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TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984
s23 application for award or variation of award

Minister Administering the Tasmanian State Service Act 1984
(T9049 of 2000)

General Conditions of Employment Award
Community and Health Services (Public Sector) Award
Electrical/Electronic Trades (Public Sector) Award
Medical Practitioners (Public Sector) Award
Metal Trades (State Employees) Award
Miscellaneous Workers (Public Sector) Award
Tasmanian Ambulance Service Award
Tourism Tasmania Award

FULL BENCH:

DEPUTY PRESIDENT R J WATLING
COMMISSIONER T J ABEY
COMMISSIONER P C SHELLEY

Award variation - nominated public sector awards - State Service Accumulated Leave Scheme - application granted - 1 January 2001

MEDICAL PRACTITIONERS (PUBLIC SECTOR) AWARD

ORDER BY CONSENT -

No. 1 of 2001

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THE **MEDICAL PRACTITIONERS (PUBLIC SECTOR) AWARD** IS VARIED IN THE FOLLOWING MANNER:

1. By deleting Clause 3 - ARRANGEMENT, and inserting in lieu thereof the following:

"3. ARRANGEMENT

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2. By deleting Clause 17 - Leave, and inserting in lieu thereof the following:

"17. LEAVE

(a) Bereavement Leave

- (i) An employee, on the death of a wife, husband, father, mother, child, stepchild, brother, sister, mother-in-law, father-in-law, stepmother, stepfather, grandfather or grandmother and grandchild, shall be entitled upon application being made to, and approved by the Head of Agency, to leave up to and including the day of the funeral of such relative and such leave will be without deduction of salary not exceeding the number of ordinary hours worked by the employee in three ordinary days.

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PROVIDED that such leave and payment for such leave for part-time employees will be calculated pro rata in accordance with the ratio of part-time ordinary hours worked by that employee to that ordinary hours worked by an equivalent full-time employee.

PROVIDED ALWAYS that no employee shall be paid for a day or days they are not required to work.

(ii) 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 Head of Agency, 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.

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

(b) Conference Leave

(i) Subject to the provisos hereunder, on application by an employee, the Head of Agency shall approve up to five days leave per year exclusive of travel time by the most direct route for the purpose of attending conferences (however titled) concerning medical practice, research, management or education.

PROVIDED that conference leave will only be granted to employees in receipt of a salary equivalent to that paid to a Specialist Medical Practitioner Class 1 (as defined) or higher.

PROVIDED ALWAYS that the payment of salary for such leave will not exceed that for the number of days the part-time employee would normally be required to work in that week and the normal ordinary hours the part-time employee would be required to work on each of those days.

PROVIDED FURTHER that in considering any application for conference leave the Head of Agency may have regard to the prevailing work requirements within the health service facility and the relevance of such attendance to the work of the health service facility.

(ii) With the prior approval of the Head of Agency an employee may accumulate conference leave as prescribed in paragraph (i) of this clause over 2 years.

PROVIDED that any period of such leave not taken during the second year shall not be further aggregated.

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- (iii) Upon the application of an employee proposing to proceed upon conference leave, the employer will approve payment of the employee's return economy class air fare from the venue of the conference, together with any registration fees and daily living allowances at the appropriate rate as specified in Clause 10 - Allowances, subclause (f) - Travelling Allowance, paragraph (ii) - Travelling Allowances, subparagraph (1) of this award to apply to employees for interstate travel, or in the absence of such prescription an allowance approved by the employer.
- (iv) An employee granted conference leave shall within a period of one month after resuming duty arrange to present to a relevant peer professional group details of the knowledge gained during such leave, and that presentation shall be made within three months of resuming duty.

(c) Examination Leave

- (i) An employee who is undertaking an approved course of study in accordance with Clause 17 - Leave, subclause (l) - Study Leave of this award may be granted such paid leave as is necessary to enable convenient attendance at examinations required by the body responsible for the course of training or study being undertaken.

PROVIDED that where the examination co-incides with the ordinary hours of work of a part-time employee that employee shall be paid for such co-inciding hours.

