TASMANIAN INDUSTRIAL COMMISSION

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

Australian Municipal, Administrative, Clerical and Services Union
(T.4515 of 1993)

BUTTER AND CHEESEMAKERS AWARD

Award variation - delete all reference to the FCU and ASU following amalgamation - insert in lieu AMACSU - consent matter - awards varied operative 25 August 1993

ORDER BY CONSENT –

No. 1 of 1993
(Consolidated)

AMEND THE BUTTER AND CHEESEMAKERS AWARD BY DELETING ALL CLAUSES CONTAINED THEREIN AND INSERT IN LIEU THEREOF THE FOLLOWING:
1. TITLE

This award shall be known as the "Butter and Cheesemakers Award".

2. SCOPE

This award is established in respect of the industry of a manufacturer of -

(a) Butter;
(b) Cheese;
(c) Casein; or
(d) Powdered Milk

3. ARRANGEMENT

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<th>CLAUSE NO.</th>
</tr>
</thead>
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<td>1</td>
</tr>
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4. DATE OF OPERATION

This award shall come into operation on and from 25 August 1993.

5. SUPERSESSION AND SAVINGS

This award incorporates and supersedes No. 1 of 1992 (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 engaged 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 the organisation and their members who are employed in the industry specified in Clause 2 - Scope;
   (ii) the Australian Workers' Union, Tasmania Branch, and the Officers of that organisation and their members employed in the industry specified in Clause 2 - Scope;
   (iii) the Federated Engine Drivers' and Firemen's Association of Australasia, Tasmanian Branch, and the Officers of that organisation and their members employed in the industry specified in Clause 2 - Scope;
   (iv) the Transport Workers' 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:
   (i) the Tasmanian Confederation of Industries;
   (ii) the TFGA Industrial Association and the officers of that organisation and their members engaged in the industry specified in Clause 2 - Scope.

7. DEFINITIONS

'Clerk' includes book-keepers, time-keepers, cashiers, typists and/or stenographers, calculating and/or accounting machine operators.

'Leading hand' means any adult employee appointed as a leading hand by an employer, who while working under direction of the management, gives instructions to or is responsible for the work of other employees.
'Maker's capacity' shall mean the capacity attributed to the vehicle by the seller or maker thereof except in cases where on any day the maximum weight of any load exceeds such capacity by one-third or more thereof, in which cases such maximum load shall, for the purposes of assessing the wages to be paid for that day, be deemed to be the maker's capacity.

'Shift worker' shall mean an employee who is rostered to work continuous periods on shifts outside of the hours prescribed in Clause 18 - Implementation of 38 Hour Week, subclause (a) of this award or, whose hours of work alternate from one shift to another.

'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.

'Traineeship' is a system of training under the ATS comprising structured on-the-job training with an employer and off-the-job training in a Technical and Further Education College or other training provider approved by the Training Authority of Tasmania.

'Training Agreement' means an agreement for training registered under the provisions of the Industrial and Commercial Training Act 1985 (Tasmania).

'Trainees (ATS)' shall be persons meeting the eligibility criteria laid down for, the purposes of the ATS and who are bound by a Training Agreement.

'Trainee Clerk' means a person employed by the employer under the terms of the Australian Traineeship System and any agreements attached thereto.

8. WAGE RATES

DIVISION A – EMPLOYEES OTHER THAN CLERKS

1. MANUFACTURER OF BUTTER, CHEESE, CASEIN AND POWDERED MILK

The wage rates set out hereunder shall be the rates payable to adult employees classified herein.

<table>
<thead>
<tr>
<th>GROUP 1</th>
<th>Amount Per Week</th>
</tr>
</thead>
<tbody>
<tr>
<td>Milk or Cream Grader and Tester, Butter and Cheesemakers, Standardisers, Whey Plant Standardiser, Laboratory Technician</td>
<td>$326.80</td>
</tr>
</tbody>
</table>

P012
GROUP 2

Evaporator, Pasteuriser, Separator, Spray Drying, Casein Maker, Roller Dyer, Starter Maker, Assistant Cheesemaker, Cutter Head, Mill and Salter 311.60

GROUP 3

Fork Lift Operator 307.70

GROUP 4

Vacuum Wrapping Machine, Weighing Machine 303.80

GROUP 5

Assistant Operators, General Hands 298.40

PROVIDED that:

(i) employees at the Edith Creek Factory of United Milk Tasmania Ltd., who are the holders of a Boiler Certificate shall be paid 60 cents per week extra;

(ii) an employee who is a holder of a Butter Making Certificate, Dairy Operative's Certificate and the Combined Milk Tester's and Cream Tester's Certificate, Cream Grader's Certificate or Milk Grader's Certificate and who is not employed as such, shall be paid an additional and total amount of $6.00 per week;

(iii) an employee who is a holder of a Buttermaker's Certificate, Cheesemaker's Certificate, and the Combined Milk Tester's and Cream Tester's Certificate, Cream Grader's Certificate or Milk Grader's Certificate and is employed as such shall be paid an additional and total amount of $12.20 per week. This allowance shall be paid in lieu of the allowance prescribed in paragraph (ii) above.

2. JUNIOR EMPLOYEES - MANUFACTURER- OF BUTTER, CHEESE, CASEIN AND POWDERED MILK

'Junior worker' means any employee not in receipt of an adult wage rate whose duties are determined between the relevant Company and the Australian Workers' Union.

Wage Rates - The minimum rates of wages that may be paid to junior workers shall be the undermentioned percentages of the total wage prescribed in this Division, in subclause 1. Manufacturer of Butter, Cheese, Casein and Powdered Milk, Group 5.

P012
<table>
<thead>
<tr>
<th>Age Group</th>
<th>%</th>
<th>Amount Per Week</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 17 years</td>
<td>60</td>
<td>179.00</td>
</tr>
<tr>
<td>17 to 18 years</td>
<td>75</td>
<td>223.80</td>
</tr>
<tr>
<td>18 to 19 years</td>
<td>85</td>
<td>253.60</td>
</tr>
<tr>
<td>19 and over</td>
<td>Adult Rate</td>
<td>298.40</td>
</tr>
</tbody>
</table>

Wage rates in this subclause shall be calculated to the nearest 10 cents.

3. ENGINE DRIVERS AND FIREMEN

The wage rates set out hereunder shall be the rates payable to adult employees classified herein.

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount Per Week</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Stationary engine driver in charge of</td>
<td>$310.00</td>
</tr>
<tr>
<td>refrigerating compressors of capacity of</td>
<td></td>
</tr>
<tr>
<td>25 tonnes or less</td>
<td></td>
</tr>
<tr>
<td>(b) Stationary engine driver in charge of</td>
<td>$319.10</td>
</tr>
<tr>
<td>refrigeration compressors of capacity over</td>
<td></td>
</tr>
<tr>
<td>25 tonnes</td>
<td></td>
</tr>
<tr>
<td>(c) Leading driver in charge of plant,</td>
<td></td>
</tr>
<tr>
<td>a payment to be made of $15.90 in addition</td>
<td></td>
</tr>
<tr>
<td>to the rate prescribed according to capacity</td>
<td></td>
</tr>
<tr>
<td>of equipment</td>
<td></td>
</tr>
<tr>
<td>(d) Fireman –</td>
<td></td>
</tr>
<tr>
<td>(i) In charge of one boiler</td>
<td>$290.90</td>
</tr>
<tr>
<td>(ii) In charge of two or more boilers</td>
<td>$296.70</td>
</tr>
<tr>
<td>(e) An employee engaged on the work of cleaning or</td>
<td></td>
</tr>
<tr>
<td>scraping any boiler, flue or economiser shall</td>
<td></td>
</tr>
<tr>
<td>whilst so employed be paid an additional 91 cents</td>
<td></td>
</tr>
<tr>
<td>per hour to his ordinary or overtime pay.</td>
<td></td>
</tr>
</tbody>
</table>
4. CARTERS AND DRIVERS

The wage rates set out hereunder shall be the rates payable to adult employees classified herein.

