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TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

s23 application for award or variation of award

Tasmanian Trades and Labor Council

(T12940 of 2007)

Private Sector Awards

Public Sector Awards

FULL BENCH:

PRESIDENT P L LEARY

DEPUTY PRESIDENT P C SHELLEY

COMMISSIONER T J ABEY

Wage Rates – State Wage Case 2007 – application amended - application to vary private and public sector awards – award wage rates to be increased by \$22.70 per week - wage related allowances to be increased by 3.8% – meal allowance increased to \$14.10 - State Minimum Wage rate determined at \$527.10 - s.35(1)(b) – operative date ffpp 1 August 2007

TEXTILE AWARD

ORDER –

**No. 1 of 2007
(Consolidated)**

AMEND THE **TEXTILE AWARD** BY DELETING ALL CLAUSES CONTAINED THEREIN AND INSERTING IN LIEU THEREOF THE FOLLOWING; AND THE AWARD IS CONSOLIDATED:

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1. TITLE

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

2. SCOPE

This award is established in respect of the trade of manufacture of cloth and all woven materials and/or fabrics and/or knitted articles.

3. ARRANGEMENT

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Appendix A

4. DATE OF OPERATION

This award shall be operative from the first full pay period commencing on or after 1 August 2007.

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5. SUPERSESSION AND SAVINGS

This award incorporates and supersedes the Textile Award No. 2 of 2006 (Consolidated).

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;
- (c) the following organisations of employees in respect of whom award interest has been determined:
 - (i) the Australian Municipal, Administrative, Clerical and Services Union and the officers of that organisation and their members who are employed in the industry specified in Clause 2 - Scope;
 - (ii) the Construction, Forestry, Mining and Energy Union, Tasmanian Branch and the officers of that organisation and their members who are employed in the industry specified in Clause 2 - Scope; and
 - (iii) the Textile, Clothing and Footwear 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 organisation of employers in respect of whom award interest has been determined:

the Tasmanian Chamber of Commerce and Industry Ltd.

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7. DEFINITIONS

FOR EMPLOYEES IN DIVISION B - CLERKS

'Casual employee' means any person who is employed on a casual basis and includes any person who is employed for a period not exceeding 5 days at any one time.

CLERICAL CLASSIFICATION STANDARDS

GRADE 1 CLERICAL ASSISTANT

A. GRADING

Employees shall be graded at this level where the principal functions of their employment as determined by the employer require the following:

- (i) The exercise of the 'General Requirements' specified in 'B' hereunder and
- (ii) In addition to the 'General Requirements' are required to exercise any one or more of the broad skill levels set out in 'C' hereunder.

B. GENERAL REQUIREMENTS

- (i) Employees in this grade perform, and are accountable for clerical and office tasks as directed, within the skill levels set out. They work within established routines, methods and procedures. Supervision is direct.
- (ii) Employees in this grade shall be able to acquire and apply a limited knowledge of office procedures and requirements.

C. SKILL REQUIREMENTS

(i) Technical Skills

Machine Operation - Skill Level 1

Employees at this level are able to operate telephone/intercom systems, telephone answering machines; facsimile machines, photocopiers, franking machines, guillotines.

(ii) Information Handling Skills - Skill Level 1

Employees at this level are able to receive, sort, open, distribute incoming mail, process outgoing mail, receive incoming and despatch outgoing courier mail, deliver messages and documents to appropriate persons/locations; prepare and collate documents; sort and file documents/records accurately in correct location/sequence using an established paper-based filing system.

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GRADE 2 CLERICAL OFFICER

A. GRADING

Employees shall be graded at this level where the principal functions of their employment as determined by the employer require the following:

- (i) The exercise of the 'General Requirements' specified in 'B' hereunder and
- (ii) In addition to the 'General Requirements' are required to exercise any one or more of the broad skill levels set out in 'C' hereunder.

B. GENERAL REQUIREMENTS

- (i) Employees in this grade perform clerical and office tasks using a more extensive range of skills and knowledge at a level higher than required in Grade 1. They are responsible and accountable for their own work which is performed within established routines, methods and procedures. Supervision is routine.
- (ii) Employees at this level shall be able to acquire and apply a working knowledge of office or sectional operating procedures and requirements; acquire and apply a working knowledge of the organisation's structure and personnel in order to deal with enquiries at first instance, locate appropriate staff in different sections, relay internal information, respond to or redirect enquiries, greet visitors.

C. SKILL REQUIREMENTS

- (i) Technical Skills

Machine Operation - Skill Level 2

Employees at this level are able to operate adding machines, switchboard, paging system, telex machine, typewriter and calculator.

Computer - Skill Level 1

Employees at this level are able to use knowledge of keyboard and function keys to enter and retrieve data through computer terminal.

Keyboard Typing - Skill Level 1

Employees at this level are able to type at 25 words per minute with 98 percent accuracy. Utilise basic word processing skills.

Note: Technical skills herein specified are to be read as a whole i.e. an employee if required shall be capable of exercising all skills relating to machine operation, keyboard, computer and word processing at this level.

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(ii) Information Handling Skills - Skill Level 2

Employees at this level are able to maintain mail register and records; maintain established paper-based filing/records systems in accordance with set procedures including creating and indexing new files, distributing files within the organisation as requested, monitoring file locations; transcribe information into records, complete forms, take telephone messages.

(iii) Business/Financial Skills - Skill Level 1

Employees at this level are able to keep appropriate records; prepare and record petty cash transactions; undertake bank transactions (deposits and withdrawals).

GRADE 3 CLERICAL OFFICER

A. GRADING

Employees shall be graded at this level where the principal functions of their employment as determined by the employer require the following:

- (i) The exercise of the 'General Requirements' specified in 'B' hereunder and
- (ii) In addition to the 'General Requirements' are required to exercise any one or more of the broad skill levels set out in 'C' hereunder.

OR ARE:

- (iii) Employees holding a Certificate of Commercial Studies (TAFE) or accredited equivalent, and who are required to use skills and perform tasks within the range of Grade 3.

B. GENERAL REQUIREMENTS

- (i) Employees in this grade perform clerical and office tasks using a more extensive range of skills and knowledge, at a level higher than required in Grade 2. They are responsible and accountable for their own work, which is performed within established guidelines. They exercise limited discretion within the range of their skill and knowledge. Supervision is general.
- (ii) They must be able to acquire a working knowledge of the organisation's products/services, functions, locations and clients; respond to, and act upon most internal/external enquiries in own function area.

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C. SKILL REQUIREMENTS

(i) Technical Skills

Machine Operation - Skill Level 3

Employees at this level are able to operate computerised radio telephone equipment, micro/personal computer, printing devices attached to personal computer, dictaphone equipment, typewriters.

Keyboard - Typing - Skill Level 2

Employees at this level are able to produce documents and correspondence using knowledge of standard formats, touch type at 40 words per minute with 98 percent accuracy, audio type.

Computer - Skill Level 2

Employees at this level are able to use one software application package developed for a micro-personal computer to create:

- a database file structure, or
- a spreadsheet/worksheet, or
- a graphic, or
- an accounting/payroll file following standard procedures and using existing models/fields of information; or

use a central computer resource to an equivalent standard.

Word Processing - Skill Level 1

Employees at this level are able to use ONE software package to create format, edit, proof read, correct, print and save text documents, e.g. standard correspondence and business documents.

Note: Technical skills herein specified are to be read as a whole, i.e. An employee if required shall be capable of exercising all skills relating to Machine Operation, Keyboard, Computer and Word Processing at this level.

(ii) Secretarial - Skill Level 1

Employees at this level are able to take shorthand notes at 70 words per minute and transcribe with 95 percent accuracy.

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(iii) Information Handling - Skill Level 3

Employees at this level are able to use computer-based record management systems to file and retrieve records such as accounts, stock inventory, finance and personnel records.

(iv) Business/Financial - Skill Level 2

Employees at this level are able to maintain records and journals, sort, process and record transactions such as incoming/outgoing cheques, invoices, debit/credit items, payroll data, establish petty cash imprest system.

GRADE 4 CLERICAL OFFICER

A. GRADING

Employees shall be graded at this level where the principal functions of their employment as determined by the employer require the following:

- (i) The exercise of the 'General Requirements' specified in 'B' hereunder and
- (ii) In addition to the 'General Requirements' are required to exercise any one or more of the broad skill levels set out in 'C' hereunder.

B. GENERAL REQUIREMENT

- (i) Employees in this grade perform clerical and office tasks using a more extensive range of skills and knowledge at a level higher than required in Grade 3. They are responsible and accountable for their own work, and exercise discretion and initiative in the organisation of work within prescribed limits. Supervision is limited.
- (ii) Employees in this grade are able to provide detailed advice and information on the organisation's products and services; respond to client/public/supplier problems within own function area, using such techniques as personal interview and liaison; explain organisation's viewpoint to clients and appropriate persons related to own function area.
- (iii) Employees at this level shall be capable of guiding employees graded at a lower level by means of personal instruction and demonstration. This may include general supervision of up to 4 employees.
- (iv) Employees at this level shall be capable of acquiring and using specialist vocabulary, i.e. technical, medical, legal, etc., within the scope of this grade.

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C. SKILLS REQUIREMENTS

(i) Technical Skills

Keyboard - Typing - Skill Level 3

Employees at this level are able to format complex documents including technical data, technical language, tables, graphs, text design, indexing, variable typeface; produce documents requiring specified legal form or to comply with regulations or standards.

Computer - Skill Level 3

Employees at this level are able to use TWO application software packages developed for a micro/personal computer at a standard equal to Skill Level 2 in each, e.g. database, communications, accounting, payroll/personnel, spreadsheets, graphics, other applications; or

Employees at this level are able to use a central computer resource to an equivalent standard.

Word Processing - Skill Level 2

Employees at this level are able to use TWO software packages at a standard equal to Skill Level 1, or;

Apply additional functions such as search and replace, variable fonts, moving and merging across documents, text columns, money columns, tables, e.g. to produce financial statements, printed forms.

Note: Technical skills herein specified are to be read as a whole, i.e. An employee if required shall be capable of exercising all skills relating to machine operation, keyboard, computer and word processing at this level.

(ii) Secretarial Skills - Skill Level 2

Employees at this level are able to arrange travel bookings and itineraries; make appointments; screen telephone calls; follow visitor protocol procedures; establish telephone contact on behalf of executive.

Take shorthand notes at 90 words per minute and transcribe with 95 percent accuracy.

(iii) Information Handling - Skill Level 4

Employees at this level are able to maintain a computer-based records management system;

Identify, access and extract information from internal sources.

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(iv) Business/Financial - Skill Level 3

Employees at this level are able to prepare cash payment summaries, banking reports and bank statements; maintain wage and salary records; follow credit referral procedures; apply purchasing and inventory control requirements; post journals to ledger.

GRADE 5 ADMINISTRATIVE OFFICER

A. GRADING

Employees shall be graded at this level where the principal functions of their employment as determined by the employer require the following:

- (i) The exercise of the 'General Requirements' specified in 'B' hereunder and
- (ii) In addition to the 'General Requirements' are required to exercise any one or more of the broad skill levels set out in 'C' hereunder.

B. GENERAL REQUIREMENTS

- (i) Employees in this grade perform clerical and administrative duties using a more extensive range of skills and knowledge at a level higher than required in Grade 4. They are responsible and accountable for their own work, and may have limited responsibility for the work of others. They exercise initiative, discretion and judgement within the range of their skills and knowledge. Supervision is minimal.
- (ii) Employees in this grade must be able to acquire a detailed knowledge of enterprise operations and structures and a basic knowledge of the industry or field of interest in which the organisation operates. Respond to and act upon complex issues/arrangements in such areas as consumer/client services, special products/service knowledge, production and planning schedules, material supply, transport/freight arrangements.
- (iii) Employees in this grade shall be capable of guiding employees in lower grades by means of personal instruction and demonstration.

C. SKILL REQUIREMENTS

(i) Technical Skills

Computer - Skill Level 4

Employees at this level are able to use THREE application software packages developed for a micro/personal computer at a standard equal to Skill Level 2 in each; or

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use a central computer resource to an equivalent standard; or

apply knowledge of advanced functions of a SINGLE application software package to manipulate data, i.e. modify fields of information, develop new database or spreadsheet models; or graph previously prepared spreadsheets; or perform reconciliation.

and/or

Word Processing - Skill Level 3

Employees at this level are able to apply advanced functions including Macros, Sorting and Maths functions, boxes, thesaurus using ONE software package; or

apply knowledge of additional functions defined in Skill Level 2 using TWO software packages.

(ii) Secretarial Skills - Skill Level 3

Employees at this level are able to write shorthand notes at 100 words per minute and transcribe at 95 percent accuracy; maintain executive diary; respond to invitations; organise internal meetings on behalf of executive; establish and maintain reference lists/personal contact systems for executives; maintain current working and personal filing systems for executive.

(iii) Information Handling - Skill Level 5

Employees at this level are able to create new forms of files and records as required using computer-based records systems;

access, identify and extract information as required from external sources, e.g. databases, libraries, local authorities; maintain subscriptions for required technical, trade and other publication systems, maintain circulation, indexing and filing systems for publications; review/close files, archive files.

(iv) Business/Financial - Skill Level 4

Employees at this level are able to reconcile accounts to balance; follow-up unpaid accounts; calculate wage and salary requirements; calculate work evaluations; prepare bank reconciliations.

(v) Supervisory - Skill Level 1

Employees at this level are able to allocate work tasks to individuals, check work progress and correct errors. Normally 5 or more subordinates would be involved.

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(vi) Specialist Skills - Skill Level 1

Employees at this level are able to apply knowledge of export and customs documentation requirements and procedures;

apply knowledge of separate relevant industrial award rates of pay and conditions, occupational health and safety requirements.

GRADE 6 ADMINISTRATIVE OFFICER

A. GRADING

Employees shall be graded at this level where the principal functions of their employment as determined by the employer require the following:

- (i) The exercise of the 'General Requirements' specified in 'B' hereunder and
- (ii) In addition to the 'General Requirements' are required to exercise any one or more of the broad skill levels set out in 'C' hereunder.

B. GENERAL REQUIREMENTS

- (i) Employees in this grade perform clerical and administrative duties using a more extensive range of skills and knowledge at a level higher than required in Grade 5. They are responsible and accountable for their own work, and may have limited responsibility for the work of a section or unit. They exercise initiative, discretion and judgement within the range of their skills and knowledge. Supervision is by means of reporting to more senior officers as required.
- (ii) Employees in this grade are able to apply knowledge of the organisation's objectives, performance projected areas of growth, product trends; and general industry conditions, e.g. knowledge of competitors and major clients market structure in the performance of own responsibilities.
- (iii) Employees in this grade shall be capable of guiding employees graded at a lower level by means of personal instruction and demonstration.

C. SKILL REQUIREMENTS

(i) Technical Skills

Computer - Skill Level 5

Employees at this level are able to use TWO applications software packages on a micro/personal computer to a standard equal to Skill Level 4 in each; or

use a central computer resource to an equivalent standard; or

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assist in operating a mainframe computer.

AND/OR

Word Processing - Skill Level 4

Employees are able to use complex functions such as moving columns, creating displays of charts or graphs, booklet or report format on ONE software package; or

apply knowledge of advanced functions defined in Skill Level 3 using TWO software packages.

(ii) Secretarial Skills - Skill Level 4

Employees at this level are able to write shorthand notes at 120 words per minute and transcribe at 95 percent accuracy; attend executive/organisational meetings and take minutes; establish current working and personal executive filing system, answer correspondence from verbal or rough handwritten instructions; organise teleconferences.

(iii) Information Handling - Skill Level 6

Employees at this level are able to establish new paper-based/manual filing records systems for the enterprise; assist in separate undertaking research (locate/solicit, summarise/extract and interpret information) related to function area;

compose original business correspondence from minimal instructions.