PROVIDED ALWAYS that no employee shall be paid when attending an examination on their rostered day off.

PROVIDED FURTHER that leave granted under this clause is not cumulative upon leave which may be available for the purpose of attending examinations under Clause 17 - Leave, subclause (l) - Study Leave of this award.

(d) Leave Without Pay

Employee-initiated leave without pay of more than 20 days in the aggregate shall not count for the purpose of calculating entitlements to recreation leave, sick leave or salary increments.

(e) Part-time Employees

- (i) Provisions applying to leave entitlements for part-time employees are as follows:

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<u>Clause No.</u>	<u>Page No.</u>
15	Holidays With Pay
17(a)	Bereavement Leave
17(b)	Conference Leave
17(c)	Examination Leave
17(d)	Leave Without Pay
17(f)	Parental Leave
17(g)	Recreation Leave
17(j)	Sabbatical Leave
17(k)	Sick Leave
17(l)	Study Leave

- (ii) Where part-time employees ordinary hours of work co-incides with any of the holidays prescribed by the Tasmanian State Service Regulation 3(2) then a part-time employee will be paid in accordance with his/her ordinary hours for that day.

PROVIDED that if a part-time employee is required to work on a holiday with pay as prescribed in Clause 15 - Holidays with Pay, then the employee will be entitled to the appropriate penalty payment (as defined) specified in Clause 13 - Excess Time of this award.

- (f) 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.

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'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 Head of Agency 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 Head of Agency the certificate referred to in paragraph (d)(i).
- (ii) An employee shall give not less than four weeks notice in writing to her Head of Agency 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 Head of Agency the statutory declaration referred to in paragraph (d)(ii).

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- (iii) An Head of Agency 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 Head of Agency 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 Head of Agency 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 Head of Agency 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 Head of Agency which shall not exceed 4 weeks from the date of notice in writing by the employee to the Head of Agency that she desires to resume work.

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(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.

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(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 Head of Agency given not less than four (4) 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 Head of Agency shall inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.

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- (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 Head of Agency 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 Head of Agency or by the award.

(c) Eligibility for Paternity Leave

A male employee, upon production to his Head of Agency 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:

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- (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 Head of Agency 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.

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(iii) The employee shall immediately notify his Head of Agency 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 Head of Agency 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.

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(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 Head of Agency 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 Head of Agency 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 Head of Agency 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.

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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 Head of Agency or by the award.

(c) Eligibility

An employee, upon production to the Head of Agency 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;

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- (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 care-giver 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 Head of Agency of such approval and within two months of such approval, shall further notify the Head of Agency 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.

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- (ii) An employee who commences employment with an employer after the date of approval for adoption purposes shall notify the Head of Agency 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 Head of Agency 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 Head of Agency 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 Head of Agency 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.

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- (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 Head of Agency forthwith and the Head of Agency shall nominate a time not exceeding four weeks from receipt of notification for the employee's resumption of work.

(h) Special Leave

The Head of Agency 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 Head of Agency 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 Head of Agency given not less than four weeks prior to the expiration of the period of adoption leave provided by paragraph (c)(ii) hereof.

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- (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 Head of Agency 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 Head of Agency 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.

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'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.

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(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 Head of Agency 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 Head of Agency 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.

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- (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
- The Head of Agency 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

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- (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 Head of Agency 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.

(g) Recreation Leave

- (i) All employees shall be entitled to four weeks recreation leave on completion of one year's service without deduction of pay, except where paid an allowance under the provisions of Clause 10 - Allowances, subclause (c) - Part-time Employees (as defined) and Temporary Employees (as defined) of this award.

PROVIDED always that an employee who performs approved out of hours duty shall be entitled to an additional weeks recreation leave. In order to qualify for such leave an employee shall have performed work on not less than 20 week end days and/or holiday with pay as prescribed in Clause 15 - Holidays with Pay during any one year.

PROVIDED ALWAYS that such leave and payment for such leave for a part-time employee will be calculated pro rata in accordance with the ratio of part-time ordinary hours worked by that employee to the ordinary hours worked by an equivalent full-time employee.

