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TASMANIAN INDUSTRIAL COMMISSION

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

Tasmanian Trades and Labor Council
(T12940 of 2007)
Private Sector Awards
Public Sector Awards

FULL BENCH:
PRESIDENT P L LEARY
DEPUTY PRESIDENT P C SHELLEY
COMMISSIONER T J ABEY

Wage Rates – State Wage Case 2007 – application amended - application to vary private and public sector awards – award wage rates to be increased by $22.70 per week - wage related allowances to be increased by 3.8% – meal allowance increased to $14.10 - State Minimum Wage rate determined at $527.10 - s.35(1)(b) – operative date ffpp 1 August 2007

ZINIFEX ROSEBERY (MINING) AWARD

ORDER –

No. 1 of 2007
(Consolidated)

AMEND THE **ZINIFEX ROSEBERY (MINING) AWARD** BY DELETING ALL CLAUSES CONTAINED THEREIN AND INSERTING IN LIEU THEREOF THE FOLLOWING; AND THE AWARD IS CONSOLIDATED:

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1. TITLE

This award shall be known as the "Zinifex Rosebery (Mining) Award".

2. SCOPE

This award is established in respect of the industry of Mining and Processing of Silver, Lead, Zinc, Ore.

3. ARRANGEMENT

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4. DATE OF OPERATION

This award shall come into operation from the first full pay period to commence on or after 1 August 2007.

5. SUPERSESSION AND SAVINGS

This award incorporates and supersedes the Zinifex Rosebery (Mining) Award No 3 of 2006 (Consolidated).

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

6. PARTIES AND PERSONS BOUND

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

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

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

(c) the following organisations of employees in respect of whom award interest has been determined:

(i) the Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union and the officers of that organisation and their members who are employed in the industry specified in Clause 2 - Scope;

(ii) The Australian Workers' Union, Tasmania Branch and the officers of that organisation and their members who are employed in the industry specified in Clause 2 - Scope;

(iii) the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia and the officers of that organisation and their members who are employed in the industry specified in Clause 2 – Scope.

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(d) the following organisations of employers in respect of whom award interest has been determined:

(i) the Australian Mines and Metals Association (Incorporated) and the officers of that organisation and their members who are engaged in the industry specified in Clause 2 - Scope; and

(ii) the Tasmanian Chamber of Commerce and Industry Limited.

7. DEFINITIONS

'Agency' shall mean any State, Federal or private entity empowered to accredit the Rosebery Skills Acquisition Programme for the purposes of National/State portability.

'Award' shall mean the Zinifex Rosebery (Mining) Award.

'Casual employee' shall mean a person engaged by the hour with a minimum four hours entitlement for each engagement. Each work period shall be a separate and distinct period of service. Such an employee shall not have continuity of service with the employer.

'Electrical Tradesperson' shall mean any employee appointed as such who is engaged on work in or in connection with or incidental to the operations and maintenance of the mine, mining equipment, treatment plant and associated facilities covered by the award and who may be required to perform any such work within their classification and competency determined by the Rosebery Skills Acquisition Programme as set out in Clause 30 - Rosebery Skills Acquisition Programme.

'Employer' means Zinifex Mining-Rosebery.

'Mechanical Tradesperson' shall mean any employee appointed as such who is engaged on work in or in connection with or incidental to the operations and maintenance of the mine, mining equipment, treatment plant and associated facilities covered by the award and who may be required to perform such work within their classification and competency determined by Clause 30 - Rosebery Skills Acquisition Programme.

'Mill Operator' shall mean any employee appointed as such who is engaged on work in or in connection with or incidental to the operations and maintenance of the mine, mining equipment, treatment plant and associated facilities covered by the award and who may be required to perform any such work within their classification and competency determined by Clause 30 - Rosebery Skills Acquisition Programme.

'Miner (Underground Operator)' shall mean any employee appointed as such who is engaged on work in or in connection with or incidental to the operations and maintenance of the mine, mining equipment, treatment plant and associated facilities covered by the award and who may be required to perform any such work within their classification and competency determined by Clause 30 - Rosebery Skills Acquisition Programme.

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'Ordinary rate' means:

(a) for annual leave purposes, the applicable weekly rate in Clause 8 - Wage Rates, plus Clause 9 - Allowances, subclause (b) - 'A' Grade Allowance, subclause (c) - Underground Allowance, and Clause 30 - Rosebery Skills Acquisition Programme;

(b) for shift work - the applicable weekly rate in Clause 8 - Wage Rates.

'Party of miners' shall mean any number of employees working pursuant to a piece-rate contract.

'Piece-rate' shall mean a fixed payment determined by the quantity produced.

'Rosebery Skills Acquisition Programme' shall determine the rate of progression through individual career paths, and shall consist of both internal and external training programmes that shall be both competency and academically based.

'Saturday work' means for all time of duty on Saturday by shift workers the minimum payment that may be made shall be at the rate of time and a half.
'Shift work':

(a) **'day shift'** means a shift commencing after 7.30am and finishing at or before 5.30pm;

(b) **'afternoon shift'** means a shift finishing after 6.00pm and at or before 1.00am;

(c) **'night shift'** means a shift finishing after 1.00am and at or before 8.30am.

'Subsidised Sick and Accident Scheme' shall mean the EZ Employees Insurance Society (EZEIS).

'Sunday work' means for all time of duty on Sunday, payment shall be made at the rate of double time.

'Surface Operator' shall mean any employee appointed as such who is engaged on work in or in connection with or incidental to the operations and maintenance of the mine, mining equipment, treatment plant and associated facilities covered by the award and who may be required to perform any such work within their classification and competency determined by Clause 30 - Rosebery Skills Acquisition Programme.

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8. WAGE RATES

(a) The weekly wage rates set out hereunder shall be the rates payable to employees classified herein:

	Base $	Safety Net Adjustment $	Weekly Wage Rate $
Mill Operator	463.80	201.70	665.50
Surface Operator	463.80	201.70	665.50
Miner (Underground Operator)	740.10	197.70	937.80
Mechanical Tradesperson	541.00	201.70	742.70
Electrical Tradesperson	541.00	201.70	742.70

(b) Apprentices

(i) The hours and conditions of employment of apprentices shall be the same as provided for adult employees pursuant to this award.

