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**TASMANIAN INDUSTRIAL COMMISSION**

**Industrial Relations Act 1984**

s23 application for award or variation of award

**Tasmanian Trades and Labor Council**

(T11548 of 2004)

Private Sector Awards

**Tasmanian Trades and Labor Council**

(T11564 of 2004)

Private Sector Awards

**Tasmanian Trades and Labor Council**

(T11566 of 2004)

Private and Public Sector Awards

**FULL BENCH:**

PRESIDENT P L LEARY

COMMISSIONER T J ABEY

COMMISSIONER J P McALPINE

**Wage Rates – State Wage Case July 2004 – applications to vary private sector awards in a manner consistent with the Australian Industrial Relations Commission in Print PR002004 – Safety Net Review – Award rates to be increased by \$19 per week – Wage related allowances increased by 3.5% - Meal allowances increased to \$12.70 – Supported Wage increased to \$61 per week – Operative date ffpp 1 August 2004 – State Minimum Wage determined at \$467.40 – s.35(1)(b)**

**BROADCASTING AND TELEVISION AWARD**

**ORDER BY CONSENT**

**No. 1 of 2004  
(Consolidated)**

CLAUSES 8 AND 21 ARE VARIED AND THE AWARD IS CONSOLIDATED

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## **1. TITLE**

This award shall be known as the "Broadcasting and Television Award".

## **2. SCOPE**

This award is established in respect of the trade of a proprietor of a commercial broadcasting station or commercial television station, as defined in the *Broadcasting and Television Act 1942-1963* of the Australian Parliament.

## **3. ARRANGEMENT**

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#### **4. DATE OF OPERATION**

This award shall come into operation from the beginning of the first full pay period to commence on or after 1 August 2004.

#### **5. SUPERSESION AND SAVINGS**

This award incorporates and supersedes the Broadcasting and Television Award No. 1 of 2003 (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 employed in the industry specified in Clause 2 - Scope;
- (c) the following organisations of employees in respect of whom award interest has been determined:
  - (i) the Australian Municipal, Administrative, Clerical and Services Union and the officers of that organisation and their members who are employed in the industry specified in Clause 2 - Scope;

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- (ii) the Media, Entertainment and Arts Alliance, Tasmania Branch, and the officers of that organisation and their members who are employed in the industry specified in Clause 2 - Scope;
  - (iii) the Musicians' Union of Australia, Hobart Branch, and the officers of that organisation and their members who are employed in the industry specified in Clause 2 - Scope;
- (d) the following organisation of employers in respect of whom award interest has been determined:
- the Tasmanian Chamber of Commerce and Industry Limited.

## **7. DEFINITIONS**

**'Announcer'** means an employee who is engaged in making announcements, speaking and/or describing an event or events into a microphone for the purposes of broadcasting or recording and in duties ordinarily associated with such work.

**'Announcer Grade I'** means an employee who in addition to announcing the time of the day, playing of records and/or controlling transcriptions and/or making announcements, including reading of news, stock reports or sporting results, is required to carry out 'specialist work' or to 'ad lib' when required by the employer.

**'Announcer Grade II'** means an employee not coming within the definition of 'Announcer Grade (I)' but who is employed on the announcing of time of day, playing of records and/or controlling transcriptions and/or making announcements, including reading of news, stock reports or sporting results, but does not include other 'specialist work' or 'ad lib' for more than one minute at any one time.

**'Broadcasting station'** shall include transmitter control rooms and technical equipment used in conjunction therewith operating under one call sign and the one licence whether on the same or different premises.

A **'day'** means midnight to midnight.

**'Officer in charge of the station'** shall mean the manager, if there, and if not there, then his officially appointed deputy.

**'Show Day'** means not more than one local show day observed on an employee's ordinary working day, other than a Saturday or a Sunday, in the city, town or district in which the employee is employed; or such other day which, in the absence of such a local show day, is agreed on by the employee and the employer, therefore making a total of 11 paid public holidays per year.

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## **8. WAGE RATES**

### **1. ANNOUNCERS**

Adult employees of a classification hereunder mentioned shall be paid the weekly wage rate assigned opposite that classification:

	Base Rate		Safety Net Adjustment	Weekly Wage Rate	
	Hobart \$	Launceston \$		Hobart \$	Launceston \$
Announcers, on appointment and until obtaining six months' experience	212.10	212.10	142.00	354.10	354.10
Announcers, Grade II	216.50	214.60	142.00	358.50	356.60
Announcers, Grade I	224.00	222.10	142.00	366.00	364.10
	North West Coast \$	Queenstown and Elsewhere \$	Safety Net Adjustment \$	North West Coast \$	Queenstown and Elsewhere \$
Announcers, on appointment and until obtaining six months' experience	212.10	212.10	142.00	354.10	354.10
Announcers, Grade II	213.80	212.90	142.00	355.80	354.90
Announcers, Grade I	219.70	216.50	142.00	361.70	358.50