- (ii) Subject to this sub-clause the leave prescribed by this clause shall be exclusive of any of the holidays prescribed by Tasmanian State Service Regulation 3(2) and if any such holiday falls within an employee's period of annual leave and is observed on a day which in the case of that employee would have been an ordinary working day there shall be added to the period of annual leave time equivalent to the ordinary time which the employee would have worked if such day had not been a holiday.

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PROVIDED that employees classified as Medical Practitioner in Training Class I to IV (as defined) shall be entitled to take part or whole of their recreation leave during the year of service at times mutually agreeable to the employee and the Head of Agency.

- (iii) Recreation leave shall be given at a time fixed by the Head of Agency within a period, where possible, not exceeding six months from the date when the right to annual leave accrued and after not less than two weeks notice to the employee.

PROVIDED always that if it is not possible to grant leave of absence for recreation to an employee in any one leave year, due to the requirements of the health service facility in which that employee is employed or for any other sufficient reason, the Head of Agency may permit leave to be taken by that employee in a subsequent leave year in addition to the recreation leave for that previous leave year(s).

- (iv) Except as provided in subclause (f) - Parental Leave and subclause (g) - Recreation Leave of this clause and Clause 10 - Allowances, subclause (c) - Part-Time Employees (as defined) and Temporary Employees (as defined) of this award payment shall not be made or accepted in lieu of recreation leave.
- (v) Each employee before going on leave shall be paid the amount of salary the employee would have received in respect of the ordinary time inclusive of permanent allowances specified in Clause 10 - Allowances, subclause (a) - Managerial Allowance and subclause (b) - Qualification Allowance of this award which the employee would have worked had the employee not been on leave during the relevant period and no deduction shall be made for board and lodging. Payment calculated in accordance with the provisions of this clause should be made for the full weeks of leave at the time, unless otherwise specified by the employee. Payment shall be made not later than 12 noon on the last day of work prior to going on leave. It shall be the responsibility of the Head of Agency to advise the pay office of the impending leave when approved and authorise payment.

If after one month of continuous service in any qualifying 12 monthly period the employee lawfully leaves that employee's employment or that employment is terminated by the employer through no fault of the employee, the employee shall be paid at that employee's ordinary hourly rate (as defined) of salary as follows:

- sixteen and two third hours for each completed month of continuous service.

PROVIDED further that such leave and payment for such leave for a part-time employee will be calculated pro rata in accordance with the ratio of part-time ordinary hours worked by that employee to the ordinary hours worked by an equivalent full-time employee.

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- (vii) Subject to the provisions of Clause 9 - Abandonment of Employment of this award, for the purpose of this clause service shall be deemed to be continuous notwithstanding any absence from work on account of personal sickness or accident or paid leave entitlements. In calculating the period of 12 months continuous service any such absence as aforesaid shall not, except to the extent of not more than 91 days in any 12 monthly period, be taken into account in calculating the period of 12 months continuous service.
- (viii) Where employees classified as Medical Practitioners in Training Class I to IV (as defined) have taken part or all of their recreation leave during the year of service and resign prior to the completion of that year's service the employer will be entitled to reimbursement of pay for leave taken in excess of that calculated pro-rata for that year of service.

(h) Recreation Leave Allowance

During a period of recreation leave only employees with a salary rate below that specified for a Specialist Medical Practitioner Class 1 (as defined) shall be paid an allowance by way of additional salary.

PROVIDED always that such allowance shall -

- (i) be calculated on the basis of a maximum period, in any one leave year, of four weeks recreation leave;
- (ii) in no case where the allowance is calculated on the basis of 17.5% of normal salary shall it exceed the allowance which would be payable in respect of the salary rate for the classification of Administrative and Clerical Employee Level 7, first year of service of the Community and Health Services (Public Sector) Award, on and from the first day of October in respect of all annual leave accrued during the preceding 12 months;
- (iii) not apply to proportionate recreation leave accrued by an employee in the leave year of the year of termination of service where such employee voluntarily resigns or whose services are terminated for disciplinary or other good reason;
- (iv) be calculated at the salary rate applicable to the employee concerned on the anniversary of the day of appointment of the employee in the year in which the recreation leave is credited; and
- (v) not be cumulative. The allowance due is to be paid in full on the occasion an employee takes more than 10 consecutive days' annual leave. Where an employee does not meet this requirement the allowance shall be paid in full at the end of the leave year in which it falls due.

