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TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T.2622 of 1989

IN THE MATTER OF AN APPLICATION
BY THE FEDERATED LIQUOR AND
ALLIED INDUSTRIES EMPLOYEES'
UNION OF AUSTRALIA - TASMANIAN
BRANCH TO VARY THE **HOTELS,
RESORTS, HOSPITALITY AND
MOTELS AWARD**

**RE: STRUCTURAL EFFICIENCY
PRINCIPLE**

ORDER -

**No. 2 of 1990
(Consolidated)**

DELETE THE **HOTELS, RESORTS, HOSPITALITY AND MOTELS AWARD** AND INSERT
IN LIEU THEREOF THE FOLLOWING:

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1. TITLE

This award shall be known as the "Hotels, Resorts, Hospitality and Motels Award".

2. SCOPE

This award is established in the industry of:

- (a) a hotel or motel;
- (b) a tavern or wine saloon.

3. ARRANGEMENT

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4. DATE OF OPERATION

This award shall come into operation from the first full pay period commencing on or after 23 August 1990.

PROVIDED that it is a term of this award (arising from the decision of the Tasmanian Industrial Commission State Wage Case of 30 October 1989) that the union(s) undertake(s), for the duration of the principles determined by that decision, not to pursue any extra claims, award or overaward, except where consistent with those principles.

5. SUPERSESSON AND SAVINGS

This award incorporates and supersedes No. 5 of 1989 (Consolidated) and No. 1 of 1990.

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

6. PARTIES AND PERSONS BOUND

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

- (a) all employers (whether members of a Registered Organisation or not) who are engaged in the industry specified in Clause 2 - Scope;
- (b) all employees (whether members of a Registered Organisation or not) for whom classifications appear in this award and who are employed in the industry specified in Clause 2 - Scope;

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- (c) the following organisation of employees in respect of whom award interest has been determined:

Federated Liquor and Allied Industries Employees' Union of Australia - Tasmanian Branch and the officers of that organisation and their members who are employed in the industry specified in Clause 2 - Scope;

- (d) the following organisations of employers in respect of whom award interest has been determined:

(i) the Motor Inn and Motel Association of Tasmania, and the officers of that organisation and their members who are engaged in the industry specified in Clause 2 - Scope;

(ii) the Tasmanian Confederation of Industries.

7. DEFINITIONS

DIVISION A

Food and Beverage

'Food and Beverage Attendant Grade 1' shall mean an employee who is engaged in any of the following:

picking up glasses;

emptying ashtrays;

general assistance to Food and Beverage attendants of a higher grade not including service to customers;

removing food plates;

setting and/or wiping down tables;

cleaning and tidying of associated areas.

'Food and Beverage Attendant Grade 2' shall mean an employee who has not achieved the appropriate level of training and who is engaged in any of the following:

supplying, dispensing or mixing of liquor including the sale of liquor from the bottle department;

assisting in the cellar or bottle department;

undertaking general waiting duties of both food and/or beverage including cleaning of tables;

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receipt of monies;

attending a snack bar;

engaged on delivery duties.

'Food and Beverage Attendant Grade 3' shall mean an employee who has the appropriate level of training and is engaged in any of the following:

supplying, dispensing or mixing of liquor including the sale of liquor from the bottle department;

assisting in the cellar or bottle department, where duties could include working up to four hours per day (averaged over the relevant work cycle) in the cellar without supervision;

undertaking general duties of both food and liquor including cleaning of tables;

receipt of monies;

taking reservations, greeting and seating guests;

assisting in the training and supervision of Food and Beverage Attendants of a lower grade;

engaged on delivery duties.

This grade also includes a Food and Beverage Attendant Grade 2 who is involved in the operation of mechanical lifting device or attending TAB terminal or working up to four hours per day (averaged over the relevant work cycle) in the cellar without supervision.

'Food and Beverage Attendant Grade 4' shall mean an employee who has the appropriate level of training and is engaged in any of the following:

full control of a cellar or liquor store (including receipt, delivery and recording of goods within such an area);

mixing a range of sophisticated drinks;

supervising Food and Beverage Attendants of a lower grade.

'Food and Beverage Attendant Grade 5' shall mean an employee who has completed an apprenticeship in waiting or who has passed the appropriate trade test and as such carries out specialised skilled duties in a fine dining room or restaurant.

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'Food and Beverage Supervisor' shall mean an employee who has the appropriate level of training including a supervisory course and who has the responsibility for supervision, training and co-ordination of food and beverage staff, or stock control for a bar or series of bars.

Kitchen

'Kitchen Attendant Grade 1' shall mean an employee engaged in any of the following:

general cleaning duties within a kitchen or food preparation area and scullery, including the cleaning of cooking and general utensils used in a kitchen and restaurant;

assisting employees who are cooking;

assembly and preparation of ingredients for cooking;

general pantry duties.

'Kitchen Attendant Grade 2' means an employee who has the appropriate level of training, and who is engaged in specialised non-cooking duties in a kitchen or food preparation area, or supervision of Kitchen Attendants.

'Kitchen Attendant Grade 3' shall mean an employee who has the appropriate level of training including a supervisory course, and has the responsibility for the supervision, training and co-ordination of kitchen attendants of a lower grade.

'Cook Grade 1' means an employee who carries out cooking of breakfasts and snacks, baking, pastry cooking, or butchering.

'Cook Grade 2' shall mean an employee who has the appropriate level of training and who performs cooking duties such as baking, pastry cooking, or butchering.

'Cook (Tradesperson) 3' shall mean a Commi Chef or equivalent who has completed an apprenticeship or who has passed the appropriate trade test, and who is engaged in cooking, baking, pastry cooking or butchering duties.

'Cook (Tradesperson) 4' shall mean a Demi Chef or equivalent who has completed an apprenticeship or has passed the appropriate trade test and who is engaged to perform general or specialised cooking, butchering, baking, or pastry cooking duties and/or supervises and trains other cooks and kitchen employees.

'Cook (Tradesperson) 5' shall mean a Chef de Partie or equivalent who has completed an apprenticeship or has passed the appropriate trade test in cooking, butchering, or pastry cooking and has completed additional appropriate training who performs any of the following:

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general and specialised duties including supervision or training of other kitchen staff;

ordering and stock control;

solely responsible for other cooks and other kitchen employees in a single kitchen establishment.

Guest Service

'Guest Service Grade 1' shall mean an employee who performs any of the following:

laundry and/or linen duties which may include minor repairs to linen or clothing such as buttons, zips, seams, and working with flat materials;

the collection and delivery of guests' personal dry cleaning and laundry, linen and associated materials to and from accommodation areas;

performs general cleaning duties;

parking guest cars.

'Guest Service Grade 2' shall mean an employee who has not achieved the appropriate level of training and who is engaged in any of the following:

servicing accommodation areas and cleaning thereof;

receiving and assisting guests at the entrance to the establishment;

driving a passenger vehicle or courtesy bus;

transferring guests' baggage to and from rooms;

providing butler services such as food, beverage and personalised guest service.

'Guest Service Grade 3' shall mean an employee who has the appropriate level of training and who is engaged in any of the following:

supervising guest service employees of a lower grade;

providing butler services, basic food or beverage service personalised guest service;

major repair of linen and/or clothing including basic tailoring and major alterations and refitting;

dry cleaning.

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'Guest Service Grade 4' shall mean an employee who has completed an apprenticeship or who has passed the appropriate trade test or otherwise has the appropriate level of training to perform the work of a tradesperson in dry cleaning, tailoring, or as a butler.

'Guest Service Supervisor' shall mean an employee with the appropriate level of training including a supervisory course, who supervises, trains, and co-ordinates the work of employees engaged in a housekeeping department.

'Front Office Grade 1' shall mean an employee who is engaged as an assistant in front office duties including night auditing, telephonist, receptionist, cashier, or reservations.

'Front Office Grade 2' shall mean an employee who has the appropriate level of training and is in the front office engaged in duties including night auditing, telephonist, receptionist, cashier, or reservations.

'Front Office Grade 3' shall mean an employee who has the appropriate level of training and is engaged in duties including assisting in training and supervision of front office employees of a lower grade.

'Front Office Supervisor' shall mean an employee who has the appropriate level of training including a supervisory course and who supervises, trains and co-ordinates the work of front office employees.

Administration and General

'Clerical Grade 1' shall mean an employee who is required to perform basic clerical and routine office duties such as collating, filing, photocopying, and delivering messages.

'Clerical Grade 2' shall mean an employee who is engaged in general clerical or office duties, such as typing, filing, basic data entry and calculating functions.

'Clerical Grade 3' shall mean an employee who has the appropriate level of training and who carries out general secretarial stenographic or clerical duties of an advanced nature and who has recognised experience in complex duties, and may be responsible for guidance of other office personnel including juniors and may check and allocate their work.

'Clerical Supervisor' shall mean an employee who has the appropriate level of training including a supervisory course and who co-ordinates other clerical staff.

'Storeperson Grade 1' shall mean an employee who receives and stores general and perishable goods and cleans the store area.

'Storeperson Grade 2' shall mean an employee who, in addition to the duties for a Storeperson Grade 1, may also operate mechanical lifting equipment such as forklift and/or who may perform duties of more complex nature.

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'Storeperson Grade 3' shall mean an employee who has the appropriate level of training and who supervises the receipt and delivery of goods and records outgoing goods and is responsible for the contents of a store.

'Doorperson/Security Officer Grade 1' shall mean a person who assists in maintenance of dress standards and good order at an establishment.

'Doorperson/Security Officer Grade 2' shall mean a person who is responsible for timekeeping of staff, for the security of keys, for the checking in and out of delivery vehicles, and/or for the supervision of Doorperson/Security Officer Grade 1 personnel.

'Handyperson' shall mean a person who is not a tradesperson and whose duties include the performance of routine repair work and maintenance in and about the employer's premises.

'Forklift Driver' shall mean an employee who has a recognised forklift licence and who is engaged solely on the basis of driving a forklift vehicle. (For those employees who operate a forklift as only part of their duties, either Food and Beverage Grade 3 or Storeman Grade 2 are applicable.)

'Persons not otherwise provided for' shall mean any employee for which no specific classification exists in this award.

Leisure Activities

'Greenkeeper Grade 1' shall mean a person who:

attends and maintains a garden;

cares for the alignment, maintenance and satisfactory condition of all sporting and playing areas and may be required to operate machinery or equipment and carry out minor repairs and maintenance thereto.

'Greenkeeper Grade 2' shall mean a person who has the appropriate level of training and who carries out gardening and greenkeeping duties.

'Greenkeeper (Tradesperson) Grade 3' shall mean a Gardener or Greenkeeper who performs duties and who is a qualified tradesperson or has passed a trade test.

'Head Greenkeeper Tradesperson' shall mean a tradesperson who is responsible for the operation of an area and in charge of the greenkeeping or gardening area where more than one tradesperson is employed. An advanced skill and/or supervisory course will have been completed.

'Leisure Attendant Grade 1' shall mean a person who acts as an assistant instructor, pool attendant, and/or can be responsible for the setting up, distribution and care of equipment, and taking of bookings.

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'Leisure Attendant Grade 2' shall mean a person who has the appropriate level of training and takes classes and/or directs leisure activities such as sporting areas, health clubs and swimming pools.

'Leisure Attendant Grade 3' shall mean a person who has the appropriate level of training, and who plans and co-ordinates leisure activities for guests and may supervise other leisure attendants.

'Introductory level' shall be applicable if an employee has not achieved the appropriate level of training and has less than 3 months experience either in the industry as defined in Clause 2 - Scope, or in another industry where the employee performed work similar to that which he or she is required to perform under this award.

'Appropriate level of training' shall mean:

completion of a training course deemed suitable according to guidelines issued through Tourism Training Australia for that particular classification. After 1 June 1991 such course to be accredited by the Australian Hospitality Review Panel;

that the employee's skills have been assessed to be at least the equivalent of those attained through the suitable course described in the above paragraph, such assessment to be undertaken by a qualified skills assessor; or

that for a transitional period until 1 January 1992, the employees can be deemed to have the appropriate level of training.

'Spread of hours' means the period of time elapsing from the time an employee commences duty to the time the employee ceases duty within any period of 24 hours.

'Double time' shall mean double the ordinary hourly rate prescribed for the permanent employee.

'Union' for the purposes of this award shall mean the Federated Liquor and Allied Industries Employees' Union of Australia - Tasmanian Branch.

'Traineeship' is a system under the Australian Traineeship System comprising structured on-the-job training with an employer and off-the-job training with a Technical and Further Education College or other training provider approved by the appropriate State Training Authority.

'Trainer agreement' means an agreement for training registered under the provisions of the appropriate State Training Legislation.

'Trainee (ATS)' is an employee who is bound by the training agreement registered with the appropriate State Training Authority.

'Liquor service employees' for the purposes of this award, refers to those persons employed in this capacity of the selling or dispensing of liquor in bars and/or bottle departments or shops, and cellar employees.

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'Rostered day off' for the purposes of this award, a rostered day off (RDO) shall be considered to be any continuous 24 hour period between the completion of the last ordinary shift and the commencement of the next ordinary shift on which an employee is rostered on for duty.

'Hotel, tavern or wine saloon' for the purposes of this award, is an establishment conducted under the provisions of the Licensing Act holding a "General License" or an "On License". In the case of an "On License" this shall be limited to an establishment where at least a part of that establishment retails liquor to the public for consumption on the premises, without the sale of a meal.

DIVISION B

For the purposes of this award:

'Motor inn and motel' means and includes an accommodation establishment (not being a licensed hotel) where accommodation is made available to paying guests which may also include the serving of food and/or liquor and without limiting the generality of the foregoing includes an establishment where food and/or liquor is made available to members of the public seated at tables in dining rooms or restaurants, such dining operations being in association therewith. An accommodation establishment shall not include any establishment covered by the jurisdiction of the Restaurant Keepers Award.

'Association' shall mean The Motor Inn and Motel Association of Australia.

'Drink dispenser' shall mean any person employed dispensing or mixing liquor in any portion of the licensed premises.

'Breakfast or other Cook' shall mean a cook (other than a first cook, cook in charge, second cook or qualified cook) who is responsible for the preparation of breakfasts and under direction cooks and/or prepares lunches or dinners or other meals served in a motel.

'Chef or First Cook' means the cook permanently employed to be in charge of a kitchen.

'Qualified Cook' shall mean a cook who has successfully completed and can produce appropriate documentary evidence to his or her employer to the effect that he or she has successfully completed an apprenticeship in cooking at any approved or recognised school or college or who has passed an appropriate trade test in cooking at a recognised school or college.

'Second Cook' means a cook who is in charge of the kitchen staff when the chef or first cook is not on duty.

'Cook employed alone' means a cook (other than a breakfast cook or other cook, chef or first cook, qualified cook, second cook) employed in a kitchen where no other cook is employed.