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## 2. TECHNICAL AND PRODUCTION (TELEVISION)

Adult employees of a classification hereunder mentioned shall be paid the weekly wage rate assigned opposite that classification:

	Base Rate \$	Safety Net Adjustment \$	Weekly Wage Rate \$
(i) Senior technician, i.e. a technician who is engaged on work the performance of which requires him/her to hold a Television Operator's Certificate of Proficiency	264.10	142.00	406.10
(ii) Technician, qualified, i.e. an employee who holds a Television Operator's Certificate of Proficiency, and who, under direction, maintains and operates television equipment	237.30	142.00	379.30
(iii) Technician, unqualified, i.e. an employee who does not hold a Television Operator's Certificate of Proficiency, but who under direction maintains and operates television equipment	228.10	142.00	370.10
(iv) Co-ordinator switcher, i.e. an employee who is required to operate the unit of the control panel which co-ordinates both the video and audio parts of a programme being transmitted or recorded	228.10	142.00	370.10
(v) Studio control operator, i.e. an employee who under direction performs in the course of his/her duties telecine control, audio-control, television camera operation, floor control, or lighting duties	222.10	142.00	364.10

**PROVIDED** that in respect to employees classified in subparagraphs (iii), (iv) and (v) hereof, additional amounts shall be paid as follows:

If such employee holds a Broadcast Operator's Certificate, he/she shall be paid an additional	1.10
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If such employee holds a Television Operator's Certificate, he/she shall be paid a further	4.50
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(vi) Director, i.e. an employee who in the course of his/her duties is required to direct the co-ordination of live and/or composite live programmes	237.30	142.00	379.30
(vii) Cine-cameraman, i.e. an employee who records events on cine-camera	237.30	142.00	379.30
(viii) Still photographer, i.e. an employee who is required to record non-moving photographs	231.90	142.00	373.90
(ix) Card artise, i.e. an employee who is required to transcribe, in a form suitable for transmission, words, number and related decorative designs	237.30	142.00	379.30
(x) Announcer, i.e. an employee who reads or ad libs announcements directly related to the programme being transmitted or recorded	224.00	142.00	366.00
After the first year of adult experience an extra			4.60
After the second year of adult experience, an extra			4.60
(xi) Property maintenance man	230.40	142.00	372.40
(xii) Inexperienced adults	212.10	142.00	354.10
<p>Inexperienced adults may be employed in any of the above classifications other than those of technicians for a period not exceeding the first six months of their employment. As soon as such employee has acquired sufficient experience in the employer's opinion to be classified in one of the above classifications he/she shall be so classified, and thereafter shall be entitled to the amount appropriate to his/her classification.</p>			
(xiii) Employees (other than musicians) not otherwise classified	210.00	142.00	352.00

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(xiv) Film department employees

Males

1st year's adult experience	211.60	142.00	353.60
2nd year's adult experience	216.30	142.00	358.30
3rd year's adult experience & thereafter	224.00	142.00	366.00

**PROVIDED** that an employee who has been employed as a junior clerk in this department shall be paid, on attaining the age of 21 years, the appropriate amount prescribed for an adult according to the number of years experience the said employee has obtained in this department before attaining the age of 21 years.

(xv) Certificate Allowance

The minimum rates of wages for junior employees in this division shall be increased by the sum of \$1.10 per week if he/she is the holder of a Broadcast Operator's Certificate of Proficiency and by a further sum of \$4.50 per week if he/she becomes the holder of a Television Operator's Certificate of Proficiency. A junior employee who has attained the age of 18 years and is required by his/her employer to perform work, the performance of which requires him/her to hold a Television Operator's Certificate of Proficiency shall be paid at the rate of wages prescribed for an adult studio control operator in subparagraph (v).

### 3. CLERKS

Adult employees of a classification hereunder mentioned shall be paid the weekly wage rate assigned opposite that classification:

(a) Adults

	Base Rate \$	Safety Net Adjustment \$	Weekly Wage Rate \$
(1) 1st year's adult experience	310.00	142.00	452.00
2nd year's adult experience	331.70	142.00	473.70
3rd year's adult experience & thereafter	360.00	142.00	502.00
(2) An accountant or chief clerk wholly responsible for the office work and who prepares the balance sheet and profit and loss account	478.90	142.00	620.90
(3) A clerk who is in charge of and responsible for the work of:			
(A) 5 or more employees	425.50	144.00	569.50
(B) 3 or 4 employees	409.10	142.00	551.10
(C) 2 employees	400.90	142.00	542.90



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'**Employees**' in this item shall mean any male or female clerk, typist or stenographer and shall include the clerk-in-charge.