(iv) Business/Financial - Skill Level 5

Employees at this level are able to post transactions to ledger and prepare a trial balance; prepare financial/tax schedules; calculate costings, stock pricing; complete personnel/payroll data for authorisation.

(v) Supervisory - Skill Level 2

Employees at this level are able to assist in the development of work quality and performance in a team environment; solve operational problems in own work functional area and resolve operational problems for staff in lower grades; co-ordinate workflow within a section or unit and counsel and advise staff who are under direct supervision.

(vi) Specialist Skills - Skill Level 2

Employees at this level are able to apply working knowledge of industrial/employment law, equal opportunity, workers' compensation procedures and superannuation requirements.

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A **'part-time'** employee is one engaged to regularly work for less hours per day or week than those prescribed for full-time employees.

'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.

FOR EMPLOYEES IN DIVISION C - AUXILIARY SERVICES

'Canteen worker' means a person employed for the greater part of her working time supervising, cooking, doing kitchen work, waitress duties, and being responsible for canteen and mobile cash sales.

'Canteen worker (Entry level)' means a person with less than four months experience in the occupation of canteen worker or a comparative occupation. An employee at this level shall be able to perform kitchen work, cooking duties, mobile cash sales and waiting duties.

'Casual employee' means any person who is employed on a casual basis and includes any person who is employed for a period not exceeding 5 days at any one time.

'Cleaner' means a person employed for the greater part of his or her working time in cleaning work of any description on premises or in bringing into or maintaining premises in a clean condition, whatever may be the nature of his or her duties.

'Cleaner (Entry level)' means a person with less than four months experience in the occupation of cleaner. An employee at this level shall be responsible for cleaning work of any description on the premises.

'Part-time employee' refers to an employee who is engaged for less than 40 hours per week as a day worker or shift worker.

'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.

'Watchman' means a person employed to watch, guard or protect premises and/or property.

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8. WAGE RATES

DIVISION A - MANUFACTURING SECTION

1. WAGE RATES

- (a) The weekly wage rates of employees engaged in the knitting, hosiery and allied manufacturing and fabricating industries shall be in accordance with those prescribed in the award known as the Textile Industry Award, made by the Australian Industrial Relations Commission.
- (b) Any disputes arising in respect of the provisions of subclause (a) above to be referred to the Tasmanian Industrial Commission whose decision shall be final.

DIVISION B - CLERKS

1. WAGE RATES

Adult employees in a classification hereunder mentioned shall be paid the base rate and supplementary payments appearing opposite that classification:

	Relativity	Base Rate	Safety Net Adjustment	Weekly Wage Rate
Adult Entry	\$	\$	\$	\$
1st 6 months	80	333.80	201.70	535.50
2nd 6 months	85	354.60	201.70	556.30
Grade 1				
1A 1st 12 months	87	363.00	201.70	564.70
1B after 12 months	90	375.50	201.70	577.20
2A 1st 12 months	92	383.80	201.70	585.50
Grade 2				
2B after 12 months	95	396.30	201.70	598.00
Grade 3				
3A 1st 12 months	97	404.70	201.70	606.40
3B after 12 months	100	417.20	203.70	620.90
Grade 4				
Grade 4	105	438.10	203.70	641.80
Grade 5				
Grade 5	110	458.90	203.70	662.60
Grade 6				
Grade 6	115	479.80	201.70	681.50

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2. JUNIORS

The minimum weekly wage rate that may be paid to juniors may be the undermentioned percentages of Grade 1, 1st 12 months service weekly wage rate adjusted to the nearest ten cents:

	%
Under 16 years of age	40
16 to 17 years of age	45
17 to 18 years of age	55
18 to 19 years of age	70
19 to 20 years of age	80
20 to 21 years of age	90

DIVISION C - AUXILIARY SERVICES

1. WAGE RATES

Adult employees in a classification hereunder mentioned shall be paid the base rate and supplementary payments appearing opposite that classification:

	Base Rate Relativity	Base Rate	Safety Net Adjustment	Weekly Wage Rate
Classification	%	\$	\$	\$
Gate-Keeper	84	350.40	201.70	552.10
Watchman	87.4	364.60	201.70	566.30
Canteen Worker (Entry Level)	78	325.40	201.70	527.10
Canteen Worker	82	342.10	201.70	543.80
Employee responsible for canteen worker and mobile cash sales	84	350.40	201.70	552.10
Employee in charge of canteen store	84	350.40	201.70	552.10
Pastry Cook (Non-Qualified)	87.4	364.60	201.70	566.30
Pastry Cook (Tradesmen)	100	417.20	203.70	620.90

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Cook other	82	342.10	201.70	543.80
Cook in charge	92.4	385.50	201.70	587.20
Cleaner (Entry Level)	78	325.40	201.70	527.10
Cleaner	84	350.40	201.70	552.10
Gardener	87.4	364.60	201.70	566.30
Greenkeeper (Qualified Tradesmen)	100	417.20	203.70	620.90
Greenkeeper (Non-Qualified)	87.4	364.60	201.70	566.30

2. JUNIORS

The minimum rates of pay that may be paid to junior employees shall be the undermentioned percentages of the appropriate adult total wage calculated to the nearest ten cents:

	%
16 years of age	50
16½ years of age	55
17 years of age	59
17½ years of age	64
18 years of age	69
18½ years of age	75
19 years of age	80
19½ years of age	85
20 years of age	100

Notwithstanding anything elsewhere contained in this clause a junior after three years experience, or upon attaining the age of 20 years, shall be paid the appropriate rate prescribed for an adult employee in the classification in which he or she is employed.

DIVISION D - SUPPORTED WAGE SYSTEM

(a) Eligibility criteria

Subject to this division an employer may engage employees at a supported wage rate (as set out in subclause (c) of this division) who meet the impairment criteria for receipt of a Disability Support Pension and who, because of their disability, are unable to perform the range of duties to the competence level normally required for the class of work for which they are engaged.

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PROVIDED that this division does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers' compensation legislation or any provision of this award relating to the rehabilitation of employees who are injured in the course of their current employment.

PROVIDED FURTHER that this division does not apply to employers in respect of their facility, programme, undertaking, service or the like which receives funding under the *Disability Services Act 1986* and fulfils the dual role of service provider and sheltered employer to people with disabilities who are in receipt of or are eligible for a disability support pension, except with respect to an organisation which has received recognition under s.10 or under s.12A of the above Act, or if a part only has received recognition, that part.

(b) For the purposes of this division:

- (i) **'Supported Wage System'** means the Commonwealth Government System to promote employment for people who cannot work at full award wages because of a disability.
- (ii) **'Accredited Assessor'** means a person accredited by the management unit established by the Commonwealth under the Supported Wage System to perform assessments of an individual's productive capacity within the Supported Wage System.
- (iii) **'Disability Support Pension'** means the pension available under the Commonwealth pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991*, as amended from time to time, or any successor to that scheme.
- (iv) **'Assessment instrument'** means the form provided for under the Supported Wage System that records the assessment of the productive capacity of the person to be employed under the Supported Wage System.

(c) Supported wage rates

Employees to whom this division applies shall be paid the applicable percentage of the minimum rate of pay prescribed by this award for the class of work which the person is performing according to the following schedule:

Assessed capacity (subclause (d))	% of prescribed award rate
10%	10%
20%	20%
30%	30%
40%	40%
50%	50%
60%	60%
70%	70%
80%	80%
90%	90%

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PROVIDED that the minimum amount payable shall be not less than \$61 per week.

(d) Assessment of capacity

For the purpose of establishing the percentage of the award rate to be paid to a supported wage employee under this award, the productive capacity of the employee will be assessed in accordance with the Supported Wage System and documented in an assessment instrument by either:

- (i) the employer and a union party to the award, in consultation with the employee or, if desired by any of these;
- (ii) the employer and an accredited Assessor from a panel agreed by the parties to the award and the employee.

(e) Lodgment of assessment instrument

- (i) All assessment instruments under the conditions of this division, including the appropriate percentage of the award wage to be paid to the employee, shall be lodged by the employer with the Registrar of the Tasmanian Industrial Commission.
- (ii) All assessment instruments shall be agreed and signed by the parties to the assessment, **PROVIDED** that where a union which is party to the award, is not a party to the assessment, it shall be referred by the Registrar of the Tasmanian Industrial Commission to the union by certified mail and shall take effect unless an objection is notified to the Registrar of the Tasmanian Industrial Commission within 10 working days.

(f) Review of assessment

The assessment of the applicable percentage shall be subject to annual review or earlier on the basis of a reasonable request for such a review. The process of review shall be in accordance with the procedures for assessing capacity under the Supported Wage System.

(g) Other terms and conditions of employment

Where an assessment has been made, the applicable percentage shall apply to the wage rate only. Employees covered by the supported wage provisions of this division shall be entitled to the same terms and conditions of employment as all other workers covered by this award who are paid on a pro rata basis.

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(h) Workplace adjustment

An employer wishing to employ a person under the provisions of this division shall take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve re-design of job duties, working time arrangements and work organisation in consultation with other workers in the area.

(i) Trial Period

- (i) In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this division for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding 4 weeks) may be needed.
- (ii) During that trial period the assessment of capacity shall be undertaken and the proposed wage rate for a continuing employment relationship shall be determined in accordance with subclauses (d) and (e).
- (iii) The minimum amount payable to the employee during the trial period shall be no less than \$61 per week or such greater amount as is agreed from time to time between the parties.
- (iv) Work trials should include induction or training as appropriate to the job being trialed.
- (v) Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment shall be entered into based on the outcome of assessment under subclause (c) hereof.

DIVISION E – MINIMUM WAGE

(a) Minimum Wage

(i) Minimum Wage

No employee shall be paid less than the minimum wage.

(ii) Amount of Adult Minimum Wage

- (1) The minimum wage for full-time adult employees not covered by Division C - Supported Wage System is \$527.10 per week.

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- (2) Adults employed under a supported wage system clause shall continue to be entitled to receive the wage rate determined under that clause. Provided that such employees shall not be paid less than the amount determined by applying the percentage in the supported wage system clause applicable to the employee concerned to the amount of the minimum wage specified in subclause (ii)(1).
- (3) Adults employed as part-time or casual employees shall continue to be entitled to receive the wage rate determined under the casual and part-time clauses of the award. Provided that such employees shall not be paid less than pro rata the minimum wage specified in subclause (ii)(1) according to the number of hours worked.

(iii) How the Minimum Wage Applies to Juniors

- (1) The wage rates provided for juniors by this award continue to apply unless the amount determined under subclause (iii)(2) is greater.
- (2) The minimum wage for an employee to whom a junior rate of pay applies is determined by applying the percentage in the junior wage rates clause applicable to the employee concerned to the relevant amount in subclause (ii)(1).

(iv) Application of Minimum Wage to Certain Employees

Due to existing applicable award wage rates being greater than the relevant proportionate minimum wage, this clause will not apply to employees falling within the scope of the National Training Wage (Tasmanian Private Sector) Award and Trainees undertaking an apprenticeship.

(v) Application of Minimum Wage to Award Rates Calculation

The minimum wage:

- (1) applies to all work in ordinary hours;
- (2) applies to the calculation of overtime and all other penalty rates, superannuation, payments during personal leave, long service leave and annual leave, and for all other purposes of this award; and
- (3) is inclusive of the arbitrated safety net adjustment provided by the July 2007 State Wage Case Decision (T.12940 of 2007) and all previous safety net and state wage case adjustments.

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CONDITIONS FOR EMPLOYEES IN DIVISION A - MANUFACTURING

9. CONDITIONS OF EMPLOYMENT

- (a) The conditions of employment of employees engaged in the knitting, hosiery and allied manufacturing and fabricating industries shall be in accordance with those prescribed in the award known as the Textile Industry Award, made by the Australian Conciliation and Arbitration Commission.
- (b) Any disputes arising in respect of the provisions of subclause (a) above shall be referred to the Tasmanian Industrial Commission whose decision shall be final.

CONDITIONS FOR EMPLOYEES IN DIVISION B - CLERKS

10. 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) as an employee on weekly engagement in any occupation to which this award applies.

- (b) Seven Day Shift Workers

In addition to the leave hereinbefore prescribed 7 day shift workers who are rostered to work regularly on Sundays and/or holidays, shall be allowed 7 consecutive days leave including non-working days. Where an employee with 12 months continuous service is engaged for part of the 12 month period as a 7 day shift worker he shall be entitled to have the period of annual leave prescribed in subclause (a) of this clause increased by half a day for each month he is continually engaged as aforesaid.

- (c) Annual Leave Exclusive of Public Holidays

Subject to this subclause, the annual leave prescribed by this clause shall be exclusive of any of the holidays prescribed by Clause 17 - 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 had such day not been a holiday.

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 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 any such holiday.

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(d) Broken Leave

Employees covered by this award shall participate in any ballot which may take place regarding annual leave arrangements, and further they shall conform with the decisions of the majority of the employees in that particular work place.

Notwithstanding the foregoing annual leave may be taken in any period and/or combination agreed by the employer and an employee.

(e) 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 lawfully granted by the employer; or
- (iii) any absence with reasonable cause, proof whereof shall be upon the employee.

In cases of personal sickness or accident or absence with reasonable cause, an employee to become entitled to the benefit of this subclause shall inform the employer, in writing if practicable, within 24 hours of commencement of such absence or within 4 hours of the commencement of the next working day or shift, of his inability to attend 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 purpose of this clause unless the employer, during 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 plant in the manner in which general notifications to employees are usually made in the plant and by posting to each union whose members have participated in such concerted or collective absenteeism a copy of same not later than the day it is posted up in the plant.

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

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In calculating the period of 12 months continuous service any absence from work not exceeding 91 working days in a qualifying period of 12 months on account of sickness or accident shall be taken into account in calculating the period of 12 months continuous service.

(f) Calculation of Service

Service before the date of this award shall be taken into consideration for the purpose of calculating annual leave, but an employee shall not be entitled to leave or payment in lieu thereof for any period in respect of which leave or payment in lieu thereof has been allowed.

Where the employee is a successor or assignee or transmittee of a business, if an employee was in the employment of the employer's predecessor at the time when he became such successor or assignee or transmittee, 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.

(g) Calculation of Month

For the purpose of this clause, a month shall be reckoned as commencing with the beginning of the first day of employment or period of employment in question and as ending at the beginning of the day which in the last month in question, has the same date number as that which the commencing day had in its month and if there be no such day in such subsequent month shall be reckoned as ending at the end of such subsequent month.

(h) Leave to be Taken

The annual leave provided for by this clause shall be taken and except as provided by subclause (m) of this clause payment shall not be made or accepted in lieu of annual leave.

(i) Time of Taking Leave

Annual leave shall be given within twelve months of the date the leave has accrued at a time or times mutually agreed between the employer and employee.

In the event that mutual agreement cannot be reached, annual leave shall be given at a time fixed by the employer within a period not exceeding, in the case of an employee taking leave in one period, six months or, in the case of an employee taking the leave in two or three periods, nine months from the date when the right to annual leave accrued and after not less than two months notice to the employee.

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(j) Leave Allowed Before Due Date

An employer may allow annual leave to an employee before the right thereto has accrued due, but where leave is taken in such a case a further period of annual leave shall not commence to accrue until after the expiration of the 12 months in respect of which annual leave has been taken before it accrued.

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, for each one complete month of the qualifying period of 12 months not served by the employee, deduct from whatever remuneration is payable upon the termination of the employment, one twelfth of the amount of wage paid on account of the annual leave which amount shall not include any sums paid for any of the holidays prescribed by Clause 17 - Holidays with Pay of this award.

(k) Payment for Period of Leave

Each employee other than a continuous shift worker 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.

A continuous shift worker shall be paid the amount of wage he would have received in respect of the ordinary hours which he would have worked in accordance with his roster or projected roster.

