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TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T.1156, 1246 & 1419 of 1988

IN THE MATTER OF JOINT APPLICATIONS BY THE FEDERATED MISCELLANEOUS WORKERS UNION OF AUSTRALIA (TASMANIAN BRANCH), THE TRANSPORT WORKERS UNION OF AUSTRALIA, TASMANIAN BRANCH AND THE FEDERATED ENGINE DRIVERS AND FIREMENS ASSOCIATION OF AUSTRALASIA, TASMANIAN BRANCH RESPECTIVELY TO VARY THE **LAUNDRYMENS AWARD**

RE: 4% SECOND TIER INCREASE

ORDER -

**No. 2 of 1988
(Consolidated)**

AMEND THE **LAUNDRYMENS AWARD** BY DELETING ALL CLAUSES CONTAINED THEREIN AND INSERT IN LIEU THEREOF THE FOLLOWING:

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1. TITLE

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

2. SCOPE

This award is established in respect of the trade of laundryman and/or cleaner and dyer.

3. ARRANGEMENT

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4. DATE OF OPERATION

This award shall come into operation as from the beginning of the first full pay period commencing on or after 11 August 1988.

Provided that, it is a term of this award (arising from the decision of the Tasmanian Industrial Commission in the National Wage Case flow-on of 1987) that the unions undertake that for the period of the package they will not pursue any claims, award or overaward, except where consistent with the National Wage Case Principles.

5. SUPERSESION AND SAVINGS

This award incorporates and supersedes No. 1 of 1988 (Consolidated).

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

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 engaged in the industry specified in Clause 2 - Scope;
- (c) the Federated Clerks' Union of Australia (Tasmanian Branch) and the Officers of that organisation and their members employed in the industry specified in Clause 2 - Scope;
- (d) The Federated Engine Drivers' and Firemen's Association of Australasia (Tasmanian Branch) and the Officers of that organisation and their members employed in the industry specified in Clause 2 - Scope;
- (e) the Federated Miscellaneous Workers' Union of Australia (Tasmanian Branch) and the Officers of that organisation and their members employed in the industry specified in Clause 2 - Scope;
- (f) the Tasmanian Chamber of Industries;

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- (g) the Tasmanian Trades and Labor Council.
- (h) the Transport Workers' Union of Australia (Tasmanian Branch) and the Officers of that organisation and their members employed in the industry specified in Clause 2 – Scope.

7. DEFINITIONS

- (a) **'Casual employee'** is one who is employed on a casual basis for a period not exceeding 5 days at any time, and shall not include an employee as defined in subclause (b) hereof.
- (b) **'Part-time employee'** is one engaged to regularly work for less hours per day or week than those prescribed for full-time employees.
- (c) **'Show Day'** means not more than one local show day observed on an employee's ordinary working day, other than a Saturday or a Sunday, in the city, town or district in which the employee is employed; or such other day which, in the absence of such a local show day, is agreed on by the employee and the employer, therefore making a total of 11 paid public holidays per year.
- (d) **'Union'** means the Federated Miscellaneous Workers Union of Australia.

8. WAGE RATES

DIVISION A - LAUNDRYMEN

1. WAGE RATES

Adult employees of a classification hereinafter mentioned shall be paid the wage rates assigned to that classification.

	Amount Per Week \$
(a) Laundry Hand	287.70
(b) Leading Hands	
(i) If in charge of not less than 3 and not more than 10 employees - \$13.80 per week extra.	
(ii) If in charge of more than 10 and not more than 20 employees - \$20.50 per week extra.	
(iii) If in charge of more than 20 employees - \$26.30 per week extra.	

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2. JUNIOR WORKERS

- (a) The minimum rates of wages that may be paid to juniors shall be the undermentioned percentage prescribed in Division A, subclause 1 - Wage Rates, Classification (a) - Laundry Hand.

	Percentage of Classification (a) %	Amount Per Week \$
Under 17 years of age	50	143.90
17 years and under 18 years of age	65	187.00
18 years and under 19 years of age	75	215.80
19 years and under 20 years of age	90	258.90
20 years of age	100	287.70

- (b) The percentage of wages herein set out shall be calculated in multiples of 10 cents, amounts less than 5 cents being taken to the lower multiple and amounts of 5 cents or more being taken to the higher multiple.

