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**TASMANIAN INDUSTRIAL COMMISSION**

**Industrial Relations Act 1984**

s.23 application for award or variation of award

**Construction, Forestry, Mining and Energy Union, Tasmanian Branch**

**MOBILE CRANE HIRE AWARD**

(T12232 of 2005)

**BUILDING AND CONSTRUCTION INDUSTRY AWARD**

(T12233 of 2005)

(T12234 of 2005)

**BUILDING TRADES AWARD**

(T12235 of 2005)

(T12236 of 2005)

COMMISSIONER T J ABEY

**Award variation – expense related allowances – meal allowance – applications  
approved – operative date 9 September 2005**

**BUILDING AND CONSTRUCTION INDUSTRY AWARD**

**ORDER BY CONSENT –**

**No 3 of 2005**

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AMEND THE **BUILDING AND CONSTRUCTION INDUSTRY AWARD** IN THE FOLLOWING MANNER:

**1. By deleting from Part IV – Allowances, Clause 22 – Tool and Boot Allowances, and inserting in lieu thereof the following:**

**"22. TOOL AND BOOT ALLOWANCES**

- (a) A tool allowance shall be paid for all purposes of the award in accordance with the following table:

Classification	Tool Allowance \$ per week
Artificial Stoneworker, carpenter and/or joiner, carpenter - diver, carver, bridge and wharf carpenter, floor sander, letter cutter, marble and slate worker, stonemason, tilelayer.	23.30
Caster, fixer, floorlayer specialist, plasterer	19.20
Refractory Bricklayer, Bricklayer.	16.40
Roof tiler, slate-ridger or roof fixer	12.10
Signwriter, painter, glazier.	5.60

- (b) The above allowance does not include the provision of the tools set out in Clause 43 – Special Tools and Protective Clothing of this award.
- (c) The provisions of this subclause shall apply to bricklayers engaged on construction or repairs to refractory brickwork.
- (i) After six weeks employment, and on request of the employee, an allowance of \$61.00 shall be provided for the purchase of boots. The same allowance will be provided to cover the cost of replacement boots, provided that the allowance need not be paid more than once in any six month period dating from the time the allowance is first provided.
- (ii) The allowance set out in paragraph (i) hereof will not be payable where the employer provides boots.
- (iii) Employees provided with the allowance, or the boots, will accrue credit at the rate of \$3.10 per week from the date of the request. An employee leaving, or being dismissed, before 20 weeks' employment after the date of the request will repay the difference between the credit accrued and the \$61.00."

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**2. By deleting from Part IV – Allowances, Clause 25 – Meal Allowance, and inserting in lieu thereof the following:**

**"25. MEAL ALLOWANCE**

- (a) An employee required to work overtime for at least one and one half hours after working ordinary hours inclusive of time worked for accrual purposes as prescribed in Clause 27 – Hours of Work and Clause 30 – Shift Work of this award shall be paid by the employer an amount of \$10.50 to meet the cost of a meal.
- (b) **PROVIDED** that this subclause shall not apply to an employee who is provided with reasonable board and lodging or who is receiving a distant job allowance in lieu thereof as provided for in subclause 46(c) of this award and is provided with a suitable meal.
- (c) A plant operator employee shall be entitled to be paid \$10.50 for each meal after the completion of each four hours from the commencement of overtime."

**3. By deleting from Part VIII – Occupational Health and Safety, Tools and Amenities, Clause 39 – Compensation for Clothes and Tools, and inserting in lieu thereof the following:**

**"39. COMPENSATION FOR CLOTHES AND TOOLS**

- (a) An employee whose clothes, spectacles, hearing aids or tools have been accidentally spoilt by acid, sulphur or other deleterious substances, shall be paid such amount to cover the loss thereby suffered by the employee as may be agreed upon between the employee and the employer or, in default of agreement, as may be fixed by the Commission.
- (b) An employee shall be reimbursed by the employer to a maximum of \$1348.00 for loss of tools or clothes by fire or breaking and entering whilst securely stored at the employer's direction in a room or building on the employer's premises, job, or workshop, or in a lock-up as provided in this award or if the tools are lost or stolen while being transported by the employee at the employer's direction, or if the tools are accidentally lost over water, or if tools are lost or stolen during an employee's absence after leaving the job because of injury or illness.  
  
