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TASMANIAN INDUSTRIAL COMMISSION

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

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

**GENERAL CONDITIONS OF EMPLOYMENT AWARD
COMMUNITY AND HEALTH SERVICES (PUBLIC SECTOR) AWARD
ELECTRICAL/ELECTRONIC TRADES (PUBLIC SECTOR) AWARD
MEDICAL PRACTITIONERS (PUBLIC SECTOR) AWARD
METAL TRADES (STATE EMPLOYEES) AWARD
MISCELLANEOUS WORKERS (PUBLIC SECTOR) AWARD
TASMANIAN AMBULANCE SERVICE AWARD
TOURISM TASMANIA AWARD**

FULL BENCH:

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

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

GENERAL CONDITIONS OF EMPLOYMENT AWARD

ORDER BY CONSENT -

Order No. 3 of 2000

THE **GENERAL CONDITIONS OF EMPLOYMENT AWARD** IS VARIED IN THE FOLLOWING MANNER:

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1. By deleting Clause 2 - CONTENTS, and inserting in lieu thereof the following:

"2. CONTENTS

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(b) Kilometrage	
(i) Required User	
(ii) Occasional User	
(c) Travelling	

Appendix 1 - State Service Accumulated Leave Scheme"

2. By deleting Clause 30 – TRAINING COURSES, CONFERENCE ALLOWANCE, and inserting in lieu thereof the following:

"30. STATE SERVICE ACCUMULATED LEAVE SCHEME

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

3. By deleting Clause 31 – TRAVEL ALLOWANCES, and inserting in lieu thereof the following:

"31. TRAINING COURSES, CONFERENCE ALLOWANCE

An employee who is required or is authorised to attend either a training course, conference or other similar function where full accommodation is provided at no cost to such employee, he shall be paid an allowance for incidental expenses for each day of such attendance at the rate of:

	Rate per Day
	\$
Within this State	13.25
Outside this State	18.65"

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4. By inserting after Clause 31 the following:

"32. TRAVEL ALLOWANCES

(a) Excess Fares

An employee who in the normal course of employment is not required to travel to different locations for the performance of his duties, but with the knowledge and approval of the controlling authority, is required for short periods to attend work at a location other than his regular place of employment shall be paid such reasonable additional fares necessarily incurred.

PROVIDED that no employee shall be entitled to the benefits of this subclause for more than three months in any one continuous period.

(b) Kilometrage

(i) Required User

Where an employee is required in writing by the controlling authority to have available on a regular basis a private motor vehicle which the employee will be required to use for official purposes, and the employee agrees in writing so to do an allowance shall be paid for such use in accordance with the following rates:

ANNUAL KILOMETREAGE TRAVELLED ON DUTY IN A FINANCIAL YEAR	CENTS PER KILOMETRE	
	Rate 1 2 litres and above	Rate 2 Less than 2 litres
First 10,000 kilometres	57.38 (100%)	49.35 (86%)
Any additional kilometres	30.41 (53%)	26.39 (46%)

PROVIDED that where the controlling authority wishes to withdraw the requirement to provide a private motor vehicle then, except where special circumstances exist, at least one year's notice in writing shall be given, and the notice period shall be specified to end on 30 June.

(ii) Occasional User

Where an employee is not required to provide a private motor vehicle for official use as prescribed in subclause (b)(i) of this clause, but otherwise receives approval from the controlling authority to use a private motor vehicle for official purposes on an occasional basis, an allowance shall be paid in accordance with the following rates:

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ANNUAL KILOMETREAGE TRAVELLED ON DUTY IN A FINANCIAL YEAR	CENTS PER KILOMETRE	
	Rate 3 2 litres and above	Rate 4 Less than 2 litres
First 10,000 kilometres	38.26 (100%)	32.90 (86%)
Any additional kilometres	20.28 (53%)	17.60 (46%)

- (iii) For the purposes of subclauses (b)(i) and (b)(ii) of this clause, the rates specified therein shall apply as follows:

RATES 1 and 3 Apply to motor vehicles generally recognised as having an engine capacity of 2:0 litres or more and include rotary engines.

