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TASMANIAN INDUSTRIAL COMMISSION

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

Australian Municipal, Administrative, Clerical and Services Union
(T6826 of 1997)

INSURANCE AWARD

Award variation - leave - insertion of carer's leave - annual leave - hours - make up time - rostered days off - overtime - consent matter - application granted - award varied - operative ffpp 18 April 1997

ORDER BY CONSENT -

No. 2 of 1997
(Consolidation)

A NEW CLAUSE 11 - CARER'S LEAVE IS INSERTED, NEW CLAUSES ARE SUBSTITUTED FOR CLAUSES 3, 4, 5, 18 AND 21, CLAUSES ARE RE-NUMBERED AND THE AWARD IS CONSOLIDATED:

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1. TITLE

This award shall be known as the "Insurance Award".

2. SCOPE

This award is established in respect of:

(a) a fire and/or life insurance society or company;

(b) an accident, marine and/or general insurance society or company;

(c) a health insurance society or company, a medical insurance society or company or a hospital insurance society or company.

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 18 April 1997.

It is a term of this award (arising from the decision of the Tasmanian Industrial Commission in the State Wage Case of 13 August 1991) that the unions undertake, until 30 November 1991, not to pursue any extra claims, award or overaward, except when consistent with those principles.

5. SUPERSESSION AND SAVINGS

This award incorporates and supersedes the Insurance Award No. 2 of 1996 (Consolidated) and No. 1 of 1997.

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

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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;

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

(iii) the Shop, Distributive and Allied Employees Association, Tasmanian 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

'Casual employee' means any person who is employed on a casual basis and includes any person who is employed for a period not exceeding five days at any one time.

'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.

'Traineeships' means a system under the Australian Traineeship System comprising structured on-the-job training with an employer and off-the-job training in a Technical and Further Education College or other training approved by the Training Authority of Tasmania.

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'Training Agreement' shall mean an agreement registered under the provisions of the Industrial and Commercial Training Act 1985.

'Trainees' shall be employees bound by a Training Agreement.

CLASSIFICATION STRUCTURE

'Clerical/Administrative Officer Grade 1 (C/A 1)'

(a) Clerical and Administrative Stream

An employee entering the administrative workforce of a Health Insurance Company at a base level who will be provided with induction and training in the broad operations of the Company.

Duties

A C/A 1 who undertakes administrative tasks that require minimal training and are basic in nature.

Indicative of the tasks identified above would be:

. photocopying
. operation of facsimile
. mailing, filing and collating
. messenger work
. reception duties
. routine clerical work
. basic keyboard and data entry

Responsibilities

A C/A 1 should be closely supervised and have limited discretion in undertaking the duties at this level.

Qualification

The entry level requirement for the recruitment of C/A 1's will be established at the discretion of the employer. As a guide, C/A 1's will be required as a minimum, to have successfully completed Grade 10, Level II English and Mathematics in order to satisfy the literacy and numeracy requirements of clerical work.

Training

An employee will undertake induction training and be provided with a structured programme to develop skill relevant to work at this level.

The training programme for C/A 1's should also develop skill, over a period of time, to allow the employee to work competently at Grade C/A 3.

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Progression

Progression to Grade C/A 3 will be on the basis of a C/A 1 having the required skill and competency standards and on being selected on merit for the position when a position at Grade C/A 3 becomes available.

'Clerical/Administrative Officer Grade 2 (C/A 2)'

(a) Assessor Stream

An employee entering the claims assessment section who will be provided with up to three months structured training in the assessor stream.

Duties

A C/A 2 will undertake basic duties within the assessment range whilst undertaking structured training in the following functions:

. assessment of medical/paramedical claims
. changes to member database
. operation of receipting system
. balancing and banking cash
. customer enquiries
. selling company products

Responsibility

A C/A 2 should be closely supervised and have limited discretion in undertaking the duties performed at this level.

Qualifications

The entry level requirement for the recruitment of Trainee Assessor (C/A 2) will be established at the discretion of the employer. As a guide a trainee will be required as a minimum to have completed Grade 10, Level II English and Mathematics in order to satisfy the literacy and numeracy requirements of assessor work.

Training

A Trainee Assessor (C/A 2) will undertake a range of training as indicated above to develop the skills required in the assessor stream.

Progression

Progression to a higher position in the stream will be on the basis of the trainee acquiring the required skill and competency standards and on being selected on merit for a position when a position becomes available.

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'Clerical/Administrative Officer Grade 3 (C/A 3)'

(a) Clerical and Administrative Stream

An employee who undertakes a broad range of clerical and/or keyboard work at a level higher than that prescribed for a C/A 1.

Duties

An employee undertaking routine clerical and/or keyboard duties which require work methods that are well established and operate to clear procedures and methods.

Indicative of the tasks identified above would be:

. reception/enquiries
. information recording
. mail handling
. registry
. routine calculation
. keyboard work
. basic data entry and manipulation
. cash handling
. banking/accounting records
. basic record keeping
. checking of simple transactions

Responsibilities

A Grade C/A 3 Clerk will undertake the above duties as directed and in doing so, will exercise limited discretion whilst organising own workload.

