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TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T.1135 of 1988	**IN THE MATTER OF** AN APPLICATION BY THE TASMANIAN PUBLIC SERVICE ASSOCIATION TO VARY NOMINATED PUBLIC SECTOR AWARDS IN LINE WITH THE NATIONAL WAGE CASE DECISION OF 5 FEBRUARY 1988
	AND
T.1136 of 1988	**IN THE MATTER** OF AN APPLICATION BY THE TASMANIAN TRADES AND LABOR COUNCIL TO VARY AWARDS AND AGREEMENTS IN LINE WITH THE NATIONAL WAGE CASE DECISION OF 5 FEBRUARY 1988
	AND
T.1151 of 1988	**IN THE MATTER** OF AN APPLICATION BY THE AUSTRALIAN RAILWAYS' UNION (TASMANIAN BRANCH) TO VARY THE EMU BAY RAILWAY AWARD IN LINE WITH THE NATIONAL WAGE CASE DECISION OF 5 FEBRUARY 1988

ORDER -

No. 1 of 1988
(Consolidated)

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

P053

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1. TITLE

This award shall be known as the "Printers' Award".

2. SCOPE

This award is established in respect of Printer and/or Bookbinder.

3. ARRANGEMENT

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4. DATE OF OPERATION

This award shall come into operation as from the beginning of the first full pay period commencing on or after 5 February 1988.

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

5. SUPERSESSION AND SAVINGS

This award incorporates and supersedes No. 1 of 1987 (Consolidated).

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

6. PARTIES AND PERSONS BOUND

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

(a) all employers (whether members of a Registered Organisation or not) who are engaged in the industry specified in Clause 2 - Scope;

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

(c) the Federated Clerks' Union of Australia (Tasmanian Branch) and the Officers of that organisation and their members engaged in the industry specified in Clause 2 - Scope;

(d) the Printing and Kindred Industries Union (Tasmania Branch) and the Officers of that organisation and their members employed in the industry specified in Clause 2 - Scope;

(e) the Printing and Allied Trades Employers' Federation of Australia and the Officers of that organisation and their members engaged in the industry specified in Clause 2 - Scope;

(f) the Tasmanian Chamber of Industries;

(g) the Tasmanian Trades and Labor Council.

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7. DEFINITIONS

(a) **'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.

8. WAGE RATES

DIVISION A - EMPLOYEES OTHER THAN CLERKS

1. RATES OF PAY

(a) The rates of pay of employees engaged in the printing industry other than those mentioned in Division B - Clerks, shall be in accordance with those prescribed in the following awards made by the Australian Conciliation and Arbitration Commission:

(i) Graphic Arts Award, 1957, within a radius of 24.14 km of the G.P.O., Hobart;

(ii) Country Printing Award, 1959, all areas other than those within a 24.14 km radius of the G.P.O., Hobart.

(b) Any disputes arising in respect of the provisions of subclause (a) of this clause, shall be referred to the Tasmanian Industrial Commission whose decision shall be final.

DIVISION B - CLERKS

1. CLERKS EMPLOYED IN THE OFFICES OF THE PROPRIETORS OF NEWSPAPERS

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

		Amount Per Week $
(a)	First year's adult experience	249.60
	Second year's adult experience	269.40
	Third year's adult experience	295.10
	Fourth year's adult experience	308.00
	Fifth year's adult experience	320.10
(b)	Senior Clerk (i)	327.80

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(c)	A clerk who is in charge of and responsible for the work of:		
	(i)	5 or more employees	350.20
	(ii)	3 or 4 employees	335.20
	(iii)	2 employees	327.80
(d)	Senior Clerk (ii)		350.20
(e)	Chief Clerk		398.80

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

2. CLERKS OTHER THAN THOSE EMPLOYED IN THE OFFICES OF THE PROPRIETORS OF NEWSPAPERS

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

		Amount Per Week $
(a)	First year's adult experience	249.60
	Second year's adult experience	269.40
	Third year's adult experience and thereafter	295.10
(b)	An accountant or chief clerk wholly responsible for the office work and who prepares the balance sheet and profit and loss account	398.80
(c)	A clerk who is in charge of and responsible for the work of:	
	(a) 5 or more employees	350.20
	(b) 3 or 4 employees	335.20
	(c) 2 employees	327.80

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

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3. JUNIORS

(a) The minimum rates of wages that may be paid to junior clerks employed in offices of the proprietors of newspapers or, other than those employed in the offices of proprietors of newspapers shall be the undermentioned percentages of the second year adult rate prescribed in subclauses 1 and 2 of this Division adjusted to the nearest 10 cents.