<table>
<thead>
<tr>
<th>Amount Per Week</th>
</tr>
</thead>
<tbody>
<tr>
<td>$</td>
</tr>
</tbody>
</table>

(a) Employee driving motor vehicle having maker's capacity of -

1.2 tonnes or less 322.00
Over 1.2 tonnes but not over 3 tonnes 325.70
Over 3 tonnes but under 6 tonnes 330.30
6 tonnes and over but under 7 tonnes 331.00
7 tonnes and over but under 8 tonnes 331.80
8 tonnes and over but under 9 tonnes 332.50
9 tonnes and over but under 10 tonnes 333.30
10 tonnes and over but under 11 tonnes 334.20

(b) Employee driving articulated vehicle having maker's capacity of -

Under 9 tonnes 337.00
9 tonnes and over but under 10 tonnes 337.90
10 tonnes and over but under 11 tonnes 338.30
11 tonnes and over but under 12 tonnes 339.20
12 tonnes and over but under 13 tonnes 340.40
13 tonnes and over but under 14 tonnes 340.90
14 tonnes and over but under 15 tonnes 341.90
15 tonnes and over but under 16 tonnes 342.30
16 tonnes and over but under 17 tonnes 342.80
17 tonnes and over but under 18 tonnes 344.30
18 tonnes and over but under 19 tonnes 344.70
19 tonnes and over but under 20 tonnes 345.60
20 tonnes and over but under 21 tonnes 346.10

Motor driver's assistant, and yardman 307.30

5. JUNIORS - CARTERS AND DRIVERS

The minimum rate of wages to be paid per week to junior employees shall be the undermentioned percentages of the appropriate adult rate for the class of work performed:

<table>
<thead>
<tr>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>18 and under 19 years 70</td>
</tr>
<tr>
<td>19 and under 20 years 80</td>
</tr>
<tr>
<td>20 years and over 100</td>
</tr>
</tbody>
</table>
6. LEADING HANDS

In addition to the wage rates prescribed in subclause 1 - Manufacturer of Butter, Cheese, Casein and Powdered Milk, subclause 3 - Engine Drivers and Fireman and subclause 4 - Carters and Drivers of this Division, leading hands shall receive the following additional amounts per week.

<table>
<thead>
<tr>
<th>Amount Per Week</th>
</tr>
</thead>
<tbody>
<tr>
<td>$</td>
</tr>
<tr>
<td>(a) In charge of 3 to 10 employees</td>
</tr>
<tr>
<td>(b) In charge of 11 to 20 employees</td>
</tr>
<tr>
<td>(c) In charge of 21 or more employees</td>
</tr>
</tbody>
</table>

DIVISION B - CLERKS

1. WAGE RATES

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

<table>
<thead>
<tr>
<th>Amount Per Week</th>
</tr>
</thead>
<tbody>
<tr>
<td>$</td>
</tr>
<tr>
<td>(a) First year's adult experience</td>
</tr>
<tr>
<td>Second year's adult experience</td>
</tr>
<tr>
<td>Third year's adult experience &amp; thereafter</td>
</tr>
<tr>
<td>(b) An accountant or chief clerk wholly responsible for the office work and who prepares the balance sheet and profit and loss account</td>
</tr>
<tr>
<td>(c) A clerk who is in charge of and responsible for the work of -</td>
</tr>
<tr>
<td>(i) 5 or more employees</td>
</tr>
<tr>
<td>(ii) 3 or 4 employees</td>
</tr>
<tr>
<td>(iii) 2 employees</td>
</tr>
</tbody>
</table>

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

The minimum rates of wages that may be paid to juniors shall be the undermentioned percentages of the second year adult rate adjusted to the nearest ten cents.

<table>
<thead>
<tr>
<th>Percentage of</th>
</tr>
</thead>
<tbody>
<tr>
<td>Second Year</td>
</tr>
<tr>
<td>Adult Rate</td>
</tr>
<tr>
<td>%</td>
</tr>
<tr>
<td>----------------</td>
</tr>
<tr>
<td>(a) Under 16 years of age</td>
</tr>
<tr>
<td>16 to 17 years of age</td>
</tr>
<tr>
<td>17 to 18 years of age</td>
</tr>
<tr>
<td>18 to 19 years of age</td>
</tr>
<tr>
<td>19 to 20 years of age</td>
</tr>
<tr>
<td>20 to 21 years of age</td>
</tr>
<tr>
<td>(b) Proviso</td>
</tr>
</tbody>
</table>

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

(c) Additional Payments

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

<table>
<thead>
<tr>
<th>Amount $</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 16 years of age</td>
</tr>
<tr>
<td>16 to 17 years of age</td>
</tr>
<tr>
<td>17 to 18 years of age</td>
</tr>
<tr>
<td>18 to 19 years of age</td>
</tr>
<tr>
<td>19 to 20 years of age</td>
</tr>
<tr>
<td>20 to 21 years of age</td>
</tr>
<tr>
<td>21 years of age and over</td>
</tr>
</tbody>
</table>
3. TRAINEE CLERK (AS DEFINED)

The minimum weekly wage rate payable to a trainee clerk (as defined) shall be determined by the following method of calculation:

By taking the appropriate wage rate for a junior clerk as prescribed in subclause 2 of this division then multiplying it by 39 and dividing it by 52. (39 being the actual number of weeks spent on the job)

PROVIDED that the wage determined by this calculation shall in no case be less than the minimum rate (as varied from time to time) prescribed by the Australian Traineeships System Guidelines.

PROVIDED ALWAYS that trainee clerk (as defined) wage rate shall be calculated in multiples of ten cents with any result of five cents or more being taken to the next ten cents.

CONDITIONS FOR EMPLOYEES IN DIVISION A - EMPLOYEES OTHER THAN CLERKS

9. ANNUAL LEAVE

(a) Period of Leave

(i) Day Workers

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).

(ii) Shift Workers

In addition to the leave prescribed in paragraph (i) of this subclause, shift workers, that is employees 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 twelve months continuous service is engaged for part of the twelve monthly period as a shift worker, he shall be entitled to have the period of annual leave prescribed in paragraph (i) of this subclause increased by one half of a day for each month he is continuously engaged.

(b) Time of Taking Leave

Annual leave shall be given at a time fixed by the employer within a period not exceeding six months from the date when the right to annual leave accrued, provided that not less than four weeks notice shall be given to the employee that his annual leave is to be taken.

P012
(c) Payment in Lieu Prohibited

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

(d) Proportionate Leave on Termination of Service

If after the first 12 months service and then after the first one months service in any twelve monthly period an employee lawfully leaves his employment, or his employment is terminated by the employer, except for neglect of duty or misconduct, the employee shall be paid 12 2/3 hours for each completed month of continuous service.

(e) Annual Leave Exclusive of Public Holidays

Should any of the holidays mentioned in Clause 16 - Holidays with Pay, fall during an employee's annual leave, there shall be added to that leave one additional day or days for each such holiday so falling.

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.

(f) Payment for Period of Leave

(i) Each employee before going on leave shall be paid the amount of wages he would have received had he not been on leave during the relevant period or periods, plus a loading equal to seventeen and one half per cent of the amount paid in respect of annual leave.

(ii) In respect of shift workers, an employee who would have worked on shift work had he not been on leave, will receive a loading equal to seventeen and one half per cent of the amount paid in respect of annual leave.

PROVIDED that where a shift worker would have received a shift loading for the relevant period had he not been on leave, and such loading would have entitled him to a greater amount than the loading of seventeen and one half per cent, then the employee shall be paid in accordance with his projected roster in lieu of the seventeen and one half per cent loading.

PROVIDED ALWAYS that if the shift loadings are a lesser amount than the loading of seventeen and one half per cent, then the seventeen and one half per cent loading shall be paid.

(iii) The loading prescribed in this subclause shall not apply to proportionate leave on termination of service.
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(g) Broken Leave

Annual leave shall be taken in a continuous period.

PROVIDED that where the employee and employer agree, leave may be taken in two or more periods.

(h) Disputes

Any dispute, as to the rights of an employee to or with respect to annual leave, shall be dealt with by the Tasmanian Industrial Commission whose decision shall be final.

10. CASUAL EMPLOYEES

Casual employees, i.e., employees who are employed for any period not exceeding five days at any one time and whose employment is of a casual nature, shall be paid 20 per cent in addition to the rates herein prescribed.

11. CHANGE ROOM AND ABLUTION FACILITIES

The employer shall provide a suitable place where employees may take their mid-day meal and/or change their clothes, and proper washing facilities. Such room and washing facilities to be to the satisfaction of the Secretary for Labour.

12. COMPASSIONATE LEAVE

An employee shall on the death of a wife, husband, father, mother, child, stepchild, brother, sister, mother-in-law, father-in-law, stepmother, stepfather, grandfather, grandmother, be entitled upon application being made to, and approved by the employer, to leave up to and including the day of the funeral of such relative and such leave will be without deduction of pay not exceeding the number of ordinary hours worked by the employee in three 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 ALWAYS that this clause shall have no operation while the period of entitlement to leave under it coincides with any other period of entitlement to leave.

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

With the exception of a meal break as prescribed in Clause 20 - Meal Interval of this award, the hours of work on each day shall be continuous unless by mutual consent the employer and employee agree to a variation of this provision.

