing to the employer of such date, and of the date of the commencement of any period of leave to be taken under paragraph (c)(i) hereof.
 - (iv) An employee shall, ten weeks before the proposed date of commencing any leave to be taken under paragraph (c)(ii) hereof give notice in writing to the employer of the date of commencing leave and the period of leave to be taken.
 - (v) An employee shall not be in breach of this part as a consequence of failure to give the stipulated period of notice in accordance with paragraphs (iii) and (iv) hereof if such failure is occasioned by the requirement of an adoption agency to accept earlier or later placement of a child, the death of the spouse or other compelling circumstances.

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(f) Variation of Period of Adoption Leave

- (i) Provided the maximum period of adoption leave does not exceed the period to which the employee is entitled under subclause (c) hereof:
 - (1) the period of leave taken under paragraph (c)(ii) hereof may be lengthened once only by the employee giving not less than 14 days notice in writing stating the period by which the leave is to be lengthened;
 - (2) the period may be further lengthened by agreement between the employer and employee.
- (ii) The period of adoption leave taken under paragraph (c)(ii) hereof may, with the consent of the employer, be shortened by the employee giving not less than 14 days notice in writing stating the period by which the leave is to be shortened.

(g) Cancellation of Adoption Leave

- (i) Adoption leave, applied for but not commenced, shall be cancelled should the placement of the child not proceed.
- (ii) Where the placement of a child for adoption purposes with an employee then on adoption leave does not proceed or continue, the employee shall notify the employer forthwith and the employer shall nominate a time not exceeding four weeks from receipt of notification for the employee's resumption of work.

(h) Special Leave

The employer shall grant to any employee who is seeking to adopt a child, such unpaid leave not exceeding two days, as is required by the employee to attend any compulsory interviews or examinations as are necessary as part of the adoption procedure. Where paid leave is available to the employee the employer may require the employee to take such leave in lieu of special leave.

(i) Adoption Leave and Other Entitlements

- (i) Provided the aggregate of any leave, including leave taken under this part, does not exceed the period to which the employee is entitled under subclause (c) hereof, an employee may, in lieu of or in conjunction with adoption leave, take any annual leave or long service leave or any part thereof to which he or she is entitled.
- (ii) Paid sick leave or other paid authorised award absences (excluding annual leave or long service leave), shall not be available to an employee during the employee's absence on adoption leave.

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(j) Effect of Adoption Leave on Employment

Subject to this part, notwithstanding any award or other provision to the contrary, absence on adoption leave shall not break the continuity of service of an employee but shall not be taken into account in calculating the period of service for any purpose of any relevant award or agreement.

(k) Termination of Employment

- (i) An employee on adoption leave may terminate the employment at any time during the period of leave by notice given in accordance with this award.
- (ii) An employer shall not terminate the employment of an employee on the ground of the employee's application to adopt a child or absence on adoption leave, but otherwise the rights of an employer in relation to termination of employment are not hereby affected.

(l) Return to Work After Adoption Leave

- (i) An employee shall confirm the intention of returning to work by notice in writing to the employer given not less than four weeks prior to the expiration of the period of adoption leave provided by paragraph (c)(ii) hereof.
- (ii) An employee, upon returning to work after adoption leave, shall be entitled to the position held immediately before proceeding on such leave or in relation to an employee who has worked part-time under this clause the position held immediately before commencing such part-time work.

Where such position no longer exists but there are other positions available which the employee is qualified for and is capable of performing, the employee shall be entitled to a position as nearly comparable in status and pay to that of the employee's former position.

(m) Replacement Employees

- (i) A replacement employee is an employee specifically engaged as a result of an employee proceeding on adoption leave.
- (ii) Before an employer engages a replacement employee the employer shall inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.
- (iii) Before an employer engages a person to replace an employee temporarily promoted or transferred in order to replace an employee exercising rights under this part, the employer shall inform that person of the temporary nature of the promotion or transfer and of the rights of the employee who is being replaced.

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- (iv) Nothing in this part shall be construed as requiring an employer to engage a replacement employee.