(ii) The minimum rates of wages per week shall be the undermentioned amounts:

	Percentage of base weekly wage for 'Mechanical Tradesperson'
First year	38%
Second year	55%
Third year	72%
Fourth year	87%

(c) Supported Wage System

(i) Eligibility Criteria

Subject to this subclause an employer may engage employees at a supported wage rate (as set out in paragraph (iii) of this subclause) who meet the impairment criteria for receipt of a Disability Support Pension and who, because of their disability, are unable to perform the range of duties to the competence level normally required for the class of work for which they are engaged.

PROVIDED that this subclause does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers' compensation legislation or any provision of this award relating to the rehabilitation of employees who are injured in the course of their current employment.

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PROVIDED FURTHER that this subclause does not apply to employers in respect of their facility, program, undertaking, service or the like which receives funding under the *Disability Services Act 1986* and fulfils the dual role of service provider and sheltered employer to people with disabilities who are in receipt of or are eligible for a disability support pension, except with respect to an organisation which has received recognition under Section 10 or under Section 12A of the above Act, or if a part only has received recognition, that part.

(ii) For the Purposes of this Subclause:

'Supported Wage System' means the Commonwealth Government System to promote employment for people who cannot work at full award wages because of a disability.

'Accredited Assessor' means a person accredited by the management unit established by the Commonwealth under the Supported Wage System to perform assessments of an individual's productive capacity within the Supported Wage System.

'Disability Support Pension' means the pension available under the Commonwealth pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991*, as amended from time to time, or any successor to that scheme.

'Assessment instrument' means the form provided for under the Supported Wage System that records the assessment of the productive capacity of the person to be employed under the Supported Wage System.

(iii) Supported Wage Rates

Employees to whom this subclause applies shall be paid the applicable percentage of the minimum rate of pay prescribed by this award for the class of work which the person is performing according to the following schedule:

Assessed capacity (paragraph (iv))	% of prescribed award rate
10%	10
20%	20
30%	30
40%	40
50%	50
60%	60
70%	70
80%	80
90%	90

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PROVIDED that the minimum amount payable shall be not less than $61 per week.

(iv) Assessment of Capacity

For the purpose of establishing the percentage of the award rate to be paid to a supported wage employee under this award, the productive capacity of the employee will be assessed in accordance with the Supported Wage System and documented in an assessment instrument by either:

(1) the employer and a union party to the award, in consultation with the employee or, if desired by any of these;

(2) the employer and an accredited Assessor from a panel agreed by the parties to the award and the employee.

(v) Lodgment of Assessment Instrument

(1) All assessment instruments under the conditions of this subclause, including the appropriate percentage of the award wage to be paid to the employee, shall be lodged by the employer with the Registrar of the Tasmanian Industrial Commission.

(2) All assessment instruments shall be agreed and signed by the parties to the assessment, provided that where a union which is party to the award, is not a party to the assessment, it shall be referred by the Registrar of the Tasmanian Industrial Commission to the union by certified mail and shall take effect unless an objection is notified to the Registrar of the Tasmanian Industrial Commission within 10 working days.

(vi) Review of Assessment

The assessment of the applicable percentage shall be subject to annual review or earlier on the basis of a reasonable request for such a review. The process of review shall be in accordance with the procedures for assessing capacity under the Supported Wage System.

(vii) Other Terms and Conditions of Employment

Where an assessment has been made, the applicable percentage shall apply to the wage rate only. Employees covered by the supported wage provisions of this subclause shall be entitled to the same terms and conditions of employment as all other workers covered by this award who are paid on a pro rata basis.

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(viii) Workplace Adjustment

An employer wishing to employ a person under the provisions of this subclause shall take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve re-design of job duties, working time arrangements and work organisation in consultation with other workers in the area.

(ix) Trial Period

(1) In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this subclause for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.

(2) During that trial period the assessment of capacity shall be undertaken and the proposed wage rate for a continuing employment relationship shall be determined in accordance with paragraphs (iv) and (v).

(3) The minimum amount payable to the employee during the trial period shall be no less than $61 per week or such greater amount as is agreed from time to time between the parties.

(4) Work trials should include induction or training as appropriate to the job being trialed.

(5) Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment shall be entered into based on the outcome of assessment under paragraph (iii) hereof.

(d) Minimum Wage

No employee shall be paid less than the minimum wage.

(i) Amount of Adult Minimum Wage

(1) The minimum wage for full-time adult employees not covered by sublause (c) - Supported Wage System is $527.10 per week.

(2) Adults employed under a supported wage system clause shall continue to be entitled to receive the wage rate determined under that clause. Provided that such employees shall not be paid less than the amount determined by applying the percentage in the supported wage system clause applicable to the employee concerned to the amount of the minimum wage specified in subparagraph (d)(i)(1).

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(3) Adults employed as part-time or casual employees shall continue to be entitled to receive the wage rate determined under the casual and part-time clauses of the award. Provided that such employees shall not be paid less than pro rata the minimum wage specified in subparagraph (d)(i)(1) according to the number of hours worked.

(ii) How the Minimum Wage Applies to Juniors

(1) The wage rates provided for juniors by this award continue to apply unless the amount determined under subparagraph (d)(ii)(2) is greater.

(2) The minimum wage for an employee to whom a junior rate of pay applies is determined by applying the percentage in the junior wage rates clause applicable to the employee concerned to the relevant amount in subparagraph (d)(i)(1).

(iii) Application of Minimum Wage to Certain Employees

Due to existing applicable award wage rates being greater than the relevant proportionate minimum wage, this clause will not apply to employees falling within the scope of the National Training Wage (Tasmanian Private Sector) Award and Trainees undertaking an apprenticeship.

(iv) Application of Minimum Wage to Award Rates Calculation

The minimum wage:

(1) applies to all work in ordinary hours;

(2) applies to the calculation of overtime and all other penalty rates, superannuation, payments during sick leave, long service leave and annual leave, and for all other purposes of this award; and

(3) is inclusive of the arbitrated safety net adjustment provided by the July 2007 State Wage Case Decision (T12940 of 2007) and all previous safety net and state wage case adjustments.