(b) Estimating Service

In estimating the number of years service of an employee, the total clerical experience in the service of every employer in the trades or groups of trades in respect of awards of the Tasmanian Industrial Commission applicable to private industry employees, shall be taken into account.

(c) Juniors

The minimum weekly wage rates that may be paid to juniors shall be the undermentioned percentages of the 2nd year adult weekly wage rate prescribed in sub-paragraph (a)(1) hereof, adjusted to the nearest 10 cents:

	%
Under 16 years of age	40
16 to 17 years of age	45
17 to 18 years of age	55
18 to 19 years of age	70
19 to 20 years of age	80
20 to 21 years of age	90

**PROVIDED** that when determining the amount payable to an employee attaining the age of 21 years, who has been employed as a junior clerk in the trades or groups of trades in respect of awards of the Tasmanian Industrial Commission, applicable to private industry employees, experience obtained after reaching the age of 18 years shall be counted as adult experience.

(d) Additional Payments

In addition to the weekly wage rates prescribed herein, the following additional amounts per week shall be paid to stenographers, audio-typists, teletypists, accounting machine, computer, data processing, tabulating machine, card punch and verifier operators:

	Amount \$
Under 16 years of age	1.10
16 to 17 years of age	1.30
17 to 18 years of age	1.40
18 to 19 years of age	2.10
19 to 20 years of age	2.90
20 to 21 years of age	3.10
21 years of age and over	3.80

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#### **4. MINIMUM RATE**

Notwithstanding the provisions of Clause 8 - Wage Rates, subclause 3 - Clerks, no adult employee shall be paid less than the rate of \$375.40.

**PROVIDED** that payments for overtime, special rates, holiday and weekend penalties and shift allowances, prescribed in this award shall not be taken into account in the calculation of such minimum weekly wage rate.

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

#### **5. SUPPORTED WAGE SYSTEM**

(a) Eligibility Criteria

Subject to this subclause an employer may engage employees at a supported wage rate (as set out in paragraph (c) 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.

**PROVIDED FURTHER** that this subclause does not apply to employers in respect of their facility, programme, 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.

(b) For the purposes of this subclause:

**'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.

**'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.

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**'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.

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

(c) 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 (d))	% of Prescribed Award Rate
10%	10%
20%	20%
30%	30%
40%	40%
50%	50%
60%	60%
70%	70%
80%	80%
90%	90%

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

(d) 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:

- (i) the employer and a union party to the award, in consultation with the employee or, if desired by any of these;
- (ii) the employer and an accredited Assessor from a panel agreed by the parties to the award and the employee.

(e) Lodgment of Assessment Instrument

- (i) 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.

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- (ii) 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.

(f) 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.

(h) 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.

(i) 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.

(j) Trial Period

- (i) 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.
- (ii) 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 (d) and (e).
- (iii) 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.
- (iv) Work trials should include induction or training as appropriate to the job being trialed.

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- (v) 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 (c) hereof.

## **9. AIR TRAVEL**

- (a) The employer shall not require an employee to undertake an assignment if it necessitates travelling by air and such employee has a reasonable objection to air travel.
- (b) All air travel shall be made on a regular commercial passenger carrying aircraft unless the employee is requested and agrees to travel on approved charter aircraft.

## **10. ANNUAL LEAVE**

- (a) Period of leave

- (i) Day Workers

A period of 152 hours paid leave shall be allowed annually to an employee after 12 months' continuous service (less the period of annual leave).

- (ii) Shift Workers

In addition to the leave prescribed in paragraph (i) of this clause, shiftworkers who are rostered to work regularly on Sundays and holidays throughout any qualifying 12 monthly period as a shiftworker shall be allowed seven consecutive days' leave including non-working days.

Where an employee with 12 months' service is employed for part of the 12 monthly period as a shiftworker, the employee shall be entitled to have the period of annual leave prescribed in paragraph (i) of this subclause increased by four hours for each month the employee is continuously so employed.

- (b) Broken Leave

Leave allowed under the provisions of subclause (a) shall be given and taken in one consecutive period or if the employer and the employee agree, in any combination, provided one period shall be not less than seven consecutive days, i.e. five working days.

- (c) Leave Exclusive of Public Holidays

If any of the holidays prescribed by Clause 19 - Holidays with Pay, 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, one day for each such holiday so occurring.

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(d) Payment in Lieu Prohibited

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

(e) Time of Taking Leave

Annual leave shall be given at a time fixed by the employer within a period not exceeding 12 months from the date when the right to annual leave accrued and after not less than two weeks' notice to the employee.

(f) Payment for Period of Leave

(i) All employees, before going on annual leave, shall be paid the amount of wages they would have received in respect of the ordinary time they would have worked had they not been on leave during the relevant period.