For the purposes of this subclause the wage rate applicable shall include the following:

- (i) wage rates;
- (ii) leading hand allowance;
- (iii) any overaward payment;
- (iv) minimum wage;
- (v) weekend penalty rates (seven day continuous shift workers only).

PROVIDED that the wage rate applicable shall not include any of the following:

- (i) shift allowance;
- (ii) special rates;
- (iii) overtime payments.

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(l) Loading on Annual Leave

- (i) In addition to the wage rate prescribed in subclause (k) of this clause, employees other than 7-day continuous shift workers shall whilst on annual leave receive a loading of 17 1/2 percent calculated on the award rate.
- (ii) 7-day continuous shift workers shall be entitled to annual leave loading calculated as follows:
 - (1) a 17 1/2 percent loading calculated on the award wage exclusive of shift allowances, weekend penalty rates or overtime; or
 - (2) weekend penalty rates in accordance with his projected roster as prescribed in subclause (k) of this clause, whichever is the greater.
- (iii) The annual leave loading prescribed herein shall not apply to pro rata leave entitlement on termination.

(m) Proportionate Leave on Termination

If after one month's continuous service in any qualifying 12 monthly period an employee lawfully leaves his employment, or his employment is terminated through no fault of his own, the employee shall be paid at his ordinary rate of wage as follows:

12.67 hours for each completed month of service.

Notwithstanding anything elsewhere contained in this subclause, an employee who is retrenched by the employer on or after the 23 August, 1974 on account of the effect of the 25 percent reduction in tariffs and or removal of quotas of knitted shirts and or outerwear, and the employer verifies same by signing an application for readjustment assistance, then the employee shall be paid at his ordinary rate of wages for 12.67 hours for each completed month of service in the current qualifying period.

PROVIDED that where any employee has been employed for a period in excess of 12 months and who receives pro rata entitlement in accordance with this subclause the "ordinary rate of pay" shall include any additional amounts prescribed in subclause (k) of this clause.

In the case of an employee who has been employed for less than 12 months the "ordinary rate of pay" shall not include the additional amounts prescribed in subclause (k) of this clause.

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11. ANNUALISED SALARY AGREEMENTS

Overtime penalty rates and allowances (Clause 18 - Hours, Clause 21 - Overtime, Clause 29 - Saturday, Sunday and Holiday Work, Clause 31 - Tea Money) may not apply to employees classified in Grades 4, 5 and 6 **PROVIDED** that a written agreement is reached between the employer and employee for a suitable employment package to take account of work which is likely to be performed outside the ordinary hours (as defined) in Clause 18 - Hours.

An Annualised Salary Agreement shall only be made with employees classified as Grade 3, following the consent of the Australian Municipal, Administrative, Clerical and Services Union.

Annualised Salary Agreements shall not apply to any employee classified as Grade 1 or Grade 2.

Agreement shall not be withheld unreasonably.

PROVIDED that:

- (a) The employment package shall be of such a nature as to generate a more advantageous remuneration package than would otherwise be available under award conditions in any agreed time period not exceeding four weeks.
- (b) Either party may terminate the agreement on the giving of four weeks notice.
- (c) One week prior to entering into an agreement of this nature, the employee shall be provided with a copy of this clause.
- (d) All other provisions of the award shall apply.
- (e) During the month of July each year, an employer shall notify the office of the Australian Municipal, Administrative, Clerical and Services Union of the number of agreements made pursuant to this clause during the previous twelve months and the number currently in existence.
- (f) These agreements shall be kept as part of the record required to be kept by employers under Part VII, Section 75 of the *Industrial Relations Act 1984*.

12. BEREAVEMENT LEAVE

- (a) 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, grandchild 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 three ordinary days.

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PROVIDED that no such payment shall be made in respect of an employee's rostered days off (as defined) 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 FURTHER 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 subclause 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.

(b) Unpaid Bereavement Leave

An employee may take unpaid bereavement leave by agreement with the employer.

(c) Casual Employees and employees in receipt of a loading in lieu of paid leave

(i) Subject to the evidentiary requirements in subclause (a) of this clause, casual employees and employees in receipt of a loading in lieu of paid leave are entitled to not be available to attend work, or to leave work upon the death in Australia of an immediate family or household member.

(ii) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. Casual Employees and employees in receipt of a loading in lieu of paid leave are not entitled to any payment for the period of non-attendance.

(iii) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

13. CASUAL EMPLOYEES

A casual employee (as defined) for working ordinary time shall be paid per hour one thirty-eighth of the weekly rates prescribed for the work which he or she performs. In addition thereto a casual employee shall receive 15 percent of the ordinary hourly rate in respect of each hour for which he or she is paid; such additional amount to be payment in lieu of annual leave, personal leave, and public holidays.

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14. CLOTHING

Where an employer requires an employee to wear outer clothing or protective clothing of a distinctive colour or style such clothing shall be supplied by the employer without cost to the employee. The cost of repair and replacement of such clothing shall likewise be the responsibility of the employer.

PROVIDED that minor repairs to clothing shall be the responsibility of employees, e.g. re-attachment of buttons or re-stitching of faulty seams.

15. ENTERPRISE FLEXIBILITY

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

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- (d) Any agreement which seeks to vary a provision of this award shall be referred to the Tasmanian Industrial Commission.

16. ESTIMATING SERVICE

In estimating the number of years service of an employee the total clerical experience in the service of every employer in the trades or groups of trades in respect of which awards of the Tasmanian Industrial Commission are established shall be taken into account.

17. HOLIDAYS WITH PAY

- (a) All employees (other than casuals) 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), Recreation Day (where Hobart Regatta Day is not observed), Christmas Day and Boxing Day.

- (b) Payment for the holidays mentioned in subclause (a) of this clause 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.
- (c) Payment to an employee for work performed on holidays mentioned in subclause (a) of this clause shall be at the rates prescribed elsewhere in this award.
- (d) An employer may, by agreement with the employee and the union, work that employee on any public holiday prescribed in subclause (a) provided an agreed substitute day off is provided at the penalty equivalent.

The substitute day shall, by agreement between the employer and employee, be taken either within twenty eight days of the entitlement being accrued or as an addition to annual leave.

18. HOURS

- (a) Subject to subclause (e) hereof and Clause 19 - Implementation of 38-Hour Week of this division, the ordinary hours of work shall be an average of 38 per week to be worked between the hours of 6.30am and 6.00pm Monday to Friday on the following basis:

Notwithstanding the foregoing, by agreement between an employer and employee, up to 10 hours may be worked on any day at ordinary time.

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- (i) 38 hours within a work cycle not exceeding seven consecutive days; or
 - (ii) 76 hours within a work cycle not exceeding fourteen consecutive days; or
 - (iii) 114 hours within a work cycle not exceeding twenty-one consecutive days; or
 - (iv) 152 hours within a work cycle not exceeding twenty-eight consecutive days; or
 - (v) 152 hours within a work cycle not exceeding twenty-eight consecutive days in establishments where the method of banking of rostered days off has been agreed to.
- (b) The hours of work prescribed in this clause shall, excepting for a meal break of not less than 30 minutes nor more than 60 minutes, be continuous on each day. Such meal break shall be taken between the hours of 11.00am and 3.00pm.
- (c) Except where overtime is worked for a period not exceeding one hour after normal finishing time, no employee shall work for more than five hours without a break of not less than 30 minutes for a meal.
- (d) Employees other than those engaged as provided for in Clause 13 - Casual Employees and Clause 23 - Part-time Employees, of this division shall be paid the weekly wage prescribed for a week of 38 hours for each week that he is ready, willing and available for work during the hours prescribed herein, and in addition thereto, such overtime or penalty rates, if any, that may have occurred during the relevant period.
- (e) Shifts may be worked between the hours of 6.00am and 11.00pm.

'Morning Shift' shall mean a shift commencing at 6.00am

'Afternoon Shift' shall mean a shift finishing after 6.00pm but no later than 11.00pm

Employees engaged on morning or afternoon shift shall be paid at the rate of \$33.70 per week in addition to the ordinary rates payable to day workers, irrespective of whether such shift is regarded as morning or afternoon shift, whether permanent or rotating.

The shift allowance shall be paid each shift on the basis of \$5.90 per shift worked each day.

- (f) Make Up Time

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

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- (i) An employee may elect, with the consent of the employer, to work 'make up time' under which the employee takes time off during ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in the award.
 - (ii) An employee on shift work may elect, with the consent of their employer, to work 'make up time' under which the employee takes time off ordinary hours and works those hours at a later time, at the shift work rate which would have been applicable to the hours taken off.
 - (iii) An employee or the employees may choose to request a union party to this award, to represent their interests in negotiation referred to in paragraph (i) of this subclause.
 - (iv) Once a decision has been taken to introduce an enterprise system of make up time, in accordance with this clause, its terms must be set out in the time and wages records kept pursuant to Regulation 25 of the Industrial Relations Regulations 1993.
 - (v) An employer shall record make up time arrangements in the relevant time and wages book, at each time this provision is used.
- (g) Rostered Days Off

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

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

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- (vi) An employer shall record Rostered Days Off arrangements in the relevant time and wages book, at each time this provision is used.

19. IMPLEMENTATION OF 38-HOUR WEEK

- (a) Subject to Clause 18 - Hours, and except as provided elsewhere in this award the method of implementing the 38-hour week may be one 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 day in 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 day off during that cycle; or
 - (v) by accruing an entitlement to rostered days off up to a maximum of twelve days, or as otherwise mutually agreed and thereby averaging 38 hours over a period not exceeding twelve months.

The taking of accrued rostered days off shall be as mutually agreed between the employer and employee. In the absence of agreement, the employer shall be required to provide two weeks notice for the employee.

- (b) In each establishment, 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. Subsequently, such method may be altered by mutual agreement.
- (c) Circumstances may arise where different methods of implementation of a 38-hour week apply to various groups or sections of employees in the establishment concerned.
- (d) Except as provided in subclause (e) of this clause where the method of the employee working ordinary hours provides a day or days off during a particular work cycle, such day or days off may be taken by mutual agreement between the employer and employee concerned and in the absence of agreement the employer shall provide the employee with 24 hours notice for the time of taking such day or days off.
- (e) The day or days scheduled to be the day or days off in accordance with subclauses (a)(iii), (iv) and (v) of this clause may be worked as an ordinary day or days without penalty when substituted by another day or days by agreement between the employer and the employee concerned or, where a number of employees are concerned, by agreement between the employer and the majority of employees.

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- (f) Where a system of working is adopted to allow one rostered day off in each four week cycle or the banking of rostered days off, an employee shall not be entitled to more than 13 such rostered days off in any twelve month period.

20. OCCUPATIONAL SUPERANNUATION

(a) Definitions

'The Fund' shall mean TASPLAN or an alternative fund as referred to in subclause (c) hereof **PROVIDED** that such alternative fund is approved in accordance with the Commonwealth Operational Standards for Occupational Superannuation Funds and endorsed by the Tasmanian Industrial Commission.

'Eligible Employee' shall mean an employee, whether weekly, part-time or casual, who has had at least 3 months continuous service with an employer subject to this award. Provided that in the case of an employee who has so qualified with one employer, that employee shall not be required to serve the qualifying period with any subsequent employer subject to this award.

'Ordinary Time Earnings' shall mean the classification rate including loadings for shift work, part-time or casual work and any permanent all purpose allowances but shall exclude overtime payments, leave loading, annual and/or long service leave payments on termination of employment and allowances in the nature of a reimbursement (such as meal money).

(b) Contributions

- (i) An employer shall, at least monthly, make a contribution equivalent to 3 percent of ordinary time earnings into the fund in respect of all eligible employees (as defined).
- (ii) In the case of eligible casual and part-time employees, contributions shall become payable following the completion of 38 hours of work each calendar month.
- (iii) Contributions to the fund shall be made by the employer on at least a calendar monthly basis unless there are circumstances for which the employer cannot be held responsible.

(c) Alternative Funds

- (i) An employer shall be not be required to pay a contribution on behalf of any eligible employee into more than one fund for the same period of employment.

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- (ii) Where an employer is already, at the time this clause is included in the award, paying on behalf of an eligible employee a contribution of not less than 3 percent of ordinary time earnings into an alternative fund (as referred to in subclause (a) hereof) then the employer may continue to use that fund **PROVIDED** that contributions are made in accordance with this clause.
- (iii) Where an alternative fund (as referred to in subclause (a) hereof) is in use for the majority of employees in a particular establishment then such alternative fund may be used for the purposes of this clause **PROVIDED** that contributions are made as herein prescribed.
- (iv) Where agreement is reached between an employer and a union an alternative fund (as referred to in subclause (a) hereof) and endorsed by the Tasmanian Industrial Commission may be used for the purposes of contributions payable under this clause.

(d) Exemptions

For the purpose of subclause (c) hereof, the following companies are exempted from contributing to the nominated fund as defined in subclause (a) Definitions, hereof. Contributions shall be made in accordance with the approved funds set out below:

Company	Fund
Bonds Weaving Mills	Bonds Retirement Plan
Coats Patons Handknittings	Coats Patons (Australia) Employees' Retirement Fund
James Nelson (Tasmania) Pty Ltd	James Nelson Superannuation Fund
Sheridan Textiles Hobart	Australian Retirement Fund
Tascot Templeton	Australian Retirement Fund

(e) Date of Operation

The provisions of this clause shall operate from, and contributions shall be payable from, the first pay period to commence on or after 31 October 1989.

21. OVERTIME

- (a) For all time of duty in excess of ordinary hours or before the time fixed for commencing work or after the time fixed for ceasing work, payment shall be made at the rate of time and a half for the first three hours and double time thereafter.

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- (b) An employee who is recalled to work overtime after a period of one hour from the time fixed for ceasing work, whether or not he has been notified before ceasing work, shall receive a minimum payment as for three hours worked.
- (c) In computing overtime, each day's work shall stand alone.
- (d) Where requested by an employee and agreed to by an employer, time off in lieu of payment for overtime may be taken. Time off shall be calculated by multiplying the hours worked by the appropriate overtime rate. Alternatively time off equivalent to the period of overtime worked may be taken in which case the employee shall be paid the appropriate penalties for such overtime work less the single time component for time taken in lieu of payment.
- (e) For the purpose of determining the hourly rate for the payment of overtime, the appropriate weekly rate shall be divided by 38.
- (f) An employer shall, if requested by an employee, provide payment at the rate provided for the payment of overtime as prescribed in this clause of this award, for any overtime worked under this subclause where such time has not been taken within four weeks of accrual.

22. PARENTAL LEAVE

Subject to the terms of this clause employees are entitled to maternity, paternity and adoption leave and to work part-time in connection with the birth or adoption of a child.

(a) Definitions

For the purposes of this clause:

- (i) **'Child'** means a child of the employee under the age of one year except for adoption of a child where 'child' means a person under the age of five years who is placed with the employee for the purposes of adoption, other than a child or step-child of the employee or of the parent of the employee or a child who has previously lived continuously with the employee for a period of six months or more.
- (ii) **'Continuous service'** means service under an unbroken contract of employment and includes:
 - (1) any period of leave taken in accordance with this clause;
 - (2) any period of part-time employment worked in accordance with this clause; or
 - (3) any period of leave or absence authorised by the employer or by the award.