9. ALLOWANCES

(a) Shift Allowance

Employees engaged on afternoon or night shifts shall be paid the following additional rates:

(i) On continuous work shifts - 15 percent extra.

(ii) On other than continuous work shifts - 15 percent extra.

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(iii) An employee who:

(1) during the period of engagement on shift, works night shift only; or

(2) remains on night shift for a longer period than four consecutive weeks; or

(3) works on a night shift which does not rotate or alternate with another shift or with day work so as to give him at least one third of his/her working time off night shift in each shift cycle;

shall during such engagement, period or cycle, be paid 30 percent more than his/her ordinary rate for all time worked during ordinary working hours on such night shift.

(b) 'A' Grade Allowance

Employees classified as an Electrical Tradesperson who are holders of an 'A' Grade Licence shall be paid an additional allowance of $16.40 per week.

(c) Underground Allowance

In addition to the amounts prescribed in Clause 8 - Wage Rates, employees under classifications 1, 2, 4 and 5 who are required to work underground shall be paid $43.20 per week extra for the time so engaged for all purposes of the award.

(d) First Aid Allowance

An allowance of $0.90 per hour shall be paid to holders of a current St John Ambulance Certificate. This allowance shall be paid pro rata to hours worked.

(e) Tool Allowance

Electrical Tradesman and Apprentice

If the employer does not supply tools to an electrical tradesperson/apprentice then an allowance of $15.30 per week shall apply.

10. ANNUAL LEAVE

(a) Period of Leave

(i) Day workers

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

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(ii) Shift workers

In addition to the leave prescribed in section (i) of this subclause, 7 day shift workers, that is, shift workers who are rostered to work regularly on Sundays and Holidays, shall be allowed 7 consecutive days leave, including non-working days.

Where an employee with 12 months continuous service is engaged for part of the 12 monthly period as a 7 day shift worker, he shall be entitled to have the period of annual leave prescribed in section (i) increased by one half a day (3.8 paid hours) for each month he is continuously engaged.

(iii) The 20th shift is recognised as a normal rostered shift and is to be added to the annual leave calculation.

(b) Annual Leave Exclusive of Public Holidays

Subject to this subclause, the annual leave prescribed by this clause shall be exclusive of any of the holidays prescribed by Clause 28 - Public Holidays.

Where a holiday falls as aforesaid and the employee fails without reasonable cause, proof whereof shall be upon the employee to attend for work at his/her ordinary starting time on the working day immediately prior to commencing such leave or the working day immediately following the last day of the period of his/her annual leave he/she shall not be entitled to be paid for any such holiday.

(c) Broken Leave

Annual leave may be taken in any combination of periods but one period must be not less than 14 continuous days.

(d) Calculation of Continuous Service

For the purpose of this clause, service shall be deemed to be continuous notwithstanding:

(i) any interruption or termination of the employment by the employer if such interruption or termination has been made merely with the intention of avoiding obligations hereunder in respect of leave of absence;

(ii) any absence from work on account of personal sickness, accident or on account of leave lawfully granted by the employer; or

(iii) any absence with reasonable cause, proof whereof shall be upon the employee.

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In cases of personal sickness or accident or absence with reasonable cause, the employee to become entitled to the benefit of this subclause shall inform the employer in writing, if practicable, within 24 hours and as far as practicable the nature of the illness, injury or cause and the estimated duration of his/her absence.

Any absence from work by reason of any cause not being a cause specified in this subclause shall not be deemed to break the continuity of service for the purpose of this clause unless the employer during the absence or within 14 days of the termination of the absence notifies the employee in writing that such absence shall be regarded as having broken the continuity of service.

In calculating the period of 12 months continuous service any such absence as aforesaid shall not, except to the extent of not more than 26 weeks in a 12 monthly period in the case of sickness or accident not originating in the course of his/her employment, be taken into account in calculating the period of 12 months continuous service.

(e) Time of Taking Leave

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

As far as practicable annual leave shall be granted between the months of September and April inclusive, and at such times therein as shall not prevent the continuous operation of the employer's mines and mill.

Wages shall not be paid in lieu of annual leave entitlements.

(f) Payment for Period of Leave

For the purposes of this clause employees shall be paid the wage they would have received in respect of the ORDINARY time they would have worked had they not been on annual leave plus 17.5% loading.

Employees employed on a piece-rate system shall be paid the average earnings for all ordinary hours worked for the preceding 3 months.

Employees on continuous shift work shall be paid their projected roster or 17.5% leave loading whichever is the greater.

(g) Proportionate Leave on Termination of Service

Subject to the provisions of subclause (d) of Clause 14 - Contract of Employment hereof, if after one month's continuous service in any qualifying 12 monthly period an employee lawfully leaves his/her employment, or his/her employment is terminated by the employer through no fault of the employee, the employee shall be paid at his/her ordinary rate of wage as follows:

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(i) Weekly paid employees - one and two thirds shifts or days for each completed month of continuous service.

(ii) Seven-day shift workers - two and one twelfth shifts for each completed month of continuous service.

11. BEREAVEMENT LEAVE

(a) Paid Leave Entitlement

An employee shall on the death of a wife, husband, father, mother, child, stepchild, brother, sister, grandparent, mother-in-law, father-in-law, stepmother, stepfather, de facto husband or wife, be entitled upon application being made to, and approved by the employer, to leave up to and including the day after the funeral of such relative, and such leave shall be at ordinary rates of pay not exceeding 24 working hours.

PROVIDED that no payment shall be made in respect of an employee's rostered days off.

Proof of such death, in the form of a Death Notice or other written evidence, shall be furnished by the employee to the satisfaction of the employer.

PROVIDED FURTHER 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.

(b) Unpaid Bereavement Leave

An employee may take unpaid bereavement leave by agreement with the employer.

(c) Casual Employees

(i) Subject to the evidentiary requirements in subclause (a), casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of an immediate family or household member.

(ii) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. Casual employees are not entitled to any payment for the period of non-attendance.

(iii) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

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12. CASUAL EMPLOYEES

(a) A casual employee is one engaged and paid as such. A casual employee for working ordinary time shall be paid per hour 1/38 of the weekly award wage prescribed herein for the work which the employee performs plus 20%.