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'Qualified Waiter' shall mean a waiter who has successfully completed and can produce appropriate documentary evidence to his or her employer to the effect that he or she has successfully completed an apprenticeship in waiting at an approved or recognised school or college or who has passed an appropriate trade test in waiting at a recognised school or college.

'Cellarman' shall mean any person employed in charge of, or responsible for the contents of a cellar or liquor store.

'Assistant Cellarman' shall mean any employee who is substantially engaged as an assistant to the cellarman.

'Office employees' shall mean persons who perform any of the duties of receptionists, telephonists, cashiers, booking clerks or other clerical duties.

'Employee' means any person carrying out the duties of any classification in this award.

'Traymaid' means a person who prepares and/or carries breakfast trays.

'Weekly employee' for the purposes of this award shall mean a person engaged to regularly work 40 hours weekly in accordance with the provisions of Clause 60 - Hours of Work - of this Division.

'Ordinary earnings' for the purposes of this Division shall mean the ordinary wages for each classification for ordinary hours Monday to Friday.

8. WAGE RATES

DIVISION A - HOTELS, TAVERNS OR WINE SALOONS

1. MINIMUM WAGE

- (a) Notwithstanding the provisions of subclause 2 of this clause an adult employee, whose weekly wage rate payable pursuant to the said subclause 2 for ordinary hours of work together with overaward payments is less than the undermentioned amount shall be paid in addition an allowance of such amount as will bring his or her rate of pay for such hours to the amount of **\$232.00** for that week.
- (b) Where such an employee has been absent from duty in a week in circumstances entitling the employer to deduct payment for the time of non-attendance he or she shall be paid for the ordinary hours worked during such week at the rate of the said appropriate amount per week.

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- (c) Where an allowance as prescribed by subclause (a) of this clause is payable to an employee, payments during paid leave and for holidays prescribed by Clause 21 - Holidays of this award shall be calculated at the rate of the said appropriate amount per week.
- (d) Calculations for overtime, penalty rates, shift work and other payments under the award shall be made at the rate prescribed by subclause 2 of this clause for the classification in which the employee is employed.

NOTE: The purpose of fixing the minimum wage at the amount above set out is to ensure to each adult worker a minimum wage for a week's work performed in ordinary hours. The fixation of the minimum wage at the amount mentioned does not give any reason for any change in award rates of pay which are below or above the appropriate minimum wage.

2. WAGE RATES - ADULTS

- (a) An adult employee of a classification specified in the table hereunder (other than an apprentice or an employee in respect of whom a certificate under Section 79 of the Industrial Relations Act 1984 is in force) shall be paid not less than the rate per week assigned to that classification for the area in which such employee is working.

SECTION I – FOOD & BEVERAGE

	Base Rate \$	Suppl Payment \$	Total Wage \$
Food & Beverage Attendant Grade 1 e.g. Useful	319.90	1.00	320.90
Food & Beverage Attendant Grade 2 e.g. Other Waiter Snack Bar Attendant	326.10	3.00	329.10
Assistant Cellarperson Bar Attendant Cashier	332.70	1.40	334.10
Food & Beverage Attendant Grade 3	332.40	6.40	338.80
Food & Beverage Attendant Grade 4 e.g. Cellarperson	341.30	9.80	351.10
Food & Beverage Attendant Grade 5 e.g. Qualified Waiter	353.60	14.50	368.10
Food & Beverage Supervisor	357.30	17.50	374.80

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SECTION II - KITCHEN

Kitchen Attendant Grade 1 e.g. Kitchen Attendant Pantry Attendant	323.10		323.10
Kitchen Attendant Grade 2	327.00	1.70	328.70
Cook Grade 1 e.g. Breakfast and/or Other Cook	330.00	2.10	332.10
Cook employed alone	334.20	1.00	335.20
Other Butcher	340.90		340.90
Kitchen Attendant Grade 3 Cook Grade 2	334.20	6.50	340.70
Cook (Tradesperson) Grade 3 e.g. Qualified Cook Qualified Butcher	353.60	14.50	368.10
Cook (Tradesperson) Grade 4 e.g. First Cook	379.10	13.20	392.30
Cook (Tradesperson) Grade 5	377.20	18.30	395.50

SECTION III - GUEST SERVICE

Guest Service Grade 1 e.g. Cleaner Messenger Car Parking Attendant Laundry Employee Billiard Room Attendant	323.10		323.10
Guest Service Grade 2 e.g. Commissionaire Housemaid Porter	323.10	3.80	326.90
Guest Service Grade 3	327.00	7.20	334.20
Guest Service Grade 4	353.60	14.50	368.10
Guest Service Supervisor e.g. Housekeeper	358.00	18.10	376.10

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SECTION IV - ADMINISTRATION GENERAL

Storeperson Grade 1 e.g. Storeperson	330.00		330.00
Storeperson Grade 2	340.90		340.90
Storeperson Grade 3	340.90	10.60	351.50
Handyperson	342.10		342.10
Doorperson/Security officer Grade 1	328.00	1.40	329.40
Timekeeper/Security Officer Grade 2	343.70	4.10	347.80

SECTION V – LEISURE

Greenkeeper Grade 1	321.50	3.00	324.50
Greenkeeper Grade 2	329.60	6.50	336.10
Greenkeeper (Tradesperson) Grade 3	348.80	14.50	363.30
Head Greenkeeper (Tradesperson)	374.70	13.20	387.90
Leisure Attendant Grade 1	321.50	3.00	324.50
Leisure Attendant Grade 2	329.60	6.50	336.10
Leisure Attendant Grade 3	336.80	9.80	346.60

SECTION VI - MISCELLANEOUS

Persons not otherwise provided for	319.90	1.00	320.90
Introductory Level	297.10		297.10
Forklift Driver	387.10		387.10

- (b) Notwithstanding the recognition of five career path streams, such streaming does not prevent employees undertaking duties across different streams provided that where work is undertaken at a higher grade and/or at a higher rate then Clause 20 - Higher and Lower Grade Work, applies.

SECTION VII - FRONT OFFICE AND CLERICAL

An adult employee of a front office or clerical classification specified in the table hereunder shall be paid not less than the total wage assigned to that classification for the area in which such employee is working.

Columns are represented as follows:

- (A) Base Rate.
- (B) Additional Allowance adjusted by Specific Application only.
- (C) Supplementary Payment.
- (D) Total Wage.

	(A)	(B)	(C)	(D)
Front Office Grade 1				
1st year of service	331.90	-	0.50	332.40
2nd year of service	333.70	12.60	-	346.30
3rd year of service and thereafter	333.70	21.60	-	355.10
Front Office Grade 2				
1st year of service	246.30	-	2.30	348.60
2nd year of service	346.30	-	2.30	348.60
3rd year of service and thereafter	355.10	-	0.20	355.30
Front Office Grade 3				
1st year of service	355.10	-	13.00	368.10
2nd year of service	355.10	-	13.00	368.10
3rd year of service and thereafter	355.10	-	13.00	368.10
Front Office Supervisor				
1st year of service	363.60	-	15.90	379.50
2nd year of service	363.60	-	15.90	379.50
3rd year of service and thereafter	363.60	-	15.90	379.50
Clerical Grade 1				
1st year of service	317.50	14.40	-	331.90
2nd year of service	317.50	28.80	-	346.30
3rd year of service and thereafter	317.50	31.60	-	355.10
Clerical Grade 2				
1st year of service	331.90	-	0.50	332.40
2nd year of service	333.70	12.60	-	346.30
3rd year of service and thereafter	333.70	21.40	-	359.90

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Clerical Grade 3				
1st year of service	355.10	-	5.30	360.40
2nd year of service	355.10	-	5.30	360.40
3rd year of service and thereafter	355.10	-	5.30	360.40
Clerical Supervisor				
1st year of service	363.60	-	15.90	379.50
2nd year of service	363.60	-	15.90	379.50
3rd year of service and thereafter	363.60	-	15.90	379.50

(c) Supplementary Payments

Supplementary payments prescribed in this clause are in substitution for any overaward payment as defined hereunder which would otherwise have been paid.

'Overaward Payment' is defined as the amount (whether it be termed "overaward payment", "attendance bonus", 'service increment", or any term whatsoever) which an employee would receive if in excess of the "award wage" which applied immediately prior to 23 August 1990 for the classification in which such employee is engaged. Provided that such payment shall exclude overtime, shift allowance, penalty rates, disability allowances, fares and travelling time allowance and any other ancillary payments of a like nature prescribed by this award.

3. JUNIORS

(a) Junior Employees (other than Office Juniors)

The minimum rate of wages for junior employees shall be the undermentioned percentages of the rates prescribed for the appropriate adult classification for the work performed for the area in which such junior is working.

Age	%
17 years of age and under	70
18 years of age	80
19 years of age	90
20 years of age	Full adult rate

(b) Junior Office Employee

The minimum rates of wages for junior office employees shall be the undermentioned percentages of rates prescribed for the office employee 1st year of adult service in the clerical industry for the area in which such junior is working.

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	%
At 15 years of age and under	50
At 16 years of age	60
At 17 years of age	70
At 18 years of age	80
At 19 years of age	90
At 20 years of age	1st year of adult service

- (c) The percentages prescribed in subclauses (a) and (b) of this clause shall be calculated as follows:

The total wage shall be calculated to the nearest 10 cents, any broken part of 10 cents in the result being less than 5 cents shall be disregarded - 5 cents and over shall go to the higher 10 cents.

- (d) Junior male or female employees, on reaching the age of 18 years, may be employed in the bar or other places where liquor is sold.

PROVIDED that where such junior is employed in the front of the house, the adult award rate for the work being performed shall be paid.

- (e) Junior employees being paid junior rates may be employed in the proportion not exceeding one junior to every three or fraction of three adults employed.

Notwithstanding anything elsewhere contained in this award where such junior employees are employed in excess of one to every three or fraction of three adults each such additional junior shall be paid the adult award rate for the work being performed. In deciding which junior or juniors shall be paid the adult rate, the length of service in the establishment shall apply.

- (f) An employer may at any time demand the production of a birth certificate or other satisfactory proof for the purpose of ascertaining the correct age of a junior employee. If a birth certificate is required, the cost of it shall be borne by the employer.

- (g) No employee under the age of 18 years shall be required to work more than 10 hours in a shift.

4. APPRENTICES

- (a) Where an employee is apprenticed in the cooking trade in accordance with the provision of any State law and/or regulation made by the Training Authority of Tasmania such employee shall be paid the percentage of the wage prescribed for a Cook (Tradesperson) Grade 3 in subclause 2 hereof as follows:

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	%	Percentage of Qualified Cook's Rate (\$368.10)
First year	50	184.10
Second year	65	239.30
Third year	80	294.50
Fourth year	90	331.30

- (b) Where an employee is apprenticed in the waiting trade in accordance with the provision of any State law and/or regulation made by the Training Authority of Tasmania such employee shall be paid the percentage of the wage prescribed for a Food and Beverage Attendant Grade 5 in subclause 2 of this award as follows:

	%	Percentage of Qualified Waiter/Waitress' Rate (\$368.10)
First six months	62	228.20
Second six months	76	279.80
Third six months	76	279.80
Fourth six months	90	331.30
Fifth six months	90	331.30

- (c) Any person completing a full apprenticeship as a qualified tradesperson or as defined in Clause 7 - Definitions shall be paid not less than the rate prescribed for a Cook (Tradesperson) Grade 3 of subclause 2 of this clause. The provisions of subclause 3 of this clause shall not apply to an employee provided for in this subclause.

The above percentages shall be calculated to the nearest 10 cents, any broken part of 10 cents in the result being less than 5 cents shall be disregarded - 5 cents and over shall go to the higher 10 cents.

5. TRAINEES

The weekly wage payable to Trainees (ATS) shall be calculated in accordance with the formula prescribed in Schedule 1 to this award, viz.:

	Amount Per Week \$
17 years of age	173.00
18 years of age	197.70
19 years of age	222.40
20 years of age	247.10

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PROVIDED that the wage rate shall in no case be less than the minimum rate prescribed by the ATS guidelines, and the rate calculated shall be subject to any relevant adjustment as may be prescribed by the Tasmanian Industrial Commission.

DIVISION B - MOTELS

1. MINIMUM WAGE

- (a) Notwithstanding the provisions of subclause 2 hereof, an adult employee, whose weekly wage rate payable pursuant to subclause 2 for ordinary hours of work together with overaward payments is less than \$221.70 appropriate to his or her location, shall be paid in addition an allowance of such amount as will bring his or her rate of pay for such to the said appropriate amount for that week.
- (b) Where such an employee has been absent from duty in a week in circumstances entitling the employer to deduct payment for the time of non-attendance he or she shall be paid for the ordinary hours worked during such week at the rate of the said appropriate amount per week.
- (c) Where an allowance as prescribed by subclause (a) hereof is payable to an employee, payments during paid leave and for holidays prescribed by this award shall be calculated at the rate of the said appropriate amount per week.
- (d) Calculations for overtime, penalty rates, shift work and other payment under the award shall be made at the rate prescribed by subclause 2 hereof for the classification in which the employee is employed.

NOTE: The purpose of fixing the minimum wage as above set out is to ensure to each adult worker a minimum wage for a week's work performed in ordinary hours. The fixation of the minimum wage at the amount mentioned does not give any reason for any change in award rates of pay which are below or above the appropriate minimum wage.

2. WAGE RATES

Adults

- (a) An adult employee of a classification specified in the table hereunder (other than an apprentice or an employee in respect of whom a certificate under Section 79 of the Industrial Relations Act 1984 is in force) shall be paid not less than the rate per week assigned to that classification for the area in which such employee is working.

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Classification	Amount per week \$
1. Cellarman	319.00
2. Assistant Cellarman	311.40
3. Drink dispenser/dining-room cashier	311.40
4. Chef or first cook in-charge	344.20
5. Second cook	332.60
6. Qualified cook	324.10
7. Cook employed alone	314.50
8. Breakfast/other cook	310.00
9. Head waiter/waitress supervisor	343.50
10. Qualified waiter/waitress	321.90
11. Waiters and Waitresses	306.60
12. Porters night-day	304.20
13. Commissionaire, messenger and/or parking attendant	304.20
14. Kitchenman/maid, pantryman/maid, sandwich hand, counter hand and expresso bar attendant	304.20
15. Useful, laundress, traymaid, housemaid, linenmaid or seamstress	304.20
16. Housekeeper	333.30
17. Storeman	310.20
18. Office employees:	
1st year of adult service in clerical industry	317.20
2nd year of adult service in clerical industry	325.80
3rd year of adult service in clerical industry	334.00
19. Persons not otherwise provided for	304.20

(b) In-Charge Employees

A person (other than a head waitress/supervisor, head waiter/supervisor, housekeeper, first cook or chef) appointed to direct other employees shall be paid as follows:

- (i) If required to direct more than four employees - \$11.80 extra per week.

In-charge rates are added to the weekly rates and apply as part of the weekly rate for all purposes.