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- (iii) **'Employee'** includes a part-time employee but does not include an employee engaged upon casual work, unless that work has been under a continuous contract of employment of at least 12 months.
 - (iv) **'Female employee'** means an employed female who is pregnant or is caring for a child she has borne or a child who has been placed with her for adoption purposes.
 - (v) **'Male employee'** means an employed male who is caring for a child borne of his spouse or a child placed with the employee for adoption purposes.
 - (vi) **'Primary care-giver'** means a person who assumes the principal role of providing care and attention to a child.
 - (vii) **'Spouse'** includes a de facto or a former spouse.
- (b) Entitlement
- (i) After twelve months continuous service, parents are entitled to a combined total of 52 weeks unpaid parental leave on a shared basis in relation to the birth or adoption of their child. For mothers, maternity leave provisions apply and for male employees, paternity leave provisions apply. Adoption leave provisions apply in the case of adoption.
 - (ii) Subject to subclause (c)(vi), parental leave is to be available to only one parent at a time, in a single unbroken period, except that both parents may simultaneously take:
 - (1) for maternity and paternity leave, an unbroken period of up to one week at the time of the birth of the child;
 - (2) for adoption leave, an unbroken period of up to three weeks at the time of placement of the child.
 - (iii) Unless otherwise agreed between the employee and the employer, parental leave shall be granted and taken in accordance with the notice given by the employee as specified below.
- (c) Maternity Leave
- (i) An employee must provide notice to the employer in advance of the expected date of commencement of parental leave. The notice requirements are:
 - (1) of the expected date of confinement (included in a certificate from a registered medical practitioner stating that the employee is pregnant) – at least 10 weeks;
 - (2) of the date on which the employee proposes to commence maternity leave and the period of leave to be taken – at least 4 weeks.

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- (ii) Where the employee gives notice under (d) (i) the employee must also provide a statutory declaration stating particulars of any period of paternity leave sought or taken by her spouse, and that for the period of maternity leave she will not engage in any conduct inconsistent with her contract of employment.
- (iii) An employee will not be in breach of this clause if failure to give the stipulated notice is occasioned by confinement occurring earlier than the presumed date or other compelling circumstances.
- (iv) An employee may commence maternity leave at any time within six weeks immediately prior to the expected date of birth.
- (v) Where an employee continues to work within the six week period immediately prior to the expected date of birth, or where the employee elects to return to work within six weeks after the birth of the child, an employer may require the employee to provide a medical certificate stating that she is fit to work on her normal duties.
- (vi) Special Maternity Leave
 - (1) 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 the employee may take unpaid special maternity leave of such periods as a registered medical practitioner certifies as necessary.
 - (2) Where an employee is suffering from an illness not related to the direct consequences of the confinement, an employee may take any paid personal leave to which she is entitled in lieu of, or in addition to, special maternity leave.
 - (3) Where an employee not then on maternity leave suffers illness related to her pregnancy, she may take any paid personal leave to which she is then entitled and such further unpaid special maternity leave as a registered medical, practitioner certifies as necessary before her return to work. The aggregate of paid personal leave, special maternity leave and parental leave, including paternity leave taken by her spouse, may not exceed 52 weeks.
- (vii) Transfer to a safe job
 - (1) Where an employee is pregnant and, in the opinion of a registered medical practitioner, illness or risks arising out of the pregnancy or hazards connected with the work assigned to the employee make it inadvisable for the employee to continue at her present work, the employee will, 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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- (2) If the transfer to a safe job is not practicable, the employee may elect, or the employer may require the employee to commence parental leave for such period as is certified necessary by a registered medical practitioner.

(d) Paternity Leave

- (i) A male employee will provide to the employer at least 10 weeks prior to each proposed period of paternity leave:
 - (1) that a certificate from a registered medical practitioner which names his spouse, states that she is pregnant and the expected date of confinement, or states the date on which the birth took place, and
 - (2) written notification of the proposed dates on which the period of paternity leave will start and finish and
 - (3) a statutory declaration stating:
 - (A) that period of paternity leave will be taken to become the primary care-giver of a child;
 - (B) particulars of any period of maternity leave sought or taken by the mother, and
 - (C) that for the period of paternity leave, the employee will not engage in any conduct inconsistent with their contract of employment.
 - (4) The employee will not be in breach of this subclause if the failure to give the required period of notice is because of the birth occurring earlier than expected, the death of the mother of the child, or other compelling circumstances.

(e) Adoption leave

- (i) The employee will notify the employer at least ten weeks in advance of the date of commencement of adoption leave and the period of leave to be taken. An employee may commence adoption leave prior to providing such notice, where through circumstances beyond the control of the employee, the adoption of a child takes place earlier.
- (ii) Before commencing adoption leave, an employee will provide the employer with a statutory declaration stating:
 - (1) the employee is seeking adoption leave to become the primary care-giver of the child;

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- (2) particulars of any period of adoption leave sought or taken by any other person in respect of that child, and
 - (3) that for the period of adoption leave the employee will not engage in any conduct inconsistent with their contract of employment.
- (iii) An employer may require an employee to provide confirmation from the appropriate government authority of the placement.
 - (iv) Where the placement of a child for adoption with an employee does not proceed or continue, the employee will notify the employer immediately and the employer will nominate a time not exceeding four weeks from receipt of notification for the employee's return to work.
 - (v) An employee will not be in breach of this subclause as a consequence of failure to give the stipulated periods of notice if such failure results from a requirement of an adoption agency to accept earlier or later placement of a child, the death of an adoptive parent or other compelling circumstances.
 - (vi) An employee seeking to adopt a child is entitled to unpaid leave for the purpose of attending any compulsory interviews or examinations as are necessary as part of the adoption procedure. The employee and the employer should agree on the length of the unpaid leave. Where agreement cannot be reached, the employee is entitled to take up to two days unpaid leave. Where paid leave is available to the employee, the employer may require the employee to take such leave instead.
- (f) Parental Leave and Other Entitlements

An employee may in lieu of or in conjunction with parental leave, access any annual leave or long service leave entitlements which they have accrued subject to the total amount of leave not exceeding 52 weeks.

(g) Part time work

(i) Entitlement

With the agreement of the employer:

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

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

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

(iii) Pro Rata Entitlements

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

(iv) Transitional Arrangements - Annual Leave

(1) An employee working part-time under this subclause shall be entitled to any leave accrued in respect of a period of full-time employment, as if the employee was still working full-time, in the position held prior to taking leave.

(2) (A) A full-time employee shall be entitled to annual leave accrued in respect of a period of part-time employment under this subclause, as if the employee was working part-time in the position held, immediately before resuming full-time work.

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

(v) Transitional Arrangements - Personal Leave

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

(vi) Part-time Work Agreement

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

(A) that the employee may work part-time;

(B) upon the hours to be worked by the employee, the days upon which they will be worked and commencing times for the work;

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(C) upon the classification applying to the work to be performed; and

(D) upon the period of part-time employment.

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

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

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

(vii) Termination of Employment

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

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

(viii) Extension of Hours of Work

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

(ix) Nature of Part-time Work

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

(x) Inconsistent Award Provisions

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

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- (1) limiting the number of employees who may work part-time;
 - (2) establishing quotas as to the ratio of part-time to full-time employees;
 - (3) prescribing a minimum or maximum number of hours a part-time employee may work; or
 - (4) requiring consultation with, consent of or monitoring by a union;
- and such provisions do not apply to part-time work under this clause.

(h) Replacement Employees

- (i) A replacement employee is an employee specifically engaged as a result of an employee proceeding on parental leave or working part time in accordance with this clause.
- (ii) A replacement employee may be employed part-time. The provisions of this subclause in relation to annual leave and personal leave apply to the part-time employment of replacement employees.
- (iii) Before an employer engages a replacement employee under this paragraph, the employer shall inform the person of the temporary nature of the employment and of the rights of the employee who is being replaced. Specifically, the employer must advise that the period of engagement is subject to variation or change in the event that the employee on leave exercises the right to vary the period of leave.
- (iv) Unbroken service as a replacement employee shall be treated as continuous service.
- (v) Nothing in this subclause shall be construed as requiring an employer to engage a replacement employee.

(i) Return to Former Position after a Period of Parental Leave or Part Time Work

Unless other wise agreed between employee and employer, and consistent with the provisions of this clause

- (i) An employee will give at least four weeks' notice prior of their intention to return to work after a period of parental leave or part time work in accordance with this clause.
- (ii) An employee will be entitled to the position which they held immediately before proceeding on parental leave or part time work. In the case of an employee transferred to a safe job pursuant to subclause (c)(vii) of this clause, the employee will be entitled to return to the position they held immediately before such transfer.

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- (iii) During the period of parental leave an employee shall be entitled to return to work at any time, as agreed between the employer and the employee, **PROVIDED** that the employer may require notice of not more than four weeks.
- (iv) An employee shall be entitled to extend the period of parental leave on one occasion, **PROVIDED** that the employer may require notice of not more than four weeks.

By mutual agreement between the employee and the employer, the period of leave may be further extended.

(j) Redundancy

- (i) If a position held by an employee prior to taking parental leave is likely to be made redundant before the employee returns to work, the employer must advise the employee of the impending redundancy, provide an opportunity for consultation and shall not disadvantage the employee by virtue of the taking of parental leave.
- (ii) Where such position no longer exists but there are other positions available which the employee is qualified for and is capable of performing, the employee will be entitled to a position as nearly comparable in status and pay to that of their former position.

(k) Right To Request Variation To Parental Leave Provision

- (i) An employee entitled to parental leave pursuant to the provisions of this clause may request the employer to allow the employee:
 - (1) to extend the period of simultaneous unpaid parental leave up to a maximum of eight weeks;
 - (2) to extend the period of unpaid parental leave by a further continuous period of leave not exceeding 12 months;
 - (3) to return from a period of parental leave on a part-time basis until the child reaches school age, to assist the employee in reconciling work and parental responsibilities.
- (ii) The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

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- (l) Communication During Parental Leave
 - (i) Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:
 - (1) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
 - (2) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.
 - (ii) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.
 - (iii) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with (l)(i).

23. PART-TIME EMPLOYEES

- (a) Part-time employees engaged to work twenty or more hours per week shall be entitled to the holidays, annual leave and personal leave as prescribed in Clause 17 - Holidays with Pay, Clause 10 - Annual Leave and Clause 26 - Personal Leave, of this award, **PROVIDED** that payment thereof shall be made at the rate normally paid to such employees for a similar period of time worked. The wage rates payable per hour shall be one thirty-eighth of the relevant rate above set out.
- (b) Part-time employees engaged to work less than 20 hours per week shall be paid per hour one thirty-eighth of the weekly rates prescribed for the work he or she performs. In addition thereto such employees shall receive 15 percent of the ordinary hourly rate in respect of each hour for which he or she is paid; such additional amount to be payment in lieu of annual leave, personal leave and public holidays.

24. PAYMENT OF WAGES

- (a) Wages shall be paid weekly (in cash, by cheque or by direct transfer to an employee's bank account) during the employer's time not later than Thursday of each week.

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PROVIDED that where agreement is reached with a majority of employees wages may be paid fortnightly.

- (b) On the completion of the first full pay period and when any change is made in the weekly rate the employee shall be notified in writing of the amount of wages to which he is entitled, the amount of deduction made therefrom and the net amount being paid to him.

PROVIDED that such notification shall be given not less often than once in each year of service.

- (c) Where an employer elects to pay employees by direct transfer the employer shall pay to employees, in addition to any other entitlements, an amount to cover government fees and charges for one deposit and one withdrawal per pay.

PROVIDED that this payment shall only be made where payment by direct transfer is introduced subsequent to 30 September 1989.

25. PENALTY PROVISIONS

The penalty rates prescribed in Clause 21 - Overtime, Clause 29 - Saturday, Sunday and Holiday Work of this award are applicable to full-time, part-time and casual employees.

PROVIDED that the said penalty rates shall be calculated on the ordinary time rate excluding any loading payable as follows:

Time and one half equates to 1.7 x the ordinary hourly rate.

Double time equates to 2.2 x the ordinary hourly rate.

Double time and one half equates to 2.7 x the ordinary hourly rate.

26. PERSONAL LEAVE

- (a) The provisions of this clause apply to employees, other than one engaged as a casual or part-time employees who receive a loading of 20 per cent paid in lieu of annual leave, personal leave and holidays with pay in accordance with Clause 23 - Part-time Employees, subclause (b), who are absent from work on account of personal illness or on account of injury by accident shall be entitled to leave of absence without deduction of pay, subject to the following conditions and limitations.

The entitlements of casual employees and employees in receipt of a loading in lieu of an entitlement to paid leave are set out in subclause (l) - Casual employees or part-time employees who receive a loading in lieu of paid leave - Caring responsibilities.

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(i) Definitions

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

- (1) spouse (including a former spouse, a de facto spouse and a former de facto spouse) of the employee. A de facto spouse means a person of the opposite sex to the employee who lives with the employee as his or her husband or wife on a bona fide domestic basis; and
- (2) child or an adult child (including an adopted child, a step child or an ex-nuptial child), parent, grandparent, grandchild or sibling of the employee or spouse of the employee.

(ii) Amount of Paid Personal Leave

Paid personal leave is available to an employee, when they are absent:

- (1) due to personal illness or injury; or
- (2) for the purposes of caring for an immediate family or household member who is sick and requires the employee's care and support or who requires care due to an unexpected emergency.

(iii) he shall not be entitled to such leave of absence for any period in respect of which he is entitled to workers' compensation;

(iv) he shall not be entitled in any year to personal leave in excess of seventy-six hours of ordinary working time.

PROVIDED that during the first three months of employment, personal leave shall accrue on the basis of 6.33 hours for each completed calendar month of service with the employer.

(v) for the purpose of administering paragraph (iv) of this subclause, an employer may within one month of this award coming into operation or 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) Personal 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 personal 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 personal 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 personal 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.
- (d) For the purpose only of personal leave entitlements provided in this clause and where a textile industry business is transmitted from an employer to another employer and a worker who at the time of such transmission was an employee of the transmittor in that business becomes an employee of the transmittee within one week of such transmission:
 - (i) the continuity of the employment of the employee shall be deemed not to have been broken by reasons of such transmission;
 - (ii) the period of employment which the employee has had with the transmittor or any prior transmittor shall be deemed to be employment of the employee with the transmittee;
 - (iii) **'transmission'** for the purpose of this subclause includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and 'transmitted' has a corresponding interpretation.
- (e) Where an employee is absent due to illness in accordance with this clause on the week day he is to take off in accordance with Clause 19 - Implementation of 38-Hour Week of this division, he shall not be entitled to personal leave nor shall his personal leave entitlement be reduced as a result of illness on that day.
- (f) Personal Leave for Personal Injury or Sickness

An employee is entitled to use the full amount of their personal leave entitlement including accrued leave for the purposes of personal illness or injury, subject to the conditions set out in this clause.

- (g) Personal Leave to Care for an Immediate Family or Household Member

- (i) An employee is entitled to use up to 10 days personal leave, including accrued leave, each year to care for members of their immediate family or household who are sick and require care and support or who require care due to an unexpected emergency, subject to the conditions set out in this clause.

Leave may be taken for part of a single day.

- (ii) By agreement between an employer and an individual employee, the employee may access an additional amount of their accrued personal leave for the purposes set out in paragraph (g)(i), beyond the limit set out in paragraph (g)(i). In such circumstances, the employer and the employee shall agree upon the additional amount that may be accessed.

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(h) Employee Must Give Notice

An employee shall, as soon as possible and where practicable within one hour of the commencement of the employee's normal working day, 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.

(i) Evidence Supporting Claim

(i) An employee shall prove to the satisfaction of the employer (or in the event of a dispute, the Tasmanian Industrial Commission), that he was unable on account of such illness or injury to attend for work on the day or days for which the personal leave is claimed.

(ii) When taking leave to care for members of their immediate family or household who require care due to an unexpected emergency, the employee must, if required by the employer, establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

(j) Personal Leave and Workers' Compensation

The employee shall not be entitled to such leave of absence for any period in respect of which the employee is entitled to workers' compensation.

(k) Unpaid Personal Leave

Where an employee has exhausted all paid personal leave entitlements, they are entitled to take unpaid personal leave to care for members of their immediate family or household who are sick and require care and support or who require care due to an unexpected emergency. The employer and the employee shall agree on the period. In the absence of agreement, the employee is entitled to take up to two days (up to a maximum of 16 hours) per occasion, provided the requirements of subclauses (h) and (i) are met.