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(i) Relief

There is an obligation on the part of the employer, in consultation with the employee concerned or his/her supervisor to provide relief in respect of leave entitlements specified in Clause 17 - Leave, subclauses (b) - Conference Leave, (l) - Study Leave, (j) - Sabbatical Leave, (c) - Examination Leave, (g) - Recreation Leave, (k) - Sick Leave and (f) - Parental Leave of this award and for periods of long service leave. No employee who has such leave entitlement shall be held responsible for the arrangement of any rosters, work practices or deployment of other employees to ensure that the employee's duties are assigned to other individuals while such employee is absent on leave.

PROVIDED that part-time employees sharing the same duties will agree to cover the duties for each other wherever practicable.

(j) Sabbatical Leave

- (i) A period of 13 weeks sabbatical leave shall be allowed upon the completion of 5 years of continuous service within the State health system, in not more than three periods of four weeks or more in any 12 month period.

PROVIDED that such leave will not be allowed within a 2 year full-time equivalent employment period, exclusive of any accrued annual and long-service leave entitlements, before the statutory retirement age for the employee.

PROVIDED ALWAYS a full-time or part-time employee, who, immediately before becoming a full-time or part-time employee, was a temporary employee (as defined) not receiving an allowance in lieu of such entitlement shall be credited to that employee at the time of becoming an employee the period of service qualifying for this entitlement, as if that employee's total continuous service from the date of first reporting for duty as a temporary employee (as defined) had been service as a full-time or part-time employee.

- (ii) Sabbatical leave shall be granted to employees in positions with a salary classification equivalent to Specialist Medical Practitioner Class 1 (as defined) or higher who hold a qualification recognised by NSQAC (as defined) appropriate to their speciality or relevant to their appointment.

- (iii) The entitlement for such sabbatical leave shall be -

- (1) 13 weeks paid leave for all eligible employees;

PROVIDED that the payment of salary for such leave for a part-time employee will not exceed that for the number of days and the ordinary hours of work on each of those days the part-time employee would be required to work at the time of application for the leave.

- (2) actual cost by any means of public transport of travel expenses up to the value of an around-the-world air fare at excursion rates; and

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(3) daily living allowances at the appropriate rate as specified in Clause 10 - Allowances, subclause (f) - Travelling Allowances, sub-clause (b) of this award to apply to employees of the State Service for interstate and overseas travel, as the case may be or in the absence of such prescription, an allowance approved by the Head of Agency.

(iv) In order to qualify for sabbatical leave an employee shall:

- (1) present a detailed program to the employer for approval; and
- (2) submit such program not less than 6 months prior to the requested date of such leave. However, this period may be varied by mutual agreement between the employer and the employee concerned.

PROVIDED that where a program for sabbatical leave is rejected, the employee concerned may submit at any time a revised program to the employer for approval, with the date of effect of such leave for the revised program to be not less than four weeks from the date of submission of the approved revised program.

(v) An employee granted sabbatical leave shall within a period of one month after resuming duty:

- (1) furnish to the employer a detailed written report on the activities associated with such leave; and
- (2) arrange to present to a relevant peer professional group details of the knowledge gained from such leave within three months of returning from the leave.

(k) Sick Leave

(i) An employee who is absent from work on account of personal illness or on account of injury by accident, shall be entitled to leave of absence on full pay (inclusive of allowances prescribed in Clause 10 - Allowances of this award and exclusive of penalty payments) subject to the following conditions and limitations.