**PROVIDED** that an employee transporting his/her own tools shall take all reasonable care to protect those tools and prevent theft or loss.
- (c) Where an employee is absent from work because of illness or accident and has advised the employer in accordance with subclause 33(c) this award, the employer shall ensure that the employee's tools are securely stored during such absence.
- (d) When an employer requires an employee to wear spectacles with toughened glass lenses the employer will pay the cost of the toughening process.

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(e) **PROVIDED** that for the purpose of this clause:

- (i) only tools used by the employee in the course of his/her employment shall be covered by this clause;
- (ii) the employee shall, if requested to do so, furnish the employer with a list of tools so used;
- (iii) same or comparable quality;
- (iv) the employee shall report any theft to the police prior to making a claim on the employer for replacement of stolen tools."

**4. By deleting from Part IX – Transfers, Travelling and Working Away From Usual Place of Work, Clause 45 – Fares and Travel Patterns Allowance, and inserting in lieu thereof the following:**

**"45. FARES AND TRAVEL PATTERNS ALLOWANCE**

The following fares and travel patterns allowance shall be paid to employees for travel patterns and costs peculiar to the industry which include mobility requirements on employees and the nature of employment on construction work.

(a) Metropolitan Radial Areas

When employed on work located within a radius of 30 kilometres from the GPO Hobart or the principal post office Launceston:- \$13.60 per day.

(b) Distant Jobs

The allowance prescribed in (a) hereof shall be paid to employees employed on a distant job (as defined in Clause 46 – Living Away From Home – Distant Work of this award), when the work is carried out within a radius of 30 kilometres from the place where, with the employer's approval, the employee is accommodated.

(c) Country Radial Areas

- (i) An employer whose business or branch or section thereof (for the purpose of engagement) is established in any place (other than on a construction site) outside the areas mentioned in (a) hereof shall pay their employees the allowance prescribed in (a) hereof for work located within a radius of 30 kilometres from the post office nearest the establishment.
- (ii) Where the employer has an establishment in more than one such place the establishment nearest the employee's nominated address shall be used, and employees shall be entitled to the provisions of (d) hereof when travelling to a job outside such radial area.

(d) Travelling Outside Radial Areas

- (i) Where an employee travels daily from inside any radial or county area mentioned in subclauses (a), (b) and (c) hereof to a job outside that area, the employee shall be paid:
  - (1) the appropriate allowance prescribed in subclauses (a), (b) and (c) hereof; and
  - (2) in respect of travel from the designated boundary to the job and return to that boundary:
    - (A) the time outside ordinary working hours reasonably spent in such travel, calculated at ordinary hourly "on site" rates to the next quarter of an hour with a minimum payment of one half an hour per day for each return journey; and
    - (B) any expenses necessarily and reasonably incurred in such travel, which shall be \$0.41 per kilometre where the employee uses their own vehicle.

(ii) Residing Outside Radial Areas

An employee whose residence is outside the radial areas prescribed herein shall be entitled to the provisions of subparagraph (i)(1) hereof, but not subparagraph (i)(2) hereof.

(e) Travelling Between Radial Areas

The provisions of subclause (d) hereof shall apply to an employee who is required by the employer to travel daily from one of those areas mentioned in subclauses (a) and (c) hereof to an area, or another area, mentioned in subclauses (a) or (c) hereof.

(f) Provision of Transport

- (i) Subject to paragraphs (ii), (iii) and (iv) hereof the allowance prescribed in this clause, (except the additional payment prescribed in subclauses (d) and (e) hereof) shall not be payable on any day on which the employer provides or offers to provide transport free of charge from the employee's home to the place of work and return.
- (ii) The allowance prescribed in this clause shall be payable on any day for which the employer provides a vehicle free of charge to the employee and the employee is required by the employer to drive such vehicle from the employee's home to the place of work and return.