3. JUNIORS EMPLOYED IN A RECEIVING DEPOT

Notwithstanding anything hereinbefore contained, any junior working on his own and responsible for cash transactions and/or in charge of a depot shall be paid not less than the rate prescribed for '19 years and under 20 years' plus an amount of \$8.40 per week.

DIVISION B – DRY CLEANERS

1. WAGE RATES

Adult employees of a classification hereunder mentioned shall be paid the wage rate opposite that classification.

	Amount Per Week \$
(a) Invisible Mender/Tailor	298.40
(b) Repairer (other than Tailor)	274.90
(c) Presser	284.10
(d) Cleaner operating a dry-cleaning machine and/or spotter	284.10
(e) Receiver and dispatcher, sorter, examiner and/or assembler	274.90
(f) Receiver or dispatcher in charge, namely a person in charge of a depot and responsible for the keeping of records and responsible for cash	284.10
(g) All others	270.20

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(h) Leading Hands:-

- (i) if in charge of not less than 3 and not more than 10 employees - \$13.80 per week extra;
- (ii) if in charge of not less than 10 and not more than 20 employees - \$20.50 per week extra;
- (iii) if in charge of more than 20 employees - \$26.30 per week extra;

2. JUNIOR WORKERS

The minimum rate of wages that may be paid to juniors shall be the undermentioned percentages contained in Division B, subclause 1 – Wage Rates, Classification (e).

	Percentage of Classification (e) %	Amount Per Week \$
Under 16 years of age	50	137.50
16 years and under 17 years of age	55	151.20
17 years and under 18 years of age	65	178.70
18 years and under 19 years of age	75	206.20
19 years and under 20 years of age	85	233.70
20 years and under 21 years of age	93	255.70

The percentage wages herein set out shall be calculated in multiples of 10 cents, amounts of less than 5 cents being taken to the lower multiple and amounts of 5 cents or more being taken to the higher multiple.

3. JUNIORS EMPLOYED IN A RECEIVING DEPOT

Notwithstanding anything hereinbefore contained, any junior working on his own and responsible for cash transactions and/or in charge of a depot shall be paid not less than the rate prescribed for '19 years and under 20 years' plus an amount of \$8.40 per week.

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DIVISION C - ENGINE DRIVERS AND FIREMEN

1. WAGE RATES

Adult employees of a classification hereunder mentioned shall be paid the wage rate opposite that classification.

	Amount Per Week \$
(a) Firemen -	
(i) attending to one boiler or suction-gas generator	271.00
(ii) attending to 2 or more boilers or suction-gas generators	276.80
(b) Leading Fireman -	
(i) an additional \$9.30 per. week shall be paid to the leading fireman when 2 firemen are employed at the plant at the same time and he has the superintendence and responsibility, or when his duty is to attend to the water of all the boilers.	
(c) An additional \$12.00 per week shall be paid to the leading fireman when 3 or more firemen are employed at the plant at the same time and he has the superintendence and responsibility, or when his duty is to attend to the water of all boilers.	

DIVISION D - CARTERS AND DRIVERS

1. WAGE RATES

Adult employees of a classification hereunder mentioned shall be paid the wage rate opposite that classification.

	Amount Per Week \$
(a) Employee driving motor vehicle having maker's capacity of -	
1.2 tonnes or less	302.40
over 1.2 tonnes but not over 3 tonnes	306.20
over 3 tonnes but under 6 tonnes	310.80

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- (b) An additional amount for an employee driver collecting money per week-

for any amount handled up to \$20	0.60
over \$20 but not exceeding \$200	1.10
over \$200 but not exceeding \$600	2.00
over \$600 but not exceeding \$1,000	3.00
over \$1,000	4.00

2. JUNIOR WORKERS

The minimum rate of wages which may be paid to junior drivers shall be the undermentioned percentages of the appropriate adult rate -

	%
18 years of age and under 19 years	70
19 years of age and under 20 years	80
20 years of age and thereafter	Adult Rate

DIVISION E - CLERKS

Except as prescribed in this Division in subclause 2 - Juniors, (b) - Proviso, adult employees of a classification hereunder mentioned shall be paid the wage rate assigned opposite that classification.