RATES 2 and 4 Apply to motor vehicles generally recognised as having an engine capacity of less than 2:0 litres.

- (iv) The rates specified in subclauses (b)(i) and (b)(ii) of this clause, shall not be varied as a consequence of National Wage Case decisions. The rates shall be varied upon application subsequent to 30 March and 30 September of each year after the Hobart Transportation, Private Motoring subgroup, Consumer Price Index Numbers for the quarters ending 30 March and 30 September respectively, become available. The Rate 1 and Rate 3 variations for the first 10,000 kilometres travelled shall be calculated in accordance with the formula specified in decision T.33 of 1985 dated 13 June 1985.

Variations to the other rates specified in the tables in subclauses (b)(i) and (b)(ii) of this clause, shall be calculated by applying the percentage shown in brackets to the relevant first 10,000 kilometres rate (as varied) shown as 100 percent.

- (v) An employee shall not receive an allowance for kilometres travelled in excess of 16,000 kilometres in any one financial year unless authorised by the controlling authority concerned on the recommendation of the Head of Agency, to travel a greater distance in that year.

- (vi) In addition the following allowances shall be paid to employees:

- (1) Where stationed in Category R as provided in Clause 24 - Location Allowances, subclause (b)(ii)(1) thereof - \$24.70 per month plus \$9.90 per 1,600 kms travelled on duty.
- (2) Where stationed in Category B as provided in Clause 24 - Location Allowances, subclause (b)(ii)(2) thereof - \$16.40 per month plus \$9.90 per 1,600 kms travelled on duty.

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- (3) Where authorised to use a utility, four-wheel drive motor vehicle or any other special type of motor vehicle approved by the controlling authority concerned - \$9.90 per month.
- (4) Where authorised to use a trailer attached to the motor vehicle 2.97 cents for each kilometre travelled on duty with the trailer attached.
- (5) Where authorised to use a motor vehicle on work involving the regular carrying of heavy equipment - \$9.90 per month.
- (6) Where authorised to use a motor cycle - 9.67 cents for each kilometre travelled on duty.
- (vii) Where an employee is required to provide a private motor vehicle in accordance with subclause (b)(i) of this clause, and the distance travelled on duty in any financial year does not exceed 4,000 kilometres, the employee shall be paid an allowance calculated by multiplying the appropriate rate per kilometre by the difference between the actual number of kilometres travelled on duty during that year and 4,000 kilometres.
- (viii) Where a part-time employee is eligible for any payment under subclause (b)(vii) of this clause, such allowance shall be calculated on the proportion of the total hours worked in that year by the part time employee to the annual standard hours for a full time employee of the same classification.
- (ix) Unless otherwise directed by the controlling authority, kilometreage on duty shall be the distance travelled from an employee's place of employment to his or her destination and return to his or her place of employment.
- (x) A kilometreage allowance in excess of or at variance with the rates set forth in subclauses (b)(i) and (b)(ii) of this clause, may be paid if, on the determination of the controlling authority concerned, special circumstances exist which justify such excess or variation.

(c) Travelling

- (i) Employees travelling on duty who are required to remain away from their normal place of residence overnight shall be paid an allowance calculated in accordance with the following components:

Component	Within Tasmania \$	Outside Tasmania \$	Sydney \$
Overnight Absence From Normal Place of Residence	75.50	105.55	123.25
Breakfast (preceding or following an overnight absence) applicable hours 7.00am - 8.30am	12.30	12.30	12.30

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Lunch (preceding or following an overnight absence) applicable hours 12.30pm - 2.00pm	11.00	11.00	11.00
Dinner (preceding or following an overnight absence) applicable hours 6.00pm - 7.30pm	23.40	23.40	23.40

PROVIDED that if the employee so wishes, he or she shall be allowed advance payment of the estimated allowance payable for the period of travel in question.