(b) Except in cases of unavoidable accident or other circumstances beyond the control of the employer, if, before any casual employee leaves work at the end of the shift, he/she is not informed that he/she shall not be required for the following shift, and he/she attends the next shift willing to work and he/she is not allowed to do so, he/she shall be paid the wages to which he/she would have been entitled if he/she had worked the shift.

13. CONSULTATIVE PROCEDURES

(a) The parties to this award are committed to co-operating positively to increase the efficiency, productivity and competitiveness of the industries and those establishments covered by Clause 2 - Scope, and to enhance the career opportunities and job security of employees in these industries and establishments.

(b) At each enterprise or establishment, the employer, the employees and the relevant union or unions, shall establish a consultative mechanism and procedures appropriate to the size, structure and needs of that enterprise or establishment. Measures raised by the employer, employees or union or unions for consideration consistent with the objectives of subclause (a) herein shall be processed through that consultative mechanism and procedures.

(c) The employer shall meet on a regular basis with union delegates to consult regarding the use of contractors and related issues. Unless unforeseen circumstances intervene such meetings shall occur on at least a monthly basis.

14. CONTRACT OF EMPLOYMENT

(a) Except for casual employees, as defined in Clause 12 - Casual Employees, the terms of employment shall be from day to day for the first fortnight, but thereafter it may be terminated by a week's notice on either side given at any time during the week or by the payment or forfeiture of a week's wages as the case may be.

Where an employee has given or been given notice as aforesaid, they shall continue in employment until the date of the expiration of such notice. Any employee who, having given or been given notice as aforesaid without reasonable cause (proof of which shall be on the employee) is absent from work during such period, shall be deemed to have abandoned employment and shall not be entitled to payment for work done by the employee within that period.

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(b) All employees shall be required to be members of the medical sick leave and dental schemes that exist and are applicable to Zinifex Mining-Rosebery and abide by the terms and conditions as varied from time to time by the elected Boards of Management.

(c) All new employees of Zinifex Mining-Rosebery shall be required to become members of the employer sponsored superannuation fund.

(d) Notwithstanding the provisions of subclause (a) hereof, the provisions of this clause shall not apply so as to require an employee to forfeit leave and pay entitlements in excess of one week in the aggregate.

(e) Subclause (a) above shall not affect the right of the employer to dismiss any employee without notice for misconduct and in such cases the wages shall be paid up to the time of dismissal only; or to deduct payment for any day the employee cannot be usefully employed because of any stoppage of work by any cause for which the employer cannot reasonably be held responsible.

(f) It shall be a condition of employment that any employee shall learn any other job or skill within their classification as required and shall provide instruction to other employees in this regard as required.

(g) (i) An employer may direct an employee to carry out such duties as are within the limit of the employee's skill, competence and training consistent with the classification structure of this award provided that such duties are not designed to promote de-skilling.

(ii) An employer may direct an employee to carry out such duties and use tools and equipment as may be required provided that the employee has been properly trained in the use of such tools and equipment.

(iii) Any direction issued by an employer pursuant to paragraphs (i) and (ii) shall be consistent with the employer's responsibilities to provide a safe and healthy working environment.

(h) Employees shall use protective clothing and equipment as provided and shall comply with the safety code prescribed by the employer.

(i) The right of the Company to deduct payment for any day an employee cannot be usefully employed because of a strike or by any stoppage of work by any cause for which the employer cannot reasonably be held responsible is subject to the following conditions:

(i) The Company shall notify the employee verbally or in writing or by public notice of the proposed stand down. During the period such notification remains in force, the employee shall be deemed to be stood down until he is advised to resume work, which may be done verbally or in writing, or by public notice.

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(ii) An employee who is stood down under this subclause shall be treated for all purposes (other than payment of wages) as having continuity of service and employment notwithstanding such standing down.

(iii) An employee who is stood down under this subclause may at any time during the period of being stood down terminate employment without notice and shall be entitled to receive as soon as practicable all wages and other payment to which there is an entitlement up to the time of termination. The day on which the employee exercises the right of termination without notice shall be the day on which the employment is terminated.

(iv) An employee who terminates employment under subparagraph (iii) hereof, shall for all purposes (other than payment in lieu of notice) be treated as if employment had been terminated by the employer without default to the employee.

(v) An employee who is stood down under this subclause shall be at liberty to take other employment.

(vi) Save and except an employee who is engaged in a strike at Zinifex Mining-Rosebery an employee stood down for a period of more than one week who has exercised the right to take other employment shall be entitled to work out in such other employment, notice of up to one week provided he/she notifies the Company of his/her so doing.

(vii) An employee who is stood down under this subclause may elect to take, for the period of the stand down only, any annual leave to which the employee is entitled or which is accruing to the employee and upon such election being exercised the employee's annual leave shall be reduced accordingly.

(viii) Notwithstanding anything hereinbefore contained in this subclause, the Company shall not be entitled to deduct payment for any day prescribed by the award as a public holiday which occurs during the period in which an employee has become entitled to payment for the holiday in other employment. An employee claiming payment for a holiday shall, if required by the Company, furnish a statutory declaration setting out details of any other employment during the stand down period and the remuneration received therefrom.

(j) Any employee who is absent from employment without reasonable cause for a period exceeding three consecutive working days shall be deemed to have terminated employment, provided where termination is disputed such matter shall be referred to the Tasmanian Industrial Commission.

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15. CONTRACT WORK

(a) Where any party of miners, or other employees, contracted to execute any work by measure or volume or any other method under the control of the employer, they shall agree with the employer a set price.

PROVIDED that in all contracts, not less than the minimum rates fixed for such work shall be paid for the actual time worked. In all contracts, measurement shall be made at least once in every fortnight and payment made accordingly.

(b) In the event of there being no work done on any of the holidays mentioned in Clause 28 - Public Holidays hereof, contractors shall be entitled for each of the said holidays to a day's pay at the rates prescribed in this award.

PROVIDED that contractors shall not be entitled to be paid for any of the said holidays if they are called upon to do any work in connection with their contract of a special and necessary character, or in a continuous process, and they refuse to do so.

PROVIDED FURTHER that no payment at extra rates shall be made to contractors who may be called upon to work in connection with their contract on any of the said holidays.