(ii) In addition thereto, all employees, other than casual or part-time employees, shall be paid an amount equivalent to the minimum weekly wage rate prescribed in Clause 8 - Wage Rates.

(iii) Part-time employees engaged to work more than 20 hours per week shall be paid a loading of 17½ per cent on payment of annual leave as prescribed in paragraph (i) hereof.

(g) Leave Allowed Before Due Date

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

Where leave has been granted to an employee pursuant to this subclause before the right thereto has accrued due and the employee subsequently leaves or is discharged from the service of the employer before completing the 12 months' continuous service in respect of which the leave was granted, the employer may, for each completed month of the qualifying period of 12 months not served by the employee, deduct from whatever remuneration is payable upon the termination of the employment one-twelfth of the amount of wage paid on account of the annual leave which amount shall not include any sums paid for any of the holidays prescribed by Clause 19 - Holidays with Pay.

(h) Proportionate Leave on Termination of Service

If after one completed month of service in any qualifying 12 monthly period an employee lawfully leaves the employment or the employment is terminated by the employer through no fault of the employee, the employee shall be paid as follows:

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12.67 hours for each completed month of continuous service; the service being in respect of which leave has not been granted.

### **11. COMPASSIONATE LEAVE**

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

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

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

### **12. CONDITIONS**

Employees may be allowed to exchange shifts, days off, or to perform duty for another employee with the consent of the officer in charge.

Any excessive hours worked as a result of such exchange shall not be paid for at penalty rates.

### **13. CONTRACT OF EMPLOYMENT**

- (a) With the exception of employees engaged as specified in Clause 27 - Part-time and Casual Employment, subclause (b) of this clause, all employment shall be by the week and the employment of an employee will not be terminated except for misconduct which would justify instant dismissal, without at least one week's notice being given by the employer to the employee and the employee shall likewise give to the employer one week's notice of his intention to terminate his employment. If one week's notice not be given by the employer or employee, one week's wages shall be paid or forfeited as the case may be and, in the case of misconduct, wages shall be paid up to the time of dismissal only.
- (b) An employee shall be entitled to receive, on request, a reference on termination of services. Such reference shall contain at least the commencing and finishing dates of service and shall become absolute property of the employee. Any prospective or future employer shall return the reference to the employee within seven days of having received it.

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- (c) Any dispute on what constitutes misconduct shall be determined by the Tasmanian Industrial Commission whose decision shall be final.

#### **14. DRESS ALLOWANCE**

Full-time employees who are engaged as announcers or comperes whose duties include on-camera appearance with makeup on not less than three days in any one week, shall be paid a dress allowance of \$3.40 per week for that week.

**PROVIDED** that the allowance prescribed above shall not apply to an employee who is in receipt of clothing and/or accessories supplied by the employer.

#### **15. ENTERPRISE FLEXIBILITY**

- (a) Notwithstanding anything contained in this award but subject to the provisions of this clause, an enterprise agreement may be entered into between an employer and all or some of the employees engaged by that employer.
- (b) An agreement shall be subject to the following requirements:
  - (i) The majority of employees affected by the change must genuinely agree to the change.
  - (ii) The agreement taken as a whole shall not confer a lesser benefit to any employee than is available under the award.
  - (iii) The relevant union or unions shall be advised by the employer of the intention to commence discussions with employees on an agreement under this clause.
  - (iv) The relevant union or unions must be a party to the agreement.
  - (v) The relevant union or unions shall not unreasonably oppose any agreement.
- (c) An enterprise agreement shall be signed by the parties, being the employer and the union or unions, and contain the following:
  - (i) The terms of the agreement.
  - (ii) The parties covered by the agreement.
  - (iii) The classes of employees covered by the agreement.
  - (iv) The means by which a party may retire from the agreement.
  - (v) The means by which the agreement may be varied.



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- (vi) Where appropriate, the means by which any dispute arising in respect to the agreement may be resolved.
- (d) Any agreement which seeks to vary a provision of this award shall be referred to the Tasmanian Industrial Commission.

#### **16. EXISTING WAGE RATES**

An employee who is at present in receipt of a wage rate in excess of that herein prescribed shall not have such wage rate reduced as a result of this award.

#### **17. EXTRA RATES NOT CUMULATIVE**

Extra rates in this award are not cumulative so as to exceed the maximum of double the ordinary rates.

#### **18. HEIGHT ALLOWANCE**

Employees engaged on work which the employer and employee agree is work for which height money should be paid shall be paid such amount as is agreed to be reasonable, having regard to all the circumstances, but in the event of agreement not being reached the matter shall be referred to the Tasmanian Industrial Commission for determination.