14. **DISPUTES SETTLING PROCEDURE**

Subject to the provisions of the Industrial Relations Act, 1984 any dispute or claim arising out of or relating to this award shall be dealt with in the following manner:

(a) the matter shall first be discussed between the employee and his or her immediate supervisor;

(b) if not settled the matter shall be discussed between the employee's delegate and the employer's supervisor and Branch Management;

(c) if not settled the matter shall be referred to the State Secretary of the Union for discussion between the appropriate Union representatives and Senior Management of the Company;

(d) if the matter is not settled it shall be submitted to the Tasmanian Industrial Commission for determination;

(e) while the above procedure is being followed every attempt will be made to avoid industrial action being taken.

15. **FOOTWEAR**

Employees shall be paid a footwear allowance of 93 cents per week.

**PROVIDED** that protective footwear shall be supplied by the employer to clerks and other employees who in the course of their duties are required to traverse floors coated with cream, acid, neutralisers, etc.

Alternatively, suitable protective footwear shall be provided by the employer as required up to a maximum of three pairs per year.

16. **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) Notwithstanding the provisions of subclause (a) of this clause, if the day on which a public holiday is observed falls on the rostered day off of a shift worker, such employee shall be paid his ordinary rate for the time he would have worked if the holiday were not his day off. For the purpose of this subclause, ordinary rate shall be that prescribed by Clause 8 - Wage Rates, Division A - Employees other than Clerks - subclause 1 - Manufacturer of Butter, Cheese, Casein and Powdered Milk, for the occupation in which the employee is ordinarily engaged.

(e) In the event of a public holiday occurring on a Saturday or Sunday, the following provisions shall apply:

(i) in the case of day workers, another day shall be allowed in lieu;

(ii) in the case of shift workers, the provisions of subclauses (c) and (d) of this clause shall apply.

PROVIDED that when such holiday occurs on a shift worker's rostered day off he shall, by agreement between the employer and employee, be given, following the date on which such holiday occurred:

(i) one extra day's pay; or

(ii) equal time off in lieu thereof; or

(iii) one paid day shall be added to his annual leave.

(f) Where, consequent upon any visit to Australia by Her Majesty the Queen, or any other member of the Royal Family, a public holiday is proclaimed by the Governor in Council and gazetted by the Tasmanian Government under State Act throughout the State or part thereof, and under the Tasmanian Industrial Commission, such a day shall, within the definite locality, be deemed to be a holiday for the purposes of this award.

(g) Rostered Days Off Falling on a Public Holiday

From 1 July 1985, in the case of an employee whose ordinary hours of work are arranged in accordance with Clause 18 - Implementation of 38-Hour Week,
subclause (b)(iii) or (b)(iv) or subclause (c) or subclause (e), the day or days to be taken off shall not coincide with a public holiday fixed in accordance with 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 18 - Implementation of 38-Hour Week, subclause (f) 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 the day immediately before or immediately after the public holiday, or some other week day as mutually agreed.

17. HOURS OF WORK

(a) Subject to Clause 18 - Implementation of 38-Hour Week and Clause 26 - Procedures for In-Plant Discussions of this award, and subclause (c) - Shift Workers of this clause, and, subject to the exceptions hereinafter provided, the ordinary hours of work from 1 July 1985, shall be an average of 38 per week to be worked on one of the following bases:

(i) 38 hours within a work cycle not exceeding seven consecutive days; or  
(ii) 76 hours within a work cycle not exceeding 14 consecutive days; or  
(iii) 114 hours within a work cycle not exceeding 21 consecutive days; or  
(iv) 152 hours within a work cycle not exceeding 28 consecutive days; or  
(v) 152 hours within a work cycle exceeding 28 consecutive days in establishments where the method of banking of rostered days off have been agreed to.

(b) Day Workers

(i) The ordinary hours of work prescribed herein shall not exceed eight hours on any day and may be worked on any day or all of the days of the week, Monday to Friday.

(ii) 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 6.30am and 5.30pm.

(c) Shift Workers

Further to subclause (a) of this clause:

(i) For the purpose of this subclause:
'Afternoon Shift', means any shift finishing after 6.00pm and at or before midnight.

'Continuous Shift', means work carried on with consecutive shifts of employees throughout the 24 hours of each of at least six consecutive days without interruption, except during break-downs or meal breaks, or due to unavoidable causes beyond the control of the employer.

'Night Shift', means any shift finishing subsequent to midnight and at or before 8.00am.

'Shift Roster', is a roster of which the employee concerned has had at least forty eight hours notice or such lesser time as mutually agreed between employer and employee.

(ii) The ordinary hours of work of shift workers shall be an average of 38, worked on five shifts of equal hours, or six shifts of equal hours per week which includes a meal break of twenty minutes in the employer's time, subject to the provisions of this clause.

(iii) If an employee is not given twenty four hours notice of a change of shift, subject to subclause (c)(i) - 'Shift Roster', the employee shall be paid at overtime rates for that shift.

18. IMPLEMENTATION OF 38-HOUR WEEK

(a) From 1 July 1985, ordinary hours of work shall be 38, or an average of 38 per week as provided in Clause 17 - Hours of Work.

(b) Except as provided in subclauses (e) and (f) of this clause, the method of implementation of the 38 hour week may be 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 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 seven days, or as otherwise mutually agreed and thereby averaging 38 hours over a period not exceeding 12 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 July 1985. 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 14 - Disputes Settling Procedure. This procedure shall be applied without delay.

(e) Circumstances may arise where different methods of implementation of a 38 hour week apply to various groups or sections of employees in the plant or establishment concerned.

(f) Notice of Days Off

   (i) Except as provided in subclause (g) of this clause, in cases where by virtue of the arrangement of the employee's 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 the employee's work cycle, then such days off may be taken as mutually agreed between the employee and the employer.

   (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 twelve month period.

(g) 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.

19. INTERMITTENT WORK

Any employee (other than a casual employee) who is ready, available and willing to work, employed for less than the number of hours fixed for an ordinary week's work between midnight Sunday and midnight Saturday shall, for each hour worked up to one-half of the number of hours fixed for an ordinary week's work, be paid at the ordinary wage rate with an addition of thirty three per cent and for each hour worked beyond the one-half aforesaid, the rate of wage payable shall be at the ordinary wage rate up to but not exceeding the ordinary wage rate for an ordinary week's work.

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20. MEAL INTERVAL
(a) A meal break of not less than thirty minutes shall be granted between the hours of 11.30am and 1.30pm.
(b) An employee shall not be required to work for more than five hours without a meal break.

21. MEAL INTERVAL AND ALLOWANCE
(a) A meal interval of not less than thirty minutes shall be allowed not later than five hours after commencing work.
(b) An employee who is required to work overtime for one and a half hours or more without being notified the previous day shall either be supplied with a meal by the employer or be paid a meal allowance of $4.90.

22. MIXED FUNCTIONS
An employee engaged on any day or shift on duties carrying a higher rate than his ordinary classification, shall be paid the higher rate for such day or shift.

The provisions of this clause shall not apply where an employee is engaged for a period of less than sixty minutes in the aggregate on relief duties during meal breaks, rest periods or absences from duty which have been arranged on behalf of another employee, in which case the employee directed to perform relief duties by his employer or the employer's representative, shall be paid the higher rate for the time so worked.

23. OVERTIME
(a) Subject to the provisions of Clauses 17 - Hours of Work and 18 - Implementation of 38-Hour Week of this award, for all time of duty outside the regular hours or before the time fixed for commencing or after the time fixed for finishing work, payment shall be at the rate of time and one half for the first two hours and double time thereafter. The division for overtime to remain one fortieth of the weekly rate for the period of twelve months from the date of implementation of the 38 hour working week in this award.
(b) In computing overtime, each day's work shall stand alone.
(c) An employee after the completion of overtime work performed after his usual ceasing time shall be entitled to be absent until he has had ten consecutive hours off duty, without deduction of pay for ordinary time of duty occurring during such absence.
If on the instructions of his employer any employee resumes work without having had such ten hours off duty he shall be paid at double rates until he is relieved from duty to take such rest period, and he shall then be entitled to be absent until he has had ten consecutive hours off, duty without deduction of pay for ordinary time of duty occurring during such absence.

23. 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.

PART A - MATERNITY LEAVE

(a) Nature of Leave

Maternity leave is unpaid leave.

(b) Definitions

For the purpose of this part:

'Employee' includes a part-time employee but does not include an employee engaged upon casual or seasonal work.

'Paternity leave' means leave of the type provided for in Part B - Paternity Leave.

'Child' means a child of the employee under the age of one year.