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(c) Special Allowances - Office Employees

Machine operators, comptometer operators, ledger posting machine operators and/or punch card tabulator operators, irrespective of age, with three months experience as such shall be paid as part of the weekly wages an allowance of \$3.30 per week.

Special allowances provided in this subclause shall be part of the weekly rate and apply as part of the weekly rate for all purposes.

(d) Apprentices

Cooking Trade - per week of 40 hours

Notwithstanding where an employee is apprenticed in accordance with the provisions of any State law and/or regulations made by the Training Authority of Tasmania, such employees shall be paid the percentage of the wage prescribed for a qualified cook in subclause (a) of this subclause as follows:

	%	Percentage of Qualified Cook's Rate (\$324.10)
First year	55	178.30
Second year	65	210.70
Third year	80	259.30
Fourth year	95	307.90

The above percentages shall be calculated to the nearest 10 cents, any broken part of 10 cents in the result being less than 5 cents shall be disregarded - 5 cents and over shall go to the higher 10 cents.

(e) Junior - per week of 40 hours (other than office juniors)

The minimum rates of wages for junior employees shall be the undermentioned percentages of the rate prescribed for the adult classification appropriate to the work performed for the area in which the work is performed.

Age	%
17 years of age and under	60
18 years of age	70
19 years of age	85
20 years of age	100

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(f) Junior Office Employees

The minimum rates of wages for junior office employees shall be the undermentioned percentages based on the adult rate for the 1st year of service in the clerical industry.

Age	%	Percentage of Rate for 1st year of service in clerical industry
		(\$317.20) \$
At 15 years of age and under	37	117.40
At 16 years of age	44	139.60
At 17 years of age	58	184.00
At 18 years of age	72	228.40
At 19 years of age	82.5	261.70
At 20 years of age	94	298.20

- (g) The percentages prescribed in subclauses (e) and (f) of this subclause shall be calculated as follows:

The total wage shall be calculated to the nearest 10 cents, any broken part of 10 cents in the result being less than 5 cents shall be disregarded - 5 cents and over shall go to the higher 10 cents.

- (h) Junior employees on reaching the age of 18 years, may be employed in the sale of liquor, provided that the maximum number shall be one to every three adults similarly employed receiving a minimum weekly rate prescribed in this Division. Provided further that where such junior is employed, the adult award rate for the work being performed shall be paid.
- (i) Junior employees may be employed elsewhere in the proportion not exceeding one junior to every three or fraction of three adults employed therein and paid the junior rates prescribed in this Division. Notwithstanding anything elsewhere contained in this award where junior employees are employed in excess of one to every three or fraction of three adults, each such additional junior shall be paid the adult award rate for the work being performed.

In deciding which junior or juniors shall be paid the adult rate, the length of service in the establishment shall apply:

- (j) An employer may at any time demand the production of a birth certificate or other satisfactory proof for the purpose of ascertaining the correct age of a junior employee. If a birth certificate is required, the cost of it shall be borne by the employer.

**CONDITIONS FOR EMPLOYEES IN DIVISION A
- HOTELS, TAVERNS OR WINE SALOONS**

9. AGED AND INFIRM WORKERS

The provisions of Section 79 of the Industrial Relations Act 1984 shall apply.

10. ANNUAL LEAVE

- (a) Employees on weekly hiring who have been in the service of an employer for at least 12 months shall be granted 4 working weeks' annual leave to be paid at the current rates prescribed in Clause 8 – Wage Rates, of this award plus 17.5 per cent of such current rates. The period of annual leave itself shall be regarded as service in the second and subsequent years of employment. The 17.5 per cent shall apply on each completed year of service.
- (b) The said annual leave shall be exclusive of the holidays prescribed in this Division 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 working time which the employee would have worked if such day had not been a holiday, or payment for such day may be made in lieu thereof.
- (c) Where a holiday falls as aforesaid and the employee fails, without reasonable cause, proof thereof shall be upon him to attend for work at his ordinary starting time on the working day immediately following the last day of the period of his annual leave, he shall not be entitled to be paid for such holiday.
- (d) Annual leave shall be taken within a period of 4 months after the date on which it becomes due. Provided that this period may be extended to six months by agreement between employer and employee.
- (e) At least 14 days' notice of the date annual leave shall commence shall be given to each employee by the employer in writing.
- (f) The annual leave provided for by this subclause shall be allowed and shall be taken and except in the case of pro rata leave and except as provided for in subclause (b) hereof, payment shall not be made or accepted in lieu thereof.
- (g) Pro Rata Leave

If after one month's continuous service in any qualifying 12 monthly period an employee leaves his employment or his employment is terminated by his employer, the employee shall be paid pro rata leave at the rate of 1/12 of 4 weeks at award rates of pay for each completed month of continuous service with the employer, the service being service in respect of which leave has not been granted in accordance with this clause.

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(h) Successor, Assignee or Transmitttee

Where the employer is a successor or assignee or transmitttee of a business and an employee was in the employment of the employer's predecessor at the time when he became such successor or assignee or transmitttee, the employee in respect of the period during which he was in the service of the predecessor shall for the purpose of this clause be deemed to be in the service of the employer, and such successor, assignee or transmitttee shall be liable to the said employee for all annual leave and proportionate annual leave liability of the employer's predecessor.

(i) For the purposes of this clause service shall be deemed to be continuous notwithstanding:

- (i) any interruption or determination of the employment by the employer if such interruption or determination has been made merely with the intention of avoiding obligations hereunder in respect of the leave of absence; or
- (ii) any absence from work on account of personal sickness or accident or on account of leave lawfully granted by the employer; or
- (iii) any absence with reasonable cause, proof whereof shall be upon the employee.

Any absence from the work by reason of any cause not being a cause specified in this subclause shall not be deemed to break the continuity of service for the purposes of this clause unless the employer during the absence or within 14 days of the termination of the absence notifies the employee in writing that such absence will be regarded as having broken the continuity of service.

In cases of the individual absenteeism such notice shall be given in writing to the employees concerned, but in cases of concerted or collective absenteeism notice may be given to employees by the posting up of a notification in the establishment, in the manner in which general notifications to employees are usually made in that establishment and by posting to the union a copy of it not later than the day it is posted up in the establishment.

A notice to an individual employee may be given by delivering it to him personally or by posting it to his last recorded address, in which case it shall be deemed to have reached him in due course of post.

In calculating the period of twelve months continuous service the following absences shall be taken into account and counted as time worked:

up to 152 ordinary working hours in a twelve monthly period in the case of sickness or accident;

long service leave taken by an employee in accordance with the State long service leave legislation.

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Other absences from work shall not be taken into account and shall not count as time worked in calculating the period of twelve months continuous service.

PROVIDED that for the purposes of this clause in calculating continuous service for periods of less than 12 months such absences due to sickness or accident shall be taken into account and counted as time worked on a pro rata basis of 152 ordinary working hours for 12 months service.

11. BEREAVEMENT LEAVE

A permanent employee shall be entitled to a maximum of 2 days leave without loss of pay on each occasion and on production of satisfactory evidence of the death of the employee's husband, wife, father, mother, brother, sister, child, common-law husband or wife.

12. BOARD AND LODGING

- (a) Where board and residence is made available to adult employees the employer shall have the right to deduct from the pay of the employee residing on the premises an amount of **\$112.70** per week.

PROVIDED that where an adult employee is required to share a room for lodging, the amount to be deducted from the pay of such employee for board and lodging shall be **\$112.10** per week.

- (b) Where lodgings only are made available to adult employees, the employer shall have the right to deduct from the pay of the employee residing on the premises the sum of **\$107.40** per week.

PROVIDED that where an adult employee is required to share a room for lodging, the amount to be deducted from the pay of such employee for lodging shall be **\$107.00** per week.

- (c) (i) In the case of employees who do not reside on the employer's premises a deduction at the rate of **\$4.00** for each meal supplied and consumed during the employee's spread of working hours may be deducted by the employer.
- (ii) The rates for each meal supplied shall be increased or decreased by one cent for every 50 cents per week alteration at the rate of classification - Persons not otherwise provided for, subclause 2, Division A, Clause 8 - Wage Rates.
- (d) Where necessary, lodging rooms shall be fitted with adequate heating and cooling appliances.

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- (e) The rates for board and lodging for adults shall be increased or decreased by 20 cents for every 50 cents per week alteration in the rate for the classification 'Person not otherwise provided for'.
- (f) Junior employees receiving adult rates of pay as prescribed in this Division shall be subject to the deductions applicable to adults prescribed in Division A, Clause 8 – Wage Rates.
- (g) Junior employees receiving junior rates of pay shall be subject to a deduction at the rate of **\$1.77** for each meal supplied and consumed during the employee's spread of working hours.
- (h) Junior employees receiving junior rates of pay shall be subject to a deduction for board and lodging on a percentage basis of the amount prescribed in subclauses (a) and (b), the percentages to apply as follows:

	%
At 15 years of age and under	45
At 16 years of age	55
At 17 years of age	70
At 18 years of age	80
At 19 years of age	90

13. BREAKAGES

An employer shall not charge a sum against nor deduct any sum from the wages of an employee in respect of breakages of crockery or other utensils except in the case of wilful misconduct.

14. CASUAL WORK

- (a) **'Casual employee'** in this industry shall mean and be deemed to be any employee engaged as such to work for a lesser period than a working week of 38 hours on the class of employment for which the casual is employed.
- (b) A casual employee shall be paid per hour at the rate of 1/38 of the weekly rate prescribed for the class of work performed, plus the appropriate undermentioned addition to that rate:
 - (i) 25 per cent for work on Monday to Friday inclusive provided that for such work performed before 7.00am and/or after 7.00pm an additional \$1.00 per hour or any part of an hour shall be paid with a minimum daily payment of \$1.53 and a maximum daily payment of \$3.05;
 - (ii) 75 per cent for work on Saturday;

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- (iii) 100 per cent for work on Sunday;
- (iv) 150 per cent for work on holidays prescribed in the award.
- (c) Casual work may, by mutual consent, be paid for weekly or fortnightly by agreement between the employers and employees or at the termination of each engagement.
- (d) **'Engagement'** for the purposes of this clause shall be deemed to mean the period or periods for which the employer notifies the employee that he or she is so required to attend on any one day.

PROVIDED that each period of engagement shall stand alone and shall be treated as an engagement of not less than two hours and paid for as such.
- (e) Casual employees who have been regularly employed as such in an establishment shall not be re-employed as weekly employees in that same establishment for a lesser period than one month.

15. DAY OFF COINCIDING WITH PUBLIC HOLIDAY

Where an employee's rostered day or days off coincide with a holiday prescribed in this division, the holiday shall not be a holiday for such employee and the holiday shall be substituted in one of the methods following:

- (a) one day with pay added to the annual leave
- (b) payment of one day's pay shall be made to the employee on the next succeeding pay day
- (c) such holiday may be allowed off with pay to the employee within 28 days after such holiday falls
- (d) one of the above methods must be mutually agreed upon by the employee and the employer, failing such agreement the provision prescribed in (a) herein shall apply.

16. DRESSING ROOMS, SHOWERS ETC.

The provisions of the Industrial Safety, Health and Welfare Act 1977 shall apply.

17. EMPLOYEE'S DUTIES

- (a) Any bar attendant or cellarman shall not be required to scrub or wash floors or tables; such work shall be performed by the useful.

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- (b) A female shall not be required to do any cleaning work in a public convenience for males during any period such convenience is open and/or accessible to the public on any premises covered by this Division.

18. FIRST AID OUTFIT

The provisions of the Industrial Safety, Health and Welfare Act 1977 shall apply.

An employee who has undertaken a first aid course and who is the holder of a current recognised first aid qualification such as a certificate from the St John's Ambulance or similar body shall be paid a weekly allowance of \$5.00 per week if he or she is appointed by the employer to perform first aid duty.

19. GRIEVANCE PROCEDURE

With respect to each of the employers covered by this award, disputes or grievances between it and its employees or any of them shall be settled in accordance with the procedures set out below:

- (a) Any grievance, claim or dispute which arises shall, where possible, be settled by discussion on the job between the employee and the management.
- (b) If the matter is not resolved at this level, the matter will be further discussed between the affected employee, the union delegate and the management.
- (c) If no agreement is reached, the relevant union organiser and delegate will discuss the matter with representatives of the employer.
- (d) Should the matter still not be resolved the following procedures may be followed:
 - (i) joint discussion shall be held between representatives of the Australian Hotels Association or other representative of the employer and the Federated Liquor and Allied Industries Employees Union of Australia; or
 - (ii) joint discussion between representatives of the Federal Executive of the Australian Hotels Association and the Federal Executive of the Federated Liquor and Allied Industries Employees Union of Australia.
 - (iii) if the matters are not finalised they shall be referred to the Industrial Commission.
- (e) Whilst the foregoing procedure is being followed work shall continue normally without bans or limitations. Where it is agreed that there is an existing custom, work shall continue in accordance with that custom, but in other cases, the work shall continue in accordance with the direction of the company. No party shall be prejudiced as to the final settlement by the continuance of work in accordance with this subclause.

20. HIGHER AND LOWER GRADE WORK

- (a) Except for Food and Beverage Attendant Grade 2 and 3, as defined in Clause 7 - Definitions hereof, an employee engaged for 2 or more hours of one day on duties carrying a higher rate than his ordinary classification shall be paid the higher rate for such day. If for less than 2 hours he shall be paid the higher rate for the time so worked.
- (b) A higher paid employee shall, when necessary, temporarily relieve a lower paid employee without loss of pay.

21. HOLIDAYS

- (a) Weekly employees shall be entitled to the following days without loss of pay:

New Year's Day, Australia Day, Hobart Regatta Day (south of Oatlands), Labour Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, the first Monday in November (where Hobart Regatta Day is not observed), Christmas Day and Boxing Day.

- (b) **PROVIDED** that when an employee is absent from his or her employment only on one working day or part of a day before or after a holiday, except on account of illness or other legitimate reason, he or she shall not suffer loss of payment for more than one day of the holidays.
- (c) Subject to Clause 15 - Day Off Coinciding with a Public Holiday hereof, all time worked by a weekly employee on a holiday herein prescribed shall be paid for at the rate of double-time-and-one-half for the hours worked, with a minimum of 4 hours additional pay. Alternatively, weekly employees who work on a prescribed holiday may, by agreement, perform such work at ordinary rates plus half-time additional in that week provided that equivalent paid time is added to the employee's annual leave or one day in lieu of such public holiday shall be allowed to the employee during the week in which such holiday falls. Provided that such holiday may be allowed to the employees within 28 days of such holiday falling due.
- (d) Where in a State or Territory or locality within a State or Territory an additional public holiday (other than Easter Saturday) is proclaimed or gazetted by the authority of the Commonwealth Government or of a State or Territory Government and such proclaimed or gazetted holiday is to be observed generally by persons throughout the State or Territory or a locality thereof, other than by those covered by Federal Awards, or when such a proclaimed or gazetted day is, by any required judicial or administrative order, to be so observed, then such day shall be deemed to be a holiday for the purposes of this award, for employees covered by this award who are employed in the State, Territory or locality in respect of which the holiday has been proclaimed or ordered as required. (The insertion of this provision shall not of itself prejudice the right of the union to make application for variation of this award in respect to Easter Saturday).