An employee shall:

- (1) not be entitled to paid leave of absence for any period in respect of which he/she is entitled to workers' compensation;
- (2) except in exceptional circumstances, within the 24 hours of the commencement of such absence, inform the Head of Agency of his/her inability to attend for duty and as far as practicable, state the nature of the injury or illness and the estimated duration of absence;

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- (3) prove to the satisfaction of the Head of Agency that he/she was unable, on account of such illness or injury to attend for duty of the day or days on which sick leave is claimed; and
- (4) not, except in sub-clause (ii) hereof, be entitled in any one year to leave in excess of 152 hours, provided that in the first year of service an employee shall only be entitled to 12 hours 40 minutes for each completed month of service.

PROVIDED that for part-time employees such leave and payment for such leave will be calculated pro rata in accordance with the ratio of part-time ordinary hours worked by that employee to that ordinary hours worked by an equivalent full-time employee.

- (ii) If in the full period of sick leave, as prescribed in sub-clause (i) (4) is not taken in any year, such proportion as is not taken shall be cumulative from year to year without limitation.
- (iii) Notwithstanding any other provisions in this clause, an employee who on examination reveals a changed Mantoux reaction in the course of their duties or who contracts any nosocomial infection or colonisation, the same having been certified to by a medical practitioner (as defined) approved by the Head of Agency, shall, without prejudice to the operation of Regulation 421 of the Tasmanian State Service Regulations be granted leave on full pay for a period of up to 12 weeks. During any period of time in which the sub-clause applies to an employee, that employee shall be regarded as remaining in the employment of the health service facility for the purposes of the Workers' Compensation Act 1988.

PROVIDED that for part-time employees such leave and payment for such leave will be calculated pro rata in accordance with the ratio of part-time ordinary hours worked by that employee to that ordinary hours worked by an equivalent full-time employee.

- (iv) Where, in the opinion of a medical practitioner (as defined), illness or risks arising out of the medical conditions specified in this sub-clause connected with the work assigned to the employee make it inadvisable for the employee to continue his/her present duties, the employee shall, wherever practicable, be transferred to suitable mutually agreed safe employment to a position classified under this award at the same level, grade and salary for the duration of the period of risk.

PROVIDED that the employer will be responsible for ensuring that the employee receives any training deemed necessary by the Head of Agency to perform the full duties required by such employment and for the costs of such training.

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- (v) For the purposes of paragraph (iii) nosocomial infection or colonisation shall include Methicillin resistant Staphylococcus aureus, other multi-resistant organisms, Hepatitis B, Non A/Non B Hepatitis, Tuberculosis, HIV positive status or Acquired Immune Deficiency Syndrome or any other nosocomial infection contracted by the employees in performing his or her duties.
 - (vi) An employee who is certified as unfit for duty because of personal illness by a medical practitioner (as defined) approved by the employer during a period of paid annual leave, shall be given credit for the period so certified and the paid annual leave shall be extended by the number of days that employee has been so certified as unfit for duty.
 - (vii) An employee who falls sick for reasons of his/her work shall, subject to the recommendations of a medical practitioner (as defined) approved by the employer, be paid a salary not less favourable than that prescribed by the Workers' Compensation Act 1988.
 - (viii) A year for the purposes of this clause, shall mean 365 days, including rostered days off, holidays with pay, paid annual leave and paid sick leave.
 - (ix) Medical certificates are to be provided where an employee is absent on sick leave for three consecutive working days or more. Certificates are to be provided for any leave taken due to sickness in excess of 38 hours in the aggregate in any one sick leave year.
 - (x) A temporary employee (as defined), for the purposes of paragraphs (i), (ii), (vi) and (vii) of this clause, does not include a temporary employee (as defined) who receives a rate of remuneration that excludes the right to any sick leave entitlements as specified in Clause 10 - Allowances, subclause (c) - Part-Time Employees (as defined) and Temporary Employees (as defined) of this award.
 - (xi) Notwithstanding any other provisions of this clause, persons employed prior to 1 October 1994, retain all sick leave accumulated to that date and on each employee's ensuing anniversary date accumulation shall continue at the rate of 152 hours per year in accordance with subclause (ii) hereof.
- (l) Study Leave

Study leave will be granted to employees in accordance with Division 4 Part VII of the Tasmanian State Service Regulations 1985 and other such guidelines approved by the Head of Agency.