(l) Casual employees or part-time employees who receive a loading in lieu of paid leave – Caring responsibilities

Subject to the evidentiary and notice requirements in subclauses (h) and (i) casual employees or part-time employees who receive a loading in lieu of paid leave are entitled to not be available to attend work, or to leave work if they need to care for members of their immediate family or household who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.

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The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employees and the part-time employees who receive a loading in lieu of paid leave are not entitled to any payment for the period of non-attendance.

An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

27. REST PERIOD

Employees shall be allowed a rest period between the start of work and the midday meal break and a rest period between the resumption of work after midday meal break and the cessation of work for the day. One rest period shall be of 10 minutes duration and one of 5 minutes duration to be taken at such times as may be mutually arranged between the employer and the employees.

PROVIDED that the second rest period may be taken at the work station. This proviso shall not apply to those employees involved in continuous keyboard operation.

28. RIGHT OF ENTRY OF UNION OFFICIALS

- (a) For the purpose of interviewing employees on legitimate union business, an officer of an organisation of employees, accredited as hereinafter provided, may enter the employer's premises during regular meal or crib-time of employees on each day of the week on the following conditions:
- (i) that he produces his authority to the gatekeeper or such other person as may be appointed by the employer for that purpose;
 - (ii) that he interviews employees only at recognised places where they are taking their meal or crib;
 - (iii) that not more than one representative of each of not more than three unions be on the premises at any one time;
 - (iv) that no one representative visit the premises more than once in each week; and
 - (v) that if the employer alleges that a representative is unduly interfering with his work or is offensive in his methods, or is creating dissatisfaction amongst his employees, or is committing such a breach of the previous conditions, the employer may refuse the right of entry, but the representative shall have the right to bring such refusal before the Tasmanian Industrial Commission.

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- (b) An officer shall be a duly accredited representative of an organisation if he be the holder for the time being of a certificate which has not been cancelled or revoked, signed by the Secretary and bearing the seal of the organisation and bearing the signature of the holder. The certificate shall be in the following form or in a form not materially different therefrom:

(Name of Organisation)

This is to certify that whose signature appears hereunder, is a duly accredited representative of the abovenamed organisation for the purpose of the Textile Award.

.....
Secretary
(Seal)

.....
Signature of Holder of Certificate
(This certificate is not transferable)

- (c) For the purpose of Section 77 of the *Industrial Relations Act 1984*, the following organisation of employees shall be recognised:

the Australian Municipal, Administrative, Clerical and Services Union.

29. SATURDAY, SUNDAY AND HOLIDAY WORK

- (a) Payment for work on a Saturday shall be at the rate of time and a half for the first three hours and double time thereafter.
- (b) Payment for work on a Sunday shall be at the rate of double time.
- (c) Payment for work on any of the holidays mentioned in Clause 17 - Holidays with Pay of this division shall be at the rate of double time and a half.
- (d) Where requested by an employee and agreed to by an employer, time off in lieu of payment for overtime may be taken. Time off shall be calculated by multiplying the hours worked by the appropriate overtime rate. Alternatively time off equivalent to the period of overtime worked may be taken in which case the employee shall be paid the appropriate penalties for such overtime work less the single time component for time taken in lieu of payment.
- (e) For the purpose of determining the hourly rate for work on a Saturday, Sunday or holiday the appropriate weekly rate shall be divided by 38.

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30. STRUCTURAL EFFICIENCY

- (a) The parties to this award are committed to co-operating positively to increase the efficiency and productivity of enterprises and to enhance the career opportunities and job security of employees subject to the award.
- (b) Consistent with the objectives of subclause (a) herein, employers, employees and the union shall establish consultative mechanisms and procedures appropriate to the size, structure and needs of the enterprise.
- (c) An employer may direct an employee to carry out such duties as are within the limits of an employee's skill, competence and training consistent with the classification structure of the award.

This provision should not deny such employee any award entitlement which might be applicable for performing work at a higher classification; nor should the provision enable the employer to pay an employee at a rate lower than the substantive classification for performing work of a lower classification.

31. TEA MONEY

- (a) An employee who has worked six or more hours during ordinary time and who is required to work overtime for more than one and a half hours shall either be supplied with an adequate meal by the employer or be paid \$14.10 meal money.
- (b) Any dispute as to what constitutes an adequate meal shall be referred to and decided by the Tasmanian Industrial Commission.
- (c) The payment prescribed in subclause (a) of this clause shall be made on the day on which the overtime is worked.

32. TERMINATION OF EMPLOYMENT

With the exception of casual employees employment shall be terminated by giving of a week's notice on either side given at any time during the week or by the payment or forfeiture of one week's wages, as the case may be. This shall not affect the right of the employer to dismiss an employee without notice for neglect of duty or misconduct, and in such cases the wages shall be paid up to the time of dismissal only.

PROVIDED that during the first two weeks of employment termination may be effected by either party by the giving of one day's notice or the payment or forfeiture of a day's pay as the case may be.

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CONDITIONS FOR EMPLOYEES IN DIVISION C - AUXILIARY SERVICES

33. ALLOWANCES

Tool Allowance

All employees engaged in classifications that are proclaimed as trades under the *Vocational Education and Training Act 1994* shall either be supplied with all tools by the employer or be paid a tool allowance of not less than \$8.50 per week.

PROVIDED that such allowance shall not be subject to adjustment when computing payments for shift penalty rates, for weekend or holiday work, for overtime or for any other purpose.

34. ANNUAL LEAVE

(a) Period of Leave

A period of 28 days leave, including non-working days, shall be allowed annually to an employee after 12 months' continuous service (less the period of annual leave) as an employee on weekly engagement in any one or more of the occupations to which the award applies.

An employee on weekly engagement shall accrue annual leave prior to 1 January 1984, at the rate of 3.07 hours for each forty ordinary working hours worked and from 1 January 1984, at a rate of 2.923 hours for each 38 ordinary working hours worked.

(b) Seven-Day Shift Workers

In addition to the leave hereinbefore prescribed, seven-day shift workers, that is shift workers, who are rostered to work regularly on Sundays and holidays, shall be allowed seven consecutive days' leave, including non-working days. Where an employee with 12 months' continuous service prior to 1 January 1984, is engaged for part of the twelve-monthly period as a seven-day shift worker, he shall be entitled to have the period of 28 consecutive days annual leave prescribed in subclause (a) of this clause increased by 0.78 of one hour for each week he is continuously engaged as aforesaid, and from 1 January 1984, he shall be entitled to have the period of 28 consecutive days' annual leave prescribed in subclause (a) of this clause increased by 0.73 of one hour for each week he is continuously engaged as aforesaid.

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(c) Annual Leave Exclusive of Public Holidays

Subject to this subclause, the annual leave prescribed by this clause shall be exclusive of any of the holidays prescribed by Clause 43 - 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 had such a day not been a holiday.

(d) Broken Leave

Employees covered by this award shall participate in any ballot which may take place regarding annual leave arrangements, and further they shall conform with the decisions of the majority of the employees in that particular work place.

(e) 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 lawfully granted by the employer; or
- (iii) any absence with reasonable cause, proof whereof shall be upon the employee.

In cases of personal sickness or accident or absence with reasonable cause, an employee to become entitled to the benefit of this subclause shall inform the employer, in writing if practicable, within 24 hours of commencement of such absence or within 4 hours of the commencement of the next working day or shift, of his inability to attend 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 purpose of this clause unless the employer, during 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 plant in the manner in which general notifications to employees are usually made in the plant and by posting to each union whose members have participated in such concerted or collective absenteeism a copy of same not later than the day it is posted up in the plant.

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The notice to an individual employee may be given by delivering same to him personally or by posting it 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 absence from work not exceeding 21 working days in a qualifying period of 12 months on account of sickness or accident shall be taken into account in calculating the period of 12 months' continuous service.

In cases where an employee proceeds on leave without pay, with the consent of the employer in a qualifying period of 12 months the amount of annual leave entitlement shall be reduced by 2.923 hours for each week.

(f) Calculation of Service

Service before the date of this award shall be taken into consideration for the purpose of calculating annual leave, but an employee shall not be entitled to leave or payment in lieu thereof for any period in respect of which leave or payment in lieu thereof has been allowed.

Where the employer is a successor or assignee or transmittee of a business, if an employee was in the employment of the employer's predecessor at the time when he became successor or assignee or transmittee, 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.

(g) Calculation of Month

For the purposes of this clause, a month shall be reckoned as commencing with the beginning of the first day of employment or period of employment in question and as ending at the beginning of the day which in the last month in question, has the same date number as that which the commencing day had in its month and if there be no such day in such subsequent month shall be reckoned as ending at the end of each subsequent month.

(h) Leave to be Taken

The annual leave provided for by this clause shall be taken and except as provided by subclause (m) of this clause payment shall not be made or accepted in lieu thereof annual leave.

(i) Time of Taking Leave

Annual leave shall be given within twelve months of the date the leave has accrued at a time or times mutually agreed between the employer and employee.

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In the event that mutual agreement cannot be reached, annual leave shall be given at a time fixed by the employer within a period not exceeding, in the case of an employee taking leave in one period, six months or, in the case of an employee taking the leave in two or three periods, nine months from the date when the right to annual leave accrued and after not less than two months notice to the employee.

(j) Leave Allowed Before Due Date

An employer may allow annual leave to an employee before the right thereto has accrued due, but where leave is taken in such a case a further period of annual leave shall not commence to accrue until after the expiration of the 12 months in respect of which annual leave has been taken before it accrued.

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, for each one complete month of the qualifying period of 12 months not served by the employee, deduct from whatever remuneration is payable upon the termination of the employment, one-twelfth of the amount of wage paid on account of the annual leave which amount shall not include any sums paid for any of the holidays prescribed by Clause 43 - Holidays with Pay of this award.

(k) Payment for Period of Leave

Each employee other than a continuous shift worker 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.

A continuous shift worker shall be paid the amount of wage he would have received in respect of the ordinary hours which he would have worked in accordance with his roster or projected roster.

For the purpose of this subclause the wage rate applicable shall include the following:

- (i) wage rates;
- (ii) leading hand allowance;
- (iii) any overaward payment;
- (iv) minimum wage;
- (v) weekend penalty rates (seven day continuous shift workers only).

PROVIDED that the wage rate applicable shall not include any of the following:

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- (1) shift allowances;
- (2) special rates;
- (3) overtime payments.

(l) Loading on Annual Leave

- (i) In addition to the wage rate prescribed in subclause (k) of this clause employees other than seven-day continuous shift workers shall whilst on annual leave receive a loading of 17.5 percent calculated on the award rate:
 - (1) a 17.5 percent loading calculated on the award wage exclusive of shift allowances, weekend penalty rates or overtime; or
 - (2) weekend penalty rates in accordance with his projected roster as prescribed in subclause (k) of this clause, whichever is the greater.
- (ii) The annual leave loading prescribed herein shall not apply to pro rata leave entitlement on termination.

(m) Proportionate Leave on Termination

If after one month's continuous service in any qualifying 12 monthly period an employee lawfully leaves his employment, or his employment is terminated through no fault of his own, the employee shall be paid at his ordinary rate of wage as follows:

2.923 hours in respect of each completed week of service.

Notwithstanding anything elsewhere contained in this subclause, an employee who is retrenched by the employer on or after 23 August, 1974, on account of the effect of the 25 percent reduction in tariffs and or removal of quotas of knitted shirts and/or outerwear and the employer verifies same by signing an application for readjustment assistance then the employee shall be paid at his ordinary rate of wages for 2.923 hours in respect of each completed week of service in the current qualifying period.

PROVIDED that where any employee has been employed for a period in excess of 12 months and who receives pro rata entitlement in accordance with this subclause the 'ordinary rate of pay' shall include any additional amounts prescribed in subclause (k) of this clause.

In the case of an employee who has been employed for less than 12 months the 'ordinary rate of pay' shall not include the additional amounts prescribed in subclause (k) of this clause.

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Notwithstanding anything contained in this clause, an employer may by giving not less than one month's prior notice to an entitlement falling due, grant Tuesday, 24 April 1984, as part of any annual leave entitlement falling due during 1984.

- (n) In the case of an employee where employment is terminated after 1 January, 1984, and who has accrued an entitlement to proportionate leave in accordance with subclause (a) of this clause in respect of a period up to 1 January 1984, he shall be paid for that period on the following basis:

Number of hours accrued x appropriate weekly wage
40

up to 1 January 1984.

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

- (i) An employee may elect, with the consent of the employer, to take annual leave in single day periods or part of a single day not exceeding a total of five days in any calendar year at a time or times agreed between them.

Part time employees as defined in this award shall be entitled to use up to a maximum of one week per annum at average weekly hours of annual leave entitlement.

- (ii) Access to annual leave, as prescribed in paragraph (i) above, shall be exclusive of any shutdown period provided for elsewhere under this award.
- (iii) An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken.
- (iv) An employee or the employees may choose to request a union party to this award, to represent their interests in negotiations referred to in paragraph (i) of this subclause.
- (v) Once a decision has been taken to introduce an enterprise system of single day annual leave, in accordance with this clause, its terms must be set out in the time and wages records kept pursuant to Regulation 25 of the Industrial Relations Regulations 1993.
- (vi) An employer shall record these short term annual leave arrangements in the relevant time and wages book.

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35. BEREAVEMENT LEAVE

- (a) 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 FURTHER** 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.

- (b) Unpaid Bereavement Leave

An employee may take unpaid bereavement leave by agreement with the employer.

- (c) Casual Employees and employees in receipt of a loading in lieu of paid leave

- (i) Subject to the evidentiary requirements in subclause (a) of this clause, casual employees and employees in receipt of a loading in lieu of paid leave are entitled to not be available to attend work, or to leave work upon the death in Australia of an immediate family or household member.
- (ii) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. Casual Employees and employees in receipt of a loading in lieu of paid leave are not entitled to any payment for the period of non-attendance.
- (iii) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

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36. BLOOD DONORS

A weekly employee who attends a recognised clinic for the purpose of donating blood during working hours shall (subject to the normal manning requirements) be allowed the necessary leave without loss of pay, **PROVIDED** that he shall not be entitled to payment with respect to time lost in excess of 2 hours on each occasion. An employee shall notify his employer as soon as possible of the time and date upon which he is intending to be absent for the purpose of donating blood.

37. CASUAL EMPLOYEES

An employee who is employed as a casual shall receive a loading of 20 percent in addition to the ordinary rate. Provided that if a casual is required to cease work for a period in excess of 2 hours and then resumes work on the same day, he shall receive a loading of 50 percent of the ordinary rate for the second period of work. The abovementioned loading shall be in lieu of annual leave, personal leave and payment for public holidays.

38. DEDUCTION FROM WAGES

- (a) Except as provided in subclause (b) of this clause no deductions shall be made from the wages of any employee for any purpose except with the written consent of the employee or by reason of statutory compulsion or any order of a court.
- (b) An employer shall have the right to deduct from an employee's wages any monies overpaid through clerical and/or computer error, the method to recover such overpayment shall be mutually agreed between the employer and the employee; **PROVIDED** that where an employee subsequently leaves or is discharged from the service of the employer the employer may deduct from whatever remuneration is payable upon the termination of the employment an amount equal to the amount of overpayment.

39. EMPLOYEES NOT SPECIFIED

Any employees not specifically provided for herein shall be paid the wage rates of the appropriate award covering his craft or calling.

40. ENTERPRISE FLEXIBILITY

- (a) Notwithstanding anything contained in this award but subject to the provisions of this clause, an enterprise agreement may be entered into between an employer and all or some of the employees engaged by that employer.

