

This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T.2222 of 1989

IN THE MATTER OF AN APPLICATION BY THE HOSPITAL EMPLOYEES FEDERATION OF AUSTRALIA, TASMANIA BRANCH TO VARY THE MEDICAL PRACTITIONERS (PRIVATE SECTOR) AWARD

T.2618 of 1990

IN THE MATTER OF AN APPLICATION BY THE TASMANIAN CONFEDERATION OF INDUSTRIES TO VARY THE MEDICAL PRACTITIONERS (PRIVATE SECTOR) AWARD

T.2668 of 1990

IN THE MATTER OF AN APPLICATION BY THE AUSTRALIAN NURSING FEDERATION, TASMANIAN BRANCH TO VARY THE MEDICAL PRACTITIONERS (PRIVATE SECTOR) AWARD

RE: 3% OCCUPATIONAL SUPERANNUATION

ORDER -

**No. 4 of 1990
(Consolidated)**

AMEND THE MEDICAL PRACTITIONERS (PRIVATE SECTOR) AWARD BY DELETING ALL CLAUSES CONTAINED THEREIN AND INSERT IN LIEU THEREOF THE FOLLOWING:

This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.

1. TITLE

This award shall be known as the "Medical Practitioners (Private Sector) Award".

2. SCOPE

This award is established in respect of the industry of a Medical Practitioner registered under the Medical Act 1959 and engaged in private practice.

3. ARRANGEMENT

<u>SUBJECT MATTER</u>	<u>CLAUSE NO.</u>
Title	1
Scope	2
Arrangement	3
Date of Operation	4
Supersession and Savings	5
Parties and Persons Bound	6
Definitions	7
Wage Rates	8
Annual Leave	9
Breakages	10
Casual Employees	11
Compassionate Leave	12
Contract of Employment	13
Deduction of Union Subscriptions	14
Holidays with Pay	15
Hours of Duty	16
Maternity Leave	17
Meal Allowance	18
Meal and Rest Period	19
Occupational Superannuation	20
Overtime	21
Part-time Employees	22
Payment of Wages	23
Preference of Employment	24
Reference of Disputes	25
Saturday, Sunday and Holiday Work	26
Sick Leave	27
Time and Wages Record	28
Tools of Trade	29
Trainee Clerk (As Defined)	30
Uniforms	31

This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.

4. DATE OF OPERATION

This award shall come into operation from the 15 September 1990.

PROVIDED that it is a term of this award (arising from the decision of the Tasmanian Industrial Commission in the State Wage Case of 30 October 1989) that the unions undertake, for the duration of the principles determined by that decision, not to pursue any extra claims, award or overaward, except where consistent with those principles.

5. SUPERSESION AND SAVINGS

This award incorporates and supersedes No. 1 of 1990 - Consolidated and No. 2 and No. 3 of 1990.

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 Nursing Federation, Tasmanian Branch and the officers of that organisation and their members employed in the industry specified in Clause 2 - Scope; and
 - (ii) The Hospital Employees Federation of Australia, Tasmania Branch and the officers of that organisation and their members employed in the industry specified in Clause 2 Scope.
 - (iii) The Federated Clerks Union of Australia, Tasmanian Branch and the officers of that organisation and their members employed in the industry specified in Clause 2 - Scope.
- (d) the following organisations of employers in respect of whom award interest has been determined:
 - (i) the Tasmanian Confederation of Industries.

This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.

7. DEFINITIONS

For the purposes of this award:

1. **'Casual Employee'** means one engaged and paid as such, but whose term of engagement shall not exceed 5 days at any one time.
2. **'Clerk'** means an adult employee who is engaged to perform duties which are of a strictly clerical nature and do not come within the scope of classifications 'Registered Nurse', 'Surgery Attendant' and 'Secretary'.
3. **'Medical Scientist'** means a person employed as such who holds qualifications acceptable for corporate membership of the Australian Institute of Medical Technologists, and who is engaged on professional medical technology duties.
4. **'Part-Time Employee'** is
 - (a) an employee who is engaged for less than 20 hours per week, or
 - (b) an employee who is engaged as such by the week and paid to work 20 hours or more per week but not exceeding 40 hours per week.
5. **'Radiographer'** means a person employed as such who holds the Diploma of Membership of the Australian Institute of Radiography, or its equivalent and has been engaged on full-time duties as a radiographer trainee for a minimum of 3 years under the direction of a qualified radiographer or a full time radiologist.
6. **'Registered Auxiliary Nurse, one year trained and 2 year trained'** means an employee appointed as such and who is registered under the provisions of the Tasmanian Auxiliary Nursing Act, 1949.
7. **'Registered Nurse'** means a nurse who is registered with the Nurses Registration Board and is the holder of a current general nursing certificate.
8. **'Secretary'** means an adult employee who has had not less than 2 years' experience in a doctor's surgery and whose duties include the forwarding of accounts, banking of moneys and who is in charge of the book-keeping system.
9. **'Senior Technical Assistant Laboratory'** means a person employed as such who carries out routine laboratory tests either under indirect supervision or for the majority of his/her employment.
10. **'Service'** means service in a doctor's surgery within the employee of one employer or of several.