- (ii) In addition to the allowance available in accordance with subclause (c)(i) of this clause and provided the controlling authority is satisfied that the employee did incur the expense claimed, an employee shall be entitled to reimbursement of reasonable expenses incurred, as a result of his or her absence from the normal place of residence, for the following purposes:
 - (1) a telephone call to the employee's spouse or children each 24 hours;
 - (2) dry cleaning or laundry required as the result of an extended absence.
- (iii) Notwithstanding subclause (c)(i) of this clause, where the controlling authority is satisfied that no reasonable alternative accommodation is available, the employee may be reimbursed for actual expenses incurred.
- (iv) Where an employee travels with a Judge or a Minister or in a representative capacity for the State, or on special duties as determined by the controlling authority, and thereby incurs additional expense, the employee may be paid such travelling allowance as may be determined by the controlling authority.
- (v) Where public transport is not conveniently available and employees in the performance of their duties find it necessary to hire other forms of transport, they shall, subject to the approval of the controlling authority, be reimbursed the actual costs incurred in the hiring of such transport.
- (vi) Where employees in the performance of their duties are required to be stationed temporarily at any place other than their usual headquarters for a period exceeding three weeks, and are absent from their normal place of residence, and have to procure board and lodging whilst so stationed, they shall be paid a travelling allowance at the following rates:
 - (1) for the first three weeks in accordance with the rates set forth in subclause (c)(i) of this clause; and
 - (2) thereafter, at such rate as the controlling authority concerned may determine.

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(vii) Where the controlling authority certifies that the duties of an employee involve systematic travelling, the controlling authority shall determine the rate to be paid to such employee within the limits of the rates set forth in subclause (c)(i) of this clause.

(viii) Where an employee in the performance of his duties is required to travel:

(1) Within Australia (including Papua New Guinea and New Zealand) - by ship, aircraft, railway train, or other means of conveyance, where he is provided with meals and sleeping quarters, that employee, while so travelling, shall be paid a travelling allowance at the rate of:

	Rates per Day
	\$
Within this State	11.75
Outside this State	16.50

(2) Outside Australia, Papua New Guinea and New Zealand - that employee, while so travelling, shall be paid a travelling allowance at such rate as the controlling authority may approve.

(ix) Where an employee is permanently stationed on the Bass Strait Islands and enters upon leave of absence he may, three times in every year, on the determination of the controlling authority concerned, be paid the return fares reasonably incurred by him for himself or for any dependent member of his family, permanently resident on the Bass Strait Islands, travelling from his station to the nearest seaport or airport on the mainland of this State. Such travel shall include travel via Melbourne when such indirect travel is the most expedient means of travelling to or returning from the nearest seaport or airport on the mainland of this State.

PROVIDED that:

(1) with the approval of the controlling authority concerned, an employee may, in substitution for travel to the nearest seaport or airport in this State, travel to any other seaport or airport in this State or to Melbourne;

(2) for the purpose of obtaining emergency medical or dental treatment for an employee or dependent member of his family, permanently resident on the Bass Strait Islands, an employee may by way of reimbursement and, with the approval of the controlling authority concerned, be paid the return fare reasonably incurred for travel from his station to the nearest centre in this State or to Melbourne, whereat such treatment can be obtained. Such reimbursement shall be in substitution for one or both of the return fares for the person concerned, more particularly set forth in this paragraph;

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- (3) the above entitlement is not cumulative, each year standing alone;
- (4) no employee shall be eligible to receive payment for the return fares as set forth above unless such employee has first completed three months continuous service on one or other of the Bass Strait Islands.
- (x) (1) Where an employee is required in the performance of his duties, either on appointment or transfer, to move from his place of residence to another district, and:
 - (A) he is unable to obtain accommodation for his family in that district and thereby incurs additional expense;
 - (B) there is available in that district for the employee's family only such accommodation as will involve the employee in excessive expenditure;

the controlling authority concerned may, on the recommendation of the Head of Agency, grant to such employee a special allowance at such rate as the controlling authority concerned may determine.

- (2) Such allowance shall be payable in the first instance for a period not exceeding three months as the controlling authority concerned may, as he deems necessary, extend such period for any number of additional periods not exceeding three months at any one time.
- (3) The controlling authority concerned may, at any time, increase, reduce or revoke any allowance granted under this paragraph.
- (4) An employee who receives an allowance under this paragraph shall immediately report to the controlling authority concerned any alteration of the circumstances in consideration of which such allowance was granted or renewed."