(iii) Time spent by an employee travelling from the employee's home to the place of work and return outside ordinary hours shall not be regarded as time worked for any purpose of this award and no travelling time payment shall be made except to the extent provided in subclauses 13(e), 29(b) and 46(f) of this award and subclauses (d) and (e) of this clause.

(iv) **PROVIDED** that paragraphs (ii) and (iii) hereof shall have no application in the case of an employee directed by the employer to pick up and/or return other employees to their homes. Such an employee shall be paid as though the time taken was worked, but no allowance shall be paid.

(g) Work in Fabricating Yard

When an employee is required to perform prefabricated work in an open yard and is then required to erect or fix on site, the provisions of this clause shall apply.

(h) Requirements to Transfer

As required by the employer, employees shall start and cease work on the job at the usual commencing and finishing times within which ordinary hours may be worked and shall transfer from site to site as directed by the employer.

(i) Transfer During Working Hours

(i) An employee transferred from one site to another during working hours shall be paid for the time occupied in travelling and, unless transported by the employer, shall be paid reasonable cost of fares by the most convenient public transport between such sites.

(ii) **PROVIDED** that where an employee agrees to their employer's request to use the employee's own car for such a transfer, the employee shall be paid an allowance at the rate of \$0.77 per kilometre.

(j) Daily Entitlement

(i) The travelling allowances prescribed in this clause shall not be taken into account in calculating overtime, penalty rates, annual or personal leave, but shall be payable for any day upon which the employee in accordance with the employer's requirements works or reports for work or allocation of work and for the rostered day off as prescribed in Clause 27 – Hours of Work and Clause 30 – Shift Work of this award. The allowances shall however be taken into account when calculating the annual leave loading.

(ii) Subject to the foregoing provisions a fare shall be deemed to have been incurred if the employee has used a bicycle or other means of locomotion or has walked instead of using a public conveyance.

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(k) Continuation of Practice

The provisions of subclauses (a), (b) and (c) hereof shall continue to apply to employees working at any workshop, yard or depot (either presently or future existing) in the same manner as applied prior to 31 August 1979.

(l) Apprentices

- (i) An apprentice's entitlement to allowance prescribed under subclauses (a), (b) and (c) hereof shall be in accordance with the following scale.

On the first year rate	75 percent of amount prescribed
On second year rate	85 percent of amount prescribed
On third year rate	90 percent of amount prescribed
On fourth year rate	95 percent of amount prescribed

- (ii) The foregoing shall be calculated to the nearest five cents, two cents and less to be disregarded."

**5. By deleting from Part IX – Transfers, Travelling and Working Away From Usual Place of Work, Clause 46 – Living Away From Home – Distant Work, and inserting in lieu thereof the following:**

**"46. LIVING AWAY FROM HOME - DISTANT WORK**

(a) Qualification

- (i) An employee shall be entitled to the provisions of this clause when employed on a job or construction work at such a distance from the employee's usual place of residence that the employee cannot reasonably return to that place each night under the following conditions:

- (1) The employee is not in receipt of relocation benefits.
- (2) The employee is maintaining a separate place of residence to which it is not reasonable to expect the employee to return each night; and
- (3) The employee on being requested by the employer informs the employer, at the time of engagement, that the employee maintains a separate place of residence from the address recorded on the job application.

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- (ii) Subject to subclause (b) hereof an employee is regarded as bound by the statement of the employees' address and no entitlement shall exist if unknowingly to the employer the employee wilfully and without duress made a false statement in relation to the above.