#### **19. HOLIDAYS WITH PAY**

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

New Year's Day, Australia Day, Hobart Regatta Day (south of Oatlands), Labour Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Show Day, Recreation Day (where Hobart Regatta Day is not observed), Christmas Day and Boxing Day.
- (b) Payment for the holidays mentioned in subclause (a) which are taken and not worked, shall be at the normal rate of pay which would have applied to the employee concerned, when, if it were not for such holiday, the employee had been at work.
- (c) Payment to an employee for work performed on holidays mentioned in subclause (a) shall be at the rates prescribed elsewhere in this award.

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## **20. HOURS OF WORK**

### (a) Other than Shift Workers

- (i) The ordinary hours of work shall be an average of 38 per week taken over a 28 day cycle. The ordinary hours shall be worked on one of the following bases:
  - (1) seven hours 36 minutes per day; or
  - (2) eight hours per day on four days and six hours on one day in each week; or
  - (3) eight hours per day on nine days and four hours on one day in each fortnight; or
  - (4) eight hours per day on 19 days with an accumulated rostered day off; or
  - (5) eight hours per day with an accumulation of rostered days off up to a maximum of five; or
  - (6) seven hours 30 minutes of four days and eight hours on one day in each week; or
  - (7) subject to the 38 hours average, any other arrangement by agreement between the employer and employee.
- (ii) The spread of hours inclusive of meal breaks, shall not exceed a total of 10 hours per day for any one employee.
- (iii) The number of starts shall not exceed an average of five per week over a 28 day cycle.
- (iv) Except when mutually agreed, an employee shall be given at least two days' notice of any change in roster.

### (b) Shift Work

- (i) Where necessary to meet operational requirements a system of shift work may be implemented.
- (ii) A shift work roster shall not exceed 152 hours in a 28 days cycle without the payment of overtime. Any shift rate should provide for at least eight rostered days off in a 28 day cycle.
- (iii) Shifts in excess of 10 hours and not exceeding 12 hours may be implemented with the agreement of the employee and the union.

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## **21. MEAL ALLOWANCE**

When an employee is required by the employer to sleep on the premises of the employer in order to be available for work, the employer shall pay to the employee the sum of \$12.70 for each meal provided during the period that the employee is required to remain at the station.

**PROVIDED** that the number of meals to be paid for by the employer shall not exceed three in any period of 24 hours.

## **22. MIXED FUNCTIONS**

- (a) Where an employee is engaged in any one week for more than half of such week at work in a higher classification than employed to perform the employee shall be paid for the full week at the higher rate payable for any such work under the award but, if engaged for less than half of any such week, shall only be paid at the rates fixed by the award for the work actually performed.

**PROVIDED** that this subclause shall not apply to work performed under a structured training program of less than 20 working days duration.

- (b) Nothing in this award shall prevent an employee covered by this award being called upon to perform other duties, for which training has been provided.

**PROVIDED** that an employee shall not be required to perform the work of rigging and/or painting of masts without the consent of the employee first being obtained.

## **23. NOTICE BOARD**

The employer shall permit an authorised representative of employees to post formal notices, signed or counter-signed by such representative, on a notice board located on the employer's premises.

## **24. OCCUPATIONAL SUPERANNUATION**

- (a) Contribution

An employer shall make a contribution equivalent to three per cent of ordinary time earnings in respect of all eligible employees as from 1 August 1989. Such earnings shall exclude overtime and allowances in the nature of a reimbursement (such as meal money).

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(b) Casual and Part-time Employees

In the case of casual and part-time employees, contributions shall be made where the employee works at least 38 hours per month averaged over a Fund Billing Statement month. Provided that in the case of casual employees, no payment shall be required until an employee has at least three months continuous employment at an average of at least 38 hours per fund billing month.

(c) Fund

Contributions determined in accordance with subclause (a) shall be made into:

- (i) Tasplan; or
- (ii) A fund approved in accordance with the Commonwealth Operational Standards for Occupational Superannuation Funds to which an employer was making contributions prior to 1 July 1989; and which is endorsed by the Tasmanian Industrial Commission.

(d) Exemptions

The companies named herein shall make contributions into the nominated funds in lieu of Tasplan:

COMPANY	FUND
Tasmanian Television, New Town	ENT Limited Staff Superannuation Fund
Southern Cross Network, Launceston	Australian Retirement Fund
7HO Commercial Broadcasters Pty Ltd Hobart	Commercial Broadcasters Pty Ltd Staff Superannuation Plan

**25. OVERTIME**

(a) All time worked outside the ordinary hours prescribed in Clause 20 - Hours of Work, shall be overtime and shall be paid for at time and a half for the first four hours and double time thereafter.

**PROVIDED** that where an employee is specifically brought in for the purpose of working overtime on a Saturday or public holiday, the minimum payment shall be as for four hours.