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

41. GENERAL CONDITIONS

The provisions of the following clauses in Division B - Clerks shall also apply to employees in this Division:

Clause 22 - Parental Leave

Clause 26 - Personal Leave.

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42. GRIEVANCE PROCEDURE

- (a) Where an employee or the shop steward has submitted a request or complaint concerning any matter directly connected with employment or job conditions to a foreman or a more senior representative of management and has not received satisfaction the employee may refer the matter to a shop steward or if the matter has been raised by a shop steward he may refer the matter to the appropriate executive of the employer concerned.
- (b) The matter shall be discussed between the shop steward and the appropriate executive.
- (c) If the matter is not settled between the shop steward and the appropriate executive of the employer the matter shall then be referred by the shop steward to the Secretary of the union and a meeting shall be arranged between the employer and if the employer so desires his association and the union and a conference shall take place as soon as practicable.
- (d) If the matter is not settled in accordance with subclause (c) of this clause the matter shall be referred to the Tasmanian Industrial Commission for determination.
- (e) Where the above procedures are followed work shall continue normally. No party shall be prejudiced as to the final settlement by the continuance of work in accordance with this subclause.
- (f) Notwithstanding anything contained in the preceding subclauses of this clause the parties shall be free to exercise their rights if the dispute is not finalised without unreasonable delay.
- (g) This clause shall not apply to any dispute as to a bona fide safety issue.

43. HOLIDAYS WITH PAY

- (a) All employees (other than casuals) 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), Recreation Day (where Hobart Regatta Day is not observed), Christmas Day and Boxing Day.
- (b) Payment for the holidays mentioned in subclause (a) of this clause 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) Christmas Day, etc. Falling at Weekends

- (i) Where Christmas Day falls on a Saturday or on a Sunday, the following Monday and Tuesday shall be observed as Christmas Day and Boxing Day respectively.
- (ii) Where Boxing Day falls on a Saturday, the following Monday shall be observed as Boxing Day.
- (iii) Where New Year's Day falls on a Saturday or on a Sunday the following Monday shall be observed as New Year's Day, and the said Saturday and/or Sunday shall be deemed not to be holidays.

(d) Other Holidays as May be Gazetted, etc.

Where a special public holiday is proclaimed by Order-in-Council or otherwise gazetted by the authority of the State Government, such day shall be deemed to be a holiday for the purpose of this award.

(e) Termination - Prior to Easter/Christmas

Notwithstanding anything to the contrary contained in this award any employer shall give to any employee a notice of termination of engagement expiring or taking effect as dismissal within 14 days of the date on which any of the Easter or Christmas/New Year holidays fall or are observed, such employer shall pay to the employee so dismissed, a day's pay for each such holiday falling or being observed within 14 days of termination of the engagement, unless the engagement is terminated by the employer by reason of the misconduct of the employee; **PROVIDED** that this subclause shall not apply to any employee who at the date of the expiration of such notice shall not have been employed by the employer concerned for at least one month immediately preceding the expiration of such notice; **PROVIDED FURTHER** that when any holiday is observed on a non-working day, the employee concerned shall not be entitled to payment for such holiday.

- (f) An employer may, by agreement with the employee and the union, work that employee on any public holiday prescribed in subclause (a) provided an agreed substitute day off is provided at the penalty equivalent.

The substitute day shall, by agreement between the employer and employee, be taken either within 28 days of the entitlement being accrued or as an addition to annual leave.

44. HOURS

- (a) Subject to Clause 45 - Implementation of 38-Hour Week, Clause 53 - Procedures for In-plant Discussions and Clause 54 - Shifts, of this section and subject to the exceptions hereinafter provided, the ordinary hours of work from 1 January 1984, shall be an average of 38 per week to be worked on one of the following bases:

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- (i) 38 hours within a work cycle not exceeding seven consecutive days; or
 - (ii) 76 hours within a work cycle not exceeding fourteen consecutive days; or
 - (iii) 114 hours within a work cycle not exceeding twenty-one consecutive days; or
 - (iv) 152 hours within a work cycle not exceeding twenty-eight consecutive days; or
 - (v) 152 hours within a work cycle not exceeding twenty-eight consecutive days in establishments where the method of banking of rostered days off have been agreed to.
- (b) The ordinary hours of work prescribed herein may be worked on any day or all of the days of the week, Monday to Friday (other than seven-day continuous shift workers).
 - (c) The ordinary hours of work for day workers prescribed herein shall be worked continuously, except for meal breaks, at the discretion of the employer between 7.00 am and 7.00 pm and by shift workers (not being seven-day continuous shift workers) in not more than five shifts in accordance with the provisions of Clause 54 - Shifts of this award.
 - (d) The ordinary hours of work prescribed herein shall not exceed 10 hours on any day. Provided that in any arrangement of ordinary working hours where the ordinary working hours are to exceed eight on any day, the arrangement of hours shall be subject to the agreement of the employer and the majority of employees in the plant or section or sections concerned.
 - (e) The usual starting and/or finishing time in any factory or part thereof shall not be altered except on seven days' notice to the appropriate shop steward or representative of the union.
 - (f) Where the ordinary hours of work on any specified day do not exceed six hours, these hours may be worked without a meal break by agreement of the majority of employees and the employer concerned.
 - (g) The provisions of this clause shall not apply to classification (b) - Pastry Cook mentioned in Clause 8 - Wage Rates; Division C - Auxiliary Services, whose hours of work shall be those prescribed for this class of employee in Clause 8 - Wage Rates; Division A - Manufacturing Section of this award.
 - (h) Make Up Time

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

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- (i) An employee may elect, with the consent of the employer, to work 'make up time' under which the employee takes time off during ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in the award.
 - (ii) An employee on shift work may elect, with the consent of their employer, to work 'make up time' under which the employee takes time off ordinary hours and works those hours at a later time, at the shift work rate which would have been applicable to the hours taken off.
 - (iii) An employee or the employees may choose to request a union party to this award, to represent their interests in negotiation referred to in paragraph (i) of this subclause.
 - (iv) Once a decision has been taken to introduce an enterprise system of make up time, in accordance with this clause, its terms must be set out in the time and wages records kept pursuant to Regulation 25 of the Industrial Relations Regulations 1993.
 - (v) An employer shall record make up time arrangements in the relevant time and wages book, at each time this provision is used.
- (i) Rostered Days Off

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

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

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- (vi) An employer shall record Rostered Days Off arrangements in the relevant time and wages book, at each time this provision is used.

45. IMPLEMENTATION OF 38-HOUR WEEK

- (a) From 1 January 1984, ordinary hours of work shall be 38 or an average of 38 per week as provided in Clause 44 - Hours and Clause 54 - Shifts, of this award.
- (b) Except as provided in subclauses (e) and (f) of this clause the method of implementation of the 38-hour week may be any one of the following:
 - (i) by employees working less than eight ordinary hours each day; or
 - (ii) by employees working less than eight ordinary hours on one or more days each week; or
 - (iii) by fixing one 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 day off during that cycle; or
 - (v) by accruing an entitlement to rostered days off up to a maximum of six days and thereby averaging 38 hours over a period not exceeding 6 months.
- (c) In each plant, 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 prior to 1 January 1984. Subsequently, such method may be altered by mutual agreement.
- (d) In the absence of agreement at plant level, the procedure for resolving grievances shall be applied in accordance with Clause 42 - Grievance Procedure, of this award. This procedure shall be applied without delay.
- (e) Subject to the provisions of Clause 44 - Hours, subclause (d) and Clause 54 - Shifts, subclause (k)(iv) of this award, the employer and majority of employees in the plant or section or sections concerned may agree that the ordinary working hours are to exceed eight on any day, thus enabling a day off to be taken more frequently than would otherwise apply.
- (f) 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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(g) Notice of Days off

- (i) Except as provided in subclause (h) of this clause, in cases where by virtue of the arrangement of his ordinary working hours, an employee, in accordance with subclauses (b)(iii), (iv) and (v) of this clause is entitled to a day or days off during his work cycle, such employee shall be advised by the employer at least four weeks in advance of the day or days he is to take off.
- (ii) Where a system of working is adopted to allow one rostered day off in each four week cycle or the banking of rostered days off an employee shall not be entitled to more than 12 such rostered days off in any 12 months period.

(h) Substitute Days

The day or days scheduled to be the day or days off in accordance with subclauses (b)(iii), (iv) and (v) of this clause may be worked as an ordinary working day or days without penalty when substituted by another day or days by agreement between the employer and the employee concerned or where a number of employees are concerned by agreement between the employer and the majority of the employees.

46. MEAL BREAKS

(a) Day Workers - Two-shift Workers

- (i) A meal interval of not less than 30 minutes and not more than one hour shall be allowed each day or shift.
- (ii) Unless directed by the employer no work shall be performed by an employee during his unpaid meal interval.
- (iii) Time-and-one-half rates shall be paid to any employee required to work during his meal interval.
- (iv) No employee shall be compelled to work more than five hours without a break for a meal.
- (v) Each employee shall have a meal interval fixed and having been fixed it shall not be altered except by mutual agreement or on seven days notice to the shop steward, or where there is now shop steward, on notice to the secretary of the union or in the event of an emergency such as a power break- down.

(b) Short-shift Workers

- (i) Where a short shift of up to and including five hours is worked, 10 minutes shall be allowed as opportunity offers to such short-shift workers each shift for crib which shall be counted as time worked.

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- (ii) Where a short shift over five hours and less than eight hours is worked and no meal interval is given, 20 minutes shall be allowed, as opportunity offers, to such short-shift workers each shift for crib which shall be counted as time worked.

47. MISCELLANEOUS CONDITIONS

- (a) Where an employee is required to carry firearms and ammunition they shall be provided by the employer who shall also pay the gun licence fee.
- (b) Where it is necessary for an employee to attend a Court on the employer's or employer's clients' behalf in connection with any matter arising out of or in connection with his duties, the time so occupied shall count as time worked.
- (c) Where an employee is required to work in rain, a waterproof coat or cape shall be provided by the employer.
- (d) Where an employee is required to carry a torch it shall be provided and maintained by the employer.
- (e) Where a cleaner is required to use a hose on any place for one hour or more continuously on any day or to use a hose on any place above the floor surface on which he is working or when in the course of his duties he is required to use a polish stripping agent, rubber boots and such protective clothing as is considered necessary shall be provided by the employer for the use of the employee.

48. MIXED FUNCTIONS

An employee engaged for more than half of one day or shift on duties carrying a higher rate than his or her classification shall be paid the higher rate for such day or shift. If for less than one-half of one day or shift, he or she shall be paid the higher rate for the time so worked.

49. OCCUPATIONAL SUPERANNUATION

- (a) Definitions

'The Fund' shall mean TASPLAN, Australian Retirement Fund or an alternative fund as referred to in subclause (c) hereof provided that such alternative fund is approved in accordance with the Commonwealth Operational Standards for Occupational Superannuation Funds and endorsed by the Tasmanian Industrial Commission.

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'Eligible Employee' shall mean an employee, whether weekly, part-time or casual, who has had at least three months continuous service with an employer subject to this award. Provided that in the case of an employee who has so qualified with one employer, that employee shall not be required to serve the qualifying period with any subsequent employer subject to this award.

'Ordinary Time Earnings' shall mean the classification rate including loadings for shift work, part-time or casual work and any permanent all purpose allowances but shall exclude overtime payments, leave loading, annual and/or long service leave payments on termination of employment and allowances in the nature of a reimbursement (such as meal money).

(b) Contributions

- (i) An employer shall, at least monthly, make a contribution equivalent to 3 percent of ordinary time earnings into the fund in respect of all eligible employees (as defined) as from 1 January 1992.
- (ii) In the case of eligible casual and part-time employees, contributions shall become payable following the completion of 38 hours work each calendar month.

(c) Alternative Funds

- (i) An employer shall be not be required to pay a contribution on behalf of any eligible employee into more than one fund for the same period of employment.
- (ii) Where an employer is already, at the time this clause is included in the award, paying on behalf of an eligible employee a contribution of not less than 3 percent of ordinary time earnings into an alternative fund (as referred to in subclause (a) hereof) then the employer may continue to use that fund **PROVIDED** that contributions are made in accordance with this clause.
- (iii) Where agreement is reached between an employer and a union, an alternative fund (as referred to in subclause (a) hereof) and endorsed by the Tasmanian Industrial Commission may be used for the purpose of contributions payable under this clause.

(d) Exemptions

For the purpose of subclause (c) hereof, the following companies are exempted from contributing to the nominated fund as defined in accordance with the approved funds set out below:

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<u>Company</u>	<u>Fund</u>
Coats Patons Handknittings	Coats Patons (Australia) Employees' Retirement Fund
James Nelson (Tasmania) Pty Ltd	James Nelson Superannuation Fund

(e) Date of Operation

The provisions of this clause shall operate from, and contributions shall be payable from, the first pay period to commence on or after 1 January 1992.

50. OVERTIME

(a) Payment for Working Overtime

Except as provided in Clause 54 - Shifts, of this section of this award for all work done outside ordinary hours the rate of pay shall be time and a half for the first three hours and double time thereafter, such double time to continue until the completion of overtime work. For the purpose of this clause, ordinary hours shall mean the hours worked in an establishment in accordance with Clause 44 - Hours, Clause 45 - Implementation of 38-Hour Week, Clause 53 - Procedures for In-plant Discussions and Clause 54 - Shifts, of this award

PROVIDED that the ordinary hours of a night shift finishing on Saturday morning shall not be subject to overtime rates.

PROVIDED ALWAYS that an employee required to work overtime on a Saturday shall be afforded at least three hours work or paid for three hours at the appropriate rate, except where such overtime is continuous with a shift or rostered work period or overtime commenced on the day previous. From 1 January 1984, the hourly rate when computing overtime shall be determined by dividing the appropriate weekly rate by 38, even in cases when an employee works more than 38 ordinary hours in a week.

(b) The 38 ordinary hours of work each week may be worked in four days without incurring overtime penalties **PROVIDED** that the hours on any day shall not exceed ten hours and provided the provisions of Clause 54 - Shifts, subclause (a)(iii) of this award, **PROVIDED FURTHER** that mutual agreement is obtained.

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- (c) (i) Employees required to work overtime for more than two hours without being notified on the previous working day or earlier, that they will be required to work, shall be paid a meal allowance of \$14.10 for each subsequent meal. Where the employee so requests, such payment shall be made before the overtime is worked. If the notice is given and overtime is not worked (except as a result of a breakdown in machinery or plant, or due to reasons beyond the control of the employer), the meal allowance prescribed herein shall be paid.
- (ii) Irrespective of whether or not a meal allowance is paid as a result of working overtime, a second meal break shall be taken not later than four hours after the completion of the first meal break where such overtime continues after the first meal break.
- (d) (i) A casual employee who works in excess of eight hours in any one day shall be paid at the rate of time and one half for the first three hours and double time thereafter.
- (ii) For work performed by casual employees on Saturdays, payment shall be at the rate of time and one half.
- (iii) For work performed by casual employees on Sundays or public holidays, payment shall be at double the ordinary rate.
- (e) Time Off in Lieu of Payment

An employer shall, if requested by an employee, provide payment at the rate provided for the payment of overtime as prescribed in this clause of this award, for any overtime worked under this subclause where such time has not been taken within four weeks of accrual.
- (f) Juniors under 18 years of age, for each period of overtime worked, shall be paid 5 cents up to two hours and 2.6 cents for each additional hour in addition to their overtime earnings and any tea money to which they might be entitled.
- (g) Youths under 18 years of age and females required to work overtime shall be paid overtime at the rate of time and a half to a maximum of three hours in any one day, Monday to Saturday inclusive, and 10 hours in one week and double time thereafter.
- (h) All females and males under the age of 16 years shall not work overtime for more than 200 hours in a calendar year. Provided that further overtime shall be allowed when the union cannot supply competent and suitable labour and the consent of the union is first obtained. If the union refuses to give such consent the matter shall be referred to the Tasmanian Industrial Commission.