(c) The employer shall not place any man in any contract party without the party's consent; but this shall not apply to the men temporarily employed to fill a vacancy in any party.

16. EMPLOYEES' CLOTHING

(a) The employer shall be responsible for employees' clothing which may be destroyed by fire in a change house up to a maximum of $300 for each employee.

(b) Compensation shall be made to the extent of damage sustained to clothing or tools of the employee where, in the course of the work, his/her clothing or tools have been damaged or destroyed by fire or through the use of corrosive substances, such loss or damage not being due to the negligence of the employee.

17. GRIEVANCE PROCEDURES

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

(a) In the first instance all matters should be referred to the appropriate Supervisor.

(b) If the matter/s remain unresolved they should then be forwarded to the Area Manager. If the issue cannot be dealt with at this level the relevant Department Head should be advised.

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(c) If there is still no satisfactory resolution the grievance should be referred to the Industrial Relations Manager.

(d) Once these three steps have been exhausted without remedy the matter should be referred to the General Manager.

(e) If the grievance remains unresolved then the parties agree to list the dispute (potential or otherwise) with the Tasmanian Industrial Commission for determination.

(f) While the above procedure is followed, industrial action will be avoided and the "status quo" in existence prior to the dispute shall be maintained.

(g) This procedure is designed to assist the quick resolution of disputes. Accordingly the maximum number of hours to be allocated to any single grievance shall be 48 hours at which point either party reserves the right to exercise Option 5, i.e. refer the matter to the Tasmanian Industrial Commission.

(h) Any party to this award may refer any matter to the Tasmanian Industrial Commission prior to the cessation of 48 hours.

18. HOURS OF WORK

(a) For all day employees 38 hours shall constitute a week's work, and shall be worked in five days of eight consecutive hours each day from Monday to Friday inclusive, to be worked between the hours of 7.45am and 4.30pm.

PROVIDED that the spread of hours or daily hours prescribed may be altered by mutual agreement between the employer and the employee.

(b) Shift employees shall work at such times as the employer may require on a projected shift roster.

(c) Rosters may provide for a combination of day, afternoon or night shifts provided there is a break between shift types of twenty-four hours.

(d) Forty-eight hours notice shall be given for change of work patterns. Any less notice shall attract a penalty rate as for overtime.

19. JURY SERVICE

An employee required to attend for jury service during ordinary working hours shall be reimbursed by the employer an amount equal to the difference between the amount paid in respect of the employee's attendance for each jury service and the amount the employee would have earned in respect of normal rostered hours had the employee been at work.

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The employee shall provide the employer with proof of attendance, the duration of such attendance and the amount received in respect of such attendance.

20. MEAL BREAKS

(a) All employees shall be entitled to thirty minutes break each rostered shift for the purpose of a meal break. For day workers this break shall be unpaid for shift workers and all employees working underground this break shall be paid at ordinary time.

(b) Meal breaks shall be organised in such a manner as shall not interfere with continuity of operations and where practical shall be taken at the place of work in crib rooms.

21. NOTICE BOARDS

The employer shall make available in prominent positions notice boards for the posting of union notices and the award.

22. OVERTIME

(a) Employees shall be required to work a reasonable amount of overtime in addition to the rostered hours of duty.

(b) All hours worked in excess of the rostered hours of duty shall be paid at twice the hourly rate.

(c) An employee involved in or in relation to a maintenance function shall work during meal breaks at the ordinary rates prescribed herein whenever instructed to do so for the purpose of making good breakdowns of plant or upon the maintenance of plant which can only be done while such plant is idle.

PROVIDED that an employee shall not work for more than 5 hours without a break for a meal.

(d) Shift workers shall be paid at the rate of double time for all time of duty beyond 8 hours per day, except where the excess time of duty is:

(i) by arrangement between the employees themselves;

(ii) for the purpose of effecting the customary rotation of shifts and reliefs.

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(e) Where an employee notified of an overtime shift receives less than 8 hours' notice from its starting time to its cancellation, he/she shall be paid standing-by time at his/her ordinary rate of pay for such period as the notice of cancellation is short of 8 hours, and the employee who has reported for duty without being notified by the employer shall accept such work as is offered in lieu of his/her normal work.

(f) Shift Relief

Notwithstanding anything contained elsewhere in this award where an employee is not relieved as scheduled at the termination of shift through no fault of the employer, the employee shall continue to perform duty until relieved or otherwise authorised by the employer to finish work. The employer shall endeavour to find a relief at the earliest notification. In these circumstances the employee shall be paid pursuant to subclause (b) of Clause 22 - Overtime, for all hours in excess of 8.

(g) Callouts

Employees who are called to work outside their rostered hours of work shall be given a minimum of 4 hours work and shall be paid pursuant to subclause (b) of Clause 22 - Overtime. Each callout shall stand alone.

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

(i) An employee required to work overtime for one and a quarter hours or more following his/her ordinary day of shift without being notified the previous day or earlier that he/she shall be so required to work shall either be supplied with meals at the proper intervals or shall be given the sum of $14.10 per meal in lieu thereof.

(j) Employees required to work one and a quarter hours or move overtime following their ordinary day or shift shall be allowed 30 minutes for crib (which may be taken in relays) and at intervals of every 4 hours thereafter outside ordinary working hours (the same to be paid at overtime rates).

(k) Rest Period

When a day worker is required to change from day work to night shift commencing at midnight on the same day he/she shall be allowed to cease work at 4.00 pm.

PROVIDED that employees working on shaft maintenance shall be allowed to cease work at 2.00pm without loss of pay for ordinary hours of employment on that day.

(l) If an employee is required to work sufficiently long not to have 10 consecutive hours rest before his/her next ordinary starting time, he/she shall be entitled to take 10 hours rest without loss of any of his/her pay for the following shift.

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(m) An employee who is required to commence work at overtime rates 4 or more hours before his/her normal commencing time for duty on that day and who by direction does not cease duty prior to his/her normal commencing time shall be paid for all ordinary hours worked on that day at the rate of double time or be released from duty without loss of ordinary pay until he/she has had not less than 10 consecutive hours rest period following the completion of the overtime duty as performed.