(b) All time worked on Saturday by employees on shift work shall be paid for at time and a half.

(c) In cases where an employee having completed the usual work for the day and having returned home is recalled for duty, the employee shall be paid overtime at the rates prescribed and for a minimum of four hours' work.

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- (d) Before starting overtime after working ordinary hours a meal break of at least 30 minutes shall, wherever practicable, be allowed unless the period of overtime is less than one and a half hours. An employer and an employee may mutually agree to any variation of this subclause to meet the circumstances of the work in hand.
- (e) When an employee working overtime finishes work at a time when reasonable means of transport is not available, the employer shall provide a conveyance or pay the current wage for the time occupied in reaching home.
- (f) In computing overtime for the purposes of this clause, each day's work shall stand alone.
- (g) By agreement between the employer and employee, an employee may take time off in lieu of overtime at the penalty equivalent.
- (h) Except in the case of a change of roster, an employee who is required to work on any day for which the employee is rostered off duty pursuant to Clause 32 - Rosters, subclause (j) or Clause 20 - Hours of Work, subclauses (iv) and (v) shall be entitled to payment at the rate of double time for all time worked with a minimum payment as for three hours worked.
- (i) Where an employee, having completed the usual work and having returned to home, is recalled for work not continuous with the next rostered shift, the employee shall be paid for that call at the overtime rate of double time worked with a minimum payment as for four hours at double time.

## **26. 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:

**'Child'** means a child of the employee under the age of one year.

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

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

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- (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.

**'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.

**'Spouse'** includes a de facto or a former spouse.

(c) Eligibility for Maternity Leave

- (i) An employee who becomes pregnant, upon production to her employer 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 10 weeks prior to the presumed date of confinement, produce to her employer the certificate referred to in paragraph (d)(i).

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- (ii) An employee shall give not less than four weeks notice in writing to her employer of the date upon which she proposes to commence maternity leave stating the period of leave to be taken and shall, at the same time, produce to her employer the statutory declaration referred to in paragraph (d)(ii).
- (iii) An employer by not less than 14 days notice in writing to the employee may require her to commence maternity leave at any time within 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 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.

If the transfer to a safe job is not practicable, the employee may, or the employer may require the employee to, take leave for such period as is certified necessary by a 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 employer 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.

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



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- (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.

(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 employer given not less than four 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 employer 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 employer shall inform that person of the temporary nature of the promotion or transfer and of the rights of the employee who is being replaced.
- (iv) 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:

**'Child'** means a child of the employee or the employee's spouse under the age of one year.

**'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.

**'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).

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

**'Spouse'** includes a de facto or a former spouse.

### (c) Eligibility for Paternity Leave

A male employee, upon production to his employer 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:

- (i) an unbroken period of up to one week at the time of confinement of his spouse;

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- (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 10 weeks prior to each proposed period of leave, give the employer 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.
- (iii) The employee shall immediately notify his employer of any change in the information provided pursuant to subclause (d) hereof.

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(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 employer 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.

(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.

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(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 employer 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 employer shall inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.

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

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

**PART C - ADOPTION LEAVE**

(a) Nature of Leave

Adoption leave is unpaid leave.

(b) Definitions

For the purpose of this part:

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**'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.

**'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.

**'Employee'** includes a part-time employee but does not include an employee engaged upon casual or seasonal work.

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

**'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).

**'Spouse'** includes a de facto spouse.

(c) Eligibility

An employee, upon production to the employer 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;
- (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.

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(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 employer of such approval and within two months of such approval, shall further notify the employer 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.
- (ii) An employee who commences employment with an employer after the date of approval for adoption purposes shall notify the employer 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 employer of such date, and of the date of the commencement of any period of leave to be taken under paragraph (c)(i) hereof.

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- (iv) An employee shall, 10 weeks before the proposed date of commencing any leave to be taken under paragraph (c)(ii) hereof give notice in writing to the employer 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 employer 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.
  - (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 employer forthwith and the employer shall nominate a time not exceeding four weeks from receipt of notification for the employee's resumption of work.
- (h) Special Leave
- The employer 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 employer may require the employee to take such leave in lieu of special leave.



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

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

**'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.

**'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.

**'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.

**'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.

**'Spouse'** includes a de facto spouse.

(b) Entitlement

With the agreement of the employer:

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- (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.
- (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.

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- (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 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.

(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 employer 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.
- (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.

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- (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

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 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
- (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 employer shall inform the person of the temporary nature of the employment and of the rights of the employee who is being replaced.

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- (iv) Unbroken service as a replacement employee shall be treated as continuous service as provided for in subclause (a) - Definitions, '**Continuous service**' of this part.
- (v) Nothing in this part shall be construed as requiring an employer to engage a replacement employee.