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5. By adding APPENDIX 1, at the end of the award as follows:

"APPENDIX 1

STATE SERVICE ACCUMULATED LEAVE SCHEME

1. TITLE

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

2. SUMMARY OF SCHEME

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

3. INTERPRETATION

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

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

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

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

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

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

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

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

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4. PLANS

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

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

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

5. APPLICATION OF SSALS

- 5.1 The Head of an Agency, after considering the operational requirements of the Agency, determines whether any Plan or Plans are to be available to employees in the Agency.
- 5.2 A Head of an Agency may make any Plan or Plans available to employees in that Agency or an employee or employees can request the Head of Agency that a Plan be made available to them.
- 5.3 A Plan may be made available to any permanent employee (full or part-time) including an employee who works shifts. A Plan may be made available to any temporary employee the term of whose contract of employment is sufficient to cover the period of the Plan.

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5.4 The Head of Agency determines:

- whether one or more Plans will be made available to all or only some of the employees;
- whether particular Plans will be made available to particular categories of employees;
- whether quotas will apply to the number of employees who may participate in a Plan, and whether quotas will apply to any category of employees;
- the selection arrangements where quotas are imposed; and
- the commencement date of any Plan.

5.5 Where an employee participating in a Plan is promoted, transferred, seconded or otherwise moved either into another Agency or within their own Agency the Head of the Agency in which the employee is thereafter employed will, after consultation with the employee and taking into account the operational requirements of the Agency, determine whether or not the employee is able to continue on their Plan.

5.6 If the Head of Agency determines under clause 5.5 that the employee is not able to continue on their Plan, the Head of Agency may forthwith terminate the employee's Plan whereupon the employee becomes entitled to a period of accumulated leave which bears the same proportion to the total leave period of the Plan as the period worked under the Plan bears to the total work period, to be remunerated at the percentage of normal salary payable during the period of the Plan. The employee may apply to the Head of Agency at any time to take that leave, and it shall be granted as soon as can be, consistent with the operational requirements of the Agency.

6. HOW TO PARTICIPATE IN SSALS

6.1 Where the Head of an Agency offers a Plan to an employee the employee may elect to participate in the Plan by lodging an election in writing with the Head of Agency in any form which the Head of Agency may approve.

6.2 The Head of the Agency may accept or reject an election to participate made in accordance with clause 6.1.

6.3 The Head of Agency will notify the employee in writing if the employee's election has been disapproved.

6.4 Where the employee's election is approved, the Head of Agency will endorse approval on the form of election which was lodged by the employee, and will provide the employee with a copy of that endorsed form.

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- 6.5 An employee's election under Clause 6.1 does not entitle the employee to participate in a Plan until it is approved by the Head of Agency in accordance with Clause 6.4.
- 6.6 A participating employee wishing to withdraw from a Plan must apply in writing to their Head of Agency who may refuse the application if he or she considers such refusal to be reasonably required to meet the operational requirements of the Agency.

7. CONDITIONS AND ADMINISTRATIVE ARRANGEMENTS

7.1 Work Period to be completed prior to Period of Leave

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

7.2 Suspension of Plan

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

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

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

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

7.3 Accumulated Leave

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

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

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

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

7.4 Payment during the Leave Period

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

7.5 Salary Increments

Salary increments will accrue throughout the period of a Plan.

7.6 Superannuation

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

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

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

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

7.7 Other Compulsory Deductions from Pay

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

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

7.8 Voluntary Deductions from Pay

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

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7.9 Administrative Records

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

7.10 Recreation Leave

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

7.11 Sick Leave

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

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

7.12 Maternity Leave and Adoption Leave

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

7.13 Other Leave

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

7.14 Long Service Leave

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

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

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

7.15 State Service Holidays (Public Holidays)

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

7.16 Workers Compensation

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

7.17 Employment during Period of Leave

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

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

7.18 Cessation of Employment

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

OPERATIVE DATE

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

R J Watling
DEPUTY PRESIDENT

20 December 2000