This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.

11. **'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.
12. **'Surgery Attendant'** means an adult employee (other than a registered nurse) who performs the duties of a receptionist and/or the keeping of the appointment book, clerical work associated with the forwarding of accounts, the receipt and banking of moneys and attending to patients and other general duties in a doctor's surgery.
13. **'Technical Assistant Laboratory'** means a person employed as such in a pathology laboratory who in addition to assisting in laboratory procedures carries out routine laboratory tests under supervision.
14. **'Trainee Clerk'** means a person employed by the employer under the terms of the Australian Traineeship System and any agreements attached thereto.
15. **'Training Agreement'** shall mean an agreement registered under the provisions of the Industrial and Commercial Training Act 1985.

8. WAGE RATES

1. WAGES

Employees of a classification mentioned herein shall be paid not less than the amount assigned to that classification.

SUBDIVISION A - REGISTERED NURSING STAFF

Classification	Amount Per Week of 40 Hours \$
1. Registered Nurse (as defined) -	
1st year of service	369.20
2nd year of service	382.10
3rd year of service	387.10
4th year of service	398.90
5th year of service and thereafter	411.60
2. Registered Auxiliary Nurse (as defined) -	
One Year Trained	
1st and 2nd year of service	348.90
3rd year of service and thereafter	354.80

This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.

Two Year Trained	
1st and 2nd year of service	354.80
3rd year of service and thereafter	361.30

SUBDIVISION B - ANCILLARY AND CLERICAL STAFF

Classification	Amount Per Week of 40 Hours \$
1. Surgery Attendant (as defined) -	
1st year of service	293.20
2nd year of service	317.80
3rd year of service	341.30
4th year of service	358.60
5th year of service and thereafter	377.40
2. Secretary (as defined) -	
1st year of service	341.30
2nd year of service	358.60
3rd year of service and thereafter	377.40
3. Cleaners	315.50
4. Clerk -	
1st year's adult experience	273.90
2nd year's adult experience	299.00
3rd year's adult experience and thereafter	332.30
	Amount Per Week of 37 1/2 Hours \$
5. Radiographer -	
1st year of service	408.90
2nd year of service	424.20
3rd year of service	440.60
4th year of service	457.10
5th year of service and thereafter	473.70

This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.

6.	Medical Scientist -	
	1st year of service	417.80
	2nd year of service	428.30
	3rd year of service	444.70
	4th year of service	471.00
	5th year of service	500.30
	6th year of service	534.90
	7th year of service	569.60
	8th year of service	594.10
	9th year of service and thereafter	613.90
		Amount Per Week of 40 Hours
7.	Technical Assistant - Laboratory -	\$
	1st year of service	346.70
	2nd year of service	350.10
	3rd year of service	353.50
	4th year of service and thereafter	356.30
8.	Senior Technical Assistant - Laboratory -	
	1st year of service	361.30
	2nd year of service	372.60
	3rd year of service	381.50
	4th year of service and thereafter	390.30
9.	Clerk/Driver	332.40

Proviso

When determining the amount 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 which awards of the Tasmanian Industrial Commission relating to private industry employees are established, experience obtained after reaching the age of 18 years shall be counted as adult experience.

2. MINIMUM WAGE

- (a) Notwithstanding the provisions of subclause 1 hereof, no adult employee shall be paid less than the rate of \$241.10 per week.
- (b) Provided that payments for overtime, and weekend penalties, prescribed in this award shall not be taken into account in the calculation of such minimum weekly rate of wage.

This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.

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.