Qualifications

A Grade C/A 3 Clerk will have the skill necessary to perform competently and/or all the duties required, given appropriate training as determined by the employer.

The qualifications required to perform the duties at this level to the employer's standard will be at the discretion of the employer.

Training

An employee will undertake a structured programme of training to develop the skill required to perform competently any of the duties required at this level.

The training programme of Grade C/A 3 Clerks may also develop, over time, skill to allow an employee to work competently at Grade C/A 4 (Clerical and Administrative Stream).

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Progression

Progression to Grade C/A 4 will be on the basis of a Grade C/A 3 obtaining the required skill and competency standards and on being selected on merit for a position when a position at the higher level becomes available.

(b) Assessor Stream

An employee who undertakes a broad range of duties in the assessor steam, at a level below that required of a Clerical and Administrative Officer Grade 4 (Assessor Stream).

Duties

An employee undertaking the range of duties required within this definition.

Indicative of the tasks identified and required at this level are:

. assessment of medical/paramedical claims
. handle member enquiries and transactions
. process member contributions
. balancing of cash individual/Branch
. sale of Company products
. promotional activities

Responsibilities

A C/A 3 in the Assessor Stream will undertake the above duties under the supervision of Management or of a more highly classified Assessor and is expected to work autonomously and exercise appropriate personal discretion within their range of training and may provide guidance to a C/A 2.

Qualification

A C/A 3 in the Assessor Stream will have the skill necessary to perform competently, any and/or all of the duties required at this level and shall have completed the Assessor training.

Training

An employee at this level will undertake a structured programme of training to develop all the required skills to perform the range of functions required at this level as determined by the employer.

A structured training programme may also be undertaken over time to allow acquisition of the skills required to work competently at higher level in the Assessor Stream.

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Progression

Progression to higher levels in this stream will be on the basis of an employee at this level obtaining the required skill and competency standards and on being selected on merit for a higher position upon such a position becoming available.

'Clerical and Administrative Officer Grade 4 (C/A 4)'

(a) Clerical and Administrative Stream

An employee who undertakes more complex clerical and/or keyboard work in a manner that reflects the administrative requirements of the employer.

Indicative of the tasks identified above would be:

- preparing correspondence
- meeting services
- travel arrangements
- complex word processing
- audio transcription
- data processing
- stenographic work
- computer operation
- all cash handling functions
- supervision
- stock control
- procedural accounting
- payroll
- purchasing/sales
- handles complex customer enquires
- research
- customer service
- inventory control
- training

Responsibilities

An employee at this level will undertake the above duties either individually or in a team environment under limited supervision and in exercising discretion, to the level of their knowledge and competence, will be directly accountable for the standard of their work and may be required to provide supervision guidance and/or training for C/A 1 and Grade C/A 3 Clerks.

Qualifications

A C/A 4 will be required to have the skill necessary to perform the duties of any position competently and to the employer's standards at this level.

Training

An employee will undertake a structured programme of training in order to develop the skill required to operate competently at this level.

The training programme of a C/A 4 may also include the development, over time, of the skills necessary to work at Grade C/A 5 (Clerical and Administrative Stream).

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Progression

Progression to Grade C/A 5 will be on the basis of a Grade C/A 4 obtaining the required skill and competency standards and on being selected on merit for a position when a position at the higher level becomes available.

(b) Assessor Stream

An employee who undertakes a range of duties within the Assessor Stream and who predominantly undertakes the role of assessing Hospital claims.

Duties

A C/A 4 (Assessor Stream) undertakes all of the tasks described for a C/A 3 (Assessor Stream) along with some or all of the following indicative additional duties:

Either:

. assessment of hospital claims
. operation of a PC
. provision of training

Or:

. performance of the duties in C/A 3 (Assessor Stream) on a Branch roster.

Responsibilities

An employee at this level will undertake the above duties under minimal supervision and will exercise personal discretion in the performance of those duties under the guidance of management.

Qualifications

A C/A 4 (Assessor Stream) will have the skill and training necessary to competently perform the range of duties required at this level as determined by the employer.

Training

An employee at this level may be required to undertake structured training designed to allow a person to meet the technical and/or supervisory demands of the employer in working at this level.

An employee at this level may be provided with structured training which, over time, will qualify the employee to progress to a management position or to a position at C/A 5 (Assessor Stream).

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'Clerical and Administrative Officer Grade 5 (C/A 5)'

(a) Clerical and Administrative Stream

An employee at this level will undertake, at a senior level, specialised clerical functions at a level higher than a Grade C/A 4 (Clerical Stream).

Duties

An employee who undertakes specialist clerical duties requiring technical expertise and knowledge.

Indicative of the tasks identified above are:

- research/investigation/reporting
- interviewing
- presentation to groups
- conduct of meetings
- computer based accounting
- liaison with clients
- payroll management
- personnel
- bookkeeping
- provision of training
- problem resolution
- data interpretation
- product sales

Responsibilities

An employee at this level performs complex clerical work under limited indirect supervision and, in exercising discretion at the level of their knowledge and competence, will be accountable for the standard of their work and the work of those employees working with them.