PART D - PART-TIME WORK

(a) Definitions

For the purposes of this part:

'Male employee' means an employed male who is caring for a child born of his spouse or a child placed with the employee for adoption purposes.

'Female employee' means an employed female who is pregnant or is caring for a child she has borne or a child who has been placed with her for adoption purposes.

'Spouse' includes a de facto spouse.

'Former position' means the position held by a female or male employee immediately before proceeding on leave or part-time employment under this part whichever first occurs or, if such position no longer exists but there are other positions available for which the employee is qualified and the duties of which he or she is capable of performing, a position as nearly comparable in status and pay to that of the position first mentioned in this definition.

'Continuous service' means service under an unbroken contract of employment and includes:

- (i) any period of leave taken in accordance with this clause;
- (ii) any period of part-time employment worked in accordance with this clause; or
- (iii) any period of leave or absence authorised by the employer or by the award.

(b) Entitlement

With the agreement of the employer:

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

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(iv) In relation to adoption a female employee may work part-time in one or more periods at any time from the date of the placement of the child until the second anniversary of that date.

(c) Return to Former Position

(i) An employee who has had at least 12 months continuous service with an employer immediately before commencing part-time employment after the birth or placement of a child has, at the expiration of the period of such part-time employment or the first period, if there is more than one, the right to return to his or her former position.

(ii) Nothing in paragraph (i) hereof shall prevent the employer from permitting the employee to return to his or her former position after a second or subsequent period of part-time employment.

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

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

(e) Pro Rata Entitlements

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

(f) Transitional Arrangements - Annual Leave

(i) An employee working part-time under this part shall be paid for and take any leave accrued in respect of a period of full-time employment, in such periods and manner as specified in the annual leave provisions of this award, as if the employee were working full-time in the class of work the employee was performing as a full-time employee immediately before commencing part-time work under this part.

(ii) (1) a full-time employee shall be paid for and take any annual leave accrued in respect of a period of part-time employment under this part, in such periods and manner as specified in this award, as if the employee were working part-time in the class of work the employee was performing as a part-time employee immediately before resuming full-time work.

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

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(g) Transitional Arrangements - Sick Leave

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

(h) Part-time Work Agreement

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

- (1) that the employee may work part-time;
- (2) upon the hours to be worked by the employee, the days upon which they will be worked and commencing times for the work;
- (3) upon the classification applying to the work to be performed; and
- (4) upon the period of part-time employment.

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

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

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

(i) Termination of Employment

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

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

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(j) Extension of Hours of Work

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

(k) Nature of Part-time Work

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

(l) Inconsistent Award Provisions

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

- (i) limiting the number of employees who may work part-time;
- (ii) establishing quotas as to the ratio of part-time to full-^atime employees;
- (iii) prescribing a minimum or maximum number of hours a part-time employee may work; or
- (iv) requiring consultation with, consent of or monitoring by a union;

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

(m) Replacement Employees

- (i) A replacement employee is an employee specifically engaged as a result of an employee working part-time under this part.
- (ii) A replacement employee may be employed part-time. Subject to this subclause, subclauses (e), (f), (g), (h), (i) and (l) of this part apply to the part-time employment of replacement employees.
- (iii) Before an employer engages a replacement employee under this subclause, the employer shall inform the person of the temporary nature of the employment and of the rights of the employee who is being replaced.
- (iv) Unbroken service as a replacement employee shall be treated as continuous service for the purposes of paragraph (a)(v) hereof.
- (v) Nothing in this part shall be construed as requiring an employer to engage a replacement employee."

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36. PART-TIME EMPLOYEES

- (a) Part-time employees engaged to work 20 or more hours per week shall be entitled to the annual leave and sick leave as prescribed in Clauses 11 and 44, and the holidays prescribed in Clause 26, provided that payment therefore shall be made at the rate normally paid to such employee for a similar period of time worked.

The wage rates payable per hour shall be 2.66% for executive, clerical and technical staff and 1/38th for all other staff of the relevant rates above set out.

- (b) Part-time employees engaged to work less than 20 hours per week shall be paid per hour 2.66% for executive, clerical and technical staff and 1/38th for all other staff of the relevant rates set out, plus an additional 20%, such payment being in lieu of public holidays, annual leave and sick leave.
- (c) The penalty rates prescribed for full-time employees for work on Saturdays, Sundays and public holidays are applicable to part-time employees.