(n) The provisions of the above subclause (m) shall apply in the case of shift workers as if 8 hours were substituted for 10 hours when overtime is worked for:

(i) the purpose of changing shift rosters; or

(ii) where a shift worker does not report for duty and a day worker or a shift worker is required to cover such absence;

(iii) where a shift is worked by arrangement between the employees themselves.

(o) When day workers work less than 5 successive shifts (inclusive of any Rostered Leisure Days), overtime at the rates prescribed for day workers shall be paid instead of the allowance for shift work.

23. PARENTAL LEAVE

Subject to the terms of this clause employees are entitled to maternity, paternity and adoption leave and to work part-time in connection with the birth or adoption of a child.

(a) Definitions

For the purposes of this clause:

(i) **'Child'** means a child of the employee under the age of one year except for adoption of a child where '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 step-child of the employee or of the parent of the employee or a child who has previously lived continuously with the employee for a period of six month or more.

(ii) **'Continuous service'** means service under an unbroken contract of employment and includes:

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

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

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

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(iii) **'Employee'** includes a part-time employee but does not include an employee engaged upon casual work, unless that work has been under a continuous contract of employment of at least 12 months.

(iv) **'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.

(v) **'Male employee'** means an employed male who is caring for a child borne of his spouse or a child placed with the employee for adoption purposes.

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

(vii) **'Spouse'** includes a de facto or a former spouse.

(b) Entitlement

(i) After twelve months continuous service, parents are entitled to a combined total of 52 weeks unpaid parental leave on a shared basis in relation to the birth or adoption of their child. For mothers, maternity leave provisions apply and for male employees, paternity leave provisions apply. Adoption leave provisions apply in the case of adoption.

(ii) Subject to subclause (c)(vi), parental leave is to be available to only one parent at a time, in a single unbroken period, except that both parents may simultaneously take:

(1) for maternity and paternity leave, an unbroken period of up to one week at the time of the birth of the child;

(2) for adoption leave, an unbroken period of up to three weeks at the time of placement of the child.

(iii) Unless otherwise agreed between the employee and the employer, parental leave shall be granted and taken in accordance with the notice given by the employee as specified below.

(c) Maternity Leave

(i) An employee must provide notice to the employer in advance of the expected date of commencement of parental leave. The notice requirements are:

(1) of the expected date of confinement (included in a certificate from a registered medical practitioner stating that the employee is pregnant) – at least 10 weeks;

(2) of the date on which the employee proposes to commence maternity leave and the period of leave to be taken – at least 4 weeks.

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(ii) Where the employee gives notice under (d) (i) the employee must also provide 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.

(iii) An employee will not be in breach of this clause if failure to give the stipulated notice is occasioned by confinement occurring earlier than the presumed date or other compelling circumstances.

(iv) An employee may commence maternity leave at any time within six weeks immediately prior to the expected date of birth.

(v) Where an employee continues to work within the six week period immediately prior to the expected date of birth, or where the employee elects to return to work within six weeks after the birth of the child, an employer may require the employee to provide a medical certificate stating that she is fit to work on her normal duties.

(vi) Special Maternity Leave

(1) 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 the employee may take unpaid special maternity leave of such periods as a registered medical practitioner certifies as necessary.

(2) Where an employee is suffering from an illness not related to the direct consequences of the confinement, an employee may take any paid personal leave to which she is entitled in lieu of, or in addition to, special maternity leave.

(3) Where an employee not then on maternity leave suffers illness related to her pregnancy, she may take any paid personal leave to which she is then entitled and such further unpaid special maternity leave as a registered medical, practitioner certifies as necessary before her return to work. The aggregate of paid personal leave, special maternity leave and parental leave, including paternity leave taken by her spouse, may not exceed 52 weeks.

(vii) Transfer to a safe job

(1) Where an employee is pregnant and, 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 will, if the employer deems it practicable, be transferred to a safe job at the rate and on the conditions attaching to that job until the commencement of maternity leave.

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(2) If the transfer to a safe job is not practicable, the employee may elect, or the employer may require the employee to commence parental leave for such period as is certified necessary by a registered medical practitioner.

(d) Paternity Leave

(i) A male employee will provide to the employer at least 10 weeks prior to each proposed period of paternity leave:

(1) that 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 on which the birth took place, and

(2) written notification of the proposed dates on which the period of paternity leave will start and finish and

(3) a statutory declaration stating:

(A) that period of paternity leave will be taken to become the primary care-giver of a child;

(B) particulars of any period of maternity leave sought or taken by the mother, and

(C) that for the period of paternity leave, the employee will not engage in any conduct inconsistent with their contract of employment.

(4) The employee will not be in breach of this subclause if the failure to give the required period of notice is because of the birth occurring earlier than expected, the death of the mother of the child, or other compelling circumstances.

(e) Adoption leave

(i) The employee will notify the employer at least ten weeks in advance of the date of commencement of adoption leave and the period of leave to be taken. An employee may commence adoption leave prior to providing such notice, where through circumstances beyond the control of the employee, the adoption of a child takes place earlier.

(ii) Before commencing adoption leave, an employee will provide the employer with a statutory declaration stating:

(1) the employee is seeking adoption leave to become the primary care-giver of the child;

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(2) particulars of any period of adoption leave sought or taken by any other person in respect of that child, and

(3) that for the period of adoption leave the employee will not engage in any conduct inconsistent with their contract of employment.

(iii) An employer may require an employee to provide confirmation from the appropriate government authority of the placement.

(iv) Where the placement of a child for adoption with an employee does not proceed or continue, the employee will notify the employer immediately and the employer will nominate a time not exceeding four weeks from receipt of notification for the employee's return to work.

(v) An employee will not be in breach of this subclause as a consequence of failure to give the stipulated periods of notice if such failure results from a requirement of an adoption agency to accept earlier or later placement of a child, the death of an adoptive parent or other compelling circumstances.

(vi) An employee seeking to adopt a child is entitled to unpaid leave for the purpose of attending any compulsory interviews or examinations as are necessary as part of the adoption procedure. The employee and the employer should agree on the length of the unpaid leave. Where agreement cannot be reached, the employee is entitled to take up to two days unpaid leave. Where paid leave is available to the employee, the employer may require the employee to take such leave instead.

(f) Parental Leave and Other Entitlements

An employee may in lieu of or in conjunction with parental leave, access any annual leave or long service leave entitlements which they have accrued subject to the total amount of leave not exceeding 52 weeks.