A Grade C/A 5 will be responsible for assessing training needs in their area of expertise and, where appropriate, providing relevant structured training.

A Grade C/A 5 may supervise staff working in their functional area.

Qualification

A Grade C/A 5 will be required to have the necessary technical and/or supervisory skill experience required by the employer in working at this level.

Training

A Grade C/A 5 may undertake structured training designed to allow a person to meet the technical and/or supervisory demands of the employer in working at this level.

A Grade C/A 5 may be provided with training which, over time, will allow them to progress to a management position.

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(b) Assessor Stream

An employee who undertakes a range of duties within the Assessor Stream and who predominantly undertakes the role of assessing hospital claims.

Duties

A C/A 5 (Assessor Stream) undertakes all of the tasks described for an employee classified at C/A 4 (Assessor Stream) and is required to undertake supervision in a Branch of other employees in the Assessor Stream.

Responsibilities

An employee at this level will undertake the above duties under minimal supervision and will exercise personal discretion in the performance of those duties under the guidance of management.

Qualifications

At employee at this level will have the skill and training necessary to competently perform the range of duties required at this level as determined by the employer.

Training

An employee at this level may be required to undertake structured training designed to allow a person to meet the technical and/or supervisory demands of the employer in working at this level.

An employee at this level may be provided with structured training which, over time, will qualify the employee to progress to a management position.

8. WAGE RATES

DIVISION A - FIRE AND/OR LIFE INSURANCE SOCIETY OR COMPANY, ACCIDENT, MARINE AND/OR GENERAL INSURANCE SOCIETY OR COMPANY

The salaries of employees engaged in the trade referred to in this Division shall be in accordance with those prescribed in the award known as the Insurance Officers' Clerical Indoor Staff Award made by the Australian Industrial Relations Commission.

Any dispute arising in respect of the provisions of this Division shall be referred to the Tasmanian Industrial Commission whose decision shall be final.

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DIVISION B - MEDICAL INSURANCE SOCIETY OR COMPANY, HEALTH INSURANCE SOCIETY OR COMPANY, HOSPITAL INSURANCE SOCIETY OR COMPANY

(a) (i) Adult employees shall be paid in accordance with the following classification structure.

Clerical and Administrative Officer

	Base Rate Relativity %	Base Rate $	Safety Net Adjustment $	Weekly Wage Rate $
Grade 1	86	358.80	24.00	382.80
Grade 2	91	379.70	24.00	403.70
Grade 3	95	396.30	24.00	420.30
Grade 4	101	421.40	24.00	445.40
Grade 5	108	450.60	24.00	474.60

(b) Junior Employees

Junior employees shall be paid the undermentioned percentage of the appropriate adult weekly wage rate dependent upon the actual work performed.

	[1] %	[2] %
16 years of age and under	50	55
17 years of age	60	65
18 years of age	70	75
19 years of age	80	85
20 years of age	90	95

[1] This scale applies to junior employees who have completed Year 10 schooling and who meet the minimum qualification standards of Grade 1.

[2] This scale applies to junior employees who have completed Year 11 and/or Year 12 schooling in a relevant discipline and/or who have completed a relevant traineeship.

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CONDITIONS FOR EMPLOYEES IN DIVISION A - FIRE AND/OR LIFE INSURANCE SOCIETY OR COMPANY, ACCIDENT, MARINE AND/OR GENERAL INSURANCE SOCIETY OR COMPANY

9. CONDITIONS OF EMPLOYMENT

The conditions of employment of employees engaged in the trade referred to in this Division shall be in accordance with those prescribed in the award known as the Insurance Officers' Clerical Indoor Staff Award made by the Australian Industrial Relations Commission.

Any dispute arising in respect of the provisions of this Division shall be referred to the Tasmanian Industrial Commission whose decision shall be final.

CONDITIONS FOR EMPLOYEES IN DIVISION B - MEDICAL INSURANCE SOCIETY OR COMPANY, HEALTH INSURANCE SOCIETY OR COMPANY, HOSPITALS INSURANCE SOCIETY OR COMPANY

10. ANNUAL LEAVE

(a) Period of Leave

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

(b) Annual Leave Exclusive of Public Holidays

If any of the holidays prescribed by Clause 17 - Holidays with Pay of this award, 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 that leave one day for each such holiday so occurring.

(c) Payment in Lieu Prohibited

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

(d) Time of Taking Leave

Leave allowed under the provisions of subclause (a) shall be given and taken in one consecutive period or, if the employer and employee agree, in one of the following methods:

(i) in two separate periods, the lesser of which shall not be less than seven consecutive days, ie. five working days;

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(ii) in any combination, provided that one period shall not be less than seven consecutive days, ie. five working days.

(e) Payment for Period of Leave

Each employee before going on leave shall be paid the amount of wages he would have received in respect of the ordinary time which he would have worked had he not been on leave during the relevant period.