## **27. PART-TIME AND CASUAL EMPLOYMENT**

- (a) Part-time employees engaged to regularly work less than 38 hours per week, shall be entitled to the holidays with pay, annual leave and sick leave prescribed elsewhere in this award on a pro rata basis. The weekly wage rate payable per hour shall be one thirty-eighth of the weekly wage rate.
- (b) A casual employee for working ordinary time shall be paid per hour one thirty-eighth of the weekly wage rate plus a loading of 20 per cent. Such loading shall be in lieu of annual leave, sick leave and holidays with pay.

## **28. PAYMENT OF WAGES**

- (a) Wages shall be paid not less often than fortnightly.
- (b) Not more than two days' wages shall be kept in hand by the employer.
- (c) Where the services of an employee are dispensed with, wages shall be paid to the employee forthwith or forwarded to the employee by registered post within two days of the termination of employment.

## **29. PROTECTIVE CLOTHING**

The employer shall provide, free of cost to employees, all necessary protective clothing required in the performance of their duties.

## **30. QUARTERS**

- (a) Where quarters are provided by the employer and the employee is required and agrees to occupy them permanently or from time to time or where the quarters are provided by the employer, accommodation shall be equipped with all reasonable facilities and conveniences.
- (b) In the event of any dispute arising as to the facilities and conveniences the matter shall be referred to the Secretary for Division of Labour.

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### **31. RIGHT OF ENTRY**

Right of entry shall be in accordance with Section 77 of the *Industrial Relations Act 1984*.

### **32. ROSTERS**

All employees under this award, who work on shifts, shall be rostered for their ordinary hours of work in accordance with the following provisions:

- (a) All rosters shall specify the commencing and finishing times of the ordinary hours of work of the respective shifts of each employee.
- (b) The rosters shall be posted at each station at least four days before they come into operation provided that a roster may be departed from at short notice in cases of emergency over which the employer has no control.
- (c) Employees shall be allowed to exchange shifts or days off or to perform duty for other employees, provided the approval of the officer in charge of the department or section concerned has been obtained and provided further, that any excess hours worked as a result of such exchange shall not involve the employer in overtime payments.
- (d) Employees shall be entitled to a minimum period of 10 hours break between rostered shifts. Should an employee be required to resume work without having a break of at least 10 hours between rostered shifts, the employee shall be paid at the rate of double time for all time worked until the employee has had a break of at least 10 hours.

**PROVIDED** that compliance with the provisions of this subclause shall not be required under the circumstances referred to in Clause 20 - Hours of Work, and in such circumstances the break between rostered shifts shall be such as may be mutually agreed between the employee and the employer.

- (e) Rosters may be spread over one, two or three weeks of ordinary time.
- (f) When a roster provides for less than four hours' work the shift shall be deemed to be one of four hours' ordinary time.
- (g) A roster shall not provide for more than one shift of four hours in any roster week.
- (h) If, by agreement or otherwise, an employee is rostered in any week of the roster to work more than 24 ordinary hours such hours shall be rostered in not more than three shifts and, if the employee is so rostered to work not more than 32 ordinary hours, such hours shall be rostered in not more than four shifts.
- (i) Except with the mutual consent of the employer and employee concerned, rostered ordinary hours shall not exceed 48 in any one week of the roster.
- (j) All rosters shall be such as to allow one clear day off in each roster week.

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- (k) In this subclause a clear day shall mean:
  - (i) In the case of an employee whose last preceding shift ended at or after 7.00pm on any day, not less than 30 hours.
  - (ii) In the case of an employee whose last preceding shift ended before 7.00pm on any day, not less than 36 hours.
- (l) Where an employee's rostered day off falls on a public holiday such employee's annual leave shall have one additional non-working day added.

### **33. SHIFT DUTY ALLOWANCE**

- (a) For all time worked on shifts which finish after 12.30am or commence before 5.30am an employee, except in the circumstances specified in subclauses (b) and (c) of this clause, shall be paid an additional 10 per cent on the rate for such a shift.
- (b) All work performed by a shift worker as part of the employee's ordinary rostered hours between midnight on Friday and midnight on Saturday shall be paid for at the rate of time and a quarter.
- (c) All work performed by a shift worker as part of the employee's ordinary rostered hours between midnight on Saturday and midnight on Sunday shall be paid for at the rate of time and one half.

### **34. SICK LEAVE**

- (a) An employee, other than one engaged as a casual 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 without deduction of pay, subject to the following conditions and limitations:
  - (i) the employee shall not be entitled to such leave of absence for any period in respect of which the employee is entitled to workers' compensation;
  - (ii) the employee shall, as soon as possible and where practicable within one hour of the commencement of the employee's normal working day, inform the employer of the inability to attend for work, and as far as may be practicable, state the nature of the illness or injury and the estimated duration of the absence;
  - (iii) the employee shall prove to the satisfaction of the employer (or, in the event of a dispute, the Tasmanian Industrial Commission), that the employee was unable on account of such illness or injury to attend for work on the day or days for which the sick leave is claimed;



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- (iv) the employee shall not be entitled in any year to sick leave in excess of 76 hours of ordinary working time.