3. JUNIORS

The minimum rates of wages that may be paid to junior employees shall be the undermentioned percentages of the wage rate prescribed for a surgery attendant in her 1st year of service (classification 1, subclause 1, Subdivision B – Ancillary and Clerical Staff of this clause).

	%
Under 17 years of age	50
17 years of age	60
18 years of age	70
19 years of age	80
20 years of age	90

Provided that when determining the amount payable to an employee attaining the age of 21 years, who has been employed under this award, as a junior, experience obtained after reaching the age of 18 years shall be counted as adult experience.

4. ALLOWANCES

- (a) Typing and/or stenography - Any employee classified under items 1 and 2, Subdivision A - Registered Nursing Staff or 3 and 4, Subdivision B - Ancillary and Clerical Staff of subclause 1 of this clause, who performs the duties of a typist, and who holds a certificate of proficiency from a registered business college, or who attains a standard of proficiency which will enable her to process medical reports and documents to the satisfaction of the employer shall be paid an additional amount of \$4.90 per week.
- (b) For an employee who, without aid, serves more than one part-time doctor, an additional amount of \$3.90 per week shall be paid, provided that an employee serving more than one full-time doctor shall be paid an additional amount of \$6.70 per week.
- (c) A registered nurse required to make use of additional certificates shall, whilst employed by a doctor practising in that field, be paid an additional amount of \$7.00 per week.
- (d) The payments prescribed in this clause shall be made in a manner so that they do not exceed the amount of \$16.90 per week in the aggregate.

This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.

5. TRAINEE CLERKS (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 as prescribed in subclause 3 of Clause 8 of this award then multiplying it by 39 (which represents the actual number of weeks spent on the job) and dividing it by 52.

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 Traineeship System Guidelines.

PROVIDED ALWAYS that the Trainee Clerk (as defined) wage rate shall be calculated in multiples of ten (10) cents with any result of five (5) cents or more being taken to the next ten (10) cents.

9. ANNUAL LEAVE

(a) Period of Leave -

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

(b) Payment for period of leave -

(i) All employees before going on annual leave other than casual or part-time employees working less than 20 hours per week who attract a 20% loading in lieu of annual leave, sick leave and public holidays as mentioned in Clause 11 - Casual Employees and Clause 22(b) - Part-Time Employees, 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.

(ii) In addition thereto, all full time employees shall be paid an amount equivalent to the minimum wage as prescribed in subclause 2 of clause 8.

(iii) Part-Time Employees (as defined) who work 20 hours or more a week shall have an entitlement based on the average weekly hours worked in the previous 3 months divided by 40 multiplied by the minimum wage.

(c) Proportionate leave on termination of service -

A weekly employee who lawfully leaves the employment or who is dismissed, except for misconduct or neglect of duty, shall be paid 13 1/3 hours for each completed month of continuous service.

This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.

10. BREAKAGES

Except in cases of proved carelessness, an employee shall not be required to pay for any breakages occurring in the ordinary course of her specified duties.

11. CASUAL EMPLOYEES

- (a) The minimum rates that may be paid to casual employees shall be one-fortieth of the weekly rate mentioned in subclause 1 of clause 8 hereof, and in addition thereto 20 per centum.
- (b) Unless otherwise mutually arranged to the contrary, a casual employee other than a cleaner, shall be paid as for a minimum of 4 hours work on any one day.

12. COMPASSIONATE LEAVE

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

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

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

13. CONTRACT OF EMPLOYMENT

With the exception of employees engaged as specified in Clause 11 - Casual Employees hereof, all employment shall be by the week and the employment of an employee will not be terminated except for misconduct or neglect of duty which would justify instant dismissal without at least one week's notice being given by the employer to the employee and the employee shall likewise give to the employer one week's notice of his intention to terminate his employment. If one week's notice be not given by the employer or employee, one week's wages shall be paid or forfeited as the case may be.

This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.

An employee shall be entitled to receive on request a reference on termination of services. Such reference shall contain at least the commencing and finishing dates of service and shall become the absolute property of the employee. Any prospective or future employer shall return the reference to the employee within 7 days of having received it.

An employer shall not, in exercising his powers of termination in this clause, make any distinction, exclusion or preference on the basis of sex, other than a distinction, exclusion or preference based on the inherent requirements of a particular job.

14. DEDUCTION OF UNION SUBSCRIPTIONS

The employer may on receipt of an authority from the employee deduct Union subscriptions quarterly in advance from the wages of that employee and forward the amount deducted to the office of the appropriate registered employee organisation.