PROVIDED that such leave and payment for such leave for a part-time employee will be calculated pro rata in accordance with the ratio of part-time ordinary hours worked by that employee to the ordinary hours worked by an equivalent full-time employee.

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(m) State Service Accumulated Leave Scheme

An employee shall be entitled to participate in the State Service Accumulated Leave Scheme under the terms and conditions specified in Appendix 1."

3. By adding APPENDIX 1 - STATE SERVICE ACCUMULATED LEAVE SCHEME, at the end of the award as follows:

"APPENDIX 1

STATE SERVICE ACCUMULATED LEAVE SCHEME

1. TITLE

The scheme is to be known as the "State Service Accumulated Leave Scheme" (SSALS).

2. SUMMARY OF SCHEME

The SSALS allows Heads of Agency to approve Plans under which participating employees will, by taking a reduction in normal salary for a given period, become entitled at the end of that period to a pre-determined amount of special ("accumulated") leave during which they will be paid salary at the same reduced rate.

3. INTERPRETATION

The conditions and administrative arrangements in the SSALS are to be administered in conjunction with the *Tasmanian State Service Act 1984*, the Tasmanian State Service Regulations 1985, relevant Awards, Industrial Agreements, Administrative Instructions and Employment Instructions.

'accumulated leave' means the period of time that is accumulated under the Plan as leave during a work period.

'leave period' means the period specified in a Plan when a participating employee is absent from work on accumulated leave.

'normal salary' means the salary that would be paid to a participating employee if that person was not participating in a Plan and includes salary expressed as an annual rate, fortnightly rate, weekly rate, daily rate or hourly rate. It includes all allowances that are paid as an annual rate, fortnightly rate, weekly rate, daily rate or hourly rate but not overtime payments and shift work penalty rates unless they are paid as a component of an annualised rate.

'operational requirements' means the need to ensure that the Agency is to be operated as effectively, efficiently and economically as possible.

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'participating employee' means an employee whose election to participate in a Plan has been approved by their Head of Agency.

'Plan' means an arrangement in the SSALS consisting of a specified work period followed by a specified leave period.

'work period' means the period specified in a Plan when an employee is at work.

4. PLANS

The SSALS consists of arrangements known as Plans. For example:

Work Period	Percentage of Normal Salary payable during the period of the Plan	Leave Period
Four Years	80% "The Four over Five Year Plan"	One Year
Three Years	75% "The Three over Four Year Plan"	One Year
Twenty Months	83.3% "The 20 over 24 Month Plan"	Four Months
Eighteen Months	75% "The 18 over 24 Month Plan"	Six Months
Forty Eight Weeks	92.3% "The 48 over 52 Week Plan"	Four Weeks
Forty Weeks	76.9% "The 40 over 52 Week Plan"	Twelve Weeks

(Other Plan) "A"	$\frac{A}{A+B} \times \frac{100}{1} = \dots\%$ (to one decimal place)	(Other Plan) "B"
..... Years Months Weeks	The.... over..... Year Month Plan" Week Year Months Weeks

5. APPLICATION OF SSALS

5.1 The Head of an Agency, after considering the operational requirements of the Agency, determines whether any Plan or Plans are to be available to employees in the Agency.

5.2 A Head of an Agency may make any Plan or Plans available to employees in that Agency or an employee or employees can request the Head of Agency that a Plan be made available to them.