PROVIDED THAT a part-time employee who receives a loading in lieu of sick leave, annual leave and public holidays shall be paid at the rate of 1.7 times the relevant award rate for work on a public holiday.

- (d) Part-time employees shall be entitled to all conditions prescribed by this award subject to subclauses (a), (b) and (c) hereof and specific restrictions contained in other clauses of this award.
- (e) **PROVIDED THAT** part-time employees shall be provided with a minimum of 2 hours work or, alternatively, paid for a minimum of 2 hours on each occasion they are required to attend for work. However, where work practices are such that it is inappropriate to apply the conditions stipulated by this provision, such conditions may be varied by mutual agreement between the employees, the relevant employee organisation and the employer.

PROVIDED THAT where there is agreement between the employer and the employee, a part-time employee engaged to work less than 20 hours per week may receive pro rata benefits in respect to public holidays, sick leave and annual leave in lieu of the 20% loading.

PROVIDED FURTHER that such agreement involves the employee indicating that he/she has had an opportunity to consult with a relevant union official.

PROVIDED ALWAYS that such agreement may be discontinued by mutual consent of both parties or at the request of one such party.

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37. PART-TIME EMPLOYEES - LEAVE WITHOUT PAY

An employee working less than 20 hours per week who receives a loading in lieu of public holidays, annual leave and sick leave shall be entitled to elect to take up to 4 weeks' leave without pay in any one leave year. Leave under this provision shall not be cumulative.

Leave allowed under this provision may be taken by mutual agreement in not more than 2 separate periods.

38. PAYMENT OF WAGES

- (a) Wages including overtime shall be paid during working hours, at intervals of not more than two weeks and not later than Thursday.

When a public holiday falls on a normal pay day wages shall be paid on the last working day prior to the public holiday.

- (b) Payment of wages shall be by direct bank deposit or some other method agreed by the employer.

Provided that any employee may nominate which bank or financial institution shall receive the payment of wages.

The present pay day and time of payment, or method of payment shall not be varied, except after consultation with the union/unions concerned and an agreed phasing-in period.

- (c) On or prior to pay day the employer shall provide to the employee, particulars in writing, setting out full details of the wages the employee is entitled to. The statement shall at least include the following information:

- (i) Date of payment.
- (ii) Period covered by the payment.
- (iii) The total amount of wages.
- (iv) The amount of wages at ordinary rate, including the hourly rate.
- (v) The amount of wages paid as overtime, at the rate of time and one half, including the rate.
- (vi) The amount of wages paid as overtime, at the rate of double time, including the rate.

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- (vii) The amount paid as shift or other allowances, with sufficient information to allow the employee to identify each payment, i.e. what allowance is being paid, at what rate and for how long, also how much at 15%, how much at 30% etc.
- (viii) The amount paid as penalty rates for rostered shifts, with sufficient information to allow the employee to identify each payment, i.e. how much at time and one half, how much at double time and how much at double time and one half etc.
- (ix) Any payment for annual leave, sick leave, workers compensation, back pay or any other payment not usually included in the employee's wages, which shall contain sufficient detail so as to allow an employee to calculate how each amount listed has been arrived at.
- (x) Employee's classification.
- (xi) The amount deducted for taxation purposes.
- (xii) The amount of any other deduction shall be listed individually and identified.
- (xiii) The nett amount of wages.

PROVIDED THAT employers be allowed a period of twelve months from the date this award variation is ratified to implement subclause (c) items (i) to (xiii) hereof.

In the meantime they shall be required to provide the following information:

- (i) Date of payment.
 - (ii) Period covered by payment.
 - (iii) Total amount of wages.
 - (iv) Amount deducted for taxation purposes.
 - (v) The amount of any other deductions.
 - (vi) Nett amount of wages.
- (d) The employer may deduct from moneys due to the employee such amount as is authorised by the employee in writing for the lawful purpose specified in the authority.