(g) Part time work

(i) Entitlement

With the agreement of the employer:

(1) An 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.

(2) 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.

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(ii) 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.

(iii) Pro Rata Entitlements

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

(iv) Transitional Arrangements - Annual Leave

(1) An employee working part-time under this subclause shall be entitled to any leave accrued in respect of a period of full-time employment, as if the employee was still working full-time, in the position held prior to taking leave.

(2) (A) A full-time employee shall be entitled to annual leave accrued in respect of a period of part-time employment under this subclause, as if the employee was working part-time in the position held, immediately before resuming full-time work.

(B) Provided that, by agreement between the employer and the employee, the period over which the leave is taken may be shortened to the extent necessary for the employee to receive pay at the employee's current full-time rate.

(v) Transitional Arrangements - Personal Leave

An employee working part-time under this subclause shall have personal 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.

(vi) Part-time Work Agreement

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

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

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

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

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

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

(3) 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.

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

(vii) Termination of Employment

(1) 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.

(2) 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.

(viii) Extension of Hours of Work

An employer may request, but not require, an employee working part-time under this clause to work outside or in excess of the employee's ordinary hours of duty provided for in accordance with paragraph (vi).

(ix) 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.

(x) 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:

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(1) limiting the number of employees who may work part-time;

(2) establishing quotas as to the ratio of part-time to full-time employees;

(3) prescribing a minimum or maximum number of hours a part-time employee may work; or

(4) requiring consultation with, consent of or monitoring by a union;

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

(h) Replacement Employees

(i) A replacement employee is an employee specifically engaged as a result of an employee proceeding on parental leave or working part time in accordance with this clause.

(ii) A replacement employee may be employed part-time. The provisions of this subclause in relation to annual leave and personal leave apply to the part-time employment of replacement employees.

(iii) Before an employer engages a replacement employee under this paragraph, the employer shall inform the person of the temporary nature of the employment and of the rights of the employee who is being replaced. Specifically, the employer must advise that the period of engagement is subject to variation or change in the event that the employee on leave exercises the right to vary the period of leave.

(iv) Unbroken service as a replacement employee shall be treated as continuous service.

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

(i) Return to Former Position after a Period of Parental Leave or Part Time Work

Unless other wise agreed between employee and employer, and consistent with the provisions of this clause

(i) An employee will give at least four weeks' notice prior of their intention to return to work after a period of parental leave or part time work in accordance with this clause.

(ii) An employee will be entitled to the position which they held immediately before proceeding on parental leave or part time work. In the case of an employee transferred to a safe job pursuant to subclause (c) (vii) of this clause, the employee will be entitled to return to the position they held immediately before such transfer.

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(iii) During the period of parental leave an employee shall be entitled to return to work at any time, as agreed between the employer and the employee, provided that the employer may require notice of not more than four weeks.

(iv) An employee shall be entitled to extend the period of parental leave on one occasion, provided that the employer may require notice of not more than four weeks.

By mutual agreement between the employee and the employer, the period of leave may be further extended.

(j) Redundancy

(i) If a position held by an employee prior to taking parental leave is likely to be made redundant before the employee returns to work, the employer must advise the employee of the impending redundancy, provide an opportunity for consultation and shall not disadvantage the employee by virtue of the taking of parental leave.

(ii) 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 will be entitled to a position as nearly comparable in status and pay to that of their former position.

(k) Right To Request Variation To Parental Leave Provision

(i) An employee entitled to parental leave pursuant to the provisions of this clause may request the employer to allow the employee:

(1) to extend the period of simultaneous unpaid parental leave up to a maximum of eight weeks;

(2) to extend the period of unpaid parental leave by a further continuous period of leave not exceeding 12 months;

(3) to return from a period of parental leave on a part-time basis until the child reaches school age,

to assist the employee in reconciling work and parental responsibilities.

(ii) The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

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(l) Communication During Parental Leave

(i) Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:

(1) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and

(2) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.

(ii) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

(iii) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with (l)(i)(1).

24. PAYMENT FOR SHIFT

(a) After beginning his/her shift an employee shall not be paid for less than a shift unless he/she leaves of his/her own accord or is discharged for misconduct.

(b) In the event of any employee involved with an accident during a shift, or being required to attend to an employee who has met with an accident, he/she shall be deemed to have completed his/her shift and be paid accordingly.

25. PAYMENT OF WAGES

(a) Payment of wages shall be by cash fortnightly or if the employees agree by electronic funds transfer into nominated bank accounts.

(b) On or prior to pay day the employer shall make available to each employee a written statement of the amount of wages to which they are entitled.

26. PERSONAL LEAVE

For employers who do not subsidise a sick or accident fund for the benefit of their employees, the provisions of this clause shall apply.

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The provisions of this clause apply to an employee, other than one engaged as a casual employee. The entitlements of casual employees are set out in subclause (h) – Casual Employees – Caring Responsibilities.

(a) Definitions

The term **'immediate family'** includes:

(i) spouse (including a former spouse, a de facto spouse and a former de facto spouse) of the employee. A de facto spouse means a person of the opposite sex to the employee who lives with the employee as his or her husband or wife on a bona fide domestic basis; and

(ii) child or an adult child (including an adopted child, a step child or an ex-nuptial child), parent, grandparent, grandchild or sibling of the employee or spouse of the employee.

(b) Amount of Paid Personal Leave

(i) Paid personal leave is available to an employee, when they are absent:

(1) due to personal illness or injury; or

(2) for the purposes of caring for an immediate family or household member who is sick and requires the employee's care and support or who requires care due to an unexpected emergency.

(ii) Ten days personal leave shall be granted for each year of service.

(iii) Each year's unused personal leave shall accumulate and can be taken in the following years.

(c) Personal Leave for Personal Injury or Sickness

An employee is entitled to use the full amount of their personal leave entitlement including accrued leave for the purposes of personal illness or injury, subject to the conditions set out in this clause.

(d) Personal Leave to Care for an Immediate Family or Household Member

(i) An employee is entitled to use up to 10 days personal leave, including accrued leave, each year to care for members of their immediate family or household who are sick and require care and support or who require care due to an unexpected emergency, subject to the conditions set out in this clause.