'Spouse' includes a de facto or a former spouse.

'Continuous service' means service under an unbroken contract of employment and includes:

(i) any period of leave taken in accordance with this clause;

(ii) any period of part-time employment worked in accordance with this clause; or

(iii) any period of leave or absence authorised by the employer or by the award.

(c) Eligibility for Maternity Leave

(i) An employee who becomes pregnant, upon production to her employer of the certificate required by subclause (d) hereof, shall be entitled to a period of up to 52 weeks maternity leave provided that such leave shall not extend beyond the child's first birthday. This entitlement shall be reduced by any period of paternity leave taken by the employee's spouse in relation to the same child and apart from paternity leave of up to one week at the time of confinement shall not be taken concurrently with paternity leave.
(ii) Subject to subclauses (f) and (i) hereof the period of maternity leave shall be unbroken and shall, immediately following confinement, include a period of six weeks compulsory leave.

(iii) The employee must have had at least 12 months continuous service with that employer immediately preceding the date upon which she proceeds upon such leave.

(d) Certificate

At the time specified in subclause (e) hereof the employee must produce to her employer:

(i) a certificate from a registered medical practitioner stating that she is pregnant and the expected date of confinement;

(ii) 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.

(e) Notice Requirements

(i) An employee shall, not less than ten weeks prior to the presumed date of confinement, produce to her employer the certificate referred to in paragraph (d)(i).

(ii) An employee shall give not less than four weeks notice in writing to her employer of the date upon which she proposes to commence maternity leave stating the period of leave to be taken and shall, at the same time, produce to her employer the statutory declaration referred to in paragraph (d)(ii).

(iii) An employer by not less than 14 days notice in writing to the employee may require her to commence maternity leave at any time within the six weeks immediately prior to her presumed date of confinement.

(iv) An employee shall not be in breach of this clause as a consequence of failure to give the stipulated period of notice in accordance with paragraph (ii) hereof if such failure is occasioned by the confinement occurring earlier than the presumed date.

(f) Transfer to a safe job

Where 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 shall, if the employer deems it practicable, be transferred to a safe job at the rate and on the conditions attaching to that job until the commencement of maternity leave.
If the transfer to a safe job is not practicable, the employee may, or the employer may require the employee to, take leave for such period as is certified necessary by a registered medical practitioner. Such leave shall be treated as maternity leave for the purposes of subclauses (j), (k), (l) and (m) hereof.

(g) Variation of Period of Maternity Leave

(i) Provided the maximum period of maternity leave does not exceed the period to which the employee is entitled under subclause (c) hereof:

(1) the period of maternity leave may be lengthened once only by the employee giving not less than 14 days' notice in writing stating the period by which the leave is to be lengthened;

(2) The period may be further lengthened by agreement between the employer and the employee.

(ii) The period of maternity leave may, with the consent of the employer, be shortened by the employee giving not less than 14 days' notice in writing stating the period by which the leave is to be shortened.

(h) Cancellation of Maternity Leave

(i) Maternity leave, applied for but not commenced, shall be cancelled when the pregnancy of an employee terminates other than by the birth of a living child.

(ii) Where the pregnancy of an employee then on maternity leave terminates other than by the birth of a living child, it shall be the right of the employee to resume work at a time nominated by the employer which shall not exceed four weeks from the date of notice in writing by the employee to the employer that she desires to resume work.

(i) Special Maternity Leave and Sick Leave

(i) Where the pregnancy of an employee not then on maternity leave terminates after 28 weeks other than by the birth of a living child then:

(1) she shall be entitled to such period of unpaid leave (to be known as special maternity leave) as a registered medical practitioner certifies as necessary before her return to work; or

(2) for illness other than the normal consequences of confinement she shall be entitled, either in lieu of or in addition to special maternity leave, to such paid sick leave as to which she is then entitled and which a registered medical practitioner certifies as necessary before her return to work.
(ii) Where an employee not then on maternity leave suffers illness related to her pregnancy, she may take such paid sick leave as to which she is then entitled and such further unpaid leave (to be known as special maternity leave) as a registered medical practitioner certifies as necessary before her return to work, provided that the aggregate of paid sick leave, special maternity leave and maternity leave shall not exceed the period to which the employee is entitled under subclause (c) hereof.

(iii) For the purposes of subclauses (j), (k) and (l) hereof, maternity leave shall include special maternity leave.

(iv) An employee returning to work after the completion of a period of leave taken pursuant to this subclause shall be entitled to the position which she held immediately before proceeding on such leave or, in the case of an employee who was transferred to a safe job pursuant to subclause (f) hereof, to the position she held immediately before such transfer.

Where such position no longer exists but there are other positions available, which the employee is qualified for and the duties of which she is capable of performing, she shall be entitled to a position as nearly comparable in status and pay to that of her former position.

(j) Maternity Leave and Other Leave Entitlements

(i) Provided the aggregate of any leave including leave taken under this part, does not exceed the period to which the employee is entitled under subclause (c) hereof, an employee may, in lieu of or in conjunction with maternity leave, take any annual leave or long service leave or any part thereof to which she is entitled.

(ii) Paid sick leave or other paid authorised award absences (excluding annual leave or long service leave), shall not be available to an employee during her absence on maternity leave.

(k) Effect of Maternity Leave on Employment

Subject to this part, notwithstanding any award or other provision to the contrary, absence on maternity leave shall not break the continuity of service of an employee but shall not be taken into account in calculating the period of service for any purpose of any relevant award or agreement.

(l) Termination of Employment

(i) An employee on maternity leave may terminate her employment at any time during the period of leave by notice given in accordance with this award.

(ii) An employer shall not terminate the employment of an employee on the ground of her pregnancy or of her absence on maternity leave, but otherwise
the rights of an employer in relation to termination of employment are not hereby affected.

(m) Return to Work After Maternity Leave

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

(ii) An employee, upon returning to work after maternity leave or the expiration of the notice required by paragraph (i) hereof, shall be entitled to the position which she held immediately before proceeding on maternity leave or, in the case of an employee who was transferred to a safe job pursuant to subclause (f) hereof, to the position which she held immediately before such transfer or in relation to an employee who has worked part-time during the pregnancy the position she held immediately before commencing such part-time work.

Where such position no longer exists but there are other positions available for which the employee is qualified and the duties of which she is capable of performing, she shall be entitled to a position as nearly comparable in status and pay to that of her former position.

(n) Replacement Employees

(i) A replacement employee is an employee specifically engaged as a result of an employee proceeding on maternity leave.

(ii) Before an employer engages a replacement employee the employer shall inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.

(iii) Before an employer engages a person to replace an employee temporarily promoted or transferred in order to replace an employee exercising her rights under this part, the employer shall inform that person of the temporary nature of the promotion or transfer and of the rights of the employee who is being replaced.

(iv) Nothing in this part shall be construed as requiring an employer to engage a replacement employee.

PART B - PATERNITY LEAVE

(a) Nature of Leave

Paternity leave is unpaid leave.

(b) Definitions

For the purpose of this part:
'Employee' includes a part-time employee but does not include an employee engaged upon casual or seasonal work.

'Maternity leave' means leave of the type provided for in Part A - Maternity Leave (and includes special maternity leave).

'Child' means a child of the employee or the employee's spouse under the age of one year.

'Spouse' includes a de facto or a former spouse.

'Primary care-giver' means a person who assumes the principal role of providing care and attention to a child.

'Continuous service' means service under an unbroken contract of employment and includes:

(i) any period of leave taken in accordance with this clause;

(ii) any period of part-time employment worked in accordance with this clause; or

(iii) any period of leave or absence authorised by the employer or by the award.

(c) Eligibility for Paternity Leave

A male employee, upon production to his employer of the certificate required by subclause (d) - Certification shall be entitled to one or two periods of paternity leave, the total of which shall not exceed 52 weeks, in the following circumstances:

(i) an unbroken period of up to one week at the time of confinement of his spouse;

(ii) a further unbroken period of up to 51 weeks in order to be the primary care-giver of a child provided that such leave shall not extend beyond the child's first birthday. This entitlement shall be reduced by any period of maternity leave taken by the employee's spouse and shall not be taken concurrently with that maternity leave.

The employee must have had at least 12 months continuous service with that employer immediately preceding the date upon which he proceeds upon either period of leave.

(d) Certification

At the time specified in subclause (e) the employee must produce to his employer:
(i) 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 of which the birth took place;

(ii) in relation to any period to be taken under paragraph (c)(ii) hereof, a statutory declaration stating:

(1) he will take that period of paternity leave to become the primary care-giver of the child;

(2) particulars of any period of maternity leave sought or taken by his spouse; and

(3) for the period of paternity leave he will not engage in any conduct inconsistent with his contract of employment.