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- (e) (i) Except in circumstances beyond the control of the employer and subject to subclause (ii) an employee kept waiting for wages on the normal pay day after the usual time for ceasing work for more than a quarter of an hour shall be paid at overtime rates after that quarter of an hour with a minimum payment for a quarter of an hour and payment shall continue on that day until advised that payment will not be forthcoming on that day. Further, such payment at overtime rates shall continue during all ordinary hours of work on each succeeding day or days, including rostered days off, up to a maximum of 7.6 hours per day, until such time as payment is effected. Provided that, in no circumstances will the aggregate of ordinary time wages, and overtime penalty for waiting time on any day exceed 2 1/2 times the ordinary rate of salary.

For the purposes of this clause ordinary rates shall be exclusive of premiums, loadings or penalties.

- (ii) Subject to subclause (iii) the provisions of subclause (i) shall have no effect in circumstances whereby payment cannot be effected on pay day but the employer and employee agree to an alternative arrangement for payment.
- (iii) Should however, the employer fail to discharge payment in accordance with the terms of the alternatively agreed arrangement, as provided in (ii) the employee shall be deemed to have been kept waiting for payment since pay day and shall thereby be entitled to payment in accordance with subclause (i) until such time as payment is effected.
- (f) Allowances prescribed by this award other than higher duties allowance, certificate and/or diploma allowance shall not be taken into account in the compilation of overtime and penalty rates prescribed herein.

Notwithstanding the foregoing, the 20% loading payable to casual and part-time employees working less than 20 hours per week shall be taken into account before calculating penalty rates payable for weekend and public holiday shifts, but shall not be taken into account when calculating overtime payments.

- (g) (i) Where employment is terminated, summarily or on the giving of the prescribed notice all moneys owing shall, where practical, be paid to the employee on termination.
- (ii) If payment on termination is not practical the employer shall, on the next working day of the pay office send to the employee's recorded home address all moneys due by registered post, or, if agreed between the employer and employee, the employer shall make the moneys available at a nominated location.

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- (iii) Except in circumstances beyond the employer's control if the money is not posted within that time, or is not available at the nominated location, then any time spent waiting after the date of termination shall be paid for at ordinary rates up to a maximum of 7.6 hours per day for each day that they are deemed to be kept waiting and shall continue until such time as payment is effected.
- (iv) **PROVIDED FURTHER** that no waiting time is payable where the employee nominates to pick up his moneys at a location and then does not report to pick up those moneys.

39. PREFERENCE TO UNIONISTS

- (a) Preference of employment shall be given to members of the Health Services Union of Australia, Tasmania No. 1 Branch and if no such persons are available and competent, then to persons who give to the employer an undertaking in writing to become and remain members of that union upon engagement.
- (b) Where a person can satisfy the employer and the union that they have genuine conscientious grounds for not joining a union, then that person shall be exempt from the requirement to join, on condition that they contribute each year an amount equivalent to the annual union subscription to a charity nominated by the union, and that such contribution to charity shall be made within one month of engagement of that employee.

To be granted exemption as a conscientious objector the applicant must state his complete objection to joining all unions, not a union or particular union.

40. PROTECTIVE CLOTHING AND SAFETY APPLIANCES

- (a) The hospital shall maintain at its own expense full and sufficient supplies of safety appliances, such as rubber gloves, disinfectants, etc. for the use of employees.
- (b) The employer shall provide where necessary, suitable protective clothing for the employees. An employee who is pursuant to this subclause, supplied with protective clothing, shall wear such clothing in such a way as to achieve the purpose for which it is supplied.
- (c) Compensation to the extent of the damage sustained shall be made where, in the course of the work, an employee's clothing is damaged or destroyed by fire or the use of corrosive substances.

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41. REMOTE CALL

- (a) An employee who is rostered to remain on remote call (that is on call for duty and allowed to leave the hospital precincts) shall be paid the allowance prescribed in Clause 8, Division A, subclause 5 for each hour he/she is required to be so available with a minimum payment of \$8.00 per day.
- (b) Where a rostered employee is recalled to work he/she shall be paid in accordance with Clause 14 - Call Back.
- (c) An employee recalled to work shall be entitled to receive, in addition, payment for that day under subclause (a).
- (d) Where practicable an employee will be rostered on remote call for a minimum period of 7 consecutive days otherwise a rotating roster system averaging at least 7 days per employee per cycle shall be worked. Provided that by mutual agreement between the employer, the employee(s) and the Secretary for the authorized representative of the appropriate service organization alternative arrangements may be made.