22. HOURS OF WORK – FULL-TIME EMPLOYEES

- (a) The hours of all permanent full-time employees shall be an average of 38 hours per week in one of the following two ways:
- (i) At one establishment a combination of the following methods may be worked:
- (1) a 19-day month, of 8 hours each day;
 - (2) the banking of a day each month, up to a maximum of 5 days to be taken at a time mutually acceptable to the employer and employee;
 - (3) four days at eight hours and one of six hours;
 - (4) four days at nine and a half hours per day;
 - (5) five days, to be worked at a total of seven hours and 36 minutes per day;
 - (6) a combination of subclauses (1), (2) and (3) hereof under which employees may be worked, under paragraph (3) hereof for up to six months in any year with the balance of the period worked under paragraph (1) and or (2) hereof.

Such method of working prescribed hours shall be determined by agreement between employer and employee. If no agreement can be reached the matter may be referred to the Tasmanian Industrial Commission in accordance with Clause 33 Reference of Disputes of this award. Whilst such hearing is pending the employer may roster employees within the above scope to suit the needs of his or her operation.

Notwithstanding the foregoing arrangements for hours of work applying to employees engaged prior to 1 April 1988 shall not be changed without the agreement of the employee or employees in question.

- (ii) By agreement between the employer and the employee and/or the union, the arrangements of hours of work can be implemented within any one or combination of the following:
- (1) 152 hours per each four week period; or
 - (2) 160 hours per each four week period, with a day banked per period up to a maximum of five.

PROVIDED that where the union has not been involved in the consultation process, they should be notified by the employer in writing no less than 28 days before implementation of any agreement reached under this paragraph.

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(b) The hours of work arrangements agreed upon in paragraph (a)(ii) hereof shall be subject to the following conditions:

(i) Within a minimum of 6 hours and a maximum of 11.5 hours per day and shall be exclusive of meal break intervals, subject to Clause 25 - Meal Periods. Provided that where shifts of more than 10 hours per day are rostered for work, employees working such hours cannot be rostered for work on more than three consecutive days without a break of at least 48 hours, and further provided that no more than eight shifts of more than 10 hours can be worked in a four week period without consultation with the State Branch of the union.

(ii) In relation to subparagraph (a)(ii) hereof, an employee shall be entitled to nine full days off per four week period.

(iii) No employee shall work more than ten days in succession without a rostered day off.

(c) Spread of Hours

Where broken shifts are worked the spread of hours shall not exceed the ordinary hours by more than a total of 2 hours within the metropolitan area of Hobart and 3 hours in non-metropolitan areas, provided that no spread of hours shall be greater than 12 hours per day.

(d) Minimum Break between Shift

The roster for all employees on weekly hire shall provide for a minimum of 10 hours break between the finish of ordinary hours on one day and the commencement of ordinary hours on the following day. In the case of changeover of rosters, 8 hours shall be substituted for 10 hours.

(e) Wage Entitlements

Employees shall be entitled to a week's wages in accordance with Clause 8 - Wage Rates of this award for each week of work. Notwithstanding the provision of this subclause, an employer may, subject to agreement with the union, pay wages fortnightly according to the actual hours worked in that fortnightly pay period.

(f) Sickness on Rostered Day Off

Where an employee is sick or injured on his or her rostered day off he shall not be entitled to sick pay nor shall his sick pay entitlements be reduced as a result of his sickness or injury on that day.

(g) Pay Day

In the event that an employee by virtue of the arrangement of his ordinary working hours is rostered off duty on a day which coincides with pay day such employee shall be paid no later than the working day immediately following such pay day.

(h) Special Provisions for 38-hour Week

In relation to paragraph (a)(i) hereof, an employee shall be entitled to 2 full days off each week.

(i) Special Provisions for 19-Day Month

- (i) Where the method of implementation of the 38-hour week is that set out in subparagraph (a)(i)(1) hereof, days off shall be by rostering, where practicable, so this rostered day off in each four week cycle is continuous with normal rostered day or days off.
- (ii) Where such rostered day off falls on a public holiday the following day may be taken where practicable in lieu thereof.
- (iii) The entitlement to a rostered day off on full pay is subject to the following:
 - (1) Each day of paid leave (not including annual leave and long service leave) and any public holiday occurring during any cycle of four weeks shall be regarded as a day worked for accrual purposes.
 - (2) An employee who has not worked a complete four week cycle in order to accrue a rostered day off shall be paid a pro rata amount for credits accrued for each day worked in such cycle payable for the rostered day off (i.e. an amount of 24 minutes for each eight hour day worked or two hours for each 40 hours worked).

For the purposes of this subparagraph **'worked'** includes paid leave referred to in subparagraph (1) hereof.

(i) Special Provisions for Banking of Days

- (i) Where a rostered day off which has resulted from the method of implementation of the 38-hour week is that set out in subclause (a)(i)(2) hereof, falls on a public holiday, the following day may be taken where practicable in lieu thereof.
- (ii) Each day of paid leave taken (not including annual leave, long service leave and periods of workers' compensation) and any public holiday occurring during any cycle of four weeks shall be regarded as a day worked for accrual purposes.

23. MATERNITY LEAVE

(a) Eligibility for Maternity Leave

An employee who becomes pregnant, shall upon production to her employer of a certificate from a duly qualified medical practitioner stating the presumed date of her confinement, be entitled to maternity leave provided that she has had not less than 12 months' continuous service with that employer immediately preceding the date upon which she proceeds upon such leave.

For the purposes of this clause:

- (i) An employee shall include a part-time employee but shall not include an employee engaged upon casual or seasonal work.
- (ii) Maternity leave shall mean unpaid maternity leave.

(b) Period of leave and commencement of leave

- (i) Subject to subclauses (c) and (f) hereof, the period of maternity leave shall be for an unbroken period of from 6 to 52 weeks and shall include a period of 6 weeks compulsory leave to be taken immediately following confinement.
- (ii) An employee shall, not less than 10 weeks prior to the presumed date of confinement, give notice in writing to her employer stating the presumed date of confinement.
- (iii) An employee shall give not less than 4 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.
- (iv) 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 6 weeks immediately prior to her presumed date of confinement.
- (v) 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 (iii) hereof, if such failure is occasioned by the confinement occurring earlier than the presumed date.

(c) Transfer to a safe job

Where in the opinion of a duly qualified 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 duly qualified medical practitioner. Such leave shall be treated as maternity leave for the purposes of subclauses (g), (h), (i) and (j) hereof.

(d) Variation of period of maternity leave

- (i) Provided the addition does not extend the maternity leave beyond 52 weeks, the period may be lengthened once only, save with the agreement of the employer, by the employee giving not less than 14 days' notice in writing stating the period by which the leave is to be lengthened.
- (ii) The period of 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.

(e) 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 4 weeks from the date of notice in writing by the employee to the employer that she desires to resume work.

(f) 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:
 - (a) she shall be entitled to such period of unpaid leave (to be known as special maternity leave) as a duly qualified medical practitioner certifies as necessary before her return to work, or
 - (b) 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 duly qualified medical practitioner certifies as necessary before her return to work.
- (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 duly qualified 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 52 weeks.

- (iii) For the purposes of subclauses (g), (h) and (i) 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 (c), to the position she held immediately before such transfer.

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 salary or wage to that of her former position.

(g) Maternity leave and other leave entitlements

Provided the aggregate of leave including leave taken pursuant to subclauses (c) and (f) hereof does not exceed 52 weeks;

- (i) An employee may, in lieu of or in conjunction with maternity leave, take any annual leave or any part thereof to which she is then entitled.
- (ii) Paid sick leave or other paid authorised award absences (excluding annual leave), shall not be available to an employee during her absence on maternity leave.

(h) Effect of maternity leave on employment

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 an award.

(i) 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.
- (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.

(j) Return to work after maternity leave

- (i) An employee shall confirm her intention of returning to her work by notice in writing to the employer given not less than 4 weeks prior to the expiration of her period of maternity leave.

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- (ii) An employee, upon 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 sub-clause (c) to the position which she held immediately before such transfer. 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 salary or wage to that of her former position.
- (k) 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 under this subclause, the employer shall inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.
 - (iv) Provided that nothing in this subclause shall be construed as requiring an employer to engage a replacement employee.
 - (v) A replacement employee shall not be entitled to any of the rights conferred by this clause except where her employment continues beyond the 12 months' qualifying period.

24. MEAL MONEY

An employee required to work overtime for more than 2 hours without being notified on the previous day or earlier that he or she will be so required to work shall either be supplied with a meal by the employer or paid **\$6.01** meal money.

If an employee pursuant to notice has provided a meal and is not required to work overtime or is required to work less than the amount advised, he or she shall be paid as above prescribed for the meal which he or she has provided but which is surplus.

The rates of meal money as above prescribed shall be increased by 1 cent for every 50 cents per week alteration at the rate of classification – Persons not otherwise provided for, subclause 2, Division A, Clause 8 – wage Rates hereof.

25. MEAL PERIODS

- (a) Each employee shall be granted a meal interval of not less than 30 minutes to be commenced after completing not less than one hour and not later than six hours of duty.

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PROVIDED that where it is not possible to grant the meal interval on any day, the said meal interval shall be treated as time worked and paid at the rate of the day plus half time additional at the ordinary weekly rate until released for a meal.

PROVIDED ALWAYS that where an employee is required to work in excess of five hours after the first meal interval, he or she shall be granted a further meal interval of twenty minutes to be treated as time worked.

Where a rostered meal break requires an employee to work for more than five hours before such a meal break, then an employee shall be allowed a 20 minute break without loss of pay during such work period at a time suitable to the employer between two and five hours worked.

- (b) Notwithstanding the provisions of subclause (a) hereof, employees rostered to work more than ten ordinary hours in a shift shall be entitled to two paid 20 minute rest breaks in addition to an unpaid meal break of at least half an hour. In rostering for these breaks the employer shall make all reasonable efforts to provide these breaks at a time which gives the employee an even mix of work time and breaks.
- (c) Where an employee is required to work overtime and such overtime follows the completion of the employee's normal hours of work a 20 minute paid meal break shall be allowed where such overtime exceeds two hours work.

26. NOTICE OF DISMISSAL

- (a) Except as hereinafter provided all employees (other than casual employees) shall be engaged by the week and shall be paid weekly or by agreement between employers and employees may be paid fortnightly. Two days' notice for which the employee concerned shall receive payment shall be given by the employer or the employee to terminate employment or in lieu of such notice two days' wages shall be paid by the employer or forfeited by the employee.
- (b) An employer may dismiss an employee without notice:
 - (i) for neglect of duty or misconduct; or
 - (ii) inefficiency within the first 7 days.

Wages must be paid to time of dismissal in each instance.

- (c) Subject to Clause 36 - Sick Leave, an employee who fails without sound reason to notify the employer within one hour of the rostered commencing time of his inability to attend for duty on any day may be dismissed without notice.
- (d) Notwithstanding anything hereinbefore contained, an employee shall not be given notice or dismissed, except for misconduct, whilst legitimately absent from duty on accrued sick leave or annual leave.

27. OVERTIME AND PENALTY RATES

- (a) An employer may require any permanent employee to work reasonable overtime at overtime rates and such employee shall work overtime in accordance with such requirements. To ensure that permanent employees are not deprived of the opportunity to work reasonable overtime, an employer shall so far as is practicable offer such employee the opportunity to work any overtime that may be required to meet fluctuations in his or her trade or other special circumstances, in preference to engaging casuals to supplement his normal labour force.
- (b) All time worked in excess of the rostered hours of work or outside the spread of hours prescribed in Clause 22 - Hours of Work - Fulltime Employees, shall be overtime and shall be paid for at the following rates:
 - (i) Monday to Friday inclusive time-and-a-half for the first 2 hours and double-time for all work thereafter.
 - (ii) Between midnight Friday and midnight Sunday double-time for all time worked.
 - (iii) All work performed on an employee's rostered day off shall be paid for at the rate of double time with a minimum payment of four hours at that rate provided that such minimum does not apply to work which is part of the normal roster which began the day before the rostered day off.

The four hours minimum shall not apply when overtime is worked and is continuous from the previous days duty.
 - (iv) Overtime on any day shall stand alone.
 - (v) If an employee is so long on overtime duty following his or her normal finishing time that he or she has not had 10 hours interval before his or her next regular starting time, such employee shall be allowed at least 10 consecutive hours' interval without deduction of pay or shall be paid at overtime rates for all time of duty until he has had at least 10 hours' interval.
- (c) Notwithstanding the rate prescribed in subclause (b) at the instigation of the employee there may be an agreement in writing between the employee and the employer to take time off with pay equivalent to the amount for which payment would otherwise have been made. Such accumulated time must be taken within four weeks from the time of accrual.
- (d) Weekend Penalty Rates
 - (i) For all ordinary time worked between midnight Friday and midnight Saturday time-and-a-half rates shall be paid.

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- (ii) For all ordinary time worked between midnight Saturday and midnight Sunday time-and-three-quarters shall be paid.
- (iii) For all ordinary time worked by Liquor Service employees on a Sunday double-time shall be paid.
- (e) Other Penalty

A permanent employee who is required to work any of his or her ordinary hours outside the hours of 7.00am and 7.00pm on Monday to Friday inclusive shall be paid \$1.00 per hour or any part of an hour for such time worked outside the said hours, with a minimum payment of \$1.53 for any one day.
- (f) Broken Periods of Work

Permanent employees who have a broken work day shall receive an additional allowance for a spread of hours as prescribed in Clause 22 - Hours of Work - Full-time Employees, of this award as follows:

 - (i) Two hours over the hours worked in a day and up to three hours - \$1.30
 - (ii) Three hours over the hours worked - \$2.00.

28. PART-TIME EMPLOYEES

Adults may be employed as part-time employees in any classification in this award on the basis as follows:

- (a) Not less than three hours and not longer than eight hours per day, not less than three nor more than five days each week, and not less than fifteen hours each week, nor in excess of 30 hours per week.

All time worked in excess of eight hours per day, five days per week and/or 30 hours per week shall be overtime and paid for at the rates prescribed for other weekly employees in Clause 27 – Overtime and Penalty Rates, of this award.
- (b) The hours of duty each day shall be worked continuously. Provided that an employee who is required to work longer than five hours shall be granted a meal break of not less and not more than 30 minutes. The meal break shall not be counted as time worked. Where such meal break is not granted in a period of not longer than five hours of duty the penalty prescribed in Clause 25 – Meal Periods, of this award shall be paid.
- (c)
 - (i) A part-time employee shall be paid per hour at the rate of 1/38th of the weekly rate prescribed for the class of work performed, plus 10 per cent.
 - (ii) The additional 10 per cent shall be regarded also as ordinary wages for the payment of annual leave, sick leave, and work not performed on a holiday.