(b) Employee's Address

- (i) The employer shall require and the applicant shall provide the employer with the following information, in writing, at the time of engagement:
  - (1) the address of the place of residence at the time of application; and
  - (2) the address of the separately maintained residence, if applicable.
- (ii) Provided however, that the employer shall not exercise undue influence, for the purpose of avoiding its obligations under the award, in persuading the prospective employee to insert a false address.
- (iii) No subsequent change of address shall entitle an employee to the provisions of this clause unless the employer agrees.
- (iv) Documentary proof of address such as a long service leave registration card or driver's licence may be accepted by an employer as proof of the employee's usual place of residence.
- (v) The address of the employee's usual place of residence and not the place of engagement shall determine the application of this clause.
- (vi) Any dispute arising in respect of this clause shall be dealt with in accordance with Clause 37 – Settlement of Disputes of this award.

(c) Entitlement

- (i) Where an employee qualifies under subclause (a) hereof the employer shall:
  - (1) pay an allowance of \$356.50 per week of seven days but such allowance shall not be wages. In the case of broken parts of the week occurring at the beginning or the ending of the employment on a distant job the allowance shall be \$51.00 per day. Provided that the foregoing allowances shall be increased if the employee satisfies the employer that the employee reasonably incurred a greater outlay than that prescribed. In the event of disagreement the matter may be dealt with in accordance with Clause 37 – Settlement of Disputes of this award; or



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- (2) provide the worker with reasonable board and lodging (**'reasonable board and lodging'** shall mean lodging in a well kept establishment with three adequate meals each day, adequate furnishings, good bedding, good floor coverings, good lighting and heating with hot and cold running water, in either a single room or twin room if a single room is not available); or
- (3) where employees are required to live in camp at any one site, provide free board and accommodation in accordance with subclause (d) hereof.

(d) Free Board and Accommodation

- (i) All board and accommodation shall be free of charge and without deduction from the employee's wages, and
- (ii) Accommodation shall be in accordance with the following minimum standard:
  - (1) Where such accommodation is of the hut, demountable or transportable type, such accommodation shall:
    - be designed to house workers in individual rooms, each room not less than 9 square metres (97 square feet) in area;
    - be lined and sealed with such material as facilitates the washing of walls and ceiling;
    - have floor coverings of vinyl or like material;
    - have weather proof windows and doors, all fitted with insect screens and curtains;
    - have a door which can be locked;
    - have corridors between units which shall be roofed and shall have a concrete or wooden floor;
    - be connected to electricity and each room shall be independently fused;
    - be twin cycle air-conditioned in each room;
    - have two power points in each room to which electrical appliances can be connected.

- (2) In addition, such accommodation shall contain in each room for each worker:
    - a single bed with head and foot boards (complete with rubber foam or innerspring mattress, with a pillow and loose detachable washable covers for mattress and pillow);
    - wardrobe, dressing table unit with mirror, chest of drawers, table and chair;
    - four coat hooks on the wall and a towel rail;
    - a ceiling light;
    - a reading light;
    - a waste basket;
    - a linen ration.
  - (3) Ablution/laundry facilities with all necessary plumbing, drainage and electrical fittings; hot and cold water supplies; sufficient water closets, showers, basins, laundry troughs, washing machines, tumble dryers, ironing boards and sundry fittings.
  - (4) Recreational facilities including an air conditioned fully enclosed and sealed area suitable for use by up to 20 persons with sufficient chairs, tables, lighting and other appropriate facilities.
  - (5) Kitchen and dining facilities with all the necessary equipment, utensils, cutlery and crockery.
- (iii) Messing System
- (1) The employer shall provide a qualified cook for a gang of 10 or more. Where the gang is 10 or less the employer shall provide reimbursement for food purchased by the gang for its own use or shall reimburse each gang member for meals consumed in the nearest recognised centre.
  - (2) In camps over 30 people the employer shall employ a camp attendant, and in all other camps the employer shall provide labour, for the purpose of maintaining the camp in a clean and hygienic condition.
- (iv) All camps shall provide the following additional miscellany:
- adequate external lighting;
  - reasonable facilities for the adequate posting and receipt of mail;