42. SAVING

Nothing herein contained shall be taken to reduce the wage rate of any employee who is in receipt of a higher wage rate at the date of this award.

43. SHIFT WORK

- (a) Definitions

For the purpose of this clause:

'Afternoon shift' means a shift terminating after 6.00 p.m. and at or before midnight.

'Holiday' means Christmas Day, Boxing Day, New Year's Day, Australia Day, Cup Day (half day), Hobart Regatta Day (South of Oatlands), Eight Hours Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, and Show Day in the relevant locality, Recreation Day in those districts where Hobart Regatta Day is not observed or such other day as is generally observed in the locality as a substitute for any of the said days respectively.

'Night shift' means a shift commencing at or after 4.00 p.m. and before 6.00 a.m.

'Shift worker' includes an employee whose ordinary weekly hours of work are performed in accordance with a roster which regularly includes Saturdays and Sundays.

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PROVIDED ALWAYS that to qualify as a shift worker under this definition, for the purpose only of calculating annual leave entitlements, an employee shall be rostered to perform work on not less than 10 Saturdays and not less than 10 Sundays during any one leave year.

(b) Afternoon and Night Shift Allowances

Subject to existing customs and practices:

- (i) Shift workers, whilst on afternoon and night shifts shall be paid 15% more than the ordinary rate for such shifts.
- (ii) A shift worker who works on any afternoon or night shift which does not continue for at least 5 consecutive afternoons or nights shall be paid for each shift 50% more than his/her ordinary rate for the remaining hours thereof.
- (iii) An officer who:
 - (a) during a period of engagement on shift, works night shift only; or
 - (b) remains on night shift for a longer period than 4 consecutive weeks; or
 - (c) works on a night shift which does not rotate or alternate with another shift or with day work so as to give such employee at least one-third of his/her working time off night shift in each shift cycle;

shall during such engagement period or cycle be paid 30% more than his/her ordinary rate for all time worked during ordinary working hours on such night shift.

PROVIDED ALWAYS that where by mutual agreement between the employer, the employee concerned and the branch secretary of the union in the area the employee is rostered on permanent night shift or on a shift that would otherwise attract a loading of 30% in accordance with the above, the loading to be applied shall be 15% of the ordinary rate.

(c) Rosters

There shall be a roster for shifts which shall:

- (i) provide for rotation unless all the employees concerned desire otherwise;
- (ii) provide for not more than 8 shifts to be worked in any 9 consecutive days;

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- (iii) not be changed until after 4 weeks' notice.

PROVIDED THAT an employee's place on such roster shall not be changed, except on one week's notice of such change or, payment of the penalty rates more particularly set forth in subclause (g) hereof. So far as employees present themselves for work in accordance therewith, shifts shall be worked according to the roster;

- (iv) provide for a minimum of 2 consecutive days off each week except where by mutual agreement between the employer, the employee(s) concerned, and the secretary of the appropriate union, alternative arrangements are made; and
- (v) clearly stipulate a 28-day accounting period which shall include an accrued day off in addition to 8 rostered days off.

PROVIDED ALWAYS that staff engaged to provide relief on accrued days off pursuant to paragraph (v) hereof while engaged in such capacity shall be regarded as shift workers for all purposes of the award (except additional annual leave). Rosters covering such relief employees shall not be required to rotate.

- (d) Saturday Shifts

Shift workers for work on a rostered shift, the major portion of which falls on a Saturday shall be paid at the rate of time and one half of the employee's normal salary rate, but such rates shall be in substitution for and not cumulative upon the shift allowances more particularly set forth in subclause (b) hereof. The provisions of this subclause shall not prejudice any right of an employee to obtain alternatively any higher rate in respect of that work by virtue of any provision of this award.