(f) Leave Allowed Before Due Date

An employer may allow annual leave to an employee before the right thereto has accrued due but where leave is taken in such a case a further period of annual leave shall not commence to accrue until after the expiration of the 12 months in respect of which annual leave had 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 leave was granted, the employer may for each complete month of the qualifying period of 12 months not served by the employee deduct from whatever remuneration is payable to the employee upon the termination of the employment one-twelfth of the amount of wages paid on account of the annual leave, which amount shall not include any sums paid for any of the holidays prescribed by Clause 17 - Holidays with Pay of this award.

(g) Proportionate Leave on Termination of Service

Where an employee terminates his employment, or his employment is terminated by the employer before the expiration of any twelve- monthly qualifying period, payment shall be made on the basis of four forty-eighths of a week's pay for each completed week of service. Calculation of this payment shall be made at the rate of average earnings for the preceding four weeks.

(h) Annual Leave Loading

In addition to other payments under this clause, each employee shall receive a payment equal to 17 l/2 percent as an annual leave loading for all annual leave taken and paid for.

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11. CARER'S LEAVE

(a) Paid Carer's Leave

(i) In accordance with this subclause, an employee is entitled to use up to a maximum of five days per annum of any current or accrued sick leave entitlement provided for at Clause 30 - Sick Leave of the award for absences to provide care and support for either members of their immediate family or household who need their care and support when they are ill.

For the purposes of this clause part-time employees, shall be entitled to use up to a maximum of one week of any current or accrued sick leave entitlements per annum.

Where a part-time employee's hours of work are not constant the employee's entitlement to carer's leave shall be based on the average number of weekly hours worked by the employee during the 12 month period immediately preceding the commencement of the relevant period of carer's leave or the employee's actual period of service if less than 12 months.

Leave may be taken for part of a single day.

(ii) If required the employee must establish, either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person.

(iii) The entitlement to use sick leave in accordance with this subclause is subject to the person being either:

(1) a member of the employee's immediate family, or

(2) a member of the employee's household.

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

(A) spouse (including a former spouse, a de facto spouse and a former de facto spouse) of the employee. A de facto spouse, in relation to a person, means a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; and

(B) child or an adult child (including an adopted child, a step child, a foster child or an ex nuptial child), parent (including foster parent, step parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse of the employee.

(iv) Where practicable the employee must give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care

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and the person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.

(v) In normal circumstances an employee must not take carer's leave under this clause where another person has taken leave to care for the same person.

(b) Unpaid Carer's Leave

An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care to a family or household member who is ill.

(c) Grievance Process

Any dispute or claim arising out of the Carer's Leave provisions of the award shall be dealt with in the following manner:

(i) the matter shall first be discussed between the employee and the employee's immediate supervisor;

(ii) if not settled the matter shall be discussed between the employee's workplace delegate or representative and the immediate supervisor and the relevant manager with the authority to approve leave;

(iii) if not settled the employee may refer the matter to the relevant union official to enable discussions between the appropriate union representatives and management representatives to occur;

(iv) if not settled the matter may be submitted to the Tasmanian Industrial Commission for determination.

12. CASUAL EMPLOYEES

(a) A casual employee for working ordinary time shall be paid per hour 1/38th of the weekly rates prescribed for the work which he or she performs. In addition thereto a casual employee shall receive 20 percent of the ordinary hourly rate in respect of each hour for which he or she is paid; such additional amount to be payment in lieu of annual leave, sick leave and public holidays.

(b) Penalty Provisions

Penalty rates prescribed in Clause 21 - Overtime hereof are applicable to casual employees. The 20 percent loading prescribed elsewhere in this clause shall be paid for all hours worked including times when penalty rates are applicable.

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PROVIDED that all penalty additions shall be calculated on the ordinary time rate excluding this loading, viz. -

Time and one half equates to 1.7

Double time equates to 2.2.

13. CLOTHING

Where the employer requests members of the staff to wear a uniform, the employer shall provide - at his expense - properly fitted uniforms.

Replacement shall also be at the employer's expense.

The employee shall be responsible for the cost of laundering and maintaining such uniforms.

14. COMPASSIONATE LEAVE

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

15. CONTRACT OF EMPLOYMENT

(a) Except in the case of casuals, employment under this award shall be by the week.

(b) Casual employees shall be engaged by the hour.

(c) Except in the case of casuals, employment may be terminated only by the giving of one week's notice by either party or by the payment or forfeiture of one week's wages as the case may be.

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(d) Casual employment may be terminated by one hour's notice.

(e) Nothing in this clause shall limit the right of the employer to instantly dismiss an employee for malingering, misconduct or neglect of duty, provided that such malingering, misconduct or neglect of duty warrants instant dismissal, in which case wages shall be paid up to the time of dismissal only.

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

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

16. 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 which awards of the Tasmanian Industrial Commission are established shall be taken into account.

17. 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 (as defined), Recreation Day (where Hobart Regatta Day is not observed), Christmas Day and Boxing Day.

(b) Payment for the holidays mentioned in subclause (a) of this clause which are taken and not worked, shall be at the normal rate of pay which would have applied to the employee concerned when, if it were not for such holiday, he had been at work.