15. HOLIDAYS WITH PAY

- (a) All employees (other than casuals, part-time or intermittent employees mentioned in subclause (b), Clause 21 hereof) 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 in Clause 7), 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) 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) shall be at the rates prescribed elsewhere in this award.

16. HOURS OF DUTY

Except where otherwise mutually agreed the ordinary hours of duty shall not exceed 40 per week within a spread of 9 hours per day to be worked as follows:

Between the hours of 8.30a.m. and 8.30p.m. Monday to Friday inclusive.

Evening Shift Allowance -

When normal hours of duty are altered, so that an employee finishes work after 6.00p.m., an additional rate of 15% shall be paid for those days.

This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.

17. MATERNITY LEAVE

(a) Eligibility for Maternity Leave

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

For the purposes of this clause:

- (i) An employee shall include a part-time employee but shall not include an employee engaged upon casual or seasonal work.
- (ii) Maternity leave shall mean unpaid maternity leave.

(b) Period of leave and commencement of leave

- (i) Subject to subclauses (c) and (f) hereof, 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) hereof, 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.

This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.

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) hereof.

(d) Variation of period of maternity leave

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

(e) Cancellation of maternity leave

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

(f) Special maternity leave and sick leave

- (i) Where the pregnancy of an employee not then on maternity leave terminates after 28 weeks other than by the birth of a living child then:
 - (a) she shall be entitled to such period of unpaid leave (to be known as special maternity leave) as a duly qualified medical practitioner certifies as necessary before her return to work, or
 - (b) for illness other than the normal consequences of confinement she shall be entitled, either in lieu of or in addition to special maternity leave, to such paid sick leave as to which she is then entitled and which a duly qualified medical practitioner certifies as necessary before her return to work.
- (ii) Where an employee not then on maternity leave suffers illness related to her pregnancy, she may take such paid sick leave as to which she is then entitled and such further unpaid leave (to be known as special maternity leave) as a duly qualified medical practitioner certifies as necessary before her return to work, provided that the aggregate of paid sick leave, special maternity leave and maternity leave shall not exceed 52 weeks.

This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.

- (iii) For the purposes of subclauses (g), (h) and (i) 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 (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) hereof does not exceed 52 weeks;

- (i) An employee may, in lieu of or in conjunction with maternity leave, take any annual leave or any part thereof to which she is then entitled.
- (ii) Paid sick leave or other paid authorised award absences (excluding annual leave), shall not be available to an employee during her absence on maternity leave.

(h) Effect of maternity leave on employment

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

(i) Termination of employment

- (i) An employee on maternity leave may terminate her employment at any time during the period of leave by notice given in accordance with this award.
- (ii) An employer shall not terminate the employment of an employee on the ground of her pregnancy or of her absence on maternity leave, but otherwise the rights of an employer in relation to termination of employment are not hereby affected.

(j) Return to work after maternity leave

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

This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.

- (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) 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.
 - (iv) Provided that nothing in this subclause shall be construed as requiring an employer to engage a replacement employee.
 - (v) A replacement employee shall not be entitled to any of the rights conferred by this clause except where her employment continues beyond the 12 months' qualifying period.

18. MEAL ALLOWANCE

Where an employee is called upon to work more than one and one-half hours after the usual time for finishing work the sum of \$4.90 shall be paid for a meal in addition to overtime rates.

19. MEAL AND REST PERIOD

- (a) A period of one full hour for lunch shall be taken between the hours of 12 noon and 2.00p.m.
- (b) Employees shall be allowed a rest period between the start of work and the midday meal break and a rest period between the resumption of work after the midday meal break and the cessation of work for the day. Each rest period shall be of 10 minutes duration.

This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.

20. OCCUPATIONAL SUPERANNUATION

(a) Contributions

- (i) The employer shall make an occupational superannuation contribution equivalent to 3% of ordinary time earnings (as defined) into the funds known as TASPLAN or HESTA or any other approved fund (as defined) where an exemption has been granted under subclause (c) of this clause in respect of all eligible employees (as defined) as from 15 September 1990 provided that in the case of all eligible casual and parttime employees contributions shall only be made where the employee works at least 38 hours during a fund billing statement month.
- (ii) Notwithstanding anything elsewhere contained in this clause an employee who is able to demonstrate to the employer their bona fide membership of the religious fellowship-known as Exclusive Brethren shall have the contributions defined in subclause (a) (i) of this clause paid into the fund known as C.I.S. Superannuation Deed BR1188 being a scheme approved by the Insurance and Superannuation Commission.