- (e) Sunday and Holiday Shifts

Shift workers, for work on a rostered shift, the major portion of which falls on a Sunday or public holiday, shall be paid as follows:

- (i) Sundays - at the rate of double time;
- (ii) holidays as prescribed in subclause (a) hereof at the rate of double time.

The above rates shall be in substitution for, and not cumulative upon the shift allowances more particularly set forth in subclause (b) hereof.

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PROVIDED ALWAYS that:

- (i) Where shifts commence between 11.00 p.m. and midnight on a Sunday or a holiday the time so worked before midnight shall not entitle an employee employed on such a shift to the Sunday or holiday rate provided that the time worked by an employee on a shift commencing before midnight on a day preceding a Sunday or holiday and extending into such Sunday or holiday the time worked before midnight shall be regarded as time worked on such Sunday or holiday.
- (ii) Where shifts fall partly on a holiday, that shift the major portion of which falls on a holiday, shall be regarded as the holiday shift.
- (iii) Where a shift worker is required to work on a public holiday as herein defined and is granted time off in lieu thereof the above penalty rate shall not apply.

(f) Broken Shifts

Subject to the proviso hereto broken shifts shall not be worked. Provided that in an emergency situation a broken shift may be worked by mutual agreement between the employer and the branch secretary of the employee organization. All work performed in excess of a spread of 9 hours shall be paid at the rate of double time.

(g) Overtime

- (i) For work performed by a shift worker outside the ordinary hours of his shift, double time shall be paid. But such payment shall not apply to those cases where arrangements have been made between the employees themselves, or in cases due to rotation of shifts.

PROVIDED ALWAYS that in cases where the employer has been given less than 4 hours' notice that an employee rostered to relieve an afternoon or night shift worker, will not attend to do so at the proper time, such unrelieved shift worker shall be paid, for the extra time worked, at the rate of time and one half until the 4 hours have elapsed from the time notice was given to the employer.

For all time worked beyond the 4 hour spread referred to herein the unrelieved shift worker shall be paid at the rate of double time.

In all other cases the unrelieved shift worker shall be paid at the rate of double time until relieved.

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(ii) Rest Period After Overtime

An employee (other than a casual 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 8 consecutive hours off duty between those times, shall, subject to this section, be released after completion of such overtime until he/she has had 8 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

(iii) If on the instructions of his/her employer such an employee resumes or continues work without having had such 8 consecutive hours off duty he/she shall be paid at double rates until he/she is released from duty for such period and shall then be entitled to be absent until he/she has 8 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

(iv) When overtime work is necessary it shall, wherever reasonably practicable, be so arranged that employees have at least 8 consecutive hours off duty between the work of successive days.

(v) In the case of an employee in receipt of a loading in lieu of sick leave, annual leave and public holidays, the period of overtime shall be paid for at the rate of double the relevant award rate (as defined).

(h) Part-time shift workers shall be entitled to the provisions of this clause with the following exception:

Rosters -

work by choice or mutual agreement outside rostered shifts shall not be subject to penalty (other than shift, weekend and public holiday penalty) provided that any time worked in excess of 8 hours per day shall be paid at double time.

Where an employee is instructed to work shifts other than in accordance with this clause he shall be entitled to the penalty payments prescribed by this clause.

44. SICK LEAVE

(a) An employee who is absent from work on account of personal illness, or on account of injury by accident, shall be entitled to leave of absence on full pay (excluding shift or weekend allowances or overtime penalties) subject to the following conditions and limitations:

An employee shall:

(i) Not be entitled to paid leave of absence for any period in respect of which he/she is entitled to workers' compensation.