**PROVIDED** that during the first three months of employment, sick leave shall accrue on the basis of 6.33 hours for each completed calendar month of service with the employer.

- (b) Sick leave shall accumulate from year to year so that any balance of the period specified in subclause (a) paragraph (iv) of this clause which has in any year not been allowed to an employee by an employer as paid sick leave shall be allowed by that employer in a subsequent year without diminution of the sick leave prescribed in respect of that year.

### **35. STRUCTURAL EFFICIENCY**

- (a) The parties to this award are committed to co-operating positively to increase the efficiency and productivity of enterprises and to enhance the career opportunities and job security of employees subject to the award.
- (b) Consistent with the objectives of subclause (a) of this clause, employers, employees and the union shall establish consultative mechanisms and procedures appropriate to the size, structure and needs of the enterprise.
- (c) An employer may direct an employee to carry out such duties as are within the limits of an employee's skill, competence and training consistent with the classification structure of the award.

This provision should not deny such employee any award entitlement which might be applicable for performing work at a higher classification; nor should the provision enable the employer to pay an employee at a rate lower than the substantive classification for performing work of a lower classification.

### **36. SUNDAY AND HOLIDAY WORK**

- (a) For all time of duty on a Sunday or any of the holidays mentioned in Clause 19 - Holidays with Pay, payment shall be made at the rate of time and one half with a minimum payment as for four hours' work.
- (b) All time worked in excess of the rostered hours in any one shift on a Sunday or a holiday shall be paid for at double ordinary time, except where such excess time is worked by arrangement between the employees concerned with the consent of the officer in charge of the station.

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### **37. SUSPENSION**

The employer may, in the event of misconduct, suspend an employee without pay. The maximum period of suspension shall be one week. Prior to the implementation of a suspension the union shall be advised of the intention to undertake such suspension. In the event that a union official cannot be contacted, the suspension will not be implemented for a period of at least 24 hours.

Should the employee not agree to the suspension, the union shall have the right to refer the matter to the Tasmanian Industrial Commission. If, upon examination, the Tasmanian Industrial Commission forms the view that the suspension was harsh or unjust, it may vary the term of or rescind the suspension. Nothing in this subclause shall affect the right of the employer to dismiss an employee in accordance with the previous subclause.

### **38. TERMINATION OF EMPLOYMENT**

- (a) The employment of employees with more than two years' service may be terminated by either side on giving one month's notice in writing.
- (b) The employment of employees with more than one year's service but not more than two year's service may be terminated by either side on giving two weeks' notice in writing.
- (c) The employment of employees with less than one year's service may be terminated by either side giving one week's notice in writing.
- (d) Nothing in this clause shall prevent agreements from being entered into between employer and employee for a longer/lesser period of notice.
- (e) Nothing in this clause shall be deemed to restrict the right of the employers to dispense with the services of their employees for misconduct, negligence or other sufficient disciplinary reasons.

### **39. TIME AND WAGES RECORD**

- (a) Each employer shall keep a record, from which can be readily ascertained the name of each employee and occupation, the hours worked each day, and the wages and allowances paid each week.
- (b) The time occupied by an employee filling in any time record or cards or in the making of records shall be treated as time of duty but this does not apply to checking in or out when entering or leaving the employer's premises.
- (c) The time and wages records, shall be open for inspection to duly accredited employees' representative during the usual office hours at the employer's office or other convenient place.

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The representative making such inspection shall be entitled to take a copy of entries in a time and wages record relating to a suspected breach of the award.

#### **40. TOOLS OF TRADE**

The employer shall provide all tools necessary for the work to be performed.

#### **41. TRANSPORT AFTER OVERTIME**

An employee working overtime at a time when public transport or the employee's normal means of transport is not available shall be provided with a conveyance home by the employer.

#### **42. TRAVELLING ALLOWANCES**

- (a) The employer shall reimburse an employee for all travelling and other expenses reasonably incurred in performing work as required by the employer.
- (b) Where, at the request of the employer, the employee's own motor vehicle is used, the employee shall be paid the following allowances:
  - (i) Motor Car - \$0.30 per kilometre if the employee travels alone; or  
\$0.40 per kilometre if, at the same time, conveying equipment or other persons - at the request of the employer.
  - (ii) Motor Cycle - \$0.27 per kilometre.

Tim Abey  
**COMMISSIONER**

12 August 2004