(e) Notice Requirements

(i) The employee shall, not less than ten weeks prior to each proposed period of leave, give the employer notice in writing stating the dates on which he proposes to start and finish the period or periods of leave and produce the certificate and statutory declaration required in subclause (d) hereof.

(ii) The employee shall not be in breach of this subclause as a consequence of failure to give the notice required in paragraph (i) hereof if such failure is due to:

(1) the birth occurring earlier than the expected date; or

(2) the death of the mother or the child; or

(3) other compelling circumstances.

(iii) The employee shall immediately notify his employer of any change in the information provided pursuant to subclause (d) hereof.

(f) Variation of Period of Paternity Leave

(i) Provided the maximum period of paternity leave does not exceed the period to which the employee is entitled under subclause (c) hereof:

(1) the period of paternity leave provided by paragraph (c)(ii) may be lengthened once only by the employee giving not less than 14 days notice in writing stating the period by which the leave is to be lengthened;

(2) the period may be further lengthened by agreement between the employer and the employee.
(ii) The period of paternity leave taken under paragraph (c)(ii) hereof may, with the consent of the employer, be shortened by the employee giving not less than 14 days notice in writing stating the period by which the leave is to be shortened.

(g) Cancellation of Paternity Leave

Paternity leave, applied for under paragraph (c)(ii) hereof but not commenced, shall be cancelled when the pregnancy of the employee’s spouse terminates other than by the birth of a living child.

(h) Paternity Leave and Other Leave Entitlements

(i) Provided the aggregate of any leave, including leave taken under this part, does not exceed the period to which the employee is entitled under subclause (c) hereof, an employee may, in lieu of or in conjunction with paternity leave, take any annual leave or long service leave or any part thereof to which he is entitled.

(ii) Paid sick leave or other paid authorised award absences (excluding annual leave or long service leave) shall not be available to an employee during his absence on paternity leave.

(i) Effect of Paternity Leave on Employment

Subject to this part, notwithstanding any award or other provision to the contrary, absence on paternity leave shall not break the continuity of service of an employee but shall not be taken into account in calculating the period of service for any purpose of any relevant award or agreement.

(j) Termination of Employment

(i) An employee on paternity leave may terminate his employment at any time during the period of leave by notice given in accordance with this award.

(ii) An employer shall not terminate the employment of an employee on the ground of his absence on paternity leave, but otherwise the rights of an employer in relation to termination of employment are not hereby affected.

(k) Return to Work after Paternity Leave

(i) An employee shall confirm his intention of returning to work by notice in writing to the employer given not less than four weeks prior to the expiration of the period of paternity leave provided by paragraph (c)(ii) hereof.

(ii) An employee, upon returning to work after paternity leave or the expiration of the notice required by paragraph (i) hereof, shall be entitled to the position which he held immediately before proceeding on paternity leave, or in relation
to an employee who has worked part-time under this clause to the position he held immediately before commencing such part-time work.

Where such position no longer exists but there are other positions available which the employee is qualified for and is capable of performing, he shall be entitled to a position as nearly comparable in status and pay to that of his former position.

(l) Replacement Employees

(i) A replacement employee is an employee specifically engaged as a result of an employee proceeding on paternity leave.

(ii) Before an employer engages a replacement employee the employer shall inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.

(iii) Before an employer engages a person to replace an employee temporarily promoted or transferred in order to replace an employee exercising his rights under this part, the employer shall inform that person of the temporary nature of the promotion or transfer and of the rights of the employee who is being replaced.

(iv) Nothing in this part shall be construed as requiring an employer to engage a replacement employee.

PART C - ADOPTION LEAVE

(a) Nature of Leave

Adoption leave is unpaid leave.

(b) Definitions

For the purpose of this part:

'Employee' includes a part-time employee but does not include an employee engaged upon casual or seasonal work.

'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 stepchild of the employee or of the spouse of the employee or a child who has previously lived continuously with the employee for a period of six months or more.

'Relative adoption' occurs where a child, as defined, is adopted by a grandparent, brother, sister, aunt or uncle (whether of the whole blood or half blood or by marriage).

'Primary care-giver' means a person who assumes the principal role of providing care and attention to a child.
'Spouse' includes a de facto spouse.

'Continuous service' means service under an unbroken contract of employment and includes:

(i) any period of leave taken in accordance with this clause;

(ii) any period of part-time employment worked in accordance with this clause, or

(iii) any period of leave or absence authorised by the employer or by the award.

(c) Eligibility

An employee, upon production to the employer of the documentation required by subclause (d) hereof shall be entitled to one or two periods of adoption leave, the total of which shall not exceed 52 weeks, in the following circumstances:

(i) an unbroken period of up to three weeks at the time of the placement of the child;

(ii) an unbroken period of up to 52 weeks from the time of the child's placement in order to be the primary care-giver of the child. This leave shall not extend beyond one year after the placement of the child and shall not be taken concurrently with adoption leave taken by the employee's spouse in relation to the same child. This entitlement of up to 52 weeks shall be reduced by:

(1) any period of leave taken pursuant to paragraph (i) hereof; and

(2) the aggregate of any periods of adoption leave taken or to be taken by the employee's spouse;

The employee must have had at least 12 months continuous service with that employer immediately preceding the date upon which he or she proceeds upon such leave in either case.

(d) Certification

Before taking adoption leave the employee must produce to the employer:

(i) (1) a statement from an adoption agency or other appropriate body of the presumed date of placement of the child with the employee for adoption purposes; or

(2) a statement from the appropriate government authority confirming that the employee is to have custody of the child pending application for an adoption order.
(ii) In relation to any period to be taken under paragraph (c)(ii) hereof, a statutory declaration stating:

1. the employee is seeking adoption leave to become the primary caregiver of the child;

2. particulars of any period of adoption leave sought or taken by the employee’s spouse; and

3. for the period of adoption leave the employee will not engage in any conduct inconsistent with his or her contract of employment.

(e) Notice Requirements

(i) Upon receiving notice of approval for adoption purposes, an employee shall notify the employer of such approval and within two months of such approval, shall further notify the employer of the period or periods of adoption leave the employee proposes to take. In the case of a relative adoption the employee shall notify as aforesaid upon deciding to take a child into custody pending an application for an adoption order.

(ii) An employee who commences employment with an employer after the date of approval for adoption purposes shall notify the employer thereof upon commencing employment and of the period or periods of adoption leave which the employee proposes to take. Provided that such employee shall not be entitled to adoption leave unless the employee has not less than 12 months continuous service with that employer immediately preceding the date upon which he or she proceeds upon such leave.

(iii) An employee shall, as soon as the employee is aware of the presumed date of placement of a child for adoption purposes but no later than 14 days before such placement, give notice in writing to the employer of such date, and of the date of the commencement of any period of leave to be taken under paragraph (c)(i) hereof.

(iv) An employee shall, ten weeks before the proposed date of commencing any leave to be taken under paragraph (c)(ii) hereof give notice in writing to the employer of the date of commencing leave and the period of leave to be taken.

(v) An employee shall not be in breach of this part as a consequence of failure to give the stipulated period of notice in accordance with paragraphs (iii) and (iv) hereof if such failure is occasioned by the requirement of an adoption agency to accept earlier or later placement of a child, the death of the spouse or other compelling circumstances.
(f) Variation of Period of Adoption Leave

(i) Provided the maximum period of adoption leave does not exceed the period to which the employee is entitled under subclause (c) hereof:

(1) the period of leave taken under paragraph (c)(ii) hereof may be lengthened once only by the employee giving not less than 14 days notice in writing stating the period by which the leave is to be lengthened;

(2) the period may be further lengthened by agreement between the employer and employee.

(ii) The period of adoption leave taken under paragraph (c)(ii) hereof may, with the consent of the employer, be shortened by the employee giving not less than 14 days notice in writing stating the period by which the leave is to be shortened.

(g) Cancellation of Adoption Leave

(i) Adoption leave, applied for but not commenced, shall be cancelled should the placement of the child not proceed.

(ii) Where the placement of a child for adoption purposes with an employee then on adoption leave does not proceed or continue, the employee shall notify the employer forthwith and the employer shall nominate a time not exceeding four weeks from receipt of notification for the employee's resumption of work.

(h) Special Leave

The employer shall grant to any employee who is seeking to adopt a child, such unpaid leave not exceeding two days, as is required by the employee to attend any compulsory interviews or examinations as are necessary as part of the adoption procedure. Where paid leave is available to the employee the employer may require the employee to take such leave in lieu of special leave.