	Percentage of Second Year Adult Rate %	Amount Per Week $
Under 16 years of age	40	107.80
16 to 17 years of age	45	121.20
17 to 18 years of age	55	148.20
18 to 19 years of age	70	188.60
19 to 20 years of age	80	215.50
20 to 21 years of age	90	242.50

(b) Proviso

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

4. ADDITIONAL PAYMENTS

In addition to the weekly rates prescribed in subclauses 1, 2 and 3 of this Division the following additional amounts per week shall be paid to female stenographers, audio-typists, teletypists, accounting machine, computer, data processing, tabulating machine, card punch and verifier operators.

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

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3. MINIMUM WAGE

(a) Notwithstanding the provisions of subclauses 1 and 2 of this Division, no adult employee shall be paid less than the rate of $214.70 per week.

(b) Provided that payments for overtime, holiday and weekend penalties prescribed in this award shall not be taken into account in the calculation of such minimum weekly rate of wage.

Where a minimum rate of pay as aforesaid is applicable to an employee for work in ordinary hours, the same rate shall be applicable to the calculation of overtime and all other penalty rates payments during sick leave and annual leave and for all other purposes of this award.

CONDITIONS FOR EMPLOYEES IN DIVISION A - EMLOYEES OTHER THAN CLERKS

9. CONDITIONS

(a) The conditions of employment of employees engaged in the Printing Industry, other than those mentioned in Division B shall be in accordance with those prescribed in the following awards made by the Australian Conciliation and Arbitration Commission:

(i) Graphic Arts Award, 1957, within a radius of 24.14 km of the G.P.O., Hobart.

(ii) Country Printing Award, 1959, all areas other than those within a 24.14 km radius of the G.P.O., Hobart.

(b) Any disputes arising in respect of the provisions of subclause (a) of this clause, shall be referred to the Tasmanian Industrial Commission whose decision shall be final.

CONDITIONS FOR EMPLOYEES IN DIVISION B - CLERKS

10. ANNUAL LEAVE

(a) Period of Leave

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

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(b) Annual Leave Exclusive of Public Holidays

If any of the holidays prescribed by Clause 16 - Saturdays, Sundays and Holidays of this award, falls within an employees' period of annual leave and is observed on a day which, in-the case of that employee, would have been an ordinary working day, there shall be added to that leave, one day for each such holiday so occurring.

(c) Payment in Lieu Prohibited

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

(d) Time of Taking Leave

Annual leave shall be given at a time fixed by the employer within a period not exceeding 6 months from the date when the right to annual leave accrued and after not less than 2 weeks' notice to the employee.

(e) Payment for Period of Leave

All employees, before going on annual leave, shall be paid the amount of wages they would have received in respect of the ordinary time they would have worked had they not been on leave during the relevant period. In addition thereto all employees, shall be paid an amount equivalent to the minimum wage as prescribed in Clause 8 - Wage Rates, Division B - Clerks, subclause 5 - Minimum Wage.

(f) Leave Allowed before Due Date

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

Where leave has been granted to an employee pursuant to this subclause before the right thereto has accrued due and the employee subsequently leaves or is discharged from the service of the employer before completing the 12 months' continuous service in respect of which the leave was granted, the employer may, for each completed month of the qualifying period of 12 months not served by the employee, deduct from whatever remuneration is payable upon the termination of the employment 1/12th of the amount of wage paid on account of the annual leave which amount shall not include any sums paid for any of the holidays prescribed by Clause 16 - Saturdays, Sundays and Holidays of this award.

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(g) Proportionate Leave on Termination of Service

If after 3 completed months of service in any qualifying 12 monthly period an employee lawfully leaves his employment, or his employment is terminated by the employer through no fault of the employee the employee shall be paid at his ordinary rate of wage as follows:

13 1/3 hours for each completed month of continuous service.

The service being in respect of which leave has not been granted.

11. COMPASSIONATE LEAVE

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

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

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

12. EXPERIENCE

The experience referred to in Clause 8 - Wage Rates Division B - Clerks subclauses 1 and 2 of this award, may be gained in the office of any employer.

13. HOURS

The number of ordinary working hours shall be 40 per week to be worked in periods of 8 hours per day between 8 a.m. and 10 p.m.

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14. MATERNITY LEAVE

(a) Eligibility for Maternity Leave

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

For the purposes of this clause:

(i) an employee shall include a part-time employee but shall not include an employee engaged upon casual or seasonal work;

(ii) maternity leave shall mean unpaid maternity leave.