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- (iii) For all ordinary time before 7.00am and/or after 7.00pm on Monday to Friday inclusive \$1.00 per hour or any part of an hour shall be paid plus the ten per cent herein prescribed with a minimum daily payment of \$1.53.
- (d) The provisions of this award in respect of annual leave, sick leave and holidays shall apply on a pro rata basis to part-time employees.
- (e) The provisions of Clause 34 - Roster, and Clause 27 - Overtime and Penalty Rates, of this award shall apply to part-time employees.
- (f) Notwithstanding the foregoing provisions by agreement between an employer and employee/s the following hours of work arrangement shall apply.

Employees shall be employed for a specific number of hours each week on the basis as follows:

- (i) The specific number of hours for such part-time employees shall be not less than 12 hours and not more than 32 hours each week and not less than 3 hours and not longer than 8 hours each day to be worked in not more than 5 days each week.
- (ii) All time worked in excess of the rostered hours each day and the specific number of hours each week shall be overtime and paid for at the rates prescribed for other weekly employees in Clause 27 - Overtime and Penalty Rates, of this award.
- (iii) Provided further by agreement between the employer and the employee and/or the union the arrangement of hours of work can be implemented as follows:

The specific number of hours shall be not less than 48 and not more than 128 per each 4 week period:

Subject to the following conditions:

- (1) Not less than the 3 hours and not longer than 8 hours each day and not more than 19 days in each 4 week period.
- (2) Employees shall be entitled to a minimum of 9 full days off per each 4 week period.
- (3) No employee shall work more than 10 days in succession without a rostered day off.
- (4) All time worked in succession of the rostered hours each day and the specific number of hours each 4 week period shall be overtime and paid for at the rates prescribed for other weekly employees in Clause 27 - Overtime and Penalty Rates, of this award.

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- (iv) A part-time employee employed under the provisions of this subclause shall be paid per hour at the rate of 1/38th of the weekly rate prescribed for the class of work performed.
- (v) A part-time employee under the provisions of this subclause shall be entitled to all other conditions of this clause provided such conditions are not inconsistent with the provisions of this subclause.

29. PAYMENT OF WAGES

- (a) Except upon the termination of employment all wages including overtime shall be paid on any day other than Friday, Saturday or Sunday in each week. Notwithstanding the foregoing by agreement between the Union, the employer and the employee in a week where a holiday occurs payment of wages may be made on Friday.
- (b) By agreement between the employer and the employee wages may be paid either weekly or fortnightly by one of the following means:
 - (i) cash;
 - (ii) cheque; and,
 - (iii) payment into employee's bank account,

without cost to the employee.

In the event of a disagreement, the Union and the relevant employer organisation or other representative of the employer may be informed. Notwithstanding the provisions of this subclause, an employer may pay an employee weekly by cash without consultation.

- (c) Employees who are paid their wages at any time other than during their working time, shall, if kept waiting more than fifteen minutes, be paid overtime rates for all such waiting time.
- (d) Employees whose rostered day off falls on pay day shall be paid their wages, if they so desire, before going off duty on the working day prior to their day off.

PROVIDED that this subclause shall not apply to employees paid by electronic funds transfer.

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- (e) When notice of termination of employment has been given by an employee or an employee's services have been terminated by an employer, payment of all wages and other monies due shall be made at the employee's normal place of employment prior to the employee leaving such place of employment. If an employee is kept waiting for more than fifteen minutes after termination of employment such employees shall be paid overtime rates for waiting time.

PROVIDED that where an employee is dismissed for misconduct such employee shall be paid within 24 hours from the time of dismissal.

For the purposes of this subclause, waiting time shall mean all time an employee is kept waiting on the premises of the employer on the day of termination of employment in excess of the waiting time specified herein. In the event of an employee not being paid on the day of termination of employment, such employee shall be paid at the rate of time and a half until payment is effected, with a minimum payment of two hours and a maximum of seven hours 36 minutes per day.

Notwithstanding the foregoing provisions it is established by a hearing at the Tasmanian Industrial Commission that the failure to pay an employee correctly at the time of termination was due to a genuine error by the employer, payment of waiting time over and above the day of termination shall not apply.

PROVIDED ALWAYS in the case of an employee whose ordinary hours are arranged in accordance with subclauses 22(a)(i) and (ii) of this award and who is paid average pay and who has not taken the day off or days due to him during the working cycle in which his employment is terminated, the wages due to that employee shall include the total of credits accrued during the work cycle as mentioned in Clause 22 – Hours of Work – Full-time Employees, of this award.

PROVIDED FURTHER that where the employee has taken a day off during the work cycle in which his employment is terminated, the wages due to that employee shall be reduced by the total of credits which have not accrued during the work cycle.

- (f) At the time of payment of wages each employee not in receipt of taxation deduction stamps shall be issued with a statement showing gross wage, taxation deduction, net wage, and date to which payment is made.
- (g) For the purposes of this award including overtime, weekend and public holiday penalties the hourly rates of wages shall be calculated by dividing the appropriate weekly rates provided in subclause 2 (a), Division A, Clause 8 - Wage Rates, of this award by 38, subject to the provisions of Clause 14 - Casual Work.

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- (h) (i) As an alternative to being paid by the week according to Clause 8 - Wage Rates, by agreement between the employer and the employee an employee can be paid at a rate equivalent to an annual salary of at least 25% or more above the rate prescribed in Clause 8 - Wage Rates, times 52 for the work being performed. In such cases, there is no requirement under Clause 27 - Overtime and Penalty Rates, to pay overtime and penalty rates in addition to the weekly award wage, provided that the salary paid over a year was sufficient to cover what the employee would have been entitled to if all award overtime and penalty rate payment obligations had been complied with.

Provided further in the event of termination of employment prior to completion of a year the salary paid during such period of employment shall be sufficient to cover what the employee would have been entitled to if all award overtime and penalty rate payment obligations had been complied with.

- (ii) An employee being paid according to this subclause shall be entitled to a minimum of 8 days off per 4 week cycle. Further, if an employee covered by this clause is required to work on a public holiday, such employee shall be entitled to a day off in lieu or a day added to his or her annual leave entitlement.

30. PENALTY RATES NOT CUMULATIVE

Except as provided in Clause 26 – Notice of Dismissal hereof, where time worked is required to be paid for at more than the ordinary rate such time shall not be subject to more than one penalty, but shall be subject to that penalty which is to the employee's greatest advantage.

31. POSTING OF AWARD

This award shall be exhibited by each employer on his premises in a place accessible to all employees.

32. PREFERENCE OF EMPLOYMENT

Preference shall be given to all members of the Union who apply for employment under this award, and retention in employment under this award in the event of retrenchment. Such preference shall be given in the following manner:

- (a) Where a member of the union applies for employment and is willing and able to perform work under this award in respect of which work the employer intends to engage a new employee, the employer shall engage such member of the union.

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- (b) Where the employer is aware that a member of the union is willing and able to continue to perform work under this award in respect of which work the employer intends to reduce the number of his existing employees by retrenchment, the employer shall retain in employment such member of the union in preference to persons who are not members of the union. Such preference shall be given subject to the following conditions:
 - (i) Nothing in this clause shall require an employer to engage or retain in employment any particular person who is, in the opinion of the employer, not able to perform the work efficiently.
 - (ii) Nothing in this clause shall affect the right which an employer may have to dismiss summarily for misconduct or neglect of duty.

33. REFERENCE OF DISPUTES

Any dispute arising in respect of any matter to which this award relates shall be referred to the Industrial Commission whose decision shall be final.

34. ROSTER

- (a) A roster for all permanent employees showing normal starting and finishing time and the surname and initials of each employee shall be prepared by the employer and shall be posted in a conspicuous place or places accessible to the employees concerned.
- (b)
 - (i) In the case of employees working under Clause 22 - Hours of Work - Full-time Employees (a)(i), the roster shall be alterable by mutual consent at any time or by amendment of the roster on 7 days' notice. Where practicable 2 weeks' notice of rostered day or days off shall be given provided that the days off may be changed by mutual consent or through sickness or other cause over which the employer has no control.
 - (ii) The case of employees working under Clause 22 - Hours of Work - Full-time Employees) (a) (ii) the roster shall be alterable by mutual consent at any time or by amendment of the roster on 14 days' notice. Where practicable 3 weeks' notice of rostered day or days off shall be given provided that the days off may be changed by mutual consent or through sickness or other cause over which the employer has no control.

35. SEXUAL HARASSMENT

- (a) All employees are to be allowed to work in an environment free of sexual harassment.

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- (b) An employer shall not dismiss an employee on the grounds of refusal to dress in a manner which would cause that employee embarrassment.

36. SICK LEAVE

- (a) An employee, other than a casual, after one month's service with his/her employer, who is absent from work on account of personal illness, or on account of injury by accident shall be entitled to leave of absence subject to the following conditions and limitations:
 - (i) The employee shall not be entitled to be paid for any absence for any period for which he/she is entitled to workers' compensation.
 - (ii) Except where genuine reasons exist, employees shall notify their employer at least 2 hours before the commencement of a shift of their inability to attend for duty because of illness or personal injury. The employee should state the nature of the injury or illness (if known) and give an estimated duration of absence.
 - (iii) A claim made for sick leave shall be supported by evidence satisfactory to the employer (or in the event of a dispute to a hearing of the Tasmanian Industrial Commission) that he/she was unable on account of injury or personal illness to attend for duty on the day for which leave is claimed.
 - (iv) Subject to the provisions of subclause (c) he/she shall not be entitled to leave for each year of service in excess of 76 hours of working time.
 - (v) An employee shall not be entitled to paid leave in excess of 16 hours during the first three calendar months of his/her employment with an employer and a further 16 hours during the second three calendar months of such employment.

PROVIDED that should his/her employment continue beyond 6 months he/she shall be paid for the leave for which he/she would otherwise have been entitled to be paid except for the limitations prescribed in this paragraph and for which payment has not previously been made.

- (b) An employer taking over a business shall be responsible for all sick leave covered by the period of employment of each employee who was employed by an immediate predecessor in the business.
- (c) Sick leave which has not been taken by an employee during the immediately preceding 9 years, together with the allowance of the then current year render an employee entitled to a maximum of 760 hours sick leave in any one year.

PROVIDED that sick leave entitlements falling due and not taken between 1 May 1973 and 7 February 1979 shall accumulate at the rate of 48 hours for the first year of service and 64 hours for each year thereafter.

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- (d) An employee shall have his or her sick leave entitlements for each hour of absence on sick leave reduced by that amount up to the number of hours the employee is rostered for work.

37. SPECIAL CLOTHING

- (a) Where the employer requires any special clothing such as coats, dresses, caps, aprons, cuffs and any other articles of clothing to be worn by an employee they shall be purchased and laundered at the employer's expense. Such clothing shall remain the property of the employer. By agreement the employee may be required to wash and iron the special clothing and an agreed sum of money shall be paid to the employee each week by the employer provided that in the event of dispute the amount shall be determined by the Tasmanian Industrial Commission.

For the purposes of this clause black and white attire (not being dinner suit or evening dress), shoes, hose and/or socks shall not be regarded as special clothing.

- (b) Where it is necessary that waterproof or other protective clothing such as waterproof boots, aprons, or gloves be worn by an employee, such clothing shall be supplied without cost to the employee and shall remain the property of the employer.

PROVIDED that in the event of dispute, the necessity for the provision of protective clothing shall be determined by the Tasmanian Industrial Commission.

- (c) An employee on commencing employment shall sign a receipt for item/s of uniform and property. Such receipt shall list the item/s of uniform and property and value of same. Upon ceasing employment if the employee does not return item/s of uniform and property in accordance with the receipt the employer shall be entitled to deduct the value as stated on the receipt from the employee's termination wages.

Records of receipt shall be available for inspection by an official of the union. In the case of genuine wear and tear, damage, loss or theft that is not the employee's fault this provision shall not apply.

Any disagreement concerning the value of item/s of uniform and property and any other aspect of this subclause shall be determined by the Tasmanian Industrial Commission.

38. STANDING DOWN OF EMPLOYEES

An employer may deduct payment for any day or part of a day on which an employee cannot be usefully employed for the following reasons:

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- (a) a strike or stop-work meeting
- (b) a break-down of machinery
- (c) rationing of power or the lack of fuel or transport
- (d) the non-delivery of the raw material and finished products in the Liquor Trades Industry
- (e) any cause for which the employer cannot reasonably be held responsible, but shall not apply to slackness of trade.

In respect of (a) to (e) above:

- (i) No employee shall be deemed to be a casual employee only by reason of being given intermittent work in pursuance of this clause.
- (ii) At least 4 hours' notice of such deduction shall be exhibited where all employees concerned shall be able to see it.
- (iii) Service is not to be considered broken merely because employees have been temporarily stood down through no fault of their own.
- (iv) Continuity of service is to be protected for the purpose of annual leave, holidays and sick pay, as provided by this Division.
- (v) Employees allowed or required to commence work at the usual starting time on any day shall be paid for at least 4 hours, and where they are called upon to attend for duty twice on any one day they shall be paid not less than a full day's pay.

39. STOP-WORK MEETING

One official stop-work meeting per year shall be allowed without loss of ordinary pay provided the conditions are observed as follows:

- (a) At least 14 days' notice of such meeting is given to each employer.
- (b) The period of the meeting shall be 3 hours as a maximum, the employees returning to duty by noon.
- (c) Payment to be made for the period that the employee was rostered for duty.
- (d) Such stop-work meetings to be held on weekdays, other than Thursday or Friday.
- (e) Payment of wages shall be made only upon the employer being in receipt of satisfactory evidence of the employees attendance at the meeting.

40. SUB-CONTRACTS

- (a) No employer shall permit any of the classes of work covered by this award to be carried on by a contractor or other persons except in accordance with the terms and conditions of this award as if the contractor or other person were himself an employer and bound by this award.
- (b) No employer shall enter into any contract for the carrying on of any of the classes of work covered by this award by any contractor unless the contract contains a clause binding the contractor to pay the rates and observe the conditions set out in this award in respect of the work contracted for and unless a clause is inserted in any such contract to the effect that the employer can determine the contract if there is any breach of the conditions above referred.

41. SUPERANNUATION

- (a) Application and Commencement

Each employer shall, by the date hereinafter stated, provide superannuation for eligible employees in accordance with the terms of this clause.

By 1 June 1990.

- (b) Definitions

'Scheme' means the Hospitality Industry Portable Liquor Union Superannuation Trust Deed (HOST-PLUS), which complies with the Australian Government's Operational Standards for Occupational Superannuation Funds.

'Trustees' means HOST-PLUS Pty Ltd.

'Eligible employee' in the case of full-time and part-time employees means:

- (i) an employee who immediately before the date of commencement of superannuation as provided in subclause (a) has completed 4 weeks' continuous service with the employer; or
- (ii) an employee who subsequent to the date of commencement of superannuation completes 4 weeks' continuous service with the employer; or
- (iii) an employee who commences employment after the date of commencement of superannuation and who is an existing member of the scheme.

