

This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.

TASMANIAN INDUSTRIAL COMMISSION

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

Health Services Union of Australia, Tasmania No. 1 Branch
(T9851 of 2001)

MEDICAL DIAGNOSTIC SERVICES (PRIVATE SECTOR) AWARD

Award variation - insertion of provision for Carer's Leave - application approved - operative date ffpp 7 November 2001

ORDER BY CONSENT -

No 2 of 2001

This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.

AMEND THE **MEDICAL DIAGNOSTIC SERVICES (PRIVATE SECTOR) AWARD** IN THE FOLLOWING MANNER:

1. By inserting into Clause 3 - Arrangement, the following new clause:

"Carer's Leave 11A"

2. By deleting Clause 9 - Annual Leave, and inserting in lieu thereof the following:

"9. ANNUAL LEAVE

(a) Period of Leave

A period of 28 consecutive days' leave shall be allowed annually to an employee after 12 months' continuous service (less the period of annual leave), excluding holidays with pay as prescribed in Clause 17 - Holidays With Pay.

PROVIDED that, by mutual agreement between the employer and the employee, leave may be taken in any combination providing one period is at least seven consecutive days (i.e. five working days).

(b) Additional Leave

A full time employee required to work in accordance with a roster shall, in addition to the annual leave prescribed in subclause (a), be allowed 38 hours leave, to be taken in a period of seven consecutive days including non-working days.

A part-time employee required to work in accordance with a roster shall, in addition to the annual leave prescribed in subclause (a), be allowed additional leave equal to the number of hours such employee would normally work in one week. Such additional leave to be taken in one consecutive period of seven days including non-working days.

PROVIDED that to receive such additional leave the employee shall work ordinary hours of work on not less than 10 Saturdays and 10 Sundays during any one leave year.

PROVIDED FURTHER that all employees before going on leave available under this subclause, shall be paid the amount of wages they would have received had they worked a projected roster.

(c) Payment for Period of Leave

(i) All employees, before going on annual leave, other than casual employees or part-time employees who attract a 20 per cent loading in lieu of the provisions of Clause 9 - Annual Leave, Clause 29 - Sick Leave and Clause 17 -

This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.

Holidays with Pay shall be paid the amount of wages they would have received in respect of the ordinary time they would have worked had they not been on leave during the relevant period.

- (ii) In addition thereto, all full-time employees shall be paid annual leave loading which shall be \$281.60.
 - (iii) Employees who are not in receipt of a 20 percent loading in lieu of the provisions prescribed in Clause 9 - Annual Leave, Clause 29 - Sick Leave and Clause 17 - Holidays with Pay shall have an entitlement based on the average weekly hours worked in the previous three months divided by 38 multiplied by \$281.60.
- (d) Proportionate Leave on Termination of Service

A weekly employee who lawfully leaves the employment or who is dismissed, except for misconduct or neglect of duty, shall be paid 12.66 hours for each completed month of continuous service less any leave taken in advance.

- (e) Single Day Annual Leave

Notwithstanding provisions elsewhere in the award, the employer and the majority of employees at an enterprise may agree to establish a system of single day annual leave absences, provided that:

- (i) An employee may elect, with the consent of the employer, to take annual leave in single day periods or part of a single day not exceeding a total of five days in any calendar year at a time or times agreed between them.
- (ii) Access to annual leave, as prescribed in paragraph (i) above, shall be exclusive of any shutdown period provided for elsewhere under this award.
- (iii) An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken.
- (iv) An employee or the employees may choose to request a union party to this award, to represent their interests in negotiations referred to in paragraph (i) of this subclause.
- (v) Once a decision has been taken to introduce an enterprise system of single day annual leave, in accordance with this subclause, its terms must be set out in the time and wages records kept pursuant to Regulation 25 of the Industrial Relations Regulations 1993.
- (vi) An employer shall record these short term annual leave arrangements in the time and wages book."

This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.

3. By inserting a new Clause 11A - Carer's Leave, after Clause 11 - Breakages, as follows:

"11A. CARER'S LEAVE

(a) Paid Carer's Leave

- (i) An employee, other than a casual employee, is entitled to use, in accordance with this subclause, up to a maximum of five days per annum of any current or accrued sick leave entitlement, provided for at Clause 23 - Sick Leave, of the award, for absences to provide care and support for either members of their immediate family or household who need their care and support when they are ill.

Leave may be taken for part of a single day.

- (ii) If required the employee must establish, either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another.
- (iii) The entitlement to use sick leave in accordance with this subclause is subject to the person being either:
- (1) a member of the employee's immediate family, or
 - (2) a member of the employee's household.

The term '**immediate family**' includes:

- (1) spouse (including a former spouse, a de facto spouse and a former de facto spouse) of the employee. A de facto spouse, in relation to a person, means a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; and
 - (2) child or an adult child (including an adopted child, a step child, a foster child or an ex nuptial child), parent (including foster parent, step parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse of the employee.
- (iv) Where practicable the employee must give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and the person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.

This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.

(v) In normal circumstances an employee must not take carer's leave under this clause where another person has taken leave to care for the same person.

