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TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

CORRECTION ORDER

WHEREAS an error occurred in the order giving effect to the Commission's decisions of 26 July 1988 and 2 August 1988 (T.908, T.909, T.910, T.924, T.925 and T.926 of 1987 and T.1433 and T.1458 of 1988) to vary the **WELFARE AND VOLUNTARY AGENCIES AWARD** in relation to miscellaneous amendments and 4% second tier increase, pursuant to Section 21(2)(1) the Commission hereby corrects Orders No. 2 of 1988, No. 3 of 1988 and No. 5 of 1988.

1. Delete from Division C, the whole of Clause 52 - Board and Lodging, and insert in lieu thereof the following:

"52. BOARD AND LODGING

The amount that may be deducted from the wages herein prescribed for board and lodging shall be up to a maximum of \$26.60 per week per adult.

The rate prescribed herein shall only be increased directly in line with the level of any general wage increase applied to the classification as set out in Clause 8, Division C."

2. Insert in Division C, Clause 62 - Hours of Work, the following subclauses (d) and (e):

"(d) In reaching agreements in accordance with subclause (c) hereof there should be an objective review of current work practices to establish where improvement can be made and implemented. These reviews shall be ongoing.

(e) Where the method of implementation of the 38-hour week provides for a day off in a particular work cycle the following shall apply:

(i) Such days off may be taken as mutually agreed between the employer and the employee concerned.

(ii) An employee shall not be entitled to more than twelve rostered days off in any twelve month period.

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- (iii) The day may be worked as an ordinary working day without penalty if substituted by another day 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 concerned."

3. Delete from Division C, the whole of Clause 66 - Mixed Functions, and insert in lieu thereof the following:

"66. MIXED FUNCTIONS

An employee engaged continuously for 3 hours or more on one day on duties carrying a higher rate than the employee's ordinary classification shall be paid the higher rate.

An employee engaged continuously for less than 3 hours of one day on duties carrying a higher rate than the employee's ordinary classification shall be paid the higher rate for the time so worked (provided that the aggregate time so worked shall exceed 3 hours in any one week).

The higher rate of pay prescribed by this clause shall not apply in the case of an employee relieving another employee of a higher paid classification where time off from duty arises out of the method of implementation of the 38-hour working week."

4. Delete from Division C, Clause 70 - Payment of Wages, subclause (i), and insert in lieu thereof the following:

"(i) Method of Payment

Payment of wages may as the employer so nominates be paid in cash, by cheque or electronic fund transfer into the employee's nominated account without the requirement of the employer to provide encashment facilities."

5. Delete from Division C, Clause 81 - Sick Leave, subclause (a), paragraphs (ii) and (iii), and insert in lieu thereof the following:

- "(ii) the employee shall, where possible, before the commencement of the shift or usual starting time of work, inform the employer of his/her inability to attend for work and as far as may be practicable state the nature of the illness or injury and estimated duration of the absence;

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- (iii) the employee shall prove to the satisfaction of the employer (or in the event of a dispute, the Tasmanian Industrial Commission) that he/she 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 or due to special circumstances was reasonably unable to notify the employer of such absence prior to the commencement of the shift or usual starting time of work and in such special circumstances the employee shall in any event notify the employer of such absence within 24 hours from the commencement of the shift or usual starting time of work;"

6. Insert in Division C, Clause 84 - Terms of Employment, the following new subclause:

- "(e) All employees, in the first two weeks of employment with the relevant employer, shall be engaged on an hourly basis and during the period of two weeks the employment may be terminated by either party giving one hour's notice or the forfeiture of one hour's wages as the case may be. This does not affect the right of the employer to dismiss an employee without notice in the case of serious misconduct or neglect of duty, and in such cases wages shall be paid up to the time of dismissal only.

For the purpose of this provision the hourly rate shall be calculated by dividing the relevant classification rate by 38.