'Eligible employee' in the case of casual employees means:

- (i) an employee who immediately before the date of commencement of superannuation as provided in subclause (a) has completed continuous service over two successive calendar months in each of which the employee has had not less than two engagements and has aggregate ordinary time earnings, as defined, equivalent to not less than \$57 for each week in the month calculated by the number of Fridays falling within the calendar month; or
- (ii) an employee who subsequent to the date of operation of superannuation completes continuous service over two successive calendar months in each of which the employee has had not less than two engagements and has aggregate ordinary time earnings, as defined, equivalent to not less than \$57 for each week in the month calculated by the number of Fridays falling within the calendar month; or
- (iii) an employee who commences employment after the date of commencement of superannuation and who is an existing member of the scheme and has ordinary time earnings upon commencement or at any time thereafter of not less than \$57 per week in any one week.

'Ordinary time earnings' means the ordinary periodic salary wages or other remuneration paid by the employer to the employee each week including shift penalties, weekend and public holiday penalties, in-charge allowances, overaward payments and all other all. purpose payments and in respect of a casual employee shall include any casual loading including weekend and late shift penalties as prescribed by this award but not including any bonuses, commission, payment for overtime or other extraordinary payment, remuneration or allowance.

(c) Enrolment

Each employer shall:

- (i) take all necessary steps to enable contributions to be made to the scheme; and
- (ii) take all reasonable steps to ensure that each eligible employee becomes a member of the scheme, including a written notification to each individual employee offering superannuation in accordance with this clause and providing an application form for the employee to become a member of the scheme.
- (iii) If the completed Application for Scheme Membership form is returned to the employer within one month of the written notice referred to in paragraph (i), contributions will be made in respect of that employee either from the date of commencement of superannuation as provided in subclause (a) or the date on which the employee qualified as an eligible employee, whichever is the later.

- (iv) If the completed Application for Scheme Membership form is not returned to the employer within one month, the employee will be regarded as having refused to join the scheme. In such a case the employer shall notify the Trustees in writing of the refusal to join. After a period of six months the employer shall make to the employee a further offer of superannuation in accordance with this clause. In cases which fall within this subclause, the employer's obligation to make contributions shall commence from the time that he receives a completed application form or notification that the Trustees or Administrator of the scheme have received such completed application form.

(d) Contributions

- (i) Each employer shall, in respect of each eligible employee who is a member of the scheme, contribute an amount equal to 3% of ordinary time earnings as defined.

PROVIDED that in any monthly contribution period the aggregate ordinary time earnings for a casual employee does not exceed \$200, no contribution shall be made in respect of such employee. However, where an employee is employed by more than one employer and his aggregate earnings with those employers exceeds \$200 per month, then each employer will on production of satisfactory evidence by the employee, be required to make contributions in respect of earnings with that employer.

- (ii) On the commencement of superannuation as provided in subclause (a), the starting dates for contributions for existing employees shall be:
 - (1) In respect of employees who on superannuation commencement date are eligible employees because of prior service; from the commencement date of superannuation.
 - (2) In respect of other employees; from the date on which they become eligible employees.
 - (3) Provided always that such contribution dates are subject to the completion of scheme membership forms as provided in subclause (c)(ii) and (iii).
- (iii) In respect of employees who commence employment after the commencement of superannuation as provided in subclause (a), the starting dates for contributions shall be:
 - (1) In respect of employees who on starting employment are eligible employees because of existing membership of the scheme; from the commencement of employment.

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- (2) In respect of other employees; from the date on which they become eligible employees subject to the completion of scheme membership forms as provided in subclause (c)(iii) and (iv).
 - (iv) Each employer shall make such contributions monthly for pay periods completed in such month or at such other times and in such other manner as may be agreed in writing between the Trustees of a scheme and the employer from time to time.
- (e) Exemptions
 - (i) An employer may make application to the Tasmanian Industrial Commission by 1 June 1990 to be exempt from using the scheme as defined in paragraph (ii) herein.

PROVIDED that such exemption shall only be granted to employers who at 1 June 1990 are already providing occupational superannuation in accordance with subclause (d) into a fund which complies with Commonwealth Occupational Standards.
 - (ii) An employer who commences a new business after 1 June 1990 may make application for exemption in accordance with paragraph (i) above. Such application must be made within one month of the commencement of operation of the new business.

42. TIME AND WAGES BOOK OR SHEET

- (a)
 - (i) Time and wages book or sheets shall be provided and kept by each employer. Each employee shall on commencing work each day, enter his or her starting time; and on finishing work each day enter his or her finishing time and shall place the completed time and wages book or sheets in a place designated by the employer.
 - (ii) The employer shall keep such time and wages book or sheets available at all reasonable times and in a convenient place to which the employee shall have access for the purpose of making such entries. Such book or sheets may be inspected by the officials of the Federated Liquor and Allied Industries Employees' Union of Australia at all reasonable hours.
 - (iii) The employer shall keep a record of the time worked and the amount of wages and overtime paid each week, together with the date of payment. The employee shall each pay day be given: details of his gross pay, taxation deductions and net pay.

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- (iv) On the time and wages book or sheets that the employee completes he must enter his name, and age (if under 21 years), on the same time record the employer must enter the employee's work classification, whether permanent fulltime, part-time or casual as well as the rate per week and hourly rate of pay. Any alteration made to the employee's time record must be initialled by the employee concerned and employer representative.
- (v) When broken or ordinary shifts are worked the employee shall enter in the time and wages book or sheets the time he or she goes off for each meal or break and the time of restarting work after each meal or break and the finishing time.
- (b) Time and wages book or sheets must be kept at the place of employment for at least six years.
- (c) Notwithstanding subclause (b) of this clause the requirement to keep such records is to be phased in from 20 December 1984, and over the next succeeding five years.
- (d) Notwithstanding the other provisions in this clause, employers respondent to the award may provide electronic or mechanical time recording systems to be installed at convenient locations for employees to record their starting and finishing times each day.

43. TRAINEESHIPS (ATS)

- (a) Notwithstanding anything elsewhere contained in this award, an employer shall employ Trainees within the Australian Traineeship System subject to the conditions contained in this clause.
- (b) An objective of the Australian Traineeship system is to provide additional employment and training opportunities for young people. Accordingly, these opportunities shall be provided to the fullest extent possible.

Where possible, Traineeship positions shall be additional to normal staff members provided that no full time employee who is a member of the union shall be displaced by a trainee.

- (c) (i) A Trainee (ATS) shall attend an approved on and off-the job training course or program prescribed in the relevant training agreement or as notified to the trainee by the Training Authority of Tasmania. The off-the-job training period shall be for a minimum period of thirteen weeks in the 52 weeks training period.

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- (ii) Trainees (ATS) may be engaged by employers who must be registered under the Training Authority of Tasmania. The employer shall ensure that the Trainee (ATS) 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.
- (iii) The employer shall provide a level of supervision in accordance with the approved Training Plan during the Traineeship period.
- (iv) The employer agrees that the overall training program will be monitored by officers of the Training Authority of Tasmania and that training records of work books may be utilised as part of this monitoring process.
- (d)
 - (i) The Trainee (ATS) shall be engaged for a period of twelve months as a full-time employee provided that the Trainee (ATS) shall be subject to a satisfactory probation period of up to one month.
 - (ii) The Trainee (ATS) 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.
 - (iii) Where the employment of a Trainee (ATS) by an employer is continued after the completion of the traineeship period, such traineeship period shall be counted as service for the purposes of the award. Subject to Clause 32 - Preference of Employment, trainees who complete this training shall be given preference in employment at the workplace at which they were trained, if a vacancy is available.
 - (iv) overtime and broken shifts shall not be worked by Trainees (ATS) except to enable the requirements of the Training Plan to be effected. No Trainee (ATS) shall work overtime or shiftwork on their own.
 - (v) All other terms and conditions of this award shall apply unless specifically varied by this clause.
 - (vi) The union shall be afforded reasonable access to Trainees (ATS) for the purposes of explaining the role and functions of the union.
- (e) A monitoring Committee with representatives of the Union and appropriate employer organisation and governments shall be established in Tasmania to consider and resolve issues put to it and to monitor the progress of traineeships implemented under the provisions of this award.
- (f) The operation of this clause shall not affect existing training programs established by any employers that are outside the operation of the Australian Traineeship System.

44. TRAVELLING FACILITIES

- (a) Where an employee is detained at work until it is too late to travel by the last ordinary regular conveyance to his or her usual place of residence the employer shall either provide proper conveyance or provide accommodation for the night free of charge.
- (b) If an employee is required to start work before his ordinary commencing time and before the first ordinary means of conveyance is available to convey him or her from his or her usual place of residence, the employer shall provide a conveyance or pay the cost thereof.
- (c) Where a weekly employee is engaged for work outside a distance of 80 kilometres from the place of engagement he shall be paid all fares actually and necessarily incurred in travelling from the place of engagement to the place of employment.

PROVIDED that if the employee leaves his or her place of employment or is dismissed for misconduct within a period of 3 months of the date of engagement the employer may recover from the employee the fare paid on engagement.

45. UNIFORM, TOOLS AND GEAR

- (a) All aprons, towels, tools, ropes, brushes, knives, choppers, implements, utensils and material shall be supplied by the employer without cost to the employee.
- (b) Notwithstanding the provisions of subclause (a) of this clause where a cook employed on a weekly basis is required to provide his own tools an allowance of **\$4.10** per week shall be paid.

46. UNION OFFICIALS

The Secretary and accredited officials of the Union shall have the right to enter the premises of an employer at a time reasonably convenient to the employer for the purpose of interviewing members but such official shall obtain the permission of the employer before entering either the cellar or the back of the house.

47. WEEKLY EMPLOYEES

- (a) All employees shall be employed as permanent (full-time or part-time) or casual employees.
- (b) At the time of engagement an employer shall inform each employee as to the terms of his or her engagement and in particular whether he or she is to be a full-time, part-time or casual employee.

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- (c) Employees engaged by the week by an employer shall not be engaged for casual work in the establishment in which they are permanently employed.

**CONDITIONS FOR EMPLOYEES IN DIVISION B
- MOTELS**

48. AGED AND INFIRM WORKERS

The provisions of Section 79 of the Industrial Relations Act 1984 shall apply.

49. ANNUAL LEAVE

- (a) Weekly and part-time employees who have been in the service of an employer for at least 12 months shall be granted 28 days annual leave to be paid at the current rates prescribed in Clause 9 of this award, plus an additional 17 1/2 per cent.

The 17 1/2 per cent shall apply on each completed year of service.

- (b) The annual leave prescribed by this clause shall be exclusive of the holidays prescribed by Clause 32 – Preference of Employment of this award, 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 working time which the employee would have worked if such day had not been a holiday, or payment for such day be made in lieu thereof.
- (c) Where a holiday falls as aforesaid and the employee fails, without reasonable cause, proof whereof shall be upon him, to attend for work at his ordinary starting time of the working day immediately following the last day of the period of his annual leave, he shall not be entitled to be paid for such holiday.
- (d) Annual leave shall be taken within a period of 4 months after the date on which it becomes due.

PROVIDED that by agreement between the employee and the employer this period may be extended to six months.

- (e) At least 14 days notice of the date annual leave shall commence shall be given to each employee by the employer in writing.
- (f) The annual leave provided for by this clause shall be allowed and shall be taken and except in the case of pro rata leave, and except as provided for in subclause (b) hereof, payment shall not be made or accepted in lieu thereof.

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- (g) If after one month's continuous service in any qualifying 12 monthly period an employee leaves his employment or his employment is terminated by his employer, the employee shall be paid pro rata leave at the rate of 1/12th of his ordinary earnings during his continuous service with the employer, the service being service in respect of which leave has not been granted in accordance with this clause.

Payment of the 17 1/2 per cent additional payment as provided for in subclause (a) hereof shall apply to leave entitlements for completed years of service.

- (h) Prior to going on leave an employee shall be paid all wages due to date and his annual leave pay.

50. BOARD AND LODGING

- (a) Where board and residence is made available to adult employees the employer shall have the right to deduct from the pay of the employee residing on the premises an amount of **\$109.20** per week.

PROVIDED that where an adult employee is required to share a room for lodging, the amount to be deducted from the pay of such employee for board and lodging shall be **\$107.62**.

- (b) Where lodgings only are made available to adult employees, the employer shall have the right to deduct from the pay of the employee residing on the premises the sum of **\$103.08**.

PROVIDED that where an adult employee is required to share a room for lodging, the amount to be deducted from the pay of such employee for lodging shall be **\$102.75**.

- (c) In the case of employees who do not reside on the employer's premises a deduction at the rate of **\$5.63** for each meal supplied and consumed during the employee's spread of working hours may be deducted by the employer.
- (d) Where necessary, lodging rooms shall be fitted with adequate heating and cooling appliances.
- (e) The rates for board and lodging for adults shall be increased or decreased by 20 cents, for each meal by 1 cent, for every 50 cents per week alteration in the rate of classification 19 in subclause (a) of subclause 2, Division B, Clause 8 – Wage Rates hereof.
- (f) Junior employees receiving adult rates of pay as prescribed in this award shall be subject to the deduction applicable to adults prescribed in this clause.
- (g) Junior employees receiving junior rates of pay shall be subject to a deduction at the rate of 50 cents for each meal supplied and consumed during the employee's spread of working hours.

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51. BREAKAGES

An employer shall not charge a sum against nor deduct any sum from the wages of an employee in respect of breakages of crockery or other utensils except in the case of wilful misconduct.

52. BROKEN PERIODS OF WORK

A weekly employee who has a broken work day shall receive an additional allowance for a spread of hours as prescribed in Clause 59 as follows:

Where the spread of hours is	But is under	Rate per day
Under 10	-	Nil
10	10 1/2	84 cents
10 1/2	11 1/2	\$1.65
11 1/2	12 1/2	\$2.49

53. CASUAL EMPLOYMENT

An employee engaged to work less than 40 hours in a week (other than a part-time employee as provided in Clause 67 – Part-time Employees, hereof shall be paid as follows:

- (a) Casual employees working Monday to Friday inclusive shall be paid per hour one fortieth of the weekly rate prescribed for the work he or she performs plus 25 per cent; such additional amount to be payment in lieu of annual leave, sick leave and public holidays.

Casual employees shall be paid at the rate of time and one half for work performed on Saturdays.

For all work performed on Sundays and public holidays casual employees shall be paid at the rate of double time.

A casual employee shall be paid a minimum of three hours pay for each engagement.

- (b) The following award clauses only shall apply to casual employees:- Nos. 7, 48, 51, 53, 54, 57, 58, 63, 64, 69, 73, 74, 77, 78, 80 and 81.