(c) Payment to an employee for work performed on holidays mentioned in subclause (a) of this clause shall be at the rates prescribed elsewhere in this award.

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18. HOURS

(a) The ordinary hours of duty shall not exceed 38 per week exclusive of meal hours and shall be worked between the hours of 8 am and 6 pm.

(b) Employees shall be allowed a meal period of not less than 45 minutes and not more than 60 minutes commencing between the hours of 11.00 am and 2.30 pm.

No employee shall work for more than five hours without a break of not less than 45 minutes for a meal.

PROVIDED that where there is agreement between the employer and the employee, the meal break may be reduced to 30 minutes.

(c) Make Up Time

Notwithstanding provisions elsewhere in the award, the employer and the majority of employees at an enterprise may agree to establish a system of make up time provided that:

(i) An employee may elect, with the consent of the employer, to work 'make up time' under which the employee takes time off during ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in the award.

(ii) An employee on shift work may elect, with the consent of their employer, to work 'make up time' under which the employee takes time off ordinary hours and works those hours at a later time, at the shift work rate which would have been applicable to the hours taken off.

(iii) An employee or the employees may choose to request a union party to this award, to represent their interests in negotiation referred to in paragraph (i) of this subclause.

(iv) Once a decision has been taken to introduce an enterprise system of make up time, in accordance with this clause, its terms must be set out in the time and wages records kept pursuant to Regulation 25 of the Industrial Relations Regulations 1993.

(v) An employer shall record make up time arrangements in the relevant time and wages book at each time this provision is used.

(d) Rostered Days Off

Notwithstanding provisions elsewhere in the award, the employer and the majority of employees at an enterprise may agree to establish a system of Rostered Days Off to provide that:

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(i) An employee may elect, with the consent of the employer, to take a rostered day off at any time.

(ii) An employee may elect, with the consent of the employer, to take rostered days off in part day amounts.

(iii) An employee may elect, with the consent of the employer, to accrue some or all rostered days off for the purpose of creating a bank to be drawn upon by the employee at times mutually agreed by the employer, or subject to the reasonable notice by the employee or the employer.

(iv) An employee or the employees may choose to request a union party to this award to represent their interests in negotiation referred to in paragraph (i) of this subclause.

(v) Once a decision has been taken to introduce an enterprise system of Rostered Days Off flexibility, in accordance with this clause, its terms must be set out in the time and wages records kept pursuant to Regulation 25 of the Industrial Relations Regulations 1993.

(vi) An employer shall record Rostered Days Off arrangements in the relevant time and wages book, at each time this provision is used.

19. MEAL MONEY

(a) An employee who has worked six hours or more during ordinary time and who is required to work overtime for more than one and a half hours shall be either supplied with an adequate meal by the employer or be paid $9.45 meal money.

(b) Any dispute as to what constitutes an adequate meal shall be referred to and decided by the Tasmanian Industrial Commission.

(c) The payment prescribed in subclause (a) shall be made on the day on which the overtime is worked, prior to the meal break being taken.

20. OCCUPATIONAL SUPERANNUATION

(a) Definitions

'The fund' shall mean TASPLAN or an alternative fund as referred to in subclause (c) hereof provided that such alternative fund is approved in accordance with the Commonwealth Operational Standards for Occupational Superannuation Funds.

'Eligible employee' shall mean an employee, whether weekly, part- time or casual, who has had at least three months continuous service with an employer subject to this award.

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PROVIDED that in the case of an employee who has so qualified with one employer, that employee shall not be required to serve the qualifying period with any subsequent employer subject to this award.

'Ordinary time earnings' shall mean the classification rate including loadings for shift work, part-time or casual work and any permanent all purpose allowances but shall exclude overtime payments, leave loading and annual and/or long service leave payments on termination of employment.

(b) Contributions

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

(ii) In the case of eligible casual and part-time employees, contributions shall become payable following the completion of 38 hours work each calendar month.

(iii) Contributions to the fund shall be made by the employer on at least a calendar monthly basis unless there are circumstances for which the employer cannot be held responsible.

(c) Alternative Funds

(i) An employer shall not be required to pay a contribution on behalf of any eligible employee into more than one fund for the same period of employment.

(ii) Where an employer is already, at the time this clause is included in the award, paying on behalf of the employee a contribution of not less than three percent of ordinary time earnings into an alternative fund (as referred to in subclause (a) hereof) then the employer may continue to use that fund provided that contributions are made in accordance with this clause.

(iii) Where an alternative fund (as referred to in subclause (a) hereof) is in use for the majority of employees in a particular establishment then such alternative fund may be used for the purposes of this clause provided that contributions are made as herein prescribed.

(iv) Where agreement is reached between an employer and a union an alternative fund (as referred to in subclause (a) hereof) may be used for the purposes of contributions payable under this clause.

(d) Date of Operation

The provision of this clause shall operate from, and contributions shall be payable from, the first pay period to commence on or after 17 July 1989.