1. WAGE RATES

	Amount Per Week
(a) 1st year's adult experience	259.60
2nd year's adult experience	280.20
3rd year's adult experience and thereafter	306.90
(b) An accountant or chief clerk wholly responsible for the office work and who prepares the balance sheet and profit and loss account	414.80
(c) A clerk who is in charge of and responsible for the work of -	
(i) 5 or more employees	364.20
(ii) 3 or 4 employees	348.60
(iii) 2 employees	340.90

'Employees' in (c) above shall mean any male or female clerk, typist or stenographer and shall include the clerk-in-charge.

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2. JUNIORS

- (a) The minimum rate of wages that may be paid to juniors shall be the undermentioned percentage of subclause 1 - Wage Rates, - 2nd year's adult experience, of this Division, adjusted to the nearest 10 cents.

	Percentage of Second Year Adult Rate	Amount Per Week \$
Under 16 years of age	40	112.10
16 to 17 years of age	45	126.10
17 to 18 years of age	55	154.10
18 to 19 years of age	70	196.10
19 to 20 years of age	80	224.20
20 to 21 years of age	90	252.20

- (b) Proviso

When determining the margin payable to an employee attaining the age of 21 years who has been employed as a junior clerk in the trades or groups of trades in respect of which awards of the Tasmanian Industrial Commission are established, experience obtained after reaching the age of 18 years shall be counted as adult experience.

3. ADDITIONAL PAYMENTS

In addition to the weekly rates prescribed herein the following additional amounts per week shall be paid to stenographers, audio-typists, teletypists, accounting machine, computer, data processing, tabulating machine, card punch and verifier operators.

	Amount Per Week \$
Under 16 years of age	1.00
16 to 17 years of age	1.20
17 to 18 years of age	1.30
18 to 19 years of age	1.50
19 to 20 years of age	1.80
20 to 21 years of age	1.90
21 years of age and over	2.50

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9. ANNUAL LEAVE

(a) Period of Leave

A period of 28 consecutive days' leave shall be allowed annually to an employee after 12 months' continuous service (less the period of annual leave).

(b) Annual Leave Exclusive of Public Holidays

(i) Subject to this subclause, the annual leave prescribed by this clause shall be exclusive of any of the holidays prescribed by Clause 14 - Holidays with Pay 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 time which the employee would have worked if such day had not been a holiday.

(ii) Where an employee without reasonable excuse, proof whereof shall lie upon him, is absent from his employment on the working day or part of the working day prior to the commencement of his annual leave, or fails to resume work at his ordinary starting time on the working day immediately following the last day of the period of his annual leave, the employee shall not be entitled to payment for the public holidays which fall within his period of annual leave. In the event of a dispute as to a 'reasonable excuse' the matter shall be determined by the Secretary for Labour.

(c) Broken Leave

The annual leave shall be given and taken in a continuous period, or if the employee and employer so agree in 2 separate periods and not otherwise.

(d) Calculation of Continuous Service

For the purpose of this clause, service shall be deemed to be continuous notwithstanding

(i) any interruption or termination of the employment by the employer if such interruption or termination has been made merely with the intention of avoiding obligations hereunder in respect of leave of absence;

(ii) any absence from work on account of personal sickness or accident or on account of leave granted by the employer; or

(iii) any absence with reasonable cause, proof whereof shall be upon the employee.

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In cases of personal sickness or accident or absence with reasonable cause, the employee to become entitled to the benefit of this subclause shall inform the employer, in writing if practicable, within 48 hours of the commencement of such absence of his inability to attend for duty and as far as, practicable state the nature of the illness, injury, or cause, and the estimated duration of his absence.

Any absence from 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 individual absenteeism, such notice shall be given in writing to the employee concerned but in cases of concerted or collective absenteeism, notice may be given to employees by the posting up of a notification in the factory in the manner in which general notifications to employees are usually made in that factory and by posting to each union whose members have participated in such concerted or collective absenteeism a copy thereof not later than the day it is posted up in the factory.

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

In calculating the period of 12 months' continuous service, any such absence as aforesaid shall not, except to the extent of not more than 91 days in a 12 monthly period in the case of sickness or accident, be taken into account in calculating the period of 12 months' continuous service.

(e) Payment in Lieu Prohibited

Except as provided in subclause (i) of this clause, payment shall not be made or accepted in lieu of annual leave.