Leave may be taken for part of a single day.

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(ii) By agreement between an employer and an individual employee, the employee may access an additional amount of their accrued personal leave for the purposes set out in paragraph (d)(i), beyond the limit set out in paragraph (d)(i). In such circumstances, the employer and the employee shall agree upon the additional amount that may be accessed.

(e) Evidence Supporting Claim

When taking leave to care for members of their immediate family or household who require care due to an unexpected emergency, the employee must, if required by the employer, establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

(f) Unpaid Personal Leave

Where an employee has exhausted all paid personal leave entitlements, they are entitled to take unpaid personal leave to care for members of their immediate family or household who are sick and require care and support or who require care due to an unexpected emergency. The employer and the employee shall agree on the period. In the absence of agreement, the employee is entitled to take up to two days (up to a maximum of 16 hours) per occasion, provided the requirements of subclauses (e) are met.

(g) Casual Employees – Caring Responsibilities

Subject to the evidentiary and notice requirements in subclauses (e), casual employees are entitled to not be available to attend work, or to leave work if they need to care for members of their immediate family or household who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.

The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. Casual employees are not entitled to any payment for the period of non-attendance.

An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

27. PROVISION OF TOOLS

The employer shall provide all tools required by workers to carry out their work.

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28. PUBLIC HOLIDAYS

(a) All employees (other than casuals) shall be allowed the following days as paid holidays:

New Year's Day, Australia Day, Labour Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Burnie Show Day, Recreation Day, Christmas Day and Boxing Day.

PROVIDED that when Anzac Day falls on a Saturday or Sunday the next ordinary working day shall be observed as the public holiday.

(b) (i) 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 the employee had been at work.

(ii) **PROVIDED** that an employee who refuses to work when required to do work of a special and necessary character or in a continuous process shall forfeit the right to any payment for the holiday on which the employee fails to work.

(c) Where an employee is absent from employment on a working day before or a working day after a public holiday without reasonable excuse or without the consent of the employer, the employee shall not be entitled to payment for such holiday.

PROVIDED that any dispute in relation to this subclause shall be referred to the Tasmanian Industrial Commission.

(d) By agreement between the employer and employees another day or days may be substituted for any of the above holidays. The day or days on which the public holidays would otherwise have been observed shall become ordinary working days for all purposes.

(e) Employees other than 7 day shift workers who work on more than 4 public holidays in their qualifying period for annual leave, shall be allowed an additional day annual leave for each public holiday so worked.

(f) For all time of work on the above holidays the rate of pay shall be:

(i) Non-continuous shift and day workers - double time and one half inclusive of the public holiday payment.

(ii) Continuous shift workers - double time.

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(g) If employees are notified that they are required to work on any of the holidays mentioned above and such notification is subsequently cancelled, they shall be paid one day's wage at ordinary rates, unless they are given 48 hours notice of the cancellation or unless they are notified of the cancellation before the completion of the last ordinary shift before the holiday occurs.

(h) Where employees are called in to work on a public holiday they shall be paid a minimum of 4 hours overtime at double the hourly rate exclusive of the public holiday payment.

29. RIGHT OF ENTRY OF UNION OFFICIALS

(a) For the purpose of interviewing employees on legitimate union business, an officer of an organisation of employees accredited as hereinafter provided, may enter the employer's premises during midday meal or crib time of employees on each day of the week except Saturdays, Sundays and holidays on the following conditions:

(i) that the officer produces authority to the gatekeeper or such other person as may be appointed by the employer for that purpose;

(ii) that the officer interviews the employees only at recognised places where they are taking their meal or crib;

(iii) that not more than one representative of each of not more than 3 unions be on the premises at any one time;

(iv) that not more than one representative visit the premises more than once in each week; and

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

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

(b) An officer shall be a duly accredited representative of an organisation if the officer be the holder for the time being of a certificate which has not been cancelled or revoked, signed by the secretary and bearing the seal of the organisation and bearing the signature of the holder.

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30. ROSEBERY SKILLS ACQUISITION PROGRAMME

(a) Introduction

The Rosebery Skills Acquisition Programme (RSA) has been designed to address the training and development requirements of all employees. This shall be achieved by providing an opportunity for all employees to expand their work skills to a level that shall ensure progression through the career path pursuant to Exhibit S1, T.2486 of 1990.

(b) Application

RSA is a totally integrated concept whereby employees may acquire new levels of skills or build upon an existing base. Where practicable the skills acquired through the programme shall receive national accreditation and be fully portable. The standard to be achieved on every programme has been predetermined but for some units there shall be a bias towards competency based assessment.

There shall be a wage structure complementing individual achievement based on 3% increments of the relevant base rate. This wage structure is predicated on skills acquisition thereby ensuring that an employee is paid for expertise gained rather than the traditional payments based on task classifications.

Individual training programmes shall be monitored and the records maintained. The only accrediting authority shall be a recognised agency; furthermore accreditation shall be solely determined by the satisfactory completion of a recognised RSA unit.

In the event of a dispute over the application of the foregoing process an appeal panel consisting of two employer, two employee and one independent, shall adjudicate and their finding shall be final.

It needs to be recognised by the parties that the demand for manpower on a production process shall at times inhibit the progress of an individual or group - however, the needs of the operation shall at all times take precedence.

31. SHOP STEWARDS

An employee shop steward in a section or shift, shall upon written notification to the employer, be recognised as the accredited representative of the union to which the shop steward belongs and the shop steward shall be allowed the necessary time during working hours to interview the employer or the employer's representatives on matters affecting employees whom the shop steward represents.

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32. TIME AND WAGES RECORD

The employer shall keep a time and wage record showing the name of each employee and occupation, the hours worked each day, and the wages and allowances paid each week.

The time and wages record shall be open for inspection to the Secretary or Branch Secretary or accredited officer of a union duly authorised in writing, at the employer's property or other convenient place.

PROVIDED that an inspection shall not be demanded unless the Secretary or Branch Secretary or accredited officer suspects that a breach of the award has been or is being committed.

PROVIDED FURTHER that only one demand for such inspection shall be made in any one fortnight at the same establishment.

Tim Abey
COMMISSIONER

30 July 2007