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21. OVERTIME

(a) For all time of duty outside of ordinary working hours the rates of pay shall be time and a half for the first three hours, and double time thereafter, and for the purpose of computation of overtime each day's work shall stand alone.

(b) If the hours worked within the spread of hours in any day exceed eight, overtime at the appropriate rate shall be paid for all time in excess of 7 1/2 hours.

(c) For all time of duty on Saturdays, Sundays and public holidays, payment shall be made at the rate of double time.

(d) For the purpose of determining overtime entitlements of an employee, any employee who works ten minutes or more past the time fixed for ceasing work, shall be paid overtime rate for all time worked after the time fixed for ceasing work.

PROVIDED that this subclause shall not be used to obtain unpaid work from employees on a regular basis.

(e) Where an employee requests and the employer agrees, time off at the penalty equivalent may be allowed in lieu of payment for overtime.

PROVIDED that such time off shall be paid at the ordinary rate.

(f) An employer shall, if requested by an employee, provide payment at the rate provided for the payment of overtime as prescribed in this clause of this award, for any overtime worked under this subclause where such time has not been taken within four weeks of accrual.

22. 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.

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

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

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

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

'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.

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(e) Notice Requirements

(i) An employee shall, not less that ten weeks prior to the presumed date of confinement, produce to her employer the certificate referred to in paragraph (d)(i).

(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.

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(h) Cancellation of Maternity Leave

(i) Maternity leave, applied for but not commenced, shall be cancelled when the pregnancy of an employee terminates other than by the birth of a living child.

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

(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.

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(j) Maternity Leave and Other Leave Entitlements

(i) Provided the aggregate of any leave including leave taken under this part, does not exceed the period to which the employee is entitled under subclause (c) hereof, an employee may, in lieu of or in conjunction with maternity leave, take any annual leave or long service leave or any part thereof to which she is entitled.

(ii) Paid sick leave or other paid authorised award absences (excluding annual leave or long service leave), shall not be available to an employee during her absence on maternity leave.

(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 (4) weeks prior to the expiration of her period of maternity leave.

(ii) An employee, upon returning to work after maternity leave or the expiration of the notice required by paragraph (i) hereof, shall be entitled to the position which she held immediately before proceeding on maternity leave or, in the case of an employee who was transferred to a safe job pursuant to subclause (f) hereof, to the position which she held immediately before such transfer or in relation to an employee who has worked part-time during the pregnancy the position she held immediately before commencing such part-time work.

Where such position no longer exists but there are other positions available for which the employee is qualified and the duties of which she is capable of performing, she shall be entitled to a position as nearly comparable in status and pay to that of her former position.

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(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.

(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.

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'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;

(ii) a further unbroken period of up to 51 weeks in order to be the primary care-giver of a child provided that such leave shall not extend beyond the child's first birthday. This entitlement shall be reduced by any period of maternity leave taken by the employee's spouse and shall not be taken concurrently with that maternity leave.

The employee must have had at least 12 months continuous service with that employer immediately preceding the date upon which he proceeds upon either period of leave.

(d) Certification

At the time specified in subclause (e) the employee must produce to his employer:

(i) a certificate from a registered medical practitioner which names his spouse, states that she is pregnant and the expected date of confinement or states the date of which the birth took place;

(ii) in relation to any period to be taken under paragraph (c)(ii) hereof, a statutory declaration stating:

(1) he will take that period of paternity leave to become the primary care-giver of the child;

(2) particulars of any period of maternity leave sought or taken by his spouse; and

(3) for the period of paternity leave he will not engage in any conduct inconsistent with his contract of employment.

(e) Notice Requirements

(i) The employee shall, not less than ten weeks prior to each proposed period of leave, give the 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.

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(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.

(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.

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(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.

(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.

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(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:

'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;

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(ii) an unbroken period of up to 52 weeks from the time of the child's placement in order to be the primary care-giver of the child. This leave shall not extend beyond one year after the placement of the child and shall not be taken concurrently with adoption leave taken by the employee's spouse in relation to the same child. This entitlement of up to 52 weeks shall be reduced by:

(1) any period of leave taken pursuant to paragraph (i) hereof; and

(2) the aggregate of any periods of adoption leave taken or to be taken by the employee's spouse;

The employee must have had at least 12 months continuous service with that employer immediately preceding the date upon which he or she proceeds upon such leave in either case.

(d) Certification

Before taking adoption leave the employee must produce to the employer:

(i) (1) A statement from an adoption agency or other appropriate body of the presumed date of placement of the child with the employee for adoption purposes; or

(2) A statement from the appropriate government authority confirming that the employee is to have custody of the child pending application for an adoption order.

(ii) In relation to any period to be taken under paragraph (c)(ii) hereof, a statutory declaration stating:

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

(2) particulars of any period of adoption leave sought or taken by the employee's spouse; and

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

(e) Notice Requirements

(i) Upon receiving notice of approval for adoption purposes, an employee shall notify the 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.

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(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.

(iv) An employee shall, ten weeks before the proposed date of commencing any leave to be taken under paragraph (c)(ii) hereof give notice in writing to the 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.