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54. COMPASSIONATE LEAVE

- (a) A weekly employee shall on the death within Australia of the husband, wife, father, mother, child, brother and sister or stepchild of the employee be entitled to leave up to and including the day of the funeral of such relation, such leave for a period not exceeding 2 days in respect of any such death shall be without loss of any ordinary pay which the employee would have received if he or she had not been on such leave.
- (b) The right to such paid leave shall be dependent on compliance with the following conditions:
 - (i) The employee shall give the employer notice of his or her intention to take such leave as soon as reasonably practicable after the death of such relation.
 - (ii) Satisfactory evidence of such a death shall be furnished by the employee to his or her employer.
 - (iii) The employee shall not be entitled to leave under this clause in respect of any period of leave entitlement under this award or otherwise.
- (c) For the purpose of this clause words "husband" or "wife" shall include a person who lives with the employee as a de facto husband or wife.

55. DAY OFF COINCIDING WITH A HOLIDAY

Where an employee's rostered day or days off coincide with a holiday prescribed in this Division, the holiday shall not be a holiday for such employee and the holiday shall be substituted in one of the methods following:

- (a) One day with pay added to the annual leave.
- (b) Payment of one day's pay shall be made to the employee on the next succeeding pay day.
- (c) Such holiday may be allowed off with pay to the employee within 28 days after such holiday falls.
- (d) One of the above methods must be mutually agreed upon by the employee and the employer, failing such agreement the provision prescribed in (a) herein shall apply.

56. DRESSING ROOMS, SHOWERS

The provisions of the Industrial Safety, Health and Welfare Act 1977 shall apply.

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57. EMPLOYEES' DUTIES

- (a) Any drink dispenser or cellarman shall not be required to scrub or wash floors or tables; such work shall be performed by the useful.
- (b) A female shall not be required to do any cleaning work in a public convenience for males during any period such convenience is open and/or accessible to the public on any premises covered by this award.

58. FESTIVAL PERIODS

Notwithstanding the other provisions of this award, and subject to agreement by the appropriate union, employees may be worked during Easter, Christmas, New Year, school holidays and any additional periods agreed upon between the State Branch of the union and the employer or group of employers, as follows:

The working hours of weekly and part-time employees and days they are allowed off duty may be averaged over 3 successive weeks without the payment of overtime provided the maximum number of working hours in any one week shall not exceed 48 hours and provided further that each employee shall receive a minimum of one day off duty in each week.

Days off which are not allowed to employees in consequence of this clause shall be taken within 2 weeks immediately following the conclusion of the period in which the accumulation took place.

59. FIRST AID OUTFIT

The provisions of the Industrial Safety, Health and Welfare Act 1977 shall apply.

60. HOURS OF WORK

The ordinary working hours of all weekly employees shall be 40 per week to be worked in 5 days of 8 hours each exclusive of meal times within a period of 12 hours from commencing time.

Each employee shall be entitled to 2 full days off each week.

61. JURY SERVICE

An employee on weekly or part-time weekly hiring required to attend for jury service during his ordinary working hours shall be reimbursed by the employer an amount equal to the difference between the amount paid in respect of his attendance for such jury service and the amount of ordinary wage he would have received Monday to Friday in respect of the ordinary time he would have worked had he not been on jury service.

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An employee shall notify his employer as soon as possible of the date upon which he is required to attend for jury service.

Further the employee shall give his employer proof of his attendance, the duration of such attendance and the amount in respect of such jury service.

62. MEAL MONEY

A weekly or part-time employee required to work overtime for more than 2 hours without being notified on the previous day or earlier that he or she will be so required to work shall either be supplied with a meal by the employer or paid **\$3.60** meal money.

If an employee pursuant to notice has provided a meal and is not required to work overtime or is required to work less than the amount advised, he or she shall be paid as above prescribed for the meal which he or she has provided but which is surplus.

63. MEAL PERIODS

- (a) (i) Each employee shall be granted a meal interval of not less than 30 minutes to be commenced after completing one hour 30 minutes and not later than 5 hours of duty.

PROVIDED that an employee allowed a crib break of not less than 20 minutes pursuant to subclause (c) hereof shall be deemed to have been allowed the meal interval provided in this subclause.

The foregoing provision does not have to apply to casual or part-time employees who are rostered for 5 hours or less in any day.

- (ii) Where it is not possible to grant the meal interval on any day the said meal interval shall be treated as time worked and paid at the rate for the day plus half time additional at the ordinary weekly rate, until released for a meal.

PROVIDED that where an employee is required to exceed 5 hours work after the first meal interval he shall be granted a further meal interval of 20 minutes to be treated as time worked.

- (b) Notwithstanding the foregoing, employees shall be allowed a rest period of 10 minutes duration between the start of work and the midday meal break and one of 5 minutes duration between the mid-day meal break and cessation of work for the day, to be taken at such times as may be mutually arranged between the employer and the employee.

The rest periods so prescribed shall be given and taken in the employer's time.

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- (c) Where an employee's hours of work falls wholly between 11.00pm and 8.00am the employee including a part-time employee shall be allowed a crib break not less than 20 minutes which shall be counted as time worked.

64. MIXED FUNCTIONS

- (a) An employee engaged for two or more hours on one day on duties carrying a higher rate than his ordinary classification shall be paid the higher rate for such day. If for less than 2 hours he shall be paid the higher rate for the time so worked.
- (b) A higher paid employee shall, when necessary, temporarily relieve a lower paid employee without loss of pay.

65. NOTICE OF DISMISSAL

- (a) Three days notice for which the employee shall receive payment shall be given by the employer or the employee to terminate employment or in lieu of such notice 3 days wages shall be paid by the employer or forfeited by the employee.
- (b) An employer may dismiss an employee without notice:-
 - (i) for neglect of duty or misconduct, or
 - (ii) inefficiency within the first 7 days.

Wages must be paid to time of dismissal in each instance.

- (c) Subject to Clause 76 - Sick Leave - of this division, an employee who fails without good reason to notify his employer within one hour of his rostered commencing time of his inability to attend for duty on any day, may be dismissed without notice.
- (d) Notwithstanding anything hereinbefore contained, an employee shall not be given notice or dismissed, except for misconduct, whilst legitimately absent from duty on accrued sick leave or annual leave.

66. OVERTIME

- (a) An employer may require any weekly or part-time employee to work reasonable overtime at overtime rates and such employee shall work overtime in accordance with such requirements.

To ensure that weekly employees are not deprived of the opportunity to work reasonable overtime an employer shall so far as is practicable offer such employee the opportunity to work any overtime that may be required to meet fluctuations in his trade or other special circumstances, in preference to engaging casuals to supplement his normal labour force.

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- (b) All time worked by a weekly employee in excess of the ordinary hours and/or outside the spread of hours or outside the rostered hours prescribed in Clauses 60 – Hours of Work, and/or Clause 71 – Posting of Roster, of this division shall be overtime and shall be paid for at the following rates:
 - (i) Monday to Friday inclusive time and a half for the first 2 hours and double time for all work thereafter.
 - (ii) Between midnight Friday and midnight Saturday time and three quarters for the first 3 hours and double time for all time worked thereafter.
 - (iii) Between midnight Saturday and midnight Sunday double time for all time worked.
 - (iv) Overtime on any day shall stand alone.
 - (v) If an employee is so long on overtime duty he has not had 8 hours' rest before his next regular starting time, he shall be allowed at least 8 hours' rest without deduction of pay or shall be paid at overtime rates for all time of duty until he has had at least 8 hours' rest.

67. PART-TIME EMPLOYEES

Adults may be employed as part-time employees in any classification in this Division on the following basis:

- (a) Not less than 3 hours and not longer than 8 hours per day, not more than 5 days each week, and not less than 15 hours each week, not in excess of 30 hours per week.

All time worked in excess of 8 hours per day, 5 days per week, and/or 30 hours per week shall be overtime and paid for at the rates prescribed for weekly employees in Clause 66 – Overtime, of this award.

- (b) The hours of duty each day shall be worked continuously.

PROVIDED that an employee who is required to work longer than 5 hours shall be granted a meal break of not less and not more than 30 minutes. The meal break shall not be counted as time worked. Where such meal break is not granted in a period of not longer than 5 hours of duty the penalty prescribed in Clause 63 – Meal Periods, hereof shall be paid.

- (c) Part-time employees shall be paid the ordinary appropriate hourly rate prescribed for the classification in which they are employed plus 10%.

The additional 10% prescribed shall be regarded also as ordinary wages for the payment of annual leave, sick leave, and work not performed on a holiday.

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The additional 10% herein prescribed shall not apply in addition to the rates prescribed for weekly employees for work performed on Saturday, Sunday, holidays, overtime, where double time or double time and a half is prescribed in this Division.

- (d) The provisions of this Division in respect to annual leave, sick leave and holidays shall apply on a pro rata basis to part-time employees.
- (e) The following award clauses only shall apply to part-time employees: Nos. 48, 49, 51, 54, 57, 58, 62, 64, 66, 67, 68, 69, 71, 72, 73, 74, 76, 78, 80, 81 and 82.

68. PAYMENT OF WAGES

- (a) Except upon the termination of employment, all wages of weekly and part-time employees including overtime shall be paid on any day other than Friday, Saturday or Sunday in each week and not more than 2 days' wages shall be kept in hand by the employer.
- (b) Notwithstanding the provisions of subclause (a) hereof by agreement between the employer, the employee and the union where practical wages may be paid either weekly or fortnightly by one of the following means:
 - (i) cash;
 - (ii) cheque; or
 - (iii) payment into employee's nominated financial institution account, without cost to the employee.

In the event of a disagreement, the union and the relevant employer organisation or other representative of the employer may be informed.

Notwithstanding the provisions of this subclause, an employer may pay an employee weekly by cash without consultation.

- (c) Employees who are paid their wages at any time other than during their working time shall, if kept waiting for more than 15 minutes, be paid overtime rates for all such waiting time.
- (d) Employees whose rostered day off falls on pay day shall be paid their wages, if they so desire, before going off duty on the working day prior to their day off.

PROVIDED that this subclause shall not apply to employees paid by electronic funds transfer.

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- (e) When notice of termination of employment has been given by an employee or an employee's services have been terminated by the employer, payment of all wages and other moneys due shall be made at the employee's normal place of employment during normal office hours, prior to the employee leaving such place of employment. If an employee is kept waiting for more than 15 minutes after termination of employment such employee shall be paid overtime rates for waiting time.

PROVIDED that where an employee is dismissed for misconduct, such employee shall be paid within one hour from the time of dismissal, if such takes place within ordinary office hours or otherwise as soon thereafter as is practical.

For the purposes of this subclause, waiting time shall mean all time an employee is kept waiting on the premises of the employer on the day of termination of employment in excess of the waiting time specified herein. In the event of an employee not being paid on the day of termination of employment, such employee shall be paid at the rate of time and a half until payment is effected, with a minimum payment of 2 hours and a maximum of 8 hours per day. The above 8 hours shall refer to the period of shift normally worked by the employee.

Notwithstanding the foregoing provisions if it is established by the Tasmanian Industrial Commission as provided for in this award that the failure to pay an employee correctly at time of termination was due to a genuine error by the employer payment of waiting time over and above the day of termination shall not apply.

- (f) At the time of payment of wages each employee not in receipt of taxation deduction stamps shall be issued with a statement showing gross wages, taxation deduction, net wage and date to which payment is made.

69. PENALTY RATES NOT CUMULATIVE

Except as provided in Clause 63 - Meal Periods - hereof, where time worked is required to be paid for at more than the ordinary rate, such time shall not be subject to more than one penalty, but shall be subject to that penalty which is to the employee's greatest advantage.

70. POSTING OF AWARD

A copy of this award, as varied from time to time, shall be maintained in each establishment of an employer and shall be available for inspection at any time by an employee covered by this award.

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71. POSTING OF ROSTER

A roster for all weekly and part-time employees showing normal starting and finishing time and the surname and initials of each employee shall be prepared by the employer and shall be posted in a conspicuous place or places accessible to the employees concerned. The roster shall be alterable by mutual consent at any time or by amendment of the roster on seven days notice. Where practicable, 2 weeks notice of rostered day or days off shall be given provided that the days off may be changed by mutual consent or through absence through sickness or other cause over which the employer has no control.

72. PREFERENCE OF EMPLOYMENT

Preference shall be given to all members of the Union who apply for employment under this award, and retention in employment under this award in the event of retrenchment. Such preference shall be given in the following manner:

- (a) Where a member of the union applies for employment and is willing and able to perform work under this award in respect of which work the employer intends to engage a new employee, the employer shall engage such member of the union.
- (b) Where the employer is aware that a member of the union is willing and able to continue to perform work under this award in respect of which work the employer intends to reduce the number of his existing employees by retrenchment, the employer shall retain in employment such member of the union in preference to persons who are not members of the union. Such preference shall be given subject to the following conditions:
 - (i) Nothing in this clause shall require an employer to engage or retain in employment any particular person who is, in the opinion of the employer, not able to perform the work efficiently.
 - (ii) Nothing in this clause shall affect the right which an employer may have to dismiss summarily for misconduct or neglect of duty.

73. PUBLIC HOLIDAYS

- (a) Weekly employees shall be entitled to the following days without loss of pay:

New Year's Day, Australia Day, Hobart Regatta Day (south of Oatlands), Labour Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, the first Monday in November (where Hobart Regatta Day is not observed), Christmas Day and Boxing Day.

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- (b) **PROVIDED** that when an employee is absent from his or her employment only on one working day or part of a day before or after a holiday, except on account of illness or other legitimate reason, he or she shall not suffer loss of payment for more than one day of the holidays.
- (c) Subject to Clause 55 – Days Off Coinciding with a Holiday, of this division, all time worked by a weekly employee on a holiday herein prescribed shall be paid for at the rate of double time and one half for the hours worked, with a minimum of four hours additional pay. Alternatively, weekly employees who work on a prescribed holiday may, by agreement, perform such work at time and one half the ordinary Monday to Friday rate, provided that the equivalent of the time worked is also added to the employee's annual leave or one day in lieu of such public holiday shall be allowed to the employee during the week in which such holiday falls.

PROVIDED that such holiday may be allowed to employees within 28 days of such holiday falling due.

- (d) Casual and part-time employees working on a public holiday prescribed by this clause shall be paid respectively according to the provisions of Clause 53 – Casual Employment subclause (a), and Clause 67 – Part-time Employees subclause (c), of this division.
- (e) Where in a State or Territory or locality within a State or Territory an additional public holiday (other than Easter Saturday) is proclaimed or gazetted by the authority of the Commonwealth Government, or of a State or Territory government, and such proclaimed or gazetted holiday is to be observed generally by persons throughout that State or Territory or a locality thereof, other than by those covered by Federal Awards, or when such a proclaimed or gazetted day is, by any required judicial or administrative order, to be so observed, then such day shall be deemed to be a holiday for the purposes of this award, for employees covered by this award who are employed in the State, Territory or locality in respect of which the holiday has been proclaimed, or ordered as required. (The insertion of this provision shall not of itself prejudice the right of the union to make application for variation of this award in respect to Easter Saturday).