(b) Definitions

'Eligible Employee' means an employee for whom a classification appears in this award whether employed on a full-time, part-time or casual basis and who has had at least three months continuous service with the employer. Where an eligible employee has completed at least 3 months continuous service with the employer then the superannuation contributions shall be made from the date the employee commenced employment.

'Approved Fund' shall mean a superannuation fund or scheme approved in accordance with the Commonwealth Operational Standards for Occupational Superannuation Funds.

'Ordinary Time Earnings' shall include an employee's classification rate, overaward payment, shift loading, casual loading and any permanent all purpose work related allowance but shall exclude overtime payments, annual leave loading, annual or long service leave payments on termination and allowances paid as a reimbursement of expense.

'TASPLAN' shall be an approved fund established by Trust Deed made on 24 March 1987.

'HESTA' means the Health Employees Superannuation Trust Australia established by Trust Deed on 30 July 1987.

This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.

(c) Exemptions

The Tasmanian Industrial Commission may grant an exemption to an employer from making contributions into TASPLAN or HESTA in the following circumstances:

- (i) Where the fund subject to the exemption application is an approved fund (as defined) which was established prior to 1 January 1990 and occupational superannuation contributions equivalent to 3% of ordinary time earnings (as defined) were being on behalf of employees in the establishment covered by this award prior to 1 January 1990 and have continued to be paid since that date; or
- (ii) Where an employer can demonstrate a special and compelling circumstances to justify the use of an approved fund other than TASPLAN or HESTA.

(d) Procedure for seeking Exemption

- (i) Employers seeking exemption in accordance with this provision shall make application through the appropriate registered organisation to the Tasmanian Industrial Commission by no later than 1 November 1990 hearing and determination.

Such application shall contain the following information:

- (a) Name of Fund into which the funds are to be paid.
 - (b) Evidence of the funds compliance with Commonwealth Operational Standards.
 - (c) Summary of Structure and Benefits.
 - (d) Level of Administration Charge.
 - (e) Any other relevant information.
- (ii) Any application shall in the first instance be considered by the union(s) party to the award which in each case have constitutional coverage for the class of employee affected. Where the union(s) agree with the application, the exemption will be granted.
 - (iii) Where agreement is not reached, the matter shall be heard and determined by the Tasmanian Industrial Commission.
 - (iv) An employer who commences a new business after 15 September 1990 may make application for exemption in accordance with subclause (c) of this clause. Such application shall be made within one month of the commencement of operation of the new business. However, this provision shall not apply to a business which has been transmitted or was a subsidiary of a business subject to this award as at 15 September 1990.

This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.

21. OVERTIME

- (a) For all time of duty before the usual time for commencing work or after the usual time for ceasing work or for work performed outside the ordinary hours of duty, payment shall be made at the rate of time and a half for the first 2 hours and double time thereafter.
- (b) Overtime shall not be payable unless the period of time worked in excess of the ordinary hours exceeds 15 minutes on any day and the overtime is worked on the orders of the employer or his representative.

22. PART-TIME EMPLOYEES

- (a) Part-time employees engaged to work 20 or more hours per week shall be entitled to the annual leave, holidays and sick leave as prescribed in clauses 9, 15 and 27, provided that payment therefor shall be made at the rate normally paid to such employee for a similar period of time worked.

The wage rates payable per hour shall be one-fortieth of the relevant rate above set out.

- (b) Part-time employees engaged to work less than 20 hours per week shall be paid per hour one-fortieth of the relevant rate set out, plus an additional 20%, such payment being in lieu of public holidays, annual leave, and sick leave.
- (c) Penalty provisions - penalty rates prescribed in Clause 26 herein are applicable to part-time employees.

23. PAYMENT OF WAGES

Wages shall be paid during working hours and not later than Thursday of each week or at such other times as may be mutually agreed upon between the employer and the employee.

On, or prior to pay day, if requested by the employee in writing, the employer shall state to the employee, the amount of wages to which she is entitled, the amount of tax deductions made therefrom, the amount of any other deductions made therefrom, and the net amount being paid to her.

This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.