(f) Time of Taking Leave

- (i) Annual leave shall be taken at a time mutually agreed on by the employer and the employee. In the absence of such agreement, it shall be taken within 3 months of the date it became due, at a time fixed by the employer, and after at least one month's notice to the employee.
- (ii) No entitlement shall be permitted to accrue beyond 12 months after becoming due.

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(g) Leave Allowed Before Due Date

- (i) An employer may allow annual leave to an employee before the right thereto has accrued due, but where it is taken in such a case a further period of annual leave shall not commence to accrue until after expiration of the 12 months in respect of which annual leave has been taken before it accrued.
- (ii) Where leave has been granted to an employee pursuant to this subclause before the right thereto has accrued due and the employee subsequently leaves or is discharged from the service of the employer before completing the 12 months continuous service in respect of which the leave was granted, the employer may deduct from whatever remuneration is payable upon the termination of the employment any excess amount already paid to the employee on account of continuous service not given to the employer.

(h) Payment for Period of Leave

Each employee before going on leave shall be paid the amount of wage he would have received in respect of the ordinary time which he would have worked had he not been on leave during the relevant period, plus a loading equal to 17.5 per cent on all annual leave, provided that such annual leave loading shall not be paid on termination of employment.

(i) Proportionate Leave on Termination of Service

Should an employee not complete 12 months' service in any qualifying 12 monthly period, he or she shall on termination of employment, provided he or she has been employed continuously for one month or more, be entitled to be paid at his or her ordinary rate of wages on a pro rata basis for each completed month of continuous service, as follows:

12 2/3 hours for each completed month of continuous service.

10. BLOOD DONORS

A weekly employee who is absent during ordinary working hours for the purpose of donating blood shall not suffer any deduction of pay up to a maximum of 2 hours on each occasion, and subject to a maximum of 4 separate absences for the purposes of donating blood each calendar year.

Provided further that such employee shall arrange for his absence to be on a day suitable to the employer and be as close as possible to the beginning or ending of his ordinary working hours. Proof of the attendance of the employee at a recognised place for the purpose of donating blood and the duration of such attendance shall first be furnished to the satisfaction of the employer.

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Further, the employee shall notify his employer as soon as possible of the time and date upon which he is requested by the blood bank to be absent for the purpose of donating blood.

11. CASUAL EMPLOYEES

A casual employee shall be paid per hour pro rata the rate of one thirty-eighth the rates prescribed in Clause 8 - Wage Rates, plus 20 per cent.

12. COMPASSIONATE LEAVE

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

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

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

13. EXISTING WAGE RATES

Nothing in this award shall be taken as entitling an employer to reduce the wages of any employee at present in receipt of a wage rate in excess of that herein prescribed.

14. HOLIDAYS WITH PAY

(a) All employees shall be allowed the following days as paid holidays:

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

(b) Payment for the holidays mentioned in subclause (a) above which are taken and not worked, shall be at the normal rate of pay which would have applied to the employee concerned, when, if it were not for such holiday, he had been at work.

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- (c) Payment to an employee for work performed on holidays mentioned in subclause (a) above shall be at the rates prescribed elsewhere in this award.

15. HOURS

- (a) The ordinary hours of work shall be a maximum of 38 per week to be worked in not more than 8 hours in any one day Monday to Friday inclusive. Subject to Clause 26 - Shift Workers the spread of such ordinary hours shall extend from 6.30 a.m. to 6.00 p.m.
- (b) A meal interval of not less than 30 minutes or more than one hour shall be allowed within five hours of the commencement of the shift.

16. IMPLEMENTATION OF 38-HOUR WEEK

- (a) Ordinary hours of work shall be an average of 38 per week as provided in Clause 15 - Hours.
- (b) Except as provided in subclauses (e), (f) and (g) of this clause, the method of implementation of the 38-hour week may be agreed to be any of the following:
 - (i) by employees working less than 8 ordinary hours each day; or
 - (ii) by employees working less than 8 ordinary hours on one or more days each week; or
 - (iii) by fixing one week day on which all employees will be off during a particular work cycle; or
 - (iv) by rostering employees off on various days of the week during a particular work cycle so that each employee has one week day off during that cycle.
- (c) On each site, an assessment should be made as to which method of implementation best suits the business and the proposal shall be discussed with the employees concerned, the objective being to reach agreement on the method of implementation.
- (d) The employer and the majority of employees in the plant, business, section or sections concerned, may agree that the ordinary working hours are to exceed 8 hours on any day within the spread of hours as described in Clause 15 - Hours, thus enabling a week day off to be taken more frequently than would otherwise apply.
- (e) Circumstances may arise where different methods of implementation of a 38-hour week apply to various groups or sections of employees in the plant or establishment concerned.