(i) Adoption Leave and Other Entitlements

(i) Provided the aggregate of any leave, including leave taken under this part, does not exceed the period to which the employee is entitled under subclause (c) hereof, an employee may, in lieu of or in conjunction with adoption leave, take any annual leave or long service leave or any part thereof to which he or she is entitled.

(ii) Paid sick leave or other paid authorised award absences (excluding annual leave or long service leave), shall not be available to an employee during the employee's absence on adoption leave.
(j) Effect of Adoption Leave on Employment

Subject to this part, notwithstanding any award or other provision to the contrary, absence on adoption leave shall not break the continuity of service of an employee but shall not be taken into account in calculating the period of service for any purpose of any relevant award or agreement.

(k) Termination of Employment

(i) An employee on adoption leave may terminate the employment at any time during the period of leave by notice given in accordance with this award.

(ii) An employer shall not terminate the employment of an employee on the ground of the employee's application to adopt a child or absence on adoption leave, but otherwise the rights of an employer in relation to termination of employment are not hereby affected.

(l) Return to Work After Adoption Leave

(i) An employee shall confirm the intention of returning to work by notice in writing to the employer given not less than four weeks prior to the expiration of the period of adoption leave provided by paragraph (c)(ii) hereof.

(ii) An employee, upon returning to work after adoption leave, shall be entitled to the position held immediately before proceeding on such leave or in relation to an employee who has worked part-time under this clause the position held immediately before commencing such part-time work.

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 shall be entitled to a position as nearly comparable in status and pay to that of the employee's former position.

(m) Replacement Employees

(i) A replacement employee is an employee specifically engaged as a result of an employee proceeding on adoption leave.

(ii) Before an employer engages a replacement employee the employer shall inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.

(iii) Before an employer engages a person to replace an employee temporarily promoted or transferred in order to replace an employee exercising rights under this part, the employer shall inform that person of the temporary nature of the promotion or transfer and of the rights of the employee who is being replaced.
(iv) Nothing in this part shall be construed as requiring an employer to engage a replacement employee.

**PART D - PART-TIME WORK**

(a) **Definitions**

For the purposes of this part:

'Male employee' means an employed male who is caring for a child born of his spouse or a child placed with the employee for adoption purposes.

'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.

'Spouse' includes a de facto spouse.

'Former position' means the position held by a female or male employee immediately before proceeding on leave or part-time employment under this part whichever first occurs or, if such position no longer exists but there are other positions available for which the employee is qualified and the duties of which he or she is capable of performing, a position as nearly comparable in status and pay to that of the position first mentioned in this definition.

'Continuous service' means service under an unbroken contract of employment and includes:

(i) any period of leave taken in accordance with this clause;

(ii) any period of part-time employment worked in accordance with this clause; or

(iii) any period of leave or absence authorised by the employer or by the award.

(b) **Entitlement**

With the agreement of the employer:

(i) A male 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.

(ii) 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.

(iii) A female employee may work part-time in one or more periods at any time from the seventh week after the date of birth of the child until its second birthday.
(iv) In relation to adoption a female employee may work part-time in one or more periods at any time from the date of the placement of the child until the second anniversary of that date.

(c) Return to Former Position

(i) An employee who has had at least 12 months continuous service with an employer immediately before commencing part-time employment after the birth or placement of a child has, at the expiration of the period of such part-time employment or the first period, if there is more than one, the right to return to his or her former position.

(ii) Nothing in paragraph (i) hereof shall prevent the employer from permitting the employee to return to his or her former position after a second or subsequent period of part-time employment.

(d) 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.

(e) Pro Rata Entitlements

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

(f) Transitional Arrangements - Annual Leave

(i) An employee working part-time under this part shall be paid for and take any leave accrued in respect of a period of full-time employment, in such periods and manner as specified in the annual leave provisions of this award, as if the employee were working full-time in the class of work the employee was performing as a full-time employee immediately before commencing part-time work under this part.

(ii) (1) a full-time employee shall be paid for and take any annual leave accrued in respect of a period of part-time employment under this part, in such periods and manner as specified in this award, as if the employee were working part-time in the class of work the employee was performing as a part-time employee immediately before resuming full-time work.

(2) 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.
(g) Transitional Arrangements - Sick Leave

An employee working part-time under this part shall have sick 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.

(h) Part-time Work Agreement

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

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

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

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

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

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

(iii) 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.

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

(i) Termination of Employment

(i) 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.

(ii) 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.
(j) 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 subclause (h).

(k) 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.

(l) 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:

(i) limiting the number of employees who may work part-time;
(ii) establishing quotas as to the ratio of part-time to full-time employees;
(iii) prescribing a minimum or maximum number of hours a part-time employee may work; or
(iv) requiring consultation with, consent of or monitoring by a union;

and such provisions do not apply to part-time work under this clause.

(m) Replacement Employees

(i) A replacement employee is an employee specifically engaged as a result of an employee working part-time under this part.

(ii) A replacement employee may be employed part-time. Subject to this subclause, subclauses (e), (f), (g), (h), (i) and (l) of this part apply to the part-time employment of replacement employees.

(iii) Before an employer engages a replacement employee under this subclause, the employer shall inform the person of the temporary nature of the employment and of the rights of the employee who is being replaced.

(iv) Unbroken service as a replacement employee shall be treated as continuous service for the purposes of paragraph (a)(v) hereof.

(v) Nothing in this part shall be construed as requiring an employer to engage a replacement employee.
25. **PAYMENT OF WAGES**

(a) Prior to 1 July 1985.

Prior to 1 July 1985, when ordinary hours are 40 per week, the method of paying wages in force as at 6 April 1985, shall be continued.

(b) From 1 July 1985

From 1 July 1985, 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 18 - Implementation of 38-Hour Week, subclauses (b)(i) or (ii) of this award so that he works 38 ordinary hours each week, wages shall be paid fortnightly according to the actual ordinary hours worked each fortnight.

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

Subject to subclauses (c) and (d) hereof, in the case of an employee whose ordinary hours of work are arranged in accordance with Clause 18 - Implementation of 38-Hour Week, subclauses (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 fortnightly 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.

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 work cycle, is to be paid his wages on the basis of an average 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 18 - Implementation of the 38-Hour Week provides in subclauses (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 the 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 may apply 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 A – Employees Other Than Clerks, subclause 1 – Manufacturer of Butter, Cheese, Casein and Powdered Milk, of this award and shall be paid each week even though more or less than 38 hours are worked in 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 7 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 38 ordinary hours even though, that week, he works only a total of 32 ordinary hours.

Consequently, for each day an employee works 8 ordinary hours he accrels a 'credit' of 24 minutes (0.4 hours). The maximum 'credit' the employee may accrue under this system is 0.4 hours on 19 days; that is, a total of 7 hours 36 minutes.

(3) In implementing a 38-hour week an employee may accrue his rostered days off to a maximum of 7 days in accordance with Clause 18 - Implementation of 38-Hour Week - subclause (b)(v). In such cases the averaging system as detailed in paragraph (ii) herein applies and the employee accrues a credit which is carried forward for a period of up to 12 months.

(4) As provided in subclause (c) of this clause, an employee will not accrue a credit for each day he is absent from duty other than on annual leave, public holiday, paid sick leave, or compassionate leave.

When an employee is absent from duty because of annual leave, public holidays, paid sick leave, or compassionate leave, his entitlement is determined in accordance with the appropriate award provision dealing with such entitlements.

(c) Absences from Duty

(i) An employee whose ordinary hours are arranged in accordance with Clause 18 - Implementation of 38-Hour Week, subclauses (b) (iii), (iv) and (v) of this award and who is paid wages in accordance with subclause (b) hereof and is absent from duty (other than on annual leave, public holidays, paid sick leave, compassionate leave and workers' compensation) shall, for each day he is so absent, lose average pay for that day calculated by dividing his average weekly wage rate by five. An employee who is so absent from duty for part of a day shall lose average pay for each hour or part thereof he is absent at an hourly rate calculated by dividing his average pay rate by eight.

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(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 otherwise have 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, public holidays, paid sick leave, compassionate leave or workers' compensation), is to be calculated as follows:

\[
\text{Total of credits not accrued during cycle} \times \frac{\text{average weekly pay}}{38}
\]

**Examples:**

(An employee's ordinary hours are arranged so that he works 8 ordinary hours on five days of each week for 3 weeks and 8 ordinary hours on four days of the fourth week).