This provision shall apply to full-time, part-time and casual employees.

This subclause shall apply in lieu of any part of this award providing contrary provisions."

7. Delete from Division D, Clause 99 - Hours of Work, subclause (a), and insert new subclauses (a) and (b) and reletter subsequent subclauses respectively:

- "(a) Subject to the method of implementation of hours of work, the ordinary hours of work per week in respect for which rates of wages are fixed by this award, shall not exceed an average of 38 per week to be worked in not more than the number of hours determined per day between 6.00am and 7.00pm, subject to the provisions of subclause (b), Monday to Friday inclusive and subject to one of the following methods of implementation:
 - (i) by employees working less than 8 ordinary hours each day; or
 - (ii) by employees working less than 8 ordinary hours on one or more days each week; or

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- (iii) by fixing one day or part of a day or days in which all employees will be off during a particular work cycle; or
 - (iv) by rostering employees off on various days of the work cycle so that each employee has one day off or part of a day or days off during that cycle; or
 - (v) by accruing an entitlement to rostered days off to a maximum of 12 days and thereby averaging 38 hours over a particular work cycle not exceeding 12 months.
- (b) In establishing the spread of hours in accordance with subclause (a) hereof, the employer shall nominate any spread of hours of no more than 11 hours between 6.00am and 7.00pm, Monday to Friday inclusive.

The spread of hours so nominated, in the absence of agreement between the employer and the majority of employees concerned, shall not be amended unless the employer gives 4 weeks notice of such change, to the employees concerned."

8. Delete from Division D, the whole of Clause 103 - Mixed Functions, and insert in lieu thereof the following:

"103. MIXED FUNCTIONS

An employee engaged continuously for 3 hours or more on one day on duties carrying a higher rate than the employee's ordinary classification shall be paid the higher rate.

The higher rate of pay prescribed by this clause shall not apply in the case of an employee relieving another employee of a higher paid classification where time off from duty arises out of the method of implementation of the 38-hour working week."

9. Delete from Division D, Clause 107 - Payment of Wages, subclause (i), and insert in lieu thereof the following:

"(i) Method of Payment

Payment of wages may as the employer so nominates be paid in cash, by cheque or electronic fund transfer into the employee's nominated account without the requirement of the employer to provide encashment facilities."

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10. Delete from Division D, Clause 114 - Sick Leave, subclause (a), paragraphs (ii) and (iii) and insert in lieu thereof the following:

- "(ii) the employee shall, where possible, before the commencement of the shift or usual starting time of work, inform the employer of his/her inability to attend for work and as far as may be practicable state the nature of the illness or injury and estimated duration of the absence;
- (iii) the employee shall prove to the satisfaction of the employer (or in the event of a dispute, the Tasmanian Industrial Commission) that he/she 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 or due to special circumstances was reasonably unable to notify the employer of such absence prior to the commencement of the shift or usual starting time of work and in such special circumstances the employee shall in any event notify the employer of such absence within 24 hours from the commencement of the shift or usual starting time of work;"

11. Insert in Division D, Clause 116 - Terms of Employment, the following new subclause:

- "(e) All employees, in the first two weeks of employment with the relevant employer, shall be engaged on an hourly basis and during the period of two weeks the employment may be terminated by either party giving one hour's notice or the forfeiture of one hour's wages as the case may be. This does not affect the right of the employer to dismiss an employee without notice in the case of serious misconduct or neglect of duty, and in such cases wages shall be paid up to the time of dismissal only.

For the purpose of this provision the hourly rate shall be calculated by dividing the relevant classification rate by 38.

This provision shall apply to full-time, part-time and casual employees.

This subclause shall apply in lieu of any part of this award providing contrary provisions."