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- (f) Agreements reached on the method of implementation of the 38-hour working week shall be recorded in writing and shall be signed by the employer and the employees concerned. The agreement document shall be kept as part of the employment records and available for inspection in accordance with the provisions of the Industrial Relations Act 1984.
- (g) In the absence of agreement on the implementation of the 38-hour week the procedure in Clause 25 - Settlement of Disputes shall apply.

(h) Substitute Days

- (i) An employer, with the agreement of the majority of employees concerned, may substitute a day an employee is to take off in accordance with subclauses (b) (iii) and (iv) of this clause for another day in the case of a breakdown in machinery or a failure or shortage of electric power or to meet the requirements of the business in the event of rush orders or some other emergency situation.
- (ii) An individual employee, with the agreement of this employer, may substitute the day the employee is to take off for another day.

(i) Accumulation of Rostered Days Off

Where an employer and employees agree, rostered days off may accumulate to a maximum of 7 days which shall be taken at a mutually agreed time.

(j) Sickness on Day Off

Where an employee is sick or injured on the week day he is to take off in accordance with subclauses (b) (iii) or (iv) of this clause, the employee shall not be entitled to sick pay nor will the sick pay entitlement be reduced as a result of the employee's sickness or injury that day.

(k) Averaging of Payment

Where the method of implementation adopted is in accordance with subclauses (b) (iii) and (iv) of this clause, the wages paid each week for ordinary hours shall be paid so that in each week when 40 hours is worked 2 hours pay shall be kept in hand and paid to the employee in the pay week that the rostered day off occurs to enable an averaging of payments for ordinary time to occur.

(l) Work on a Rostered Day Off

Where an employee works on a rostered day off arising under subclauses (b) (iii) and (iv) of this clause, not being a day the subject of an agreement pursuant to subclause (h) of this clause, that day shall be deemed to be overtime and paid in accordance with Clause 19 - Overtime.

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17. 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) of this clause, 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) above, 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.

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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) of this clause.

(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.

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- (iii) For the purposes of subclauses (g), (h) and (i) of this clause 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) of this clause 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) of this clause 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) above, shall be entitled to the position which she held immediately before proceeding on maternity leave or, in the case of an employee who was transferred to a safe job pursuant to subclause (c) of this clause, 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.
 - (iii) Before an employer engages a person to replace an employee temporarily promoted or transferred in order to replace an employee exercising her rights under this clause, the employer shall inform that person of the temporary nature of the promotion or transfer and of the rights of the employee who is being replaced.
 - (iv) 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.

18. MINIMUM ENGAGEMENT FOR PART-TIME AND CASUAL EMPLOYEES

Part-time or casual employees shall be engaged for a minimum of 3 hours per day. Provided that where agreed in writing between the Union, the employer and the employee a lesser minimum engagement may occur.

19. OVERTIME

- (a) For all time worked in excess of the hours prescribed in Clause 15 - Hours of this award, payment shall be made at the rate of time and a half for the first 2 hours and double time thereafter.
- (b) Where overtime exceeds 90 minutes on any day, employees shall be paid a meal allowance of \$4.80 in addition to the overtime rate prescribed.

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- (c) The method by which the hourly rate shall be calculated for the purpose of this clause shall be by division of the weekly rate of pay for the employee concerned by 40.

20. PART-TIME EMPLOYEES

Employees may be engaged to work regularly per week for less hours than those prescribed in Clause 15 - Hours of this award and shall be paid pro-rata at a rate of 1/38th of the rates prescribed in Clause 8 - Wage Rates.