1. Employee takes one day off with authorisation in first week of cycle.

<table>
<thead>
<tr>
<th>Week of Cycle</th>
<th>Payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st week</td>
<td>= average weekly pay less one day's pay (i.e. less 1/5th)</td>
</tr>
<tr>
<td>2nd and 3rd weeks</td>
<td>= average weekly pay each week</td>
</tr>
<tr>
<td>4th week</td>
<td>= average weekly pay less credit not accrued on day of absence</td>
</tr>
<tr>
<td></td>
<td>= average weekly pay less 0.4 hours x (\frac{\text{average weekly pay}}{38})</td>
</tr>
</tbody>
</table>

P012
2. Employee takes each of the 4 days off without authorisation in the 4th week.

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

(d) Alternative Methods of Payment

(i) **PROVIDED** that in the case of an employee who prior to 1 July 1985, was working less than 40 hours each week and who was paid by a method different from that provided for in subclauses (b) and (c) hereof, such method may be continued.

(ii) **PROVIDED ALWAYS** that, where the employer and the majority of employees concerned agree on an alternative method of paying wages, to that provided in subclauses (b) and (c) hereof, may be introduced.

(e) Where the services of an employee are dispensed with his or her wages 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 18 – Implementation of 38-Hour Week, subclauses (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 25 – Payment of Wages, subclause (b)(iii) of this award.

**PROVIDED ALWAYS** that where the 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.

(f) Not more than three days' pay of each employee shall be kept in hand by the employer.
(g) 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 earned on the last day preceding a holiday. These payments may be made on the subsequent pay day.

(h) Where an employer and employee agree, the employee may be paid his or her wages by cheque or by direct payment into the employee's bank account without the requirement for the employer to provide encashment facilities.

(i) Wages shall be paid fortnightly.

(j) Except as provided in Clause 23 – Overtime, subclause (a) of this award, hourly rates shall be calculated by dividing the appropriate weekly rate by 38.

### 26. PROCEDURES FOR IN-PLANT DISCUSSIONS

(a) Procedures shall be established for In-Plant discussions, the objective being to agree on the method of implementing a 38 hour week in accordance with Clause 17 - Hours of Work, of this award, and entailing an objective review of current practices to establish where improvements can be made and implemented.

(b) The procedures should allow for In-Plant discussions to continue even though all matters may not be resolved by 1 July 1985.

(c) The procedures should make suggestions as to the recording of understandings reached and the methods of communicating agreements and understandings to all employees.

(d) The procedures should allow for the monitoring of agreements and understandings reached In-Plant.

(e) In cases where agreement cannot be reached 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 in accordance with Clause 14 - Disputes Settling Procedure of this award.

(f) There shall be on-going regular reviews of work practices to establish where improvements can be made and implemented.

### 27. PROTECTIVE CLOTHING

An employee required to work in rain shall be provided with a waterproof coat and suitable head covering so as to protect him from getting wet.
PROVIDED that where such clothing is not supplied, the employee shall be paid an allowance of 58 cents per day in lieu thereof, whatever amount of work has been performed by him thereon.

28. REST INTERVAL

Employees shall be allowed a rest interval of ten minutes during the first and second half of the day or shift at the discretion of the employer, at a time that will not interfere with production.

29. RIGHT OF ENTRY OF UNION OFFICIALS

For the purpose of interviewing employees on legitimate union business, a duly accredited union representative shall have the right to enter the employer's premises during the midday meal break on the following conditions:

(a) that he provides his authority to the gatekeeper or such other person as may be appointed by the employer;

(b) that he interviews employees only at places where they are taking their meals;

(c) that not more than one representative of each of not more than three unions be on the premises at any one time;

(d) that no one representative visit the premises more than once in each week;

(e) that if any employer alleges that a representative is unduly interfering with his work or is creating dissatisfaction amongst his employees or is offensive in his methods or is committing a breach of any of the previous conditions, such employer may refuse the right of entry, but the representative shall have the right to bring such refusal before the Secretary for Labour.

PROVIDED that where certain employees are working under a system of shift work which precludes a representative from interviewing them during the midday meal break the representative shall have the right to enter the employer's premises for the purpose of interviewing such employees at such times and under such conditions as to notice as may be mutually arranged by the representative and the employer, or failing agreement, at such times and under such conditions as the Secretary for Labour may decide.

30. SATURDAY WORK

(a) For all time of duty on Saturday payment shall be made at the rate of time and a half for the first two hours and double time thereafter.

(b) The provisions of subclause (a) of this clause do not apply to shift workers for all time of duty on Saturdays during the months of September, October, November,
December and January where payment shall be made at the rate of time and one
half for the first three hours and double time thereafter.

31. SHIFT ALLOWANCE

(a) Employees engaged on shift work (as defined) shall be paid fifteen per cent in
addition to the rates of pay prescribed for ordinary hours worked from Monday to
Friday, inclusive.

(b) For time worked on Saturday or Sunday the rates of pay shall be in accordance
with Clauses 30 - Saturday Work and 34 - Sunday and Holiday Work of this award.

(c) This additional allowance shall not be taken into consideration in the computation of
penalty rates prescribed for work performed on any of the holidays prescribed in
Clause 16 - Holidays with Pay.

32. SICK LEAVE

(a) An employee, other than one engaged as a casual, who is 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:

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

(ii) he shall, within twenty-four hours of the commencement of such absence,
inform the employer of his inability to attend for work, and as far as maybe
practicable, state the nature of the illness or injury and the estimated
duration of the absence;

(iii) he 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 sick leave is claimed;

(iv) he shall not be entitled in any year (whether in the employment of one
employer or of more). to sick leave credit in excess of two weeks of ordinary
working time;

(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 two
weeks of the employee entering his employment, require an employee to
make a sworn declaration or other written statement as to what paid leave of
absence he has had from any employer during the then current year, and
upon such statement the employer shall be entitled to rely and act.
(b) Sick leave shall accumulate from year to year so that any balance of the period specified in subclause (a)(iv) of this clause which has in any year not been allowed to an employee by an employer as paid sick leave, shall be credited to the employee and, subject to the conditions hereinbefore prescribed, shall be allowed by that employer in a subsequent year without diminution of the sick leave prescribed in respect of that year.

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

(d) Sickness on Day Off

   From 1 July 1985, where an employee is sick or injured on the week day he is to take off in accordance with subclause (b)(iii), (iv) and (v) of Clause 18 - Implementation of 38-Hour Week, of this award, he shall not be entitled to sick pay nor will his sick pay entitlements be reduced as a result of his sickness or injury on that day.

33. SPECIAL RATES

Confined Spaces -

Employees working in a compartment, space or place, the dimensions of which necessitate an employee working in a stooped or otherwise cramped position or without proper ventilation, shall be paid an additional 83 cents per hour.

PROVIDED that a person working in such circumstances for at least half an hour shall qualify for one hour's payment.

34. SUNDAY AND HOLIDAY WORK

(a) For all time of duty on Sundays, payment shall be made at the rate of double the ordinary rate.

   PROVIDED that any employee who is employed on a Sunday for less than the number of hours fixed for an ordinary day's work shall, in addition to wage, rates that he is entitled to for working on a Sunday, be paid at the rate of ordinary time for such additional number of hours as will ensure an ordinary day's working time.

(b) All work done on any of the holidays specified in Clause 16 - Holidays with Pay, of this award, shall be paid at the rate hereunder prescribed:

   Day Workers Double time and a half
   Shift Workers Double time.
35. TERMINATION OF SERVICE

Employment shall be terminated by one week's notice or, in the case of a casual employee by one hour's notice or; by the payment or forfeiture of one week's wages or, in the case of a casual, one hour's wages, as the case may be, but shall not affect the right of an employer to dismiss an employee without notice for misconduct or neglect of duty, in which case wages shall be payable up to the time of dismissal only.

36. TRAINEESHIP - DAIRY PROCESSING

(a) A Trainee (ATS) shall attend an approved on and off-the-job training course or program prescribed in the relevant training agreement or as notified to the trainee by the Training Authority of Tasmania.

(b) Trainees (ATS) may be engaged by employers registered with the Training Authority of Tasmania. The employer shall ensure that the Trainee (ATS) is permitted to attend the prescribed off-the-job training course and is provided with on-the-job training approved by the Training Authority of Tasmania.

(c) The employer shall provide a level of supervision in accordance with the approved training plan during the traineeship period.

(d) The employer agrees that the implementation of the training plan will be monitored by officers of the Training Authority of Tasmania and that training records or work books may be utilised as part of this monitoring process.

(e) All other terms and conditions of this award shall apply unless specifically varied by this clause.

(f) The Trainee (ATS) shall be engaged for a period of twelve months as a full-time employee.

Provided that the Trainee (ATS) shall be subject to a satisfactory probation period of up to one month.