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(i) Rest Period After Overtime

When overtime work is necessary it shall, wherever reasonably practicable, be so arranged that employees have at least 10 consecutive hours off duty between the work of successive days.

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

If on the instruction of his employer such an employee resumes or continues work without having had such 10 consecutive hours off duty he shall be paid at double rates until he is released from duty for such period and he shall then be entitled to be absent until he has had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

The provisions of this subclause shall apply in the case of shift workers as if eight hours were substituted for 10 hours when overtime is worked:

- (i) for the purpose of changing shift rosters; or
- (ii) where a shift worker does not report for duty and a day worker or a shift worker is required to replace such shift worker; or
- (iii) where a shift is worked by arrangement between the employees themselves.

(j) Callback

An employee recalled to work overtime after leaving his employer's business premises (whether notified before or after leaving the premises) shall be paid a minimum of three hours work at the appropriate rate for each time he is so recalled: **PROVIDED** that, except in the case of unforeseen circumstances arising, the employee shall not be required to work the full three hours if the job he was recalled to perform is completed within a shorter period.

This subclause shall not apply in cases where it is customary for an employee to return to his employer's premises to perform a specific job outside his ordinary working hours or where the overtime is continuous (subject to a reasonable meal break) with the completion or commencement of ordinary working time.

Overtime worked in the circumstances specified in this subclause shall not be regarded as overtime for the purpose of subclauses (c) and (h) of this clause where the actual time worked is less than three hours on such recall or each of such recalls.

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(k) Compulsory Overtime

- (i) An employer may require any employee to work reasonable overtime at overtime rates, and such employee shall work overtime in accordance with such requirement.
- (ii) The organisation party to this award shall not in any way, whether directly or indirectly, be a party to or be concerned in any ban, limitation, or restriction upon the working of overtime in accordance with the requirements of this subclause.
- (iii) This subclause shall remain in operation until otherwise determined by the authority competent so to do.

(l) Transport of Employee

When an employee, after working overtime or a shift for which he has not been regularly rostered finishes work at a time when his usual or other reasonable means of transport are not available, the employer shall provide him with a conveyance to his home or, pay his ordinary wages for the time reasonably occupied in reaching his home.

51. PAYMENT OF WAGES

(a) From 1 January 1984, wages shall be paid as follows:

- (i) Employee who actually works 38 ordinary hours each week

In the case of an employee whose ordinary hours of work are arranged in accordance with Clause 45 - Implementation of 38-Hour Week, subclause (b)(i) and (ii) of this award so that he works 38 ordinary hours each week, wages shall be paid weekly, fortnightly or monthly according to the actual ordinary hours worked each week, fortnight or month.

- (ii) Employee who works an average of 38 ordinary hours each week

Subject to subclause (b) of this clause, in the case of an employee whose ordinary hours of work are arranged in accordance with Clause 45 - Implementation of 38-Hour Week, subclause (b)(iii), (iv) and (v) of this award, so that he works an average of 38 ordinary hours each week during a particular work cycle, wages shall be paid weekly, fortnightly or monthly, according to a weekly average of ordinary hours worked even though more or less than 38 ordinary hours may be worked in any particular week of the work cycle.

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Special Note - Explanation of Averaging System

As provided in this subclause an employee whose ordinary hours may be more or less than 38 in any particular week of a work cycle, is to be paid his wages on the basis of an averaging of 38 ordinary hours so as to avoid fluctuating wage payments each week. An explanation of the averaging system of paying wages is set out below:

- (1) Clause 45 - Implementation of 38-Hour Week, provides in subclause (b)(iii) and (iv) that in implementing a 38-hour week the ordinary hours of an employee may be arranged so that he is entitled to a day off, on a fixed or rostered day basis, during each work cycle. It is in these circumstances that the averaging system would apply.
- (2) If the 38-hour week is to be implemented so as to give an employee a day off in each work cycle this would be achieved if, during a work cycle of 28 consecutive days (that is, over four consecutive weeks) the employee's ordinary hours were arranged on the basis that for three of the four weeks he worked 40 ordinary hours each week and in the fourth week he worked 32 ordinary hours.

In such a case the averaging system applies and the weekly wage rates for ordinary hours of work applicable to the employee shall be the average weekly wage rates set out for the employee's classification in Clause 8 - Wage Rates, Division C - Auxiliary Services, subclause 1 - Wage Rates of this award, and shall be paid each week even though more or less than 38 hours are worked that week. In effect, under the averaging system, the employee accrues a 'credit' each day he works actual ordinary hours in excess of the daily average of which would otherwise be seven hours 36 minutes. This 'credit' is carried forward so that in the week of the cycle that he works on only four days, his actual pay would be for an average of 28 ordinary hours, even though, that week, he works only a total of 32 ordinary hours.

Consequently, for each day an employee works eight ordinary hours he accrues a 'credit' of 24 minutes (0.4 hours). The maximum 'credit' the employee may accrue under this system is 0.4 hours on 18 days; that is, a total of 7 hours 36 minutes.

- (3) Clause 45 - Implementation of 38-Hour Week provides in subclause (b)(v) that in implementing a 38 hour week an employee may accrue his rostered days off to a maximum of six days. In such cases the averaging system as detailed in paragraph (ii) above applies and the employee accrues a credit which is carried forward for a period of 6 months.

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- (4) As provided in subclause (b) of this clause, an employee will not accrue a 'credit' for each day he is absent from duty other than on annual leave, long service leave, public holiday, paid personal leave, bereavement leave or jury service. When an employee is absent from duty because of annual leave, bereavement leave or jury service, his entitlement is determined in accordance with the appropriate award provision dealing with such entitlements.
- (5) Where in establishments the 38-hour week is implemented in accordance with subclause (b) of this clause an employee who works shift work and who is entitled to payment of a shift allowance as provided by Clause 54 - Shifts of this award, shall accrue a 'credit' of a shift allowance in direct proportion to the ordinary hours accrued for the purpose of his rostered day or days off.

(b) Absences from Duty

- (i) An employee whose ordinary hours are arranged in accordance with Clause 45 - Implementation of 38-Hour Week, subclause (b)(iii), (iv) and (v) of this award and who is paid wages in accordance with subclause (a) of this clause and is absent from duty (other than on annual leave, long service leave public holidays, paid personal leave, bereavement leave or jury service) shall, for each day he is so absent, lose average pay for that day calculated by dividing his average daily pay rate by eight.
- (ii) **PROVIDED** that, when such an employee is absent from duty for a whole day without pay he will not accrue a 'credit' because he would not have worked ordinary hours that day in excess of 7 hours 36 minutes for which he would have otherwise been paid. Consequently, during the week of the work cycle he is to work less than 38 ordinary hours he will not be entitled to average pay for that week. In that week, the average pay will be reduced by the amount of the 'credit' he does not accrue for each whole day during the work cycle he is absent.

The amount by which an employee's average weekly pay will be reduced when he is absent from duty (other than on annual leave, long service leave, public holidays, paid personal leave, bereavement leave or jury service), is to be calculated as follows:

Total of 'credits' not accrued during cycle x $\frac{\text{average weekly pay}}{38}$

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Examples:

(An employee's ordinary hours are arranged so that he works eight ordinary hours on five days of each week for three weeks and eight ordinary hours on four days of the fourth week).

1. Employee takes one day off without authorisation in first week of cycle.

- 1st week = average weekly pay
less one day's pay.
(i.e. less 1/5th)
- 2nd and 3rd weeks = average weekly pay each week
- 4th week = average weekly pay
less credit not accrued on day
of absence.
- = Average weekly pay
less 0.4 hours x
average weekly pay
38

2. Employee takes each of the 4 days off without authorisation in the fourth week.

- | <u>Week of Cycle</u> | <u>Payment</u> |
|------------------------|---|
| 1st, 2nd and 3rd weeks | = average weekly pay each week |
| 4th week | = average weekly pay
less 4/5ths of average weekly
pay for the four days absent
less total of credits not accrued
that week |
| | = 1/5 average weekly pay
<u>less</u> 4 x 0.4 hours x
<u>average weekly pay</u>
38 |
| | = 1/5 average weekly pay
<u>less</u> 1.6 hours x
<u>average weekly pay</u>
38 |

(c) In establishments where wages are paid weekly such payment shall not be made later than Thursday; **PROVIDED** that shift workers finishing work on Friday mornings shall be paid their wages before ceasing work.

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- (d) Wages shall be paid during working hours. Any employee kept waiting for his or her wages beyond the ordinary working hour shall be paid at overtime rates for such waiting time.
- (e) The provisions of subclauses (c) and (d) of this clause shall not have application in circumstances where it is not reasonably practicable for a company to comply with its obligations thereunder on account of causes for which it cannot reasonably be held responsible. Proof of the existence of such a circumstance shall be upon the Company. In such circumstances the Company shall pay wages as soon as it is reasonably practicable for it to do so.

PROVIDED further that if an employee is stood down on his or her normal pay day the employee may collect his or her wages without being entitled to a penalty payment for that attendance pursuant to Clause 58 - Terms of Engagement, subclause (g) of this award.

- (f) Where the services of an employee are dispensed with his or her wage shall be paid on the day of dismissal or forwarded by post on the day following.

PROVIDED that in the case of an employee whose ordinary hours are arranged in accordance with Clause 45 - Implementation of 38-Hour Week, subclause (b)(iii), (iv) and (v) of this award and is paid average pay and who has not taken the day or days off due to him during the work cycle in which his employment is terminated, the wages due to the employee shall include the total of credits accrued during the work cycle as detailed in the Special Note following Clause 51 - Payment of Wages, subclause (b)(iii) of this award.

PROVIDED FURTHER that where an employee has taken a day or days 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 cycle.

- (g) Not more than two days' pay of each employee shall be kept in hand by an employer.
- (h) Payment of wages is to be made on the day before a holiday if a holiday falls on the pay day. Provided that such payment may not include overtime, piecework and/or bonus earnings earned on the last day preceding the holiday. These payments may be made on the subsequent pay day.
 - (i) On or prior to pay day the employer shall notify each employee in writing:
 - (i) the gross amount of wages inclusive of overtime and other earnings;
 - (ii) the amount paid as overtime or such information as will enable the amount paid as overtime to be calculated by the employee;
 - (iii) the amount paid for payment by results work;

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- (iv) the amount paid as shift allowance if applicable;
- (v) details of make up of payment made in respect of annual leave when leave is taken or on termination of employment;
- (vi) the amount deducted for taxation purposes;
- (vii) particulars of all other deductions; and
- (viii) the net amount paid.

The notice setting forth the above particulars shall remain the property of the employee.

- (j) Where an employer and employee agree, the employee may be paid his wages by cheque or by direct payment into the employee's bank account without a requirement for the employer to provide encashment facilities.
- (k) Wages may be paid fortnightly or monthly subject to agreement being reached with the employee.
- (l) Calculation of Hourly Rate

Except as provided in subclause (b)(i) of this clause, hourly rates shall be calculated by dividing the appropriate weekly rate by 38.

52. PERIOD OF TRANSITION

Any employee whose ordinary hours of work between the 1 January 1984 and 24 January 1984, inclusive, exceeded an average of thirty eight per week as provided in Clause 45 - Implementation of 38-Hour Week, shall:

- (a) be paid an amount of 1/38th of that employee's ordinary rate of pay for each hour at ordinary time actually worked in excess of an average of 38 per week; or
- (b) be given leave on full pay equivalent to the total number of hours at ordinary time actually worked in excess of an average of 38 per week, in addition to any other leave to which the employee is entitled.

53. PROCEDURES FOR IN-PLANT DISCUSSIONS

- (a) Procedures shall be established for in-plant discussions, the objective being to agree on the method of implementing the 38-hour week in accordance with Clause 44 - Hours, Clause 45 - Implementation of 38-Hour Week, and Clause 54 - Shifts, of this award and entailing an objective review of current practices to establish where improvements can be made and implemented.

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- (b) The procedures should allow for in-plant discussions to continue even though all matters may not be resolved by 1 January, 1984.
- (c) The procedures should make suggestions as to the recording of understandings reached and methods of communicating agreements and understandings to all employees, including the overcoming of language difficulties.
- (d) The procedures should allow, for the monitoring of agreements and understandings reached in-plant.
- (e) In cases where agreement cannot be reached in-plant in the first instance or where problems arise after initial agreements or understandings have been achieved in-plant, a formal monitoring procedure shall apply. The basic steps in this procedure shall be as applies in Clause 42 - Grievance Procedure of this award.
- (f) Separate to these procedures the employer organisations may provide assistance and guidance to their members on the subject matters to be dealt with in plant discussions and on other relevant matters.
- (g) There shall be an on-going character attached to the review of practices to establish where improvements can be made and implemented.

54. SHIFTS

- (a) **'Day shift'** shall mean a shift worked between the hours of 7.00 am and 6.00 pm **PROVIDED** that in cases where employees are required to work overtime commencing at 6.00 am for a period exceeding four consecutive weeks they shall be deemed to be engaged on a morning shift.

'Morning shift' shall mean a shift commencing at 6.00 am.

'Afternoon shift' shall mean a shift finishing after 6.00 pm but not later than midnight.

'Night shift' shall mean a shift the finishing time of which shall be after midnight but not later than 8.00 am.

'Permanent night shift' shall mean a shift which is applicable to an employee who:

- (i) during a period of engagement works night shift only; or
- (ii) remains on night shift for a longer period than four consecutive weeks; or
- (iii) works on a night shift which does not rotate or alternate with another shift or with day work so as to give him at least one-third of his working time off night shift in each shift cycle.

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'Short shift' shall mean a shift of not less than 20 ordinary working hours per week.

PROVIDED that, to meet extraordinary circumstances, the foregoing hours may be varied by mutual agreement in writing between the employer concerned and the Secretary of the local branch of the union. In the event of any dispute the matter shall be referred to the Tasmanian Industrial Commission for decision.

PROVIDED FURTHER that by mutual agreement between the employer and his employees and with the concurrence of the union, the hours of duty prescribed herein for a 'night shift' worker may be worked in four shifts. Under any such arrangement, all hours of duty beyond nine hours, even if they come within the starting and finishing time of a shift, shall be paid for at overtime rates.

- (b) Subject to the provisions of this clause employees under 18 years of age are prohibited from working before 6.00 am or after 11.00 pm.
- (c) Employees engaged on shifts (other than 'day shift' as herein defined) shall be paid at the rate of \$10.15 per day in addition to the ordinary rates payable to day workers, irrespective of whether such shift is regarded as morning, afternoon, or night shift, whether permanent or rotating.

PROVIDED that employees engaged on the permanent night shift shall be paid at the rate of \$20.65 per day in addition to the ordinary rate payable to day workers.

- (d) Any employee who is employed on a Sunday shall for all time worked on that day be paid at the rate of double time. Provided that when by mutual agreement between an employer and his employee and with the consent of the union, shifts are rearranged to commence on Sunday instead of Monday, ordinary rates shall be paid for Sunday work.
- (e) As far as practicable, employees shall work shifts in rotation.
- (f) Short shifts of employees over 18 years of age may be worked at the discretion of the employer. For work done on such shifts other than the day shift as defined in subclause (a) of this clause, payment shall be made at the rate of \$8.60 per day in addition to the rates payable to day shift workers.
- (g)
 - (i) All time worked by a shift worker (other than a seven day continuous shift worker as defined) between midnight on Sunday and 7.00 am on Monday shall be paid for at the rate of time and one half for the first three hours and double time thereafter.
 - (ii) Starting the week's hours on a Sunday night any employee who is employed on a Sunday shall, for all time worked on that day, be paid at the rate of double time.

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PROVIDED that where by mutual agreement between an employer and his employees and with the consent of the union, shifts are rearranged to commence on Sunday instead of Monday, ordinary rates shall be paid for Sunday work.