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- (ii) Within 24 hours of the commencement of such absence, inform the employer of his/her inability to attend for duty, and, as far as practicable, state the nature of the injury or illness and the estimated duration of the absence.
 - (iii) Prove to the satisfaction of the employer that he/she was unable, on account of such illness or injury, to attend for duty on that day or days on which sick leave is claimed.
 - (iv) Not, except as prescribed in subclause (b) hereof, be entitled in any one year (whether in the employ of one employer or of several) to leave in excess of 152 hours in the case of those employees whose full-time hours are 38 per week, or 150 hours in the case of those employees whose full-time hours are 37 1/2 per week (20 working days), provided that in the first year of service an employee shall only be entitled to 12 1/2 hours for each completed month of service in the case of 37 1/2-hour week employees, and 12 hours 40 minutes for each completed month of service in the case of 38-hour week employees.
- (b) If the full period of sick leave, as prescribed in subclause (a) hereof is not taken in any year, such proportion as is not taken shall be cumulative from year to year without limitation.
 - (c) Notwithstanding any other provisions in this clause, an employee who contracts an infectious disease and/or who on examination reveals a changed mantoux reaction in the course of his/her duties, and same having been certified by the medical superintendent or medical practitioner approved by the employer, shall receive full pay during the period of duty up to but not exceeding 12 weeks, and during this time shall be regarded as remaining in the employ of the employer for the purposes of the Workers' (Occupational Diseases) Relief Fund Act.
 - (d) An employee who is certified as unfit for duty because of personal illness by the medical superintendent or medical practitioner approved by the employer during a period of paid recreational leave, shall be given credit for the time so certified and the paid recreational leave shall be extended by the number of days that the employee has been so certified as unfit for duty.
 - (e) Any employee who falls sick by reason of his/her work shall, subject to the recommendation of the medical superintendent, be paid an amount of wages not less favourable than that prescribed by the Workers' (Occupational Diseases) Relief Fund Act.
 - (f) A year for the purposes of this clause shall mean 365 days employment in an approved hospital including rostered days off, public holidays, paid annual leave and paid sick leave.
 - (g) If an employee is absent on sick leave on the day immediately preceding or immediately following the accrued day off he/she shall provide a medical certificate in support of such absence.

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- (h) (i) Part-time Employees - working 20 hours or more per week:

Sick leave shall be granted to part-time employees on the same basis as to full-time employees except that the employee shall not, other than as prescribed by subclause (b) be entitled to paid leave in any one year in excess of the following:

20 hours to less than 30 hours per week - 114 hours p.a.
30 hours or more - 152 hours p.a.

- (ii) Part-Time employees - working less than 20 hours per week:

Part-time employees working less than 20 hours per week, who are accruing a sick leave entitlement in accordance with the proviso contained in Clause 35 - Part-Time Employees, subclause (e), shall have their sick leave entitlement calculated in the following manner:

152 (full time equivalent entitlement) divided by **365** (calendar days per year) multiplied by **7** (days per week) divided by **38** (full time equivalent weekly working hours) = **0.0767** hours sick leave entitlement for each hour worked.

PROVIDED THAT in determining the amount of leave to which an employee is entitled at any time (other than leave which has been accumulated) the average hours worked per week in the preceding 3 months shall be used, except that where an employee has less than 3 months' service, the period per week for which he/she was engaged shall be used.

PROVIDED FURTHER that in determining the amount of leave to be accumulated for the purposes of subclause (b) the entitlement shall be based on the average number of hours worked in the year (less the period of sick leave taken).

45. TRAINEE CLERK (AS DEFINED)

- (a) A Trainee Clerk (as defined) (hereinafter referred to as the trainee) shall attend an approved on and off-the-job training course or program prescribed in the relevant training agreement (as defined) or as notified to the trainee by the Training Authority of Tasmania.
- (b) Trainees may be engaged by employers registered with the Training Authority of Tasmania. The employer shall ensure that the trainee is permitted to attend the prescribed off-the-job training course and is provided with on-the-job training approved by the Training Authority of Tasmania.
- (c) The employer shall provide a level of supervision in accordance with the approved training plan during the traineeship period.