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- radio and/or telephone contact;
  - adequate fire protection equipment including chemical extinguishers;
  - adequate means for getting injured or sick workers to the nearest qualified medical centre;
  - a system of covered pathways shall link accommodation with facilities-in-common;
  - a system of low level lighting shall illuminate facilities-in-common;
  - children's playground facilities with special care given to shade.
- (v) Where an employer has established a camp site and provides facilities for employees living in their own caravan or provides caravans for employees, and having regard to the peculiarities of caravan living, the additional provisions below shall apply:
- The area allocated to caravan sites shall not exceed 39 percent of the entire caravan park;
  - Each van site shall be of no less than twelve metres by 10 metres;
  - A van area of not less than 3 metres wide of gravel surface;
  - An annex area of not less than 2.4 metres by 6 metres of concrete surface;
  - An open area of grass;
  - Each van site shall have an individual sullage collection point suitable for connecting sink wastes by direct piping from the van;
  - No van site shall be closer than five metres to the park perimeter;
  - A system of covered concrete pathways shall link the van site to the ablutions area;
  - Access roads shall be sealed;
  - The park perimeter shall be fenced;
  - Carwash and maintenance areas surfaced and with water provided.

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(e) Camping Allowance

- (i) An employee living in a construction camp where free messing is not provided shall receive a camping allowance of \$143.60 for every complete week the employee is available for work. If required to be in camp for less than a complete week the employee shall be paid \$20.60 per day including any Saturday or Sunday if the employee is in camp and available for work on the working days immediately preceding and succeeding each Saturday and Sunday. If an employee is absent without the employer's approval on any day, the allowance shall not be payable for that day and if such unauthorised absence occurs on the working day immediately preceding or succeeding a Saturday or Sunday, the allowance shall not be payable for the Saturday and Sunday.

- (ii) Camp Meal Charges

Where a charge is made for meals in a construction camp, such charge shall be fixed by agreement between the parties.

(f) Travelling Expenses

An employee who is sent by an employer or selected or engaged by an employer or agent to go to a job which qualifies the employee to the provision of this clause shall not be entitled to any of the allowances prescribed by Clause 45 – Fares and Travel Patterns Allowance of this award for the period occupied in travelling from the employee's usual place of residence to the distant job, but in lieu thereof shall be paid:

- (i) Forward Journey

- (1) The time spent in travelling, at ordinary rates up to a maximum of eight hours per day for each day of travel (to be calculated as the time taken by rail or the usual travelling facilities).
- (2) The amount of a fare on the most common method of public transport to the job (bus; economy air; second class rail with sleeping berths if necessary, which may require a first class rail fare), and any excess payment due to transporting tools if such is incurred.
- (3) Any meals incurred while travelling at \$9.60 per meal.
- (4) **PROVIDED** that the employer may deduct the cost of the forward journey fare from an employee who terminates or discontinues employment within two weeks of commencing on the job and who does not forthwith return to the employee's place of engagement.

(ii) Return Journey

- (1) An employee shall, for the return journey, receive the same time, fares and meal payments as provided in paragraph (f)(i) hereof, together with an amount of \$17.10 to cover the cost of transport and transporting tools from the main public transport terminal to the employees usual place of residence. Subject to further order this allowance shall not be payable to employees engaged on weekly hire.
- (2) Provided that the above return journey payments shall not be paid if the employee terminates or discontinues employment within two months of commencing on the job or is dismissed for incompetence within one working week of commencing on the job, or is dismissed for misconduct.

(iii) Departure Point

For the purpose of this clause, travelling time shall be calculated as the time taken for the journey from the Central or Regional rail, bus or air terminal nearest the employee's usual place of residence to the locality of the work.

(g) Daily Fares Allowance

An employee engaged on a job who qualifies under the provisions of this clause and who is required to reside elsewhere than on the site (or adjacent to the site and supplied with transport) shall be paid the allowance prescribed by Clause 45 – Fares and Travel Patterns Allowance of this award.