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- 5.3 A Plan may be made available to any permanent employee (full or part-time) including an employee who works shifts. A Plan may be made available to any temporary employee the term of whose contract of employment is sufficient to cover the period of the plan.
- 5.4 The Head of Agency determines:
- whether one or more Plans will be made available to all or only some of the employees;
 - whether particular Plans will be made available to particular categories of employees;
 - whether quotas will apply to the number of employees who may participate in a Plan, and whether quotas will apply to any category of employees;
 - the selection arrangements where quotas are imposed; and
 - the commencement date of any Plan.
- 5.5 Where an employee participating in a Plan is promoted, transferred, seconded or otherwise moved either into another Agency or within their own Agency the Head of the Agency in which the employee is thereafter employed will, after consultation with the employee and taking into account the operational requirements of the Agency, determine whether or not the employee is able to continue on their Plan.
- 5.6 If the Head of Agency determines under Clause 5.5 that the employee is not able to continue on their Plan, the Head of Agency may forthwith terminate the employee's Plan whereupon the employee becomes entitled to a period of accumulated leave which bears the same proportion to the total leave period of the Plan as the period worked under the Plan bears to the total work period, to be remunerated at the percentage of normal salary payable during the period of the Plan. The employee may apply to the Head of Agency at any time to take that leave, and it shall be granted as soon as can be, consistent with the operational requirements of the Agency.

6. HOW TO PARTICIPATE IN SSALS

- 6.1 Where the Head of an Agency offers a Plan to an employee the employee may elect to participate in the Plan by lodging an election in writing with the Head of Agency in any form which the Head of Agency may approve.
- 6.2 The Head of the Agency may accept or reject an election to participate made in accordance with Clause 6.1.
- 6.3 The Head of Agency will notify the employee in writing if the employee's election has been disapproved.

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- 6.4 Where the employee's election is approved, the Head of Agency will endorse approval on the form of election which was lodged by the employee, and will provide the employee with a copy of that endorsed form.
- 6.5 An employee's election under Clause 6.1 does not entitle the employee to participate in a Plan until it is approved by the Head of Agency in accordance with Clause 6.4.
- 6.6 A participating employee wishing to withdraw from a Plan must apply in writing to their Head of Agency who may refuse the application if he or she considers such refusal to be reasonably required to meet the operational requirements of the Agency.

7. CONDITIONS AND ADMINISTRATIVE ARRANGEMENTS

7.1 Work Period to be completed prior to Period of Leave

The work period specified in a Plan must be completed before a participating employee can commence the leave period specified in that Plan.

7.2 Suspension of Plan

The Head of Agency on the application of the employee or otherwise can in writing suspend a Plan.

In deciding to suspend a plan, either on application of the employee or otherwise, the Head of Agency will take into account the employee's circumstances and response to any proposal to suspend, and what is reasonably required to meet the operational requirements of the Agency. Suspension may occur either during the work period or the leave period of the Plan, and will be for such period as may be specified by the Head of Agency in the instrument by which the Plan is suspended.

Where the total period of the Plan comprises five years or more (for example a four over five plan) the Plan may only be suspended with the agreement of the employee.

An employee is entitled to compensation for reasonable expenses incurred by the employee, but not otherwise recoverable, as a result of the Head of Agency's decision to suspend the plan otherwise than on the application of the employee.

7.3 Accumulated Leave

Accumulated leave is to be managed in accordance with any legislative requirements and with any guidelines which may be issued by the relevant Head of Agency which are not inconsistent with the SSALS.

A record is to be kept to show at all times the exact amount of the accumulated leave for each participating employee.

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On withdrawal from a Plan, the accumulated leave is to be taken immediately or either wholly or in part at a later time approved by the Head of Agency, at the percentage of normal salary payable during the period of the Plan. It is not to be paid out unless the participating employee's employment ends.

Where a participating employee moves to another Agency the exact amount of the accumulated leave and salary for that employee is to be transferred to that Agency not later than twenty working days after the date of movement.

7.4 Payment during the Leave Period

During the leave period the participating employee will receive salary at the percentage of normal salary payable during the period of the Plan. Normal employment conditions will apply as if the employee was on annual leave. An employee may, on request, receive a lump sum payment in either one or two instalments.

7.5 Salary Increments

Salary increments will accrue throughout the period of a Plan.

7.6 Superannuation

Superannuation contributions are to be paid throughout the period of a Plan and in accordance with the rate of salary applicable under the Plan.

It is the responsibility of a participating employee to obtain any personal superannuation advice from the Retirement Benefits Fund Board or from the employee's own adviser(s).