24. PREFERENCE OF EMPLOYMENT

- (a) Preference in engagement of employees shall be given equally to persons in the following categories who are available and suitable:
- (i) Members of The Hospital Employees Federation of Australia, Tasmania Branch or the Australian Nursing Federation, Tasmanian Branch;
 - (ii) Persons who are prepared to give forthwith a written undertaking to apply to join The Hospital Employees Federation of Australia Tasmania Branch or the Australian Nursing Federation, Tasmanian Branch within 14 days;
 - (iii) Conscientious objectors

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

- (b) For the purpose of this clause a conscientious objector is a person accepted as such by the appropriate union and in the event of disagreement a person accepted as such by the Secretary for Labour after hearing both parties.
- (c) Prior to commencing employment, conscientious objectors shall pay a sum equivalent to the subscription to the appropriate union, to a charity to be agreed upon between the person concerned and the abovementioned union and in default of agreement to a charity nominated by the Secretary for Labour.
- (d) This clause shall not apply in respect of engagement of employees in the following categories:
- (i) Employees sought for managerial positions.
 - (ii) Owners of businesses or their spouses.

25. REFERENCE OF DISPUTES

Any dispute arising in respect of any matter to which this award relates shall be referred to the Secretary for Labour for adjudication.

26. SATURDAY, SUNDAY AND HOLIDAY WORK

- (a) For all time of duty on a Saturday payment shall be made at the rate of time and one half for the first 3 hours and double time thereafter. Provided that all time of duty after noon on a Saturday shall be paid at the rate of double time.
- (b) For all time of duty on a Sunday, payment shall be made at the rate of double time with a minimum payment as for 4 hours worked.

This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.

- (c) For all time of duty on any of the holidays mentioned in clause 15 of this award, payment shall be made at the rate of double time and one half with a minimum payment as for 4 hours worked.

Provided that the requirement to pay minimum payments for overtime Sundays and Public Holidays shall not apply in pathology laboratories where alternative methods of payment agreed between the employer, employees and appropriate union exist.

27. SICK LEAVE

- (a) An employee, other than one engaged as a casual, a part-time or intermittent, as mentioned in subclause (b), clause 22 hereof, 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.
- (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.

This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.

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

28. TIME AND WAGES RECORD

Each employer shall keep a time record showing the name of each employee, the number of hours worked, when such hours are worked, the rates of pay, and the wages paid each week.

29. TOOLS OF TRADE

Employers shall provide for the use of employees all necessary appliances for surgical and clerical duties including writing materials and pens.

30. TRAINEE CLERK (AS DEFINED)

- (a) A Trainee Clerk (as defined) (hereinafter referred to as the trainee) shall attend an approved on and off-the-job training course or program prescribed in the relevant training agreement (as defined) or as notified to the trainee by the Training Authority of Tasmania.
- (b) Trainees may be engaged by employers registered with the Training Authority of Tasmania. The employer shall ensure that the trainee 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 overall training program 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 shall be engaged for a period of twelve months as a full-time employee provided that the trainee shall be subject to a satisfactory probation period of up to one month.
- (g) The trainee 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.

This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.

- (h) Where the employment of a trainee by an employer is continued after the completion of the traineeship period, such traineeship period shall be counted as service for the purpose of the award and long service leave entitlements.
- (i) Overtime and shiftwork shall not be worked by trainees except to enable the requirements of the Training Plan to be effected. When overtime and shiftwork are worked the relevant penalties and allowances of the award based on the trainee wage will apply. No trainee shall work overtime or shiftwork on their own.
- (j) The employer and the union shall observe the provisions determined by the Training Authority of Tasmania in respect of the use of trainees in the time of 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.
- (l) The union shall be afforded reasonable access to the trainees 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.

31. UNIFORMS

- (a) Sufficient and serviceable uniforms shall be provided free of cost to all employees required to wear uniforms, or if the employee provides her own uniforms she shall be paid an allowance of \$2.80 per week. Uniforms shall be laundered at the expense of the employer or an allowance of \$2.80 per week paid to the employee.
- (b) An employee, who has been supplied with a uniform by the employer shall, on leaving the service of the employer, return any uniform or part thereof which is still in use by her immediately prior to her leaving the employment.
- (c) From 1 January 1979 all employees shall be notified in writing as to whether or not they are required to wear uniforms. All employees engaged after that date shall be so advised on engagement.

R.J. Watling
COMMISSIONER

14 September 1990