(b) Unpaid Carer's Leave

An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care to a family or household member who is ill."

4. By deleting Clause 18 - Hours, and inserting in lieu thereof the following:

"18. HOURS

(a) Subject to Clause 27 - Roster the ordinary hours of work for full-time employees shall be 38 per week to be worked in no more than five consecutive days and not less than four consecutive days between the hours of 8.00am and 8.00pm Monday to Friday (subject to subclause (d)).

(b) An employee shall not be required to work ordinary hours in excess of eight consecutive hours in any one day (excluding meal breaks).

PROVIDED that by agreement between the employer and the employee, an employee may work to a maximum of 9½ consecutive hours in any one day (excluding meal breaks).

PROVIDED FURTHER that an employee shall only be required to work one engagement of consecutive hours (excluding meal breaks) on any one day.

(c) An employee, who has ordinary hours of work on any day concluding after 7.00pm, shall be paid a loading of 15 per cent on the hourly rate for all hours worked on that day.

(d) An employee shall work, in accordance with a roster, subject to Clause 27 - Roster, where any or all of their ordinary hours of work are outside the span of hours 8.00am to 8.00pm Monday to Friday.

(e) Make Up Time

Notwithstanding provisions elsewhere in the award, the employer and the majority of employees at an enterprise may agree to establish a system of make up time provided that:

(i) An employee may elect, with the consent of the employer, to work 'make up time' under which the employee takes time off during ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in the award.

(ii) An employee on shift work may elect, with the consent of their employer, to work 'make up time' under which the employee takes time off during ordinary

This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.

hours and works those hours at a later time, at the shift work rate which would have been applicable to the hours taken off.

- (iii) An employee or the employees may choose to request a union party to this award, to represent their interests in negotiations referred to in paragraph (i) of this subclause.
 - (iv) Once a decision has been taken to introduce an enterprise system of make up time, in accordance with this subclause, its terms must be set out in the time and wages records kept pursuant to Regulation 25 of the Industrial Relations Regulations 1993.
 - (v) An employer shall record make up time arrangements in the time and wages book at each time this provision is used.
- (f) Rostered Days Off

Notwithstanding provisions elsewhere in the award, the employer and the majority of employees at an enterprise may agree to establish a system of Rostered Days Off (RDOs) to provide that:

- (i) An employee may elect, with the consent of the employer, to take a RDO at any time.
- (ii) An employee may elect, with the consent of the employer, to take RDOs in part day amounts.
- (iii) An employee may elect, with the consent of the employer, to accrue some or all RDOs for the purpose of creating a bank to be drawn upon by the employee at times mutually agreed by the employer, or subject to the reasonable notice by the employee to the employer.
- (iv) An employee or the employees may choose to request a union party to this award, to represent their interests in negotiations referred to in paragraph (i) of this subclause.
- (v) Once a decision has been taken to introduce an enterprise system of RDO flexibility, in accordance with this subclause, its terms must be set out in the time and wages records kept pursuant to Regulation 25 of the Industrial Relations Regulations 1993.
- (vi) An employer shall record RDO arrangements in the time and wages book at each time this provision is used."

This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.

5. By deleting Clause 22 - Overtime, and inserting in lieu thereof the following:

"22. OVERTIME

- (a) For all time of duty before the usual time for commencing work or after the usual time for ceasing work or for work performed outside the ordinary hours of duty, payment shall be made at the rate of double time.

PROVIDED that the penalty addition shall be calculated on the ordinary rate of pay in the case of an employee who receives a loading of 20 per centum in lieu of the provisions contained in Clause 9 - Annual Leave, Clause 29 - Sick Leave and Clause 17 - Holidays with Pay .

- (b) Overtime shall not be payable unless the period of time worked in excess of the ordinary hours exceeds 15 minutes on any day and the overtime is worked on the orders of the employer or the employers representative.

- (c) Time Off In Lieu of Payment

Notwithstanding provisions elsewhere in this award the employer and the majority of employees at an enterprise may agree to establish a system of time off in lieu of overtime provided that:

- (i) An employee may elect, with the consent of the employer, to take time off in lieu of payment for overtime at a time or times agreed with the employer.
- (ii) Overtime taken as time off shall be taken at the penalty equivalent.
- (iii) An employer shall, if requested by an employee, provide payment at the rate provided for the payment of overtime as prescribed in this clause for any overtime worked under this subclause where such time has not been taken within four weeks of accrual.
- (iv) An employee or the employees may choose to request a union party to this award, to represent their interests in negotiations referred to in paragraph (i) of this subclause.
- (v) Once a decision has been taken to introduce an enterprise system of time off in lieu in accordance with this subclause, its terms must be set out in the time and wages records kept pursuant to Regulation 25 of the Industrial Relations Regulations 1993.
- (vi) An employer shall record time off in lieu arrangements in the time and wages book at each time this provision is used."

This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.

OPERATIVE DATE

These variations shall come into operation from the first full pay period to commence on or after 7 November 2001.

Tim Abey
COMMISSIONER

12 November 2001