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- (d) The employer agrees that the overall training program will be monitored by officers of the Training Authority of Tasmania and that training records or work books may be utilised as part of this monitoring process.
- (e) All other terms and conditions of this award shall apply unless specifically varied by this clause.
- (f) The trainee shall be engaged for a period of twelve months as a full-time employee provided that the trainee shall be subject to a satisfactory probation period of up to one month.
- (g) The trainee is permitted to be absent from work without loss of continuity of employment to attend the off-the-job training in accordance with the Training Agreement.
- (h) Where the employment of a trainee by an employer is continued after the completion of the traineeship period, such traineeship period shall be counted as service for the purpose of the award and long service leave entitlements.
- (i) Overtime and shiftwork shall not be worked by trainees except to enable the requirements of the Training Plan to be effected. When overtime and shiftwork are worked the relevant penalties and allowances of the award based on the trainee wage will apply. No trainee shall work overtime or shiftwork on their own.
- (j) The employer and the union shall observe the provisions determined by the Training Authority of Tasmania in respect of the use of trainees in the time of industrial disputes.
- (k) Wherever possible traineeship positions shall be additional to existing staff numbers. Existing full time employees shall not be displaced from employment by the trainee.
- (l) The union shall be afforded reasonable access to the trainees for the purpose of explaining the role and function of the union.
- (m) This clause represents a compromise on the part of all parties and will not be used as a precedent in proceedings before industrial tribunals.

46. TRAVELLING ALLOWANCES

Executive Staff

- (a) An employee required to travel on business in connection with the hospital shall be reimbursed all reasonable travelling expenses necessarily incurred.

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- (b) Where an employee is required to use his/her own motor vehicle in connection with the business of the hospital, he/she shall be reimbursed such sums as may be agreed upon between the governing body of the hospital and the secretary. In the absence of any such agreement the allowance payable in respect of such vehicle shall be that prescribed by an appropriate award made by the Tasmanian Industrial Commission.

47. UNIFORMS

- (a) Employees, other than Executive Staff (as defined), shall be provided with, free of cost by the employer, sufficient, suitable and serviceable uniforms.
- (b) The employer shall arrange to have all uniforms laundered, with the exception of attendants' suits, free of cost to the employee.
- (c) An employee, on leaving the service of an employer, shall return any uniform or part thereof provided by that employer which is still in use by him/her immediately prior to leaving.

48. UNION OFFICIALS - RIGHT OF ENTRY

The Secretary for Labour may authorize an official of a union (to be named by him/her), and thereupon such official shall have the right, in accordance with the terms of such authorization, to enter any place where work is carried on under this award, subject to the following conditions:

- (a) The authorization shall be in writing and signed by the Secretary for Labour.
- (b) The authorization shall state the time at which the entry is authorized. Such time may be any reasonable time.
- (c) The purpose of the entry if authorized during working hours shall be confined to interviewing the appointed representatives of the union in the place mentioned in the authorization, or with the consent of the employer or the employer's representative of interviewing any member of the union employed therein; or if authorized during a meal hour or at a non-working time of interviewing any employee at a place, who is willing to be interviewed.
- (d) **PROVIDED THAT:**
 - (i) Except during any meal hour, or non-working time, not more than one such official shall be permitted to enter the place in question at any one time except by express consent of the employer or the employer's representative.
 - (ii) Before entering any such place the official shall produce the authorization to the employer or the employer's representative.

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- (iii) If an employer alleges that an official is unduly interfering with work of the job or is causing dissatisfaction among the employees thereof or is offensive in his/her manner or is committing a breach of any of the conditions set out in this clause such employer may refuse to allow the official to enter into or remain on the place but the official, shall have the right to bring such refusal to the attention of the Secretary for Labour who may either cancel the authorization or refer the matter to the Tasmanian Industrial Commission.

49. UNION STEWARDS

An employee appointed as a job steward, upon notification by the union to the employer, shall be recognized as the accredited representative of the union to which he/she belongs and he/she shall be allowed all necessary time during working hours to submit to the employer matters affecting the employees he/she represents and further shall be allowed reasonable time during working hours to attend to job matters affecting his/her union.

PROVIDED THAT a job steward shall seek the permission of the head of department before interviewing employees other than in his/her own department and such permission shall not be unreasonably withheld.

50. WORK ABOVE FLOOR LEVEL

In no circumstances shall appliances other than a suitable platform or a ladder be used for carrying out work above floor level.

Wherever possible female employees should not be required to carry out work above floor level.

Where such work is carried out by female employees a suitable platform or a ladder shall be made available provided that another employee shall be required to hold the ladder.

R. J. Watling
COMMISSIONER

9 December 1992