(h) Weekend Return Home

- (i) An employee who works as required during the ordinary hours of work on the working day before and the working day after a weekend and who notifies the employer or employer's representative, no later than Tuesday of each week, of the employees intention to return to the employee's usual place of residence at the weekend and who returns to such usual place of residence for the weekend, shall be paid an allowance of \$28.90 for each occasion.
- (ii) Paragraph (h)(i) hereof shall not apply to an employee who is receiving the payment prescribed in subparagraph (c)(i)(1) hereof in lieu of board and lodging being provided by the employer or who is receiving a camping allowance as prescribed in subclause (e) hereof.
- (iii) When an employee returns to the employee's usual place of residence for a weekend or part of a weekend and is not absent from the job for any of the ordinary working hours, no reduction of the allowance prescribed in subparagraph (c)(i)(1) hereof shall be made.

(i) Rest and Recreation

(i) Road Travel

- (1) An employee who proceeds to a job which qualifies the employee to the provisions of this clause, may, after two months' continuous service and thereafter at three monthly periods of continuous service, return to the employee's usual place of residence at the weekend. If the employee does so, the employee shall be paid the amount of a bus fare to the bus station nearest the employee's usual place of residence on the pay day which immediately follows the date on which the employee returns to the job; provided no delay not agreed to by the employer takes place in connection with the employee's commencement of work on the morning of the working day following the weekend.
- (2) **PROVIDED**, however, that if the work upon which the employee is engaged will terminate in the ordinary course within a further 28 days after the expiration of any such period of two or three months, then the provisions of this subclause shall not be applicable.

(ii) Air Travel

- (1) Notwithstanding any other provisions contained in paragraph (i)(i) hereof and in lieu of such provisions, the following conditions shall apply to an employee who qualifies under subclause (a) hereof and where such construction work is located in any area to which air transport is the only practicable means of travel. An employee may return home after four months' continuous service and shall in such circumstances be entitled to two days' leave with pay in addition to the weekend.
- (2) Thereafter the employee may return to the employee's usual place of residence after each further period of four months' continuous service, and in each case shall be entitled to two days' leave of which one day shall be paid leave.
- (3) Payment for leave and reimbursement for any economy air fare paid by the employee shall be made at the completion of the first pay period commencing after date of return to the job.
- (4) **PROVIDED**, however, that if the work upon which the employee is engaged will terminate in the ordinary course within a further 28 days after the expiration of any such period of four months, then the provisions of this paragraph shall not be applicable.

(iii) Limitation of Entitlement

An employee shall be entitled to either paragraphs (i) or (ii) hereof and such option shall be established by agreement as soon as practicable after commencing on distant work. The entitlement shall be availed of as soon as reasonably practical after it becomes due and shall lapse after a period of two months provided that the employee has been notified in writing by the employer in the week prior to such entitlement becoming due of the date of entitlement and that such entitlement will lapse if not taken before the appropriate date two months later. (Proof of such written notice shall lie with the employer.)

(iv) Service Requirements

For the purpose of this subclause service shall be deemed to be continuous notwithstanding an employee's absence from work as prescribed in this clause or as prescribed in the definition of '**continuous service**' in Clause 7 – Definitions of this award.

(v) Variable Return Home

In special circumstances, and by agreement with the employer, the return to the usual place of residence entitlements may be granted earlier or taken later than the prescribed date of accrual without alteration to the employee's accrual entitlement.

(vi) No Payment in Lieu

Payment of fares and leave with pay as provided for in this subclause shall not be made unless availed of by the employee.

(j) Alternative Paid Day Off Procedure

If the employer and the employee so agree in writing, the paid rostered day off as prescribed in Clause 27 - Hours of Work of this award, may be taken, and paid for, in conjunction with and additional to rest and recreation leave as prescribed in subclause (i) hereof, or at the end of the project, or on termination whichever comes first.

(k) Termination

An employee shall be entitled to notice of termination in sufficient time to arrange suitable transport at termination or shall be paid as if employed up to the end of the ordinary working day before transport is available."

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## **OPERATIVE DATE**

These variations shall come into operation on and from 9 September 2005.

Tim Abey  
**COMMISSIONER**

13 September 2005