(b) Period of Leave and Commencement of Leave

(i) Subject to subclauses (c) and (f) of this clause the period of maternity leave shall be for an unbroken period of from 6 to 52 weeks and shall include a period of 6 weeks compulsory leave to be taken immediately following confinement.

(ii) An employee shall, not less than 10 weeks prior to the presumed date of confinement, give notice in writing to her employer stating the presumed date of confinement.

(iii) An employee shall give not less than 4 weeks' notice in writing to her employer of the date upon which she proposes to commence maternity leave stating the period of leave to be taken.

(iv) An employer by not less than 14 days' notice in writing to the employee may require her to commence maternity leave at any time within 6 weeks immediately prior to her presumed date of confinement.

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

(c) Transfer to a Safe Job

Where in the opinion of a duly qualified medical practitioner, illness or risks arising out of the pregnancy or hazards connected with the work assigned to the employee make it inadvisable for the employee to continue at her present work, the employee shall, if the employer deems it practicable, be transferred to a safe job at the rate and on the conditions attaching to that job until the commencement of maternity leave.

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If the transfer to a safe job is not practicable, the employee may, or the employer may require the employee to, take leave for such period as is certified necessary by a duly qualified medical practitioner. Such leave shall be treated as maternity leave for the purposes of subclauses (g), (h), (i) and (j) of this clause.

(d) Variation of Period of Maternity Leave

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

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

(e) Cancellation of Maternity Leave

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

(ii) Where the pregnancy of an employee then on maternity leave terminates other than by the birth of a living child, it shall be the right of the employee to resume work at a time nominated by the employer which shall not exceed 4 weeks from the date of notice in writing by the employee to the employer that she desires to resume work.

(f) Special Maternity Leave and Sick Leave

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

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

(b) for illness other than the normal consequences of confinement she shall be entitled, either in lieu of or in addition to special maternity leave, to such paid sick leave as to which she is then entitled and which a duly qualified medical practitioner certifies as necessary before her return to work.

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(ii) Where an employee not then on maternity leave suffers illness related to her pregnancy, she may take such paid sick leave as to which she is then entitled and such further unpaid leave (to be known as special maternity leave) as a duly qualified medical practitioner certifies as necessary before her return to work, provided that the aggregate of paid sick leave, special maternity leave and maternity leave shall not exceed 52 weeks.

(iii) For the purposes of subclauses (g), (h) and (i) of this clause maternity leave shall include special maternity leave.

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

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

(g) Maternity Leave and Other Leave Entitlements

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

(i) an employee may, in lieu of or in conjunction with maternity leave, take any annual leave or any part thereof to which she is then entitled;

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

(h) Effect of Maternity Leave on Employment

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

(i) Termination of Employment

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

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

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(j) Return to Work After Maternity Leave

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

(ii) An employee, upon expiration of the notice required by paragraph (i) hereof, shall be entitled to the position which she held immediately before proceeding on maternity leave or, in the case of an employee who was transferred to a safe job pursuant to subclause (c) of this clause to the position which she held immediately before such transfer. Where such position no longer exists but there are other positions available for which the employee is qualified and the duties of which she is capable of performing, she shall be entitled to a position as nearly comparable in status and salary or wage to that of her former position.

(k) Replacement Employees

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

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

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

(iv) Provided that nothing in this subclause shall be construed as requiring an employer to engage a replacement employee.

(v) A replacement employee shall not be entitled to any of the rights conferred by this clause except where her employment continues beyond the 12 months' qualifying period.

15. OVERTIME

All duty performed in excess or outside the ordinary working hours shall be overtime and shall be paid for at the rate of time and a half for the first 4 hours and double time thereafter. Provided that each day's work shall stand alone.

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16. SATURDAYS, SUNDAYS AND HOLIDAYS

(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), the first Monday in November (where Hobart Regatta Day is not observed), Christmas Day and Boxing Day.

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

(c) Employees required to work on Saturdays shall be paid at the rate of time and a half, and employees required to work on Sundays and public holidays mentioned in subclause (a) above shall be paid at the rate of double time.

17. 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 48 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 2 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 2 weeks of the employee entering his employment, require an employee to make a sworn declaration or other written statement as to what paid leave of absence he has had from any employer during the then current year, and upon such statement the employer shall be entitled to rely and act.

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(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.

18. TEMPORARY CLERKS

A 'Temporary Clerk', male or female, i.e., a clerk employed for less than one week, shall be paid 12 1/2 per cent more than the rates above set out for males or females as the case may be.

R.J. Watling
COMMISSIONER

1 March 1988