- (h) An employee who is required to change from one shift to another without two days notice of such change of shift shall be paid \$12.50 extra as compensation, but this shall not apply during any period where power restrictions are operating.
- (i) Shift workers may be required to work until the completion of their shifts on holidays without the payment of holiday rates. Provided they are not required to work on the night shift commencing on a holiday. Where a holiday prescribed by this award is observed on a Monday, shift workers may be given time off on the shift commencing on the Sunday night preceding a holiday and in such event shall be required to work on the usual night shift commencing on the holiday without additional pay. Provided further that where an employee works two complete shifts on a holiday, both shifts shall be paid for as holiday shifts.
- (j) Except for the regular changeover of shifts, no employee shall be required to change from one shift to another without a break of at least 12 hours.
- (k)
 - (i) **'Seven-day continuous shift work'** means work carried out with consecutive shifts of employees throughout the 24 hours of each of the seven days of the week without interruption except during breakdowns or due to unavoidable causes beyond the control of the employer.
 - (ii) **'Personal Leave' (formerly 'Sick pay')** - subject to the provisions of paragraph (iv) of this subclause where the ordinary hours of a roster provide for a rostered overtime shift then employees shall be entitled to claim personal leave at ordinary rates for absences occurring through illness on the rostered overtime shift.
 - (iii) **'Overtime'** work performed by 7-day continuous workers shall be paid at the rate of double time.
 - (iv) This subclause shall apply to shift workers on continuous work as hereinbefore defined. The ordinary hours of shift workers shall, from 1 January 1984, average 38 per week inclusive of crib time and shall not exceed 152 hours in 28 consecutive days. Provided that, where the employer and the majority of employees concerned agree, a roster system may operate on the basis that the weekly average of 38 ordinary hours is achieved over a period exceeding 28 consecutive days. Provided further that prior to 1 January 1984, the ordinary hours of such shift workers shall continue as prescribed as at 2 November 1983. Subject to the following conditions, such shift workers shall work at such times as the employer may require:

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- (1) a shift shall consist of not more than 10 hours inclusive of crib time. Provided that in any arrangement of ordinary working hours where the ordinary working hours are to exceed eight on any shift the arrangement of hours shall be subject to the agreement of the employer and the majority of employees concerned;
 - (2) except at the regular changeover of shifts, an employee shall not be required to work more than one shift in each 24 hours.
- (l) 20 minutes shall be allowed each shift for a meal which shall be counted as time worked.
 - (m) Seven-day continuous shift workers for work done on a rostered shift, the major portion of which is performed on a Saturday, shall be paid at the rate of time and a half. Such extra rate shall be in substitution for and not cumulative upon the shift premium elsewhere prescribed.
 - (n) Seven-day continuous shift workers for work done on a rostered shift, the major portion of which is performed on a Sunday, shall be paid at the rate of double time. Such extra rate shall be in substitution for and not cumulative upon the shift premium elsewhere prescribed.
 - (o) Seven-day continuous shift workers for work done on a rostered shift, the major portion of which is performed on a holiday, shall be paid at the rate of double time. Such extra rate shall be in substitution for and not cumulative upon the shift premium elsewhere prescribed.
 - (p) A seven-day continuous shiftworker who is rostered to work regularly on Sundays and holidays, when his rostered day off falls on a public holiday prescribed by this clause shall, at the discretion of the employer, be paid for that day, prior to 1 January 1984, eight hours, and from 1 January 1984, 7 hours 36 minutes, at the ordinary rate or, have an additional day added to his annual leave.

This subclause shall not apply when the holiday on which he is rostered off falls on a Saturday or Sunday.

- (q) Notwithstanding anything contained elsewhere in this award in any area where by reason of the legislation of a State, summer time is prescribed as being in advance of the standard time of the State, the length of any shift:
 - (i) commencing before the time prescribed by the relevant legislation for the commencement of a summer time period; and
 - (ii) commencing on or before the time prescribed by such legislation for the termination of summer time period shall be deemed to be the number of hours represented by the difference between the time recorded by the clock at the beginning of the shift and the time so recorded at the end thereof, the time of the clock in each case to be set to the time fixed pursuant to the State legislation.

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In this subclause the expressions 'standard time' and 'summer time' shall bear the same meaning as prescribed by the State legislation.

- (r) Save as aforesaid all the provisions of the award shall apply to 7-day continuous shift workers.

55. SICKNESS ON DAY OFF ETC.

In addition to the provisions of Clause 26 - Personal Leave, of this award:

- (a) From 1 January 1984, where an employee is sick or injured on the week day he is to take off in accordance with Clause 45 - Implementation of 38-Hour Week, subclause (b)(iii), (iv) or (v) of this award, he shall not be entitled to personal leave nor will his personal leave entitlement be reduced as a result of his sickness or injury that day.
- (b) An employee who is absent on the ordinary working day preceding and/or the ordinary working day following a rostered day off shall not be entitled to payment of personal leave for the day or days unless he produces to the employer a certificate from a duly qualified medical practitioner. Providing that if satisfactory evidence of sickness or injury acceptable to the employer is produced then the necessity of a medical certificate may be waived.

56. STRUCTURAL EFFICIENCY

- (a) The parties to this award are committed to co-operating positively to increase the efficiency and productivity of enterprises and re enhance the career opportunities and job security of employees subject to the award.
- (b) Consistent with the objectives of subclause (a) herein, employers, employees and the union shall establish consultative mechanisms and procedures appropriate to the size, structure and needs of the enterprise.
- (c) An employer may direct an employee to carry out such duties as are within the limits of an employee's skill, competence and training consistent with the classification structure of the award.

This provision should not deny such employee any award entitlement which might be applicable for performing work at a higher classification; nor should the provision enable the employer to pay an employee at a rate lower than the substantive classification for performing work of a lower classification.

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57. SUNDAY AND HOLIDAY WORK

- (a) All work done by employees on Sunday, other than 7-day shift workers, and those covered under Clause 54 - Shifts, subclause (d) of this award, shall be paid at the rate of double time.
- (b) For all work done by employees on holidays as prescribed in Clause 43 - Holidays with Pay, subclause (a) of this award the following shall apply:

employees other than 7-day continuous shift workers shall be paid at the rate of double time and one half.

PROVIDED that an employee required to work on a Sunday or public holiday shall be afforded at least three hours work or paid for three hours at the appropriate rate except where such work is continuous with a shift or rostered work period or with overtime which commenced on the day previous.

- (c) From 1 January 1984, in the case of an employee whose ordinary hours of work are arranged in accordance with Clause 45 - Implementation of 38-Hour Week, subclauses (b)(iii), (iv), (v) or, (d) or (e), the day or days to be taken off shall not coincide with a public holiday fixed in accordance with Clause 43 - Holidays with Pay, subclauses (a), (b), (c), or (h) of this award or subclause (b) of this clause.

PROVIDED that in the event that a public holiday is prescribed after an employee has been given notice of his day or days off in accordance with Clause 43 - Holidays with Pay, subclause (g), of this award and the public holiday falls on the day or days the employee is to take off, the employer shall allow the employee to take the day off on an alternative weekday.

58. TERMS OF ENGAGEMENT

- (a) Contract of Employment

Employment in the industry covered by this award shall be by the week, except in the case of part-time workers and casual employees.

- (b) An employee, to become entitled to payment under this award, shall be ready, willing and available for work at the times and during the hours usually worked by him.

- (c) Termination of Employment

- (i) Employment shall be terminated by a week's notice on either side, if the said notice is given before the expiry of the first half of any day or shift then that day or shift shall be counted as part of notice. If notice is given after the expiry of the first half of any day or shift then that day or shift shall not be counted as part of the week's notice.

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- (ii) Where an employer has given an employee notice of termination of employment, an employee on request shall be granted leave of absence without pay for one day to look for alternative employment.

Leave of absence so granted shall not constitute abandonment of employment.

- (iii) When an employer or employee gives notice of termination of employment, the parties may mutually agree to the employment ending before the expiration of the period of notice, and in such cases wages shall be paid only up to the time of agreed termination.
- (d) Notwithstanding anything elsewhere contained in this clause, the employer shall have the right to dismiss an employee without notice for inefficiency, neglect of duty, malingering, or misconduct, in which case wages shall be paid up to the time of dismissal only, or to deduct payment for any time the employee cannot be usefully employed because of any strike or through any breakdown of machinery or any stoppage of work or by any cause for which the employer cannot reasonably be held responsible, or for a stand down of employees at any time when no work is offering; **PROVIDED** that, when a weekly employee has been given notice of termination, he shall not be stood down when no work is offering. Provided further, that such standing down of an employee shall not break the continuity of service for the purposes of annual leave, holidays and personal leave.

- (e) Power and Other Stoppages

In the case of any power stoppage or breakdown of machinery or any stoppage of work by any cause for which the employer cannot reasonably be held responsible, any employee required to attend for work in accordance with this clause and does so attend shall be paid as for at least two hours' work at time rates. This provision will have no application where the employer can demonstrate that an attempt e.g. telegram, radio announcement etc., was made to notify the employee of the non-requirement to attend for duty. Provided further that payment shall be made at time rates to an employee who is kept on the employer's premises at the direction of the management in excess of two hours.

Where an employee commences work he shall be entitled to be paid as for at least three hour's work on that day.

- (f) Termination of Employment Prior to a Holiday

Where the employer terminates the employment of an employee within two weeks prior to a day on which a holiday occurs, and such employee is re-engaged within a period of one month after such holiday or holidays the employee shall be paid for such holiday or holidays prescribed by the award, **PROVIDED** that such employee has been employed by the employer for a period of at least two weeks prior to the termination of employment.

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(g) Part-time Employment

A part-time employee is one engaged for less than 38 hours per week as a day worker or a shift worker.

Such employees may be employed subject to the following conditions:

- (i) they shall be employed for not less than 19 hours in any week;
 - (ii) if time workers, they shall be paid for each hour worked at the rate of at least 1/38th of the minimum weekly wage prescribed by this award for the class of work performed by them and if payment by result workers, they shall be paid at the appropriate payment by results rate payable under this award but in no case shall any of such employees be paid less than so much of the minimum weekly wage prescribed by the said award as is appropriate to the time worked by them;
 - (iii) the payment or deduction of payment in lieu of notice of termination of employment shall be calculated on a proportionate basis. For example, where an employee was rostered for 20 hours in the preceding week, then the pro rata amount is 19/38 of the rate of wage for the classification involved;
 - (iv) the total provisions of this award as regards annual leave, personal leave and public holidays shall apply to such part-time employees but they shall be paid in respect of the period of such annual leave and personal leave only in proportion to the average number of hours worked each week during the previous six months of if there is not a six month period of employment then the average on the actual period of employment. Provided that in the case of public holidays a part-time employee shall only be entitled to payment for the number of hours he would normally have worked had the day been an ordinary working day;
 - (v) save as aforesaid all the provisions of this award shall apply to such part-time employees.
- (h) Notwithstanding anything elsewhere contained in this clause but subject to subclause (d) of this clause the first month of employment will be on a trial basis and may be terminated by two day's notice by either side except during the first week of employment when termination will be by one hour's notice on either side; **PROVIDED** that if the requisite notice is not given during this period the payment or forfeiture of one hour or two day's wages depending upon when termination is effected will be applied.

James P McAlpine
COMMISSIONER

25 July 2007

P066

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APPENDIX A

CLERICAL TRANSLATION SCHEDULE

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1. INTRODUCTION

As from 18 June 1992 a complete new classification structure will be included in the award. This structure will be based solely on skill, competency and responsibility.

Comprehensive definitions will accompany each grade.

It will be necessary to classify each employee into the appropriate grade. In circumstances whereby this cannot be agreed, a dispute resolution mechanism is in place.

The new wage rates at each level will be phased in through four instalments 9 months apart. This is known as the Minimum Rate Adjustment (MRA) process.

The creation of this new structure, together with significant changes to Award Conditions of Employment will complete the structural efficiency process arising out of the October 1991 National Wage decision.

2. OUTLINE OF NEW STRUCTURE

		<u>Proposed Relativity %</u>	<u>Proposed \$ Rate</u>
		At Completion of MRA Process i.e. 18.9.94	At Completion of MRA Process * i.e. 18.9.94
Adult Entry Point (No previous experience)	1st 6 months	80	333.80
	2nd 6 months	85	354.60

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Grade 1A Clerical Asst	1st 12 months	87	363.00
Grade 1B	Thereafter	90	375.50
Grade 2A Clerical officer	1st 12 months	92	383.80
Grade 2B	Thereafter	95	396.30
Grade 3A Clerical officer	1st 12 months	97	404.70
Grade 3B	Thereafter	100	417.20
Grade 4 Clerical officer		105	438.10
Grade 5 Admin officer		110	458.90
Grade 6 Admin officer		115	479.80

* These proposed rates may be subject to adjustment in the event of future National Wage adjustments applying to awards generally.

3. DEFINITIONS - CLASSIFICATION STRUCTURE

See Clause 7 - Definitions of the award.

4. GRADING AND TRANSLATION

All employees are to be classified in accordance with the new structure by 18 June 1992.

This classification process involves a matching of:

The position requirements, and the individual employee with the definitions contained in Section 3.

All definitions are structured in the same format.

In essence to be graded at a particular level, the General Requirements specified in 'B' together with one or more of the broad "Skill Requirements" in 'C' must be satisfied.

NOTE: It is the responsibility of the employer to identify the 'principal functions' of an individual employee.

4.1 Existing Employees (i.e. employed as at 18 June 1992)

Prima facie existing employees shall translate to the new structure in accordance with the following schedule.

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Translation

Existing Classification	Translate to
1st year adult experience	Adult Entry 1st 6 months 2nd 6 months
2nd year adult experience)	Grade 1B
3rd year adult experience)	Grade 2B
4th year adult experience)	Grade 3B
5th year adult experience)	N.B. Translation to new
6th year adult experience)	structure shall be based on skill as opposed to years of service.
In charge of 2 employees	Grade 4
In charge of 3 or 4 employees	Grade 4
In charge of 5 or more employees	Grade 5
Accountant or Chief Clerk	Grade 6

This process should occur on 18 June 1992.

There may be instances whereby after examination of the duties, responsibilities, etc, and the new definitions, an employee should be classified at a level higher than indicated in the schedule above.

Example

An employee currently classified as second year adult service satisfies the definition of the new Grade 3.

In this circumstance the following should apply:

As at 18 June Employee translates in accordance with schedule i.e. in the above example, the employee would be classified as a Grade 2B.

As at 18 March 1993 Employee classified in accordance with the definitions at the 'First 12 months' (where applicable) level.

In the above example, employee would be reclassified to a Grade 3A.

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4.2 New Employees

Employees engaged subsequent to 18 June 1992 shall be classified strictly in accordance with the definitions.

5. MINIMUM RATES ADJUSTMENT

The new rates will be phased in through the process of the Minimum Rates Adjustment (MRA).

This process will involve four instalments, 9 months apart.

The actual amounts vary between grades.

The schedule for the MRA process is as below and each MRA will require a separate application to the Commission:

1st MRA	18 June 1992
2nd MRA	18 March 1993
3rd MRA	18 December 1993
4th MRA	18 September 1994

Overaward Payment

Increases arising out of the MRA process are to be absorbed against any existing overaward payments.

Similarly, where an existing overaward payment results in a wage rate higher than the appropriate grading, no wage increase should be paid, and the difference (if any) maintained as an overaward payment for that individual employee.

Adult Entry

The award provides that an adult (over 21 years of age) with less than 12 months clerical experience with any employer, may be classified at the adult entry point for the balance of the 12 months. Thereafter, the employee must be classified in accordance with the definitions.

In the case of part-time and casual employees, 12 months experience is defined as 1660 hours actual service.