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(ii) Where the placement of a child for adoption purposes with an employee then on adoption leave does not proceed or continue, the employee shall notify the 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.

(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.

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(ii) An employee, upon returning to work after adoption leave, shall be entitled to the position held immediately before proceeding on such leave or in relation to an employee who has worked part-time under this clause the position held immediately before commencing such part-time work.

Where such position no longer exists but there are other positions available which the employee is qualified for and is capable of performing, the employee shall be entitled to a position as nearly comparable in status and pay to that of the employee's former position.

(m) Replacement Employees

(i) A replacement employee is an employee specifically engaged as a result of an employee proceeding on adoption leave.

(ii) Before an employer engages a replacement employee the 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.

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'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:

(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.

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(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.

(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:

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(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.

(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.

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(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.

(iv) Unbroken service as a replacement employee shall be treated as continuous service as provided for in paragraph (a) Definitions, **'Continuous service'** of this Part.

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

23. PART-TIME EMPLOYEES

Employees may be engaged to work for less hours per day or week than a full-time employee subject to the following limitations:

(a) The ordinary hours of a part-time employee shall not exceed 120 hours nor be less than 32 hours in any four week period.

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(b) The ordinary hours shall not exceed eight nor be less than four on any one day. Part-time employees for ordinary hours shall be paid 1/38th of the weekly rate for each hour worked. A part-time employee shall be entitled to pro rata annual leave, sick leave and public holidays in the same ratio as their actual weekly ordinary hours bear to 38.

Part-time employees shall not comprise more than 20 percent of the total workforce covered by the award in any establishment of an employer.

Part-time employees shall be entitled to all other provisions of the award.

24. PAYMENT OF WAGES

(a) Payment of wages shall be weekly, not later than Thursday in each week by cheque, cash or by electronic funds transfer into an employee's nominated account at a bank, building society or credit union of the employee's choice.

(b) Where the employer utilises electronic funds transfer as a method of payment of wages, the employer shall be responsible for meeting the cost of one deposit into and one withdrawal from an employee's account each pay period.

(c) By agreement between an employer and a majority of employees in his establishment, wages may be paid fortnightly instead of weekly but not until at least two months has transpired from the date upon which employees so agree.

25. PREFERENCE OF EMPLOYMENT

(a) For work covered by Division B of this award preference of employment shall be given to members of the Tasmanian Branch of the appropriate union, provided that such preference shall be extended to persons who undertake to become and in fact within 14 days of so undertaking do become and subsequently remain, members of the appropriate union.

(b) **PROVIDED** that such employees are competent and suitable to carry out the work required to be done.

(c) Conscientious objectors shall pay a sum equivalent to the union dues to a charity nominated by the union.

(d) Where more than one person is applying for employment and all things are considered equal, the employer shall have freedom to select any one or more of such persons in his discretion.

(e) For employees in receipt of salaries in excess of the highest award prescribed salary, plus 15 percent, membership of the Union shall be optional.

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26. REST PERIOD

Employees who work for four hours or more on any day shall be granted one 10 minute rest period.

PROVIDED that no rest period shall apply on Saturday morning.

If the work period includes a meal break, the rest period is to be granted in that portion of the work period which is the greater or where such work periods are of equal duration, the rest period of 10 minutes shall be given at a time to be mutually agreed upon.

PROVIDED that employees who work for six hours or more on any day shall be granted two 10 minute rest periods, one during the period of work before and one during the period of work after the meal break. All rest periods shall be counted as time worked.

27. RIGHT OF ENTRY OF UNION OFFICIALS

(a) For the purposes of interviewing employees on legitimate union business, a representative of an organisation of employees, accredited as hereinafter provided, may enter the employer's premises during regular meal or crib-time of employees or at such other time as arranged with the employer, on any of the following conditions:

(i) that the representative produces the authority specified in (b) hereof to such person as may be appointed by the employer for that purpose.

(ii) that, if the employer alleges that a representative is unduly interfering with the employer's work or is offensive 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.

(b) A person shall be a duly accredited representative of an organisation if such person 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.

28. SAVING

Any employee in receipt of a rate of wage in excess of that herein prescribed shall not have his or her wages reduced as a result of this award.

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29. SETTLEMENT OF DISPUTES

Any dispute that arises between the parties of this award, that cannot be settled by negotiation, shall be referred to the Tasmanian Industrial Commission, whose decision shall be final and binding.

30. SICK LEAVE

(a) An employee, other than one engaged as a casual, who is absent from work on account of personal illness or on account of injury by accident shall be entitled to leave of absence without deduction of pay, subject to the following conditions and limitations:

(i) he shall not be entitled to such leave of absence for any period in respect of which he is entitled to workers' compensation;

(ii) he shall, as soon as possible and where practicable within one hour of the commencement of the employee's normal working day, inform the employer of his inability to attend for work and, as far as practicable, state the nature of the illness and the estimated duration of the absence;

(iii) he shall prove to the satisfaction of the employer (or in the event of a dispute, the Tasmanian Industrial Commission) that he was unable on account of such illness or injury to attend for work on the day or days for which the sick leave is claimed;

PROVIDED that two single day absences in each 12 month period shall be allowed without production of such proof;

(iv) he shall not be entitled in any year (whether in the employment of one employer or of more) to sick leave credit in excess of two weeks 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.