74. REFERENCE OF DISPUTES

With respect to each of the employers bound by this award, disputes or grievances between it and its employees or any of them shall be settled in accordance with the procedures set out below:

- (a) Any grievance, claim or dispute which arises shall, where possible, be settled by discussion on the job between the employee and the management.
- (b) If the matter is not resolved at this level the matter will be further discussed between the affected employee, the union delegate and the management.

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- (c) If no agreement is reached, the relevant union organiser and delegate will discuss the matter with representatives of the employer.
- (d) Should the matter still not be resolved the procedure will be as follows
 - (i) A joint discussion shall be held between representatives of the employer and the Federated Liquor and Allied Industries Employees' Union of Australia.
 - (ii) If the matters are not finalised they shall be referred to the Tasmanian Industrial Commission.
- (e) Whilst the foregoing procedure is being followed work shall continue normally without bans or limitations. Where it is agreed that there is an existing custom work shall continue in accordance with that custom, but in other cases, the work shall continue in accordance with the direction of the employer. No party shall be prejudiced as to the final settlement by the continuance of work in accordance with this subclause.

75. RIGHT OF ENTRY OF UNION OFFICIALS

The Secretary and accredited officials of the union shall have the right to enter the premises of an employer at a time reasonably convenient to the employer for the purposes of interviewing members, but such official shall obtain the permission of the employer before entering.

76. SICK LEAVE

- (a) Any employee, other than a casual, after one month's service with his employer, who is absent from his work on account of personal illness, or on account of injury by accident arising in the course of his employment, shall be entitled to leave of absence subject to the following conditions and limitations:
 - (i) An employee shall not be entitled to be paid for any absence for any period for which he or she is entitled to workers' compensation.
 - (ii) The employee shall within 24 hours of the commencement of such absence, inform the employer of his inability to attend for duty and state the nature of the injury or personal illness and the estimated duration of absence.
 - (iii) A claim made for sick leave shall be supported by evidence satisfactory to the employer (or in the event of a dispute to the Secretary for Labour) that he or she was unable on account of injury or personal illness to attend for duty on the day for which leave is claimed.

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- (iv) Subject to the provisions of subclause (c) hereof weekly and part-time employees shall not be entitled in any one year (whether in the employ of one employer or several) to leave in excess of the following in each successive year after the operation of this award:

First year - 6 working days;

Second year and thereafter - 10 working days;

- (v) An employee shall not be entitled to be paid for sick leave in excess of 10 hours during the first 3 calendar months of his or her employment with an employer and a further 10 hours during the second 3 calendar months of such employment.

PROVIDED that should his or her employment continue beyond 6 months he or she shall be entitled to be paid for sick leave for which he or she would otherwise have been entitled to be paid except for the limitations prescribed in this paragraph and for which payment has not previously been made.

- (b) Any employer taking over a business shall be responsible for all sick leave covered by the period of employment of each employee who was employed by an immediate predecessor in the business.
- (c) Sick leave which has not been taken by an employee during the immediately preceding 5 years together with the allowance of the then current year render an employee entitled to a maximum 320 hours in the instance of weekly employees and in the case of part-time employees 8 times the average weekly hours such employee works in any one year.

77. STANDING DOWN OF EMPLOYEES

An employer may deduct payment for any day or part of a day on which an employee cannot be usefully employed for the following reasons:

- (a) A strike or stop work meeting (except as provided in Clause 77 hereof).
- (b) A break down of machinery.
- (c) Rationing of power or the lack of fuel or transport.
- (d) The non-delivery of the raw material and finished products in the Liquor Trades Industry.
- (e) Any cause which the employer cannot reasonably be held responsible for, but shall not apply to slackness of trade.

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In respect to (a) and (e) above:

- (i) No employee shall be deemed to be a casual employee only by reason of being given intermittent work in pursuance of this clause.
- (ii) At least 4 hours' notice of such deduction shall be exhibited where all employees concerned shall be able to see it.
- (iii) Service is not to be considered broken merely because employees have been temporarily stood down through no fault of their own.
- (iv) Continuity of service is to be protected for the purpose of annual leave, holidays and sick pay, as provided by this Division.
- (v) Employees allowed or required to commence work at the usual starting time any day shall be paid for at least 4 hours, and where they are called upon to attend for duty twice on any one day they shall be paid not less than a full day's pay.

78. STOP WORK MEETING

One official stop work meeting per year authorised by the State Management Committee of the union shall be allowed without loss of ordinary pay for the purpose of discussing matters affecting the award, provided the following conditions are observed:

- (a) At least 14 days' notice of such meeting is given to each employer of motel employees in the area in which the meeting is to be held and a similar notification to the Tasmania Director of The Motor Inn and Motel Association of Australia, Tasmanian Branch.
- (b) The period of the meeting shall be of three hours' duration as a maximum, including travelling time, and the employees shall return to duty by not later than 5.00pm if so rostered.
- (c) Payment shall be made for the period that the weekly or part-time employee was rostered for duty in attendance at the meeting as provided for in (b) above.
- (d) Such stop work meeting shall be held on either a Monday or Tuesday, not being a week in which a public holiday occurs.
- (e) Payment of wages shall be made only upon the employer being in receipt of satisfactory evidence of the employee's attendance at the meeting.

79. SUPERANNUATION

(a) Definitions

For the purpose of superannuation the following definitions shall apply:

'Scheme' means the Hospitality Industry Portable Liquor Union Superannuation Trust Deed (HOST-PLUS), which complies with the Australian Government's Operational Standards for Occupational Superannuation Funds.

'Trustees' means HOST-PLUS Pty Ltd.

'Eligible permanent full-time and part-time employees' means:

- (i) an employee who is a member of the scheme at commencement of employment and who provides confirmation to the employer of such membership; or
- (ii) an employee who was employed by an employer on a permanent basis full-time or part-time basis at or after 1 June 1990 subject to the completion of 4 weeks continuous service with the employer. Continuous service prior to 1 June 1990 shall count as service for the purpose of this paragraph.

'Eligible casual employee' means:

- (i) an employee employed by an employer on a casual basis who is a member of the scheme at commencement of employment and who provides confirmation to the employer of such membership;
or
- (ii) an employee employed by an employer on a casual basis at or after 1 June 1990 at completion of 8 weeks continuous service from date of employment.

'Ordinary time earnings' for the purposes of superannuation contribution only means the ordinary periodic salary wages or other remuneration being paid by the employer to the employee each week including shift penalties, weekend and public holiday penalties, in-charge allowances, overaward payments and all other all purpose payments and in respect of a casual employee shall include any casual loading including weekend and public holiday penalties as prescribed by this award as varied from time to time but not including any bonuses, commission, payment for overtime or other extraordinary payment, remuneration or allowance.

(b) Deed of Adherence and Enrolment

Each employer shall:

- (i) enter into a Deed of Adherence with the Trustees, acknowledging itself to be bound by the HOST-PLUS Scheme;

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- (ii) take all reasonable steps to ensure that each eligible employee becomes a member of the scheme, including a written notification to each individual employee offering superannuation in accordance with this clause and providing an application form for the employee to become a member of the scheme.
 - (iii) If the completed Application for Scheme Membership form is returned to the employer within one month of the written notice referred to in subclause (b)(ii), contributions will be made in respect of that employee either from the date on which the employee qualified as an eligible employee.
 - (iv) If the completed Application for Scheme Membership form is not returned to the employer within one month, the employee will be regarded as having refused to join the scheme and the employer shall not be required to make contributions on behalf of such employee. In such a case the employer shall notify the Trustees in writing of the refusal to join. After a period of six months the employer shall make to the employee a further offer of superannuation in accordance with this clause. If and when an employee completes and returns to the employer an application for membership form after the expiry of one month as provided for in this subparagraph, the employer's obligation to make contributions shall commence from the time he receives a completed application form.
- (c) Contributions
- (i) Each employer shall in respect of each eligible full-time and part-time employee as defined, and each eligible casual employee as defined who earns \$257.50 or more in a 4 week period, contribute to the scheme of which the employee is a member and to which the employer is bound to contribute pursuant to the relevant Trust or Deed of Adherence an amount equal to 31 of the ordinary time earnings as defined, of such employee.
 - (ii) Where an employee is absent on leave without pay, whether or not such leave is approved, no contribution from the employer shall be due in respect of that employee during and in respect of the period of unpaid absence.
 - (iii) The obligation of the employer to contribute to the Fund in respect of an employee shall cease on the last day of such employee's employment with the employer.
 - (iv) Each employer shall make such contributions monthly for pay periods completed in such month or at such other times and in such other manner as may be agreed in writing between the Trustees of a scheme and the employer from time to time.

(d) Exemptions

- (i) An employer may make application to the Tasmanian Industrial Commission by 1 June 1990 to be exempt from using the scheme as defined in subclause (a) herein.

PROVIDED that such exemption shall only be granted to employers who at 1 June 1990 are already providing occupational superannuation in accordance with subclause (c) into a fund which complies with Commonwealth Occupational Standards.

- (ii) An employer who commences a new business after 1 June 1990 may make application for exemption in accordance with paragraph (i) above. Such application must be made within one month of the commencement of operation of the new business.

80. TIME AND WAGE RECORDS

- (a) Time and wages book or sheet shall be provided and kept by each employer. Each employee shall, on commencing work each day, enter his or her starting time; and on finishing work each day enter his or her finishing time. An entry shall also be made by the employer of the time worked and the amount of wages and overtime paid each week, together with the date of payment. The employer shall keep such book or sheet available at all reasonable times and in a convenient place to which the employee shall have access for the purpose of making such entries. Such book or sheet may be inspected by an official of the Federated Liquor and Allied Industries Employees Union of Australia, Tasmanian Branch, at all reasonable hours. When broken shifts are worked, the employee shall enter therein the time he or she goes off for each meal and the time of restarting work after each meal and the finishing time.
- (b) Time sheets or wage books must be kept at the place of employment for at least 6 years.
- (c) Notwithstanding subclause (b) of this clause the requirement to keep such records is to be phased in from the date of this variation over the next succeeding five years.

81. TRAVELLING FACILITIES

- (a) Where an employee is detained at work until it is too late to travel by the last ordinary conveyance to his or her usual place of residence the employer shall either provide proper conveyance or provide accommodation for the night free of charge.

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- (b) If an employee is required to start work before his ordinary commencing time and before the first ordinary means of conveyance is available to convey him or her from his or her usual place of residence to the place of employment, the employer shall provide a conveyance or pay the cost thereof.
- (c) Where a weekly employee is engaged for work outside a distance of 44 kilometres from the place of engagement he shall be paid all fares actually and necessarily incurred in travelling from the place of engagement to the place of employment provided that if the employee leaves his or her place of employment or is dismissed for misconduct within a period of 3 months of the date of engagement, the employer may recover from the employee the fare paid on engagement.

82. UNIFORMS, TOOLS AND GEAR

- (a) Where any weekly employee is required by the employer to wear a special uniform, such uniform shall be provided and laundered by the employer free of cost to the employee, or if mutually agreed that the employee shall launder such uniform, the employer shall allow the employee **\$2.42** per week in the case of weekly employees and **77 cents** per uniform in the case of part-time employees for each uniform so laundered.
- (b) Where any casual employee is required to wear a special uniform such uniform shall be provided and laundered by the employer free of cost to the employee or if mutually agreed that the employee shall launder such uniform the employer shall pay the employee **77 cents** for each uniform so laundered.
- (c) Where it is necessary that waterproof or other protective clothing such as waterproof boots, aprons, or gloves be worn by an employee, such clothing shall be supplied without cost to the employee and shall remain the property of the employer.

PROVIDED that in the event of a dispute, the necessity for the provision of protective clothing shall be determined by the Secretary for Labour.

- (d) All tools, brushes, knives, choppers, implements, utensils and material shall be supplied by the employer without cost to the employee.
- (e) An employee on commencing employment shall sign a receipt for item/s of uniform. Such receipt shall list the item/s of uniform and value of same. Upon ceasing employment if the employee does not return items of uniform in accordance with receipt the employer shall be entitled to deduct the value as stated on the receipt from the employee's termination payment.

Records of receipt shall be available for inspection by an official of the union. In the case of genuine wear and tear, damage, loss or theft that is not the employee's fault this provision shall not apply.

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Any disagreement concerning the value of item/s of uniform and any other aspect of this subclause shall be determined by the Tasmanian Industrial Commission.

83. WEEKEND PENALTY RATES

All ordinary time worked by weekly and part-time employees from midnight Friday to midnight Saturday shall be paid for at the rate of time and a half, and from midnight Saturday to midnight Sunday at time and three quarters.

84. WEEKLY EMPLOYEES

Except as hereinafter provided, all employees (other than casual employees) shall be paid weekly or by agreement may be paid fortnightly.

85. WEEKLY EMPLOYEES NOT TO BE EMPLOYED AS CASUALS

Weekly employees shall not be engaged for casual work in the same establishment in which they are permanently employed.

86. WORK ON ROSTERED DAYS OFF

All work performed on an employee's rostered day off shall be paid for at double time, with a minimum payment of 4 hours at the rate of double time.

87. WORK OUTSIDE DAILY HOURS

- (a) Weekly employees who are required to work any of their ordinary hours outside the hours of 7.00am to 7.00pm on Mondays to Fridays inclusive, shall be paid **90 cents** per hour, or part thereof, for any such time worked outside the said hours with a minimum payment of **\$1.35** for any one day.
- (b) Notwithstanding the foregoing, employees in Tasmania engaged on weekly hire who are required to work any of his or her ordinary hours outside the hours of 7.00am to 7.30pm on Mondays to Fridays inclusive shall be paid **90 cents** per hour or part thereof for any such time worked outside the set hours with a minimum payment of **\$1.35** for any one day.

A. Robinson
DEPUTY PRESIDENT

29 August 1990

SCHEDULE 1 – TRAINEESHIPS FORMULA

WAGE RATES FOR TRAINEES DIVISION A

Wage rates for trainees in Division A (HOTELS, TAVERNS OR WINE SALOONS) shall be calculated in accordance with the following formula:

- (1) The average adult rate shall be the average amount of the weekly adult rates applicable to the undermentioned classifications in Clause 8 - Wage Rates, viz.

Classifications	Amount Per Week
Subclause 2 (Wage Rates - Adults)	\$
Food and Beverage Attendant Grade 2	329.10
Guest Service Grade 2	326.90
Front Office Grade 1	332.40
<u>Average adult rate - Division A:</u>	<u>329.50</u>

- (2) Junior rates shall be based on the average adult rate, viz.:

	% of average adult rate	Amount Per Week \$
17 years of age	70%	230.70
18 years of age	80%	263.60
19 years of age	90%	296.60
20 years of age	100%	329.50

- (3) Trainee rates shall be based upon 39/52nds of the junior rates, viz.:

	Amount Per Week \$
17 years of age	173.00
18 years of age	197.70
19 years of age	222.40
20 years of age	247.10