21. PAYMENT OF WAGES

- (a) The employer shall specify a time and place at which wages and other moneys are to be paid to the employees other than employees engaged for less than one week. The time so specified shall not be more than 48 hours from the time when such wages become due and shall not be later than Thursday in the week. Any employee who is not paid at the time so specified shall be deemed to be working during the time he is kept waiting. Casual employees shall be paid within one hour of the termination of employment.
- (b) Payment may be made weekly or fortnightly and shall be in cash or by cheque or by direct bank deposit in an account nominated by the employee. The frequency and method of payment shall be the result of agreement being reached between the employer and majority of employees concerned.
- (c) Where a cheque is not met upon presentation or a bank deposit is not made at the time specified, otherwise than in circumstances beyond the control of the employer, waiting time shall be paid.

22. PREFERENCE OF EMPLOYMENT

- (a) Preference in engagement and retention of employees shall be given equally to persons in the following categories who are available and suitable:
 - (i) members of the Tasmanian Branch of the Federated Miscellaneous Workers' Union of Australia;
 - (ii) persons who are prepared to give forthwith a written undertaking to apply to join the Tasmanian Branch of the Federated Miscellaneous Workers' Union of Australia within fourteen days;
 - (iii) conscientious objectors.

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If there is more than one person applying for employment within any or all of these categories, the employer shall have freedom to select any one or more of such persons in his or its discretion.

- (b) An employer shall dismiss an employee who fails to honor a written undertaking to apply to join the Tasmanian Branch of the Federated Miscellaneous Workers' Union of Australia.
- (c) Conscientious objectors shall pay a sum equivalent to the subscription to the Tasmanian Branch of the Federated Miscellaneous Workers' Union of Australia to a charity to be agreed upon between the person concerned and the Union and in default of agreement to Consolidated Revenue. The payment shall be made at the same time and on the same conditions as apply to payment of subscriptions to the Union.
- (d) This clause shall not apply in respect of engagement of employees in the following categories:
 - (i) employees sought for confidential or managerial positions;
 - (ii) owners of businesses or their spouses.

23. PROTECTIVE CLOTHING

- (a) Where an employee is required to work under wet or dirty conditions, suitable protective clothing including footwear, shall be supplied free of charge by the employer to the employees concerned and any such clothing shall be maintained by and remain the property of the employer.
- (b) Any dispute as to the necessity or suitability of such clothing shall be resolved by consultation between management, shop stewards and/or union representative. Where agreement cannot be achieved the matter shall be referred to the Secretary for Labour for adjudication whose decision shall be final.
- (c) An issue of 2 pairs of suitable overalls or coveralls shall be supplied by the employer to employees and any such clothing shall be maintained by and remain the property of the employer. Any dispute as to the suitability of such clothing shall be resolved in accordance with subclause (b) of this clause.

24. RIGHT OF ENTRY

For the purpose of interviewing employees on legitimate Union business, an officer of the Federated Miscellaneous Workers' Union of Australia shall be permitted to enter the employer's premises subject to the following:

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- (a) that he produces his authority to the employer;
- (b) that if the employer alleges that the officer is unduly interfering with the employer's work operations, or that the officer is offensive, the employer may then refuse right of entry, subject to the Union's right to bring such refusal before the Secretary for Labour for determination.

25. SETTLEMENT OF DISPUTES

Any dispute concerning this award shall be settled in the following manner:

- (a) negotiation between the employer and the union shop steward;
- (b) where there is no shop steward available or where the dispute is not settled within the provisions of subclause (a) above, by negotiation between the union and employer representatives;
- (c) failing agreement being reached within the provisions of subclause (b) above, the union or the employer may refer the matter to the Tasmanian Industrial Commission for decision;
- (d) whilst this disputes procedure is being followed the status quo prevailing before the dispute arose shall be maintained.

26. SHIFT WORKERS

- (a) Shifts may be worked by employees at such hours as may be agreed upon by the employer and employees concerned.
- (b) For working shift work on any day, Monday to Friday (excluding Public Holidays) an employee shall be paid an allowance in addition to the rate prescribed in Clause 8 - Wage Rates as follows:
 - (i) Early Morning Shift 15%
 - (ii) Afternoon Shift 15%
 - (iii) Night Shift 15%
 - (iv) Permanent Night Shift 30%
- (c) For the purpose of this clause:-
 - (i) "Early Morning Shift" means a shift commencing prior to 6.30 a.m.
 - (ii) "Afternoon Shift" means a shift finishing after 6.00 p.m.
 - (iii) "Night Shift" means a shift finishing after midnight and at or before 8.00 a.m.