(v) for the purpose of administering paragraph (iv) of this subclause, an employer may within one month of this award coming into operation or within two weeks of the employee entering his employment require an employee to make a sworn declaration or other written statement as to what paid leave of absence he has had from any employer during the then current year, and upon such statement the employer shall be entitled to rely and act.

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

(c) An employer shall not be required to make any payment in respect of accumulated sick leave credits to an employee who is discharged or leaves his employment.

31. STEWARDS

An employee appointed steward in the office or department in which he is employed shall, upon notification thereof to his employer, be recognised as the accredited representative of the Union to which he belongs, and he shall be allowed the necessary time during working hours to interview the employer or his representative on matters affecting employees whom he represents, provided that if the steward so requests it he may be accompanied at such interview by another employee.

32. STRUCTURAL EFFICIENCY AND AWARD MODERNISATION

(a) Structural Efficiency

(i) The parties to this award are committed to co-operating positively to increase the efficiency, productivity and international competitiveness of the industry, and to enhance the career opportunities and job security of employees in the industry.

(ii) At each plant or enterprise, an employer, the employees and their relevant union or unions may establish consultative mechanisms and procedures appropriate to the size, structure and needs of that plant or enterprise. Measures raised by the employer, employees or union or unions for consideration consistent with the objectives of paragraph (i) herein shall be processed through that consultative mechanism and procedures.

(iii) Measures raised for consideration consistent with paragraph (ii) herein shall be related to implementation of the new classification structure, the facilitative provisions contained in this award and matters concerning training.

(iv) Without limiting the rights of either an employer or a union to arbitration, any other measure designed to increase flexibility at the plant or enterprise and sought by agreement of the parties involved shall be implemented subject to the following requirements:

(1) The changes sought shall not affect provisions reflecting State standards.

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(2) The majority of employees affected by the change at the plant or enterprise must genuinely agree to the change.

(3) No employee shall lose income as a result of the change.

(4) The relevant union or unions must be a party to the agreement.

(5) The relevant union or unions shall not unreasonably oppose any agreement.

(6) Any agreement shall be subject to approval by the Tasmanian Industrial Commission and, if approved, shall operate as a schedule to this award and take precedence over any provision of this award to the extent of any inconsistency.

(v) Any disputes arising in relation to the implementation of paragraphs (ii) and (iii) herein shall be subject to Clause 29 - Settlement of Disputes of this award.

(b) Award Modernisation

(i) The parties are committed to modernising the terms of the award so that it provides for more flexible working arrangements, improves the quality of working life, enhances skills and job satisfaction and assists positively in the restructuring process.

(ii) The parties will create a genuine career path for employees which allows advancement based on industry accreditation and access to training and cooperation in the transition from the old structure to the new structure in an orderly manner without creating false expectations or disputation.

32. TRAINEESHIPS - CLERKS (ATS)

(a) Trainees shall be engaged for a period of twelve months as full-time employees, provided that trainees shall be subject to a satisfactory probation period of up to one month.

(b) Where possible, traineeship positions should be additional to normal staff numbers provided that no existing weekly employees shall be displaced by a trainee.

(c) A trainee will receive on-the-job training by the employer (or employers) as specified in the Training Agreement and that off-the-job training will be provided through the Division of Technical and Further Education or such other institution approved by the Training Authority of Tasmania. Provided that the total of on and off-the-job training will not exceed five days per week.

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(d) The employer agrees that the overall training program will be monitored by officers of the Training Authority of Tasmania and training record books may be used as part of this monitoring process.

(e) Time spent off-the-job on training shall be allowed without loss of continuity of employment.

(f) Where the employment of a trainee by an employer is continued after completion of the "traineeship period", such "traineeship period" shall be counted as service for the purpose of the award.

(g) Under normal circumstances overtime shall not be worked by trainees. However, when during a training period overtime is involved in the operation, overtime may be worked by the trainees. Where overtime is worked the normal allowances and penalty rates shall apply.

(h) The weekly wages payable to trainees (ATS) shall be determined by multiplying the appropriate junior rate as specified in Clause 8 - Division B - subclause (b) of this award by 39 (which represents the actual number of weeks spent on-the-job) and dividing that sum by 52.

The wage rate determined by this calculation shall in no case be less than the minimum rate prescribed by the Australian Traineeship System Guidelines.

This figure is adjusted in accordance with National Wage Case Decisions.

Provided further that trainees' rates shall be calculated in multiples of ten cents with any result of five cents or more being taken to next highest ten cent multiple.

(i) The union shall be afforded reasonable access to trainees for the purposes of explaining the role and functions of the union.

(j) Trainees shall not perform higher duties unless in the course of their traineeship.

(k) Trainees shall be exempt from action in respect to industrial disputes.

R J Watling
COMMISSIONER

8 May 1997