12. Insert in Division E, Clause 121 - Annual Leave, the following new subclause:

- "(k) Close Down

The previous subclauses shall not apply to an employer who elects to allow his/her employees school holidays each year, provided that he/she:

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- (i) provides such employees with not less than 10 full weeks annual leave per calendar year;
- (ii) pays them for such leave at a rate of not less than two thirds of their normal rate of pay;
- (iii) pays them an additional amount at the appropriate rate of pay for any day during such leave period on which they come to work."

13. Delete from Division E, Clause 131 - Hours of Work, subclause (a), and insert new subclauses (a) and (b) and reletter subsequent subclauses respectively:

- "(a) Subject to the method of implementation of hours of work, the ordinary hours of work per week in respect for which rates of wages are fixed by this award, shall not exceed an average of 38 per week to be worked between 5.30am and 7.00pm, subject to the provisions of subclause (b), Monday to Friday inclusive and subject to one of the following methods of implementation:
- (i) by employees working less than 8 ordinary hours each day; or
 - (ii) by employees working less than 8 ordinary hours on one or more days each week; or
 - (iii) by fixing one day or part of a day or days 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 to a maximum of 12 days and thereby averaging 38 hours over a period not exceeding 12 months.
- (b) In establishing the spread of hours in accordance with subclause (a) hereof, the employer shall nominate any spread of hours of no more than 11 and one half hours between 5.30am and 7.00pm, Monday to Friday inclusive.

The spread of hours so nominated, in the absence of agreement between the employer and the majority of employees concerned, shall not be amended unless the employer gives 4 weeks notice of such change, to the employees concerned."

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14. Delete from Division E, the whole of Clause 135 - Mixed Functions, and insert in lieu thereof the following:

"135. MIXED FUNCTIONS

An employee engaged continuously for 3 hours or more on one day on duties carrying a higher rate than the employee's ordinary classification shall be paid the higher rate.

An employee engaged continuously for less than 3 hours of one day on duties carrying a higher rate than the employee's ordinary classification shall be paid the higher rate for the time so worked (provided that the aggregate time so worked shall exceed 3 hours in any one week).

The higher rate of pay prescribed by this clause shall not apply in the case of an employee relieving another employee of a higher paid classification where time off from duty arises out of the method of implementation of the 38-hour working week."

15. Delete from Division E, Clause 139 - Payment of Wages, subclause (i) and insert in lieu thereof the following:

"(i) Method of Payment

Payment of wages may as the employer so nominates be paid in cash, by cheque or electronic fund transfer into the employee's nominated account without the requirement of the employer to provide encashment facilities."

16. Delete from Division E, Clause 146 - Sick Leave, subclause (a), paragraphs (ii) and (iii), and insert in lieu thereof the following:

"(ii) the employee shall, where possible, before the commencement of the shift or usual starting time of work, inform the employer of his/her inability to attend for work and as far as may be practicable state the nature of the illness or injury and estimated duration of the absence;

(iii) the employee shall prove to the satisfaction of the employer (or in the event of a dispute, the Tasmanian Industrial Commission) that he/she 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 or due to special circumstances was reasonably unable to notify the employer of such absence prior to the commencement of the shift or usual starting time of work and in such special circumstances the employee shall in any event notify the employer of such absence within 24 hours from the commencement of the shift or usual starting time of work;"

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17. Insert in Division E, Clause 148 - Terms of Employment, the following new subclause:

"(e) All employees, in the first two weeks of employment with the relevant employer, shall be engaged on an hourly basis and during the period of two weeks the employment may be terminated by either party giving one hour's notice or the forfeiture of one hour's wages as the case may be. This does not affect the right of the employer to dismiss an employee without notice in the case of serious misconduct or neglect of duty, and in such cases wages shall be paid up to the time of dismissal only.

For the purpose of this provision the hourly rate shall be calculated by dividing the relevant classification rate by 38.

This provision shall apply to full-time, part-time and casual employees.

This subclause shall apply in lieu of any part of this award providing contrary provisions."

R.K. Gozzi
COMMISSIONER

21 October 1988