A participating employee's superannuation contributions (where the employee is a contributor to a superannuation scheme other than Retirement Benefits Fund) and entitlements depends upon the employment arrangements for that employee.

An Agency's superannuation responsibilities and financial obligations for participating employees depends upon the nature of the employment arrangements for each participating employee.

7.7 Other Compulsory Deductions from Pay

Compulsory deductions from pay will be made throughout the period of a Plan.

("Compulsory deductions" include garnishees, salary attachments, court orders, etc.)

7.8 Voluntary Deductions from Pay

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Voluntary deductions from pay (including life insurance premiums, private health fund premiums, union membership fees etc) made by the Agency at the request of an employee will continue throughout the period of the Plan.

7.9 Administrative Records

An Agency administering a Plan must maintain proper separate records of accruals based upon that Plan.

7.10 Recreation Leave

Recreation leave entitlements accrue throughout the period of the Plan and will be taken otherwise than during the leave period of a Plan at the percentage of normal salary payable during the period of the Plan. Whenever taken, entitlements will be deducted from credits in the normal manner.

7.11 Sick Leave

Sick leave entitlements taken during the period of a Plan will be taken at the rate of salary applicable under the Plan and will be deducted from credits in the normal manner.

Sick leave entitlements will accrue throughout the period of the Plan and access to those entitlements will be in accordance with the Tasmanian State Service Regulations and any relevant Award provisions.

7.12 Maternity Leave and Adoption Leave

Where a participating employee is absent on maternity leave or adoption leave, either within the work period of a Plan or during the leave period, the employee's participation in the Plan is not affected by that maternity or adoption leave. Salary arrangements established by the Plan apply during maternity or adoption leave.

7.13 Other Leave

Payment of all other leave entitlements (including leave on account of special circumstances, bereavement leave, leave of absence with or without pay, Defence Force leave, leave for jury service, leave in lieu of overtime, etc) taken during the currency of a Plan will be at the rate of salary applicable under the Plan. Such entitlements will when taken be deducted from credits in the normal manner, and are to be taken otherwise than during the leave period of a Plan.

7.14 Long Service Leave

Long service leave is provided for in the *Long Service Leave (State Employees) Act 1994*.

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Long service leave entitlements accrue throughout the work period of a Plan. The leave period is not to be regarded as a period of employment in calculating length of employment for the purposes of the Act, but is not to be taken as interrupting the continuous employment of a participating employee. Long Service leave entitlements are to be taken otherwise than during the leave period of a Plan.

Where a participating employee is absent on long service leave in the work period of a Plan the employee's participation in the Plan is not postponed for the duration of that long service leave, and salary is to be paid at the rate of salary applicable under the Plan.

7.15 State Service Holidays (Public Holidays)

The leave period of a Plan is to be extended by the number of State Service holidays (public holidays) falling within it.

7.16 Workers Compensation

A Plan is to be suspended during any period of incapacity for which the worker is entitled to compensation under the provisions of the *Workers Rehabilitation and Compensation Act 1988*, effective from the day before the commencement of the period of incapacity and terminating upon the last day of the incapacity. Upon suspension of a Plan in accordance with this provision, the employee reverts to normal salary entitlement.

7.17 Employment during Period of Leave

A participating employee shall not be employed elsewhere in the Tasmanian State Service during the leave period of a Plan.

Where a participating employee wishes to undertake employment outside the Tasmanian State Service during the leave period of a Plan, the employee is required to comply with the provisions of Section 79 of the *Tasmanian State Service Act 1984*.

7.18 Cessation of Employment

Where a participating employee ceases to be employed in the Tasmanian State Service, the Plan will thereupon terminate and the Head of the Agency will pay in one lump sum to that former employee, or to that person's estate, the exact amount of that former participating employee's accumulated leave entitlement less the prescribed income tax and any other compulsory deductions not later than twenty working days after termination."

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OPERATIVE DATE

These variations shall come into operation on and from 1 January 2001.

Tim Abey
COMMISSIONER

8 January 2001