(g) The Trainee (ATS) is permitted to be absent from work without loss of continuity of employment to attend the off-the-job training in accordance with the Training Agreement.

(h) It is acknowledged that service as a Trainee (ATS) is to be counted as service for all purposes of determining long service leave entitlements provided it is continuous with further service. However, it is agreed that service as a Trainee (ATS) shall also be counted if the Trainee (ATS) is appointed to a position by the employer within three months of the termination of the traineeship.

(i) Under normal circumstances overtime and shift work shall not be undertaken by trainees.
If during the traineeship period it is necessary because of the nature of the work and training experience then such shift/overtime work may be worked by the Trainees (ATS).

Where overtime or shift work is undertaken by the Trainee (ATS) the appropriate award conditions shall apply based on the rate for the Trainee (ATS) classification.

(j) As the ATS is a system of vocational training providing work based training, focusing on developing practical competence, Trainees (ATS) shall be exempt from action with respect to industrial disputes.

(k) Wherever possible traineeship positions shall be additional to existing staff numbers. Existing full-time employees shall not be displaced from employment by the Trainee (ATS).

(l) The union shall be afforded reasonable access to the Trainee (ATS) for the purpose of explaining the role and function of the union.

(m) This clause represents a compromise on the part of all parties and will not be used as a precedent in proceedings before industrial tribunals.

(n) The weekly wages payable to Trainees (ATS) Dairy Processing shall be determined by multiplying the appropriate junior rate as specified in Clause 8 Division A subclause 2 of this award by 39 (which represents the actual time spent on the job) and dividing that sum by 52.

The wage rates determined by this calculation shall in no case be less than the minimum rate prescribed by the Australian Traineeship System Guidelines. This figure is adjusted in accordance with National Wage Decisions.

37. WORKING GARMENTS

When an employee is required by his employer to wear a washable outer garment, such garment shall be provided by the employer.

CONDITIONS FOR EMPLOYEES IN DIVISION B - CLERKS

38. ANNUAL LEAVE

(a) Period of Leave

Day Workers

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

Annual leave shall be given at a time fixed by the employer within a period not exceeding six months from the date when the right to annual leave accrued.

PROVIDED that not less than four weeks notice shall be given to the employee that his annual leave is to be taken.

(c) Payment in Lieu Prohibited

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

(d) Proportionate Leave on Termination of Service

If after one month’s service in any twelve monthly period an employee lawfully leaves his employment, or his employment is terminated by the employer, except for neglect of duty or misconduct, the employee shall be paid thirteen and one third hours for each completed month of continuous service.

(e) Annual Leave Exclusive of Public Holidays

Should any of the holidays mentioned in Clause 41 – Holidays with Pay of this award, fall during an employee’s annual leave there shall be added to that leave one additional day or days for each such holiday so falling.

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.

(f) Payment for Period of Leave

(i) Each employee before going on leave shall be paid the amount of wages he would have received had he not been on leave during the relevant period or periods plus a loading equal to seventeen and one half per cent of the amount paid in respect of annual leave.

(ii) The loading prescribed in this subclause shall not apply to proportionate leave on termination of service.

39. CASUAL EMPLOYEES

Casual employees, i.e., employees who are employed for any period not exceeding five days at any one time, and whose employment is of a casual nature, shall be paid twenty per cent in addition to the rates herein prescribed.
40. 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.

41. GENERAL CONDITIONS

The provisions of the following clauses of Division A - Employees other than Clerks of this award, shall also apply to employees in this Division:

- Clause 11. Change Room and Ablution Facilities.
- 12. Compassionate Leave
- 15. Footwear
- 20. Meal Interval
- 24. Parental Leave
- 29. Right of Entry of Union Officials

41. 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) Where, consequent upon any visit to Australia by Her Majesty the Queen, or any other member of the Royal Family, a Public Holiday is proclaimed by the Governor in Council and gazetted by the Tasmanian Government under a State Act throughout the State or part thereof and under the Tasmanian Industrial Commission, such a day shall, within the definite locality, be deemed to be a holiday for the purposes of this award.
43. HOURS

The maximum number of ordinary working hours each week in respect of which the rates of wages hereinbefore determined shall be paid shall be forty, to be worked in five days of eight hours each, between the hours of 6.30am and 5.30pm, Monday to Friday inclusive.

44. MIXED FUNCTIONS

An employee engaged on a duty carrying a higher rate of pay than his ordinary classification shall be paid for such time worked in a period less than four hours at the higher rate of pay for the time so worked or where such time is worked for more than four hours in any one day, shall be paid for the time so worked.

45. OVERTIME

(a) For all time of duty outside the regular hours or before the time fixed for the commencing or, after the time fixed for finishing work, payment shall be made at the rate of time and a half for the first two hours and double time thereafter.

(b) In computing overtime, each day's work shall stand alone.

(c) An employee after the completion of overtime work performed after his usual ceasing time shall be entitled to be absent until he has had ten consecutive hours off duty, without deduction of pay for ordinary time of duty occurring during such absence.

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

46. PAYMENT OF WAGES

Payment of wages shall be made weekly or fortnightly not later than Friday in the given pay week and shall be made in the employer's time.

47. REST INTERVAL

Employees shall be allowed a rest interval of ten minutes during the first and second half of the day at the discretion of the employer.
48. SATURDAY WORK

For all time of duty on Saturday payment shall be made at the rate of time and one half for the first two hours and double time thereafter.

49. SICK LEAVE

(a) An employee, other than one engaged as a casual, who is 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

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

(ii) he shall, within forty eight hours of the commencement of such absence, inform the employer of his inability to attend for work, and as far as may be practicable state the nature of the illness or injury and the estimated duration of the absence;

(iii) he shall prove to the satisfaction of the employer (or in the event of a dispute, the Secretary for Labour) that he was unable on account of such illness or injury to attend for work on the day or days for which the sick leave is claimed;

(iv) he shall not be entitled in any year (whether in the employment of one employer or of more) to sick leave credit in excess of two weeks of ordinary working time;

(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 two weeks of the employee entering his employment, require an employee to make a sworn declaration or other written statement as to what paid leave of absence he has had from any employer during the then current year, and upon such statement the employer shall be entitled to rely and act.

(b) Sick leave shall accumulate from year to year so that any balance of the period specified in subclause (a)(iv) of this clause which has in any year not been allowed to an employee by an employer as paid sick leave, shall be credited to the employee and, subject to the conditions hereinbefore prescribed, shall be allowed by that employer in a subsequent year without diminution of the sick leave prescribed in respect of that year;

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

(a) For all time of duty on a Sunday, payment shall be made at the rate of double the ordinary rate.

(b) All work done on any of the holidays specified in Clause 41 - Holidays with Pay of this award shall be paid at the rate of double time and one half.

51. TERMINATION OF SERVICE

Employment shall be terminated by one week's notice or in the case of a casual, one hour's notice or, by the payment or forfeiture of one week's wages or, in the case of a casual, one hour's wages, as the case may be, but this shall not affect the right of an employer to dismiss an employee without notice for misconduct or neglect of duty in which case wages shall be payable up to the time of dismissal only.

52. TRAINEE CLERK (AS DEFINED)

(a) Trainee Clerk (as defined) shall be engaged for a period of twelve months as a full time employee.

PROVIDED that a trainee shall be subject to a satisfactory probation period of up to one month.

(b) Where possible traineeship positions should be additional to normal staff numbers provided that no existing weekly employees shall be displaced by a trainee.

(c) A trainee clerk (as defined) will receive on-the-job training by the employer as specified in the training agreement (as defined) and off-the-job training will be provided by a training institution/organisation approved by the Training Authority of Tasmania.

(d) The employer agrees that the overall training program will be monitored by officers of the Training Authority of Tasmania and training record books may be used as part of this monitoring process.

(e) Time spent off-the-job training shall be allowed without loss of continuity of employment.

(f) Where an employer continues the employment of a trainee clerk (as defined) after completion of the "traineeship period", such "traineeship period" shall be counted as service for the purpose of the award.

(g) Under normal circumstances overtime shall not be worked by trainees. However, when during a training period in a particular section, overtime is involved in the
operation of that section, overtime may be worked by the trainees. Where overtime is worked the normal allowances and penalty rates shall apply.

(h) The union shall be afforded reasonable access to trainees for the purpose of explaining the role and functions of the union.

(i) Trainees shall not perform higher duties unless in the course of their traineeship.

(j) Trainees shall be exempt from action in respect of industrial disputes. However the employer shall observe the provisions determined by the Training Authority of Tasmania in respect of the use of trainee clerks (as defined) in the time of industrial disputes.

A. Robinson

DEPUTY PRESIDENT

31 August 1993