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- (iv) "Permanent Night Shift" means a night shift which does not alternate with another shift so as to give the employee at least one third of his/her working time off night shift.

27. SICK LEAVE

- (a) An employee, who is absent from work on account of personal illness or on account of injury by accident shall be entitled after one month's service to leave of absence without deduction of pay, subject to the following conditions and limitations -
 - (i) he shall not be entitled to such leave of absence for any period in respect of which he is entitled to workers' compensation;
 - (ii) the employee shall, within one hour of the commencement of such absence, inform the employer of his inability to attend for work, and as far as may be practicable, state the nature of the illness or injury and the estimated duration of the absence. Where such notification is not given, the employer shall be entitled to require as proof in accordance with subclause (iii) of this clause a certificate of a medical practitioner. Provided that where the employee genuinely is unable to give notification prior to the commencement of the shift the requirements of subclause (iii) of this shall apply;
 - (iii) he shall prove to the satisfaction of the employer (or in the event of a dispute, the Secretary for Labour), that he was unable on account of such illness or injury to attend for work on the day or days for which the sick leave is claimed, provided that 2 single day absences in each 6 months shall be allowed without such proof; and also provided that such single day absences shall not be taken on the working day prior or the working day after a public holiday as prescribed in Clause 14 - Holidays with Pay, of this award.
 - (iv) he shall not be entitled in any year (whether in the employment of one employer or of more) to sick leave credit in excess of 2 weeks of ordinary working time;
 - (v) for the purpose of administering paragraph (iv) above an employer may within 2 weeks of the employee entering his employment require an employee to make a sworn declaration or other written statement as to what paid leave of absence he has had from any employer during the then current year, and upon such statement the employer shall be entitled to rely and act.
- (b) Sick leave shall accumulate from year to year so that any balance of the period specified in subclause (a) (iv) of this clause which has in any year not been allowed to an employee by an employer as paid sick leave shall be credited to the employee and, subject to the conditions hereinbefore prescribed shall be allowed by that employer in a subsequent year without diminution of the sick leave prescribed in respect of that year.

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- (c) An employer shall not be required to make any payment in respect of accumulated sick leave credits to an employee who is discharged or leaves his employment, or for any time an employee is absent from work without producing satisfactory evidence of personal illness.

28. STEWARD

An employee appointed Union Steward upon notification to the employer that he or she is an accredited representative of the Union shall be allowed reasonable time during working hours to attend to matters affecting the relationship between the employees, employer and the Union.

29. SUNDAY, SATURDAY AND HOLIDAY WORK

- (a) An employee who is employed on a Saturday shall be paid at the rate of time and one half for the first 2 hours and double time thereafter.
- (b) An employee required to work on a Sunday shall be paid at the rate of double time.
- (c) An employee required to work on any of the holidays prescribed in Clause 14 - Holidays with Pay of this award shall be paid at the rate of double time and one half.
- (d) The method by which the hourly rate shall be calculated for the purpose of this clause shall be by division of the weekly rate of pay for the employee concerned by 40.

30. TERMINATION OF SERVICE

- (a) Casual employees shall be engaged by the hour and employment may be terminated by the giving of one hour's notice by either party or by the payment or forfeiture of one hour's pay as the case may be.
- (b) All other employees shall be engaged by the week and employment may be terminated only by the giving of one week's notice by either party, or by the payment or forfeiture of one week's wages as the case may be. Provided that during the first two weeks of employment the employment may be terminated by the giving of one hour's notice by either party or by the payment or forfeiture of one hour's pay as the case may be.
- (c) Nothing in this clause shall limit the right of the employer to instantly dismiss an employee for wilful misconduct or gross neglect of duty, provided that such misconduct or neglect warrants instant dismissal, in which case wages shall be paid up to the time of dismissal only.

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31. TIME AND WAGES BOOK

Each employer shall keep a time and wages book showing the name of each employee, his or her classification, the hours worked each day and wages and allowances paid each week, and details of sick leave and annual leave entitlements.

The time and wages book shall be made available for inspection to a duly accredited representative of the Federated Miscellaneous Workers' Union of Australia.

R.J. Watling
COMMISSIONER

10 August 1988