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**TASMANIAN INDUSTRIAL COMMISSION**

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

**Australian Municipal, Administrative, Clerical & Services Union**  
(T9729 of 2001)

Barristers and Solicitors Award  
Broadcasting and Television Award  
Business Services Award  
Clerical and Administrative Employees (Private Sector) Award  
Community Services Award  
Disability Services Providers Award  
Estate Agents Award  
Fuel Merchants Award  
Insurance Award  
Medical Practitioners (Private Sector) Award  
Photographic Industry Award  
Public Accountants Award  
Softgoods Award  
Textile Award  
Totalizator Agency Award  
Wholesale Trades Award

**The Australian Workers' Union, Tasmania Branch**  
(T9738 of 2001)

Australian Cement Holdings Enterprise Award  
Automotive Industries Award  
Bootmakers Award  
Butter and Cheesemakers Award  
Civil Construction and Maintenance Award  
Clay and Mud Products Award  
Concrete Products Award  
Dairy Processing Award  
Farming and Fruit Growing Award  
Fish Aquaculture and Marine Products Award  
Horticulturists Award  
Leather, Canvas and Sheet Plastic Fabrication Award  
Meat Processing Industry Award  
Metal and Engineering Industry Award  
Monumental Masons Award  
Optical Industries Award  
Pasminco Hobart Smelter Enterprise Award  
Pasminco Rosebery (Mining) Award  
Plant Nurseries Award  
Produce Award  
Public Vehicles Award  
Quarrying and Lime Processing Award  
Rubber Trades Award  
Shellfish Industry Award

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Silviculture and Afforestation Award  
Timber Merchants Award  
Wireworking Award

**Australian Liquor, Hospitality and Miscellaneous Workers Union -  
Tasmanian Branch**

(T9740 of 2001)

Aerated Waters Award  
Automotive Industries Award  
Baking Industry Award  
Cleaning and Property Services Award  
Fibreglass and Plastics Award  
Furnishing Trades Award  
Health and Fitness Centres Award  
Hotels, Resorts, Hospitality and Motels Award  
Ice Cream Makers Award  
Independent Schools (Non Teaching) Staff Award  
Laundry and Dry Cleaning Award  
Leather, Canvas and Sheet Plastic Fabrication Award  
Licensed Clubs Award  
Miscellaneous Workers Award  
Restaurant Keepers Award  
Retail Trades Award  
Security Industry Award  
Shipping Award  
Veterinary Services Award  
Wholesale Plant Bakeries Award

**The Shop, Distributive & Allied Employees Association, Tasmania Branch**

(T9741 of 2001)

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

**The Australasian Meat Industry Employees Union, Tasmanian Branch**

(T9778 of 2001)

Meat Retailing Award

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**FULL BENCH:**

PRESIDENT P L LEARY  
DEPUTY PRESIDENT R J WATLING  
COMMISSIONER T J ABEY

Award variation - nominated private sector awards - meal allowance - increase to reflect CPI movements - 11.78% - applications granted - operative date ffpp 3 September 2001

**PASMINCO HOBART SMELTER ENTERPRISE AWARD**

**ORDER BY CONSENT**

**No. 1 of 2001**

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THE **PASMINCO HOBART SMELTER ENTERPRISE AWARD** IS AMENDED IN THE FOLLOWING MANNER:

By deleting from Part V - HOURS OF WORK, PENALTY PAYMENTS, SHIFTWORK AND OVERTIME, Clause 5 - OVERTIME, and inserting in lieu thereof the following:

**"5. OVERTIME**

Award Employees (excluding Part X - Waterside Workers)

Day Workers

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

Shift Workers

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

**PROVIDED** that:

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

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

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

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Overtime - General

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

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

- (f) An employee who works so much overtime between the termination of his/her ordinary work on one day and the commencement of his/her ordinary work on the next day that he/she has not had at least 10 consecutive hours off duty between those times shall, subject to this subclause, be released after completion of such overtime until he/she has had 10 consecutive hours off duty without loss of pay for ordinary time of duty occurring during such absence.

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

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

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

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

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

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

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

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

#### Meal Period and Allowances

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

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

- (m) Before starting overtime immediately after working ordinary hours, a meal break of 20 minutes shall be allowed without deduction of pay, unless the period of overtime is 1 1/2 hours or less. An employer and the employee may agree to any variation of this provision to meet the circumstances of the work in hand.
- (n) An employee required to work overtime for more than one and one half hours without being notified the day before that the employee will be so required to work, shall be supplied with a meal by the employer or paid \$11.60 for each meal.
- (o) If an employee, pursuant to notice, has provided a meal or meals and is not required to work overtime, the employee shall be paid \$11.60 for each meal.

#### Provisions covering changes between Day and Shift Work

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

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

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

#### Transport of Employees Required to Work Overtime

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

#### **OPERATIVE DATE**

This variation shall come into operation from the first full pay period to commence on or after 3 September 2001.

P A Imlach  
**COMMISSIONER**

4 September 2001