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**TASMANIAN INDUSTRIAL COMMISSION**

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

**Minister administering the *State Service Act 2000***  
(T12871 of 2007)

**PORT ARTHUR AUTHORITY AWARD**

**FULL BENCH:**

PRESIDENT P L LEARY  
COMMISSIONER T J ABEY  
COMMISSIONER J P McALPINE

**Award variation – arbitrated safety net adjustments – application amended – all public sector awards – application approved - operative date ffpp 1 August 2006**

**ORDER BY CONSENT-**

**No. 1 of 2007  
(Consolidated)**

**AMEND CLAUSES 4,5 8, 9, 11, 15 AND 32 OF THE PORT ARTHUR AUTHORITY AWARD; AND THE AWARD IS CONSOLIDATED**

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## **1. TITLE**

This award shall be known as the "Port Arthur Authority Award".

## **2. SCOPE**

Subject to the exemptions and exceptions prescribed, this award shall apply to persons employed under the terms of the Port Arthur Historic Site Management Authority Act 1987, and for whom classifications appear in this award.

## **3. ARRANGEMENT**

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

This award shall come into operation from 1 August 2006.

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

This award incorporates and supersedes No. 1 of 1995 (Consolidated), No. 2 of 1995, No. 1 of 1996, No. 2 of 1996. No. 1 of 2000, no. 1 of 2002, No. 1 of 2003 and No. 1 of 2004

Except where specifically provided, nothing in this award shall supersede any right, obligation, or liability accrued or incurred by an employee at the commencement of this award.

#### **6. PARTIES AND PERSONS BOUND**

This award shall apply to, and be binding upon:

- (a) all employees (whether members of a Registered Organisation or not) for whom classifications appear in this award;
- (b) the following organisation of employees in respect of whom award interest has been determined:

The State Public Services Federation Tasmania and the officers of that organisation and their members for whom classifications appear in this award;

- (c) the controlling authority having an interest in this award is the Chairman of the Port Arthur Historic Site Management Authority, in relation to all employees (as defined).

#### **7. DEFINITIONS**

In this award, unless the contrary intention appears:

**'Employee'** means a person employed under the provisions of the Port Arthur Historic Site Management Authority Act 1987.

**'Part-time employee'** means a person other than a full-time or casual employee, engaged to work regularly in each pay period for less hours than an equivalently classified full-time employee.

**'Full-time employee'** means a person engaged to work for the full ordinary hours prescribed.

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**'Temporary employee'** means a person employed by the controlling authority who either:

- (a) is engaged to relieve a full-time or part-time employee for specific periods of leave; or
- (b) is engaged temporarily for specific duties over a fixed time period.

**PROVIDED** that where those duties have not been completed within the fixed time period a new contract may be offered the employee in order that the specific tasks may be completed.

**'Casual employee'** means a person engaged to work on an irregular basis by the Authority as and when required but does not include any person employed on a part-time or full-time basis.

**'Controlling authority'** means the Chairman of the Port Arthur Hi Toric Site Management Authority established under the provisions of the Port Arthur Historic Site Management Authority Act 1987.

**'Authority'** means the Port Arthur Historic Site Management Authority.

**'Term appointment'** means a contract of service for a fixed period of time as agreed between the controlling authority and the employee.

**'Rostered dayworker'** means an employee who is regularly rostered for day work duty in accordance with a roster covering a period of seven days per week.

**PROVIDED** that the hours worked by a rostered day worker shall not exceed ten in any one day and shall be worked between the hours of 7.00am to 7.00pm.

**'Curator'** means a person with a tertiary qualification/s or experience gained at an approved institution deemed by the controlling authority as being satisfactory for undertaking curatorial responsibilities of a professional nature in the fields of anthropology, art, conservation of objects, history, or as determined by the controlling authority, any other field of work requiring curatorial expertise.

**'Site Superintendent'** means a person with tertiary qualification/s in architecture, engineering, building or related discipline; or may mean a person with technician qualifications in architecture, engineering, building or related discipline together with a minimum of five years post-trade experience in the building or related industry.

**'Leading Hand'** means an employee classified under Clause 8, Division B, Parts 2 and 3 of this award who is required to supervise the work of another employee or employees where that employee's classification does not normally require the employee to exercise supervisory responsibility.

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## **8. SALARIES**

An employee appointed or promoted within a class or grade prescribed within this award shall, subject to satisfying the prescribed requirements, be paid at the salary rate determined for the relevant classification as hereinafter set forth.

**PROVIDED** that an employee paid in accordance with the rates established for persons under twenty-one years of age in Division A of the classification scales in this clause shall, on being promoted to a classification above Class I, be paid at the salary rate prescribed for the position to which they have been appointed.

**PROVIDED ALWAYS** that an employee under twenty-one years of age with dependants may, on the determination of the controlling authority, be paid the salary he/she would normally receive on attaining the age of twenty-one years.

For the purposes of this proviso, a '**dependant**' in relation to an employee means:

- (a) in the case of a relative of that employee, a person who normally resides with that employee;
- (b) in any other case, a person who has resided with that employee for a period of at least twelve months, and who is wholly or substantially dependant on that employee for financial support; and
- (c) '**relative**' as referred to in paragraph (a) above means spouse, parents, grandparent, brother, sister, uncle, aunt, nephew, niece, child, adopted child, and foster child of the employee's spouse.

## **DIVISION A**

### **1. Employee Classifications**

(i)	Administrative	Salary per Annum
(ii)	Clerical	\$
	Class 1	
	16 years and under	20245
	17 years	21836
	18 years	23825
	19 years	26013
	20 years	27803
	<u>21 years and over:</u>	
	1st year of service	29195
	2nd year of service	29709
	3rd year of service & thereafter	30218
	Class II	
	1st year of service	30741

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2nd year of service	31284
3rd year of service	31807
4th year of service & thereafter	32493
Class III	
1st year of service	33351
2nd year of service	33992
3rd year of service & thereafter	34724
Class IV	
1st year of service	35462
2nd year of service & thereafter	36095
Class V	
1st year of service	36925
2nd year of service & thereafter	37551
Class VI	
1st year of service	38229
2nd year of service & thereafter	38873
Class VII	
1st year of service	39485
2nd year of service	40102
3rd year of service & thereafter	40714
Class VIII	
1st year of service	41335
2nd year of service	42161
3rd year of service & thereafter	43758
Class IX	
1st year of service	43537
2nd year of service	43949
3rd year of service & thereafter	44926
Class X	
1st year of service	45436
2nd year of service	46423
3rd year of service & thereafter	46978
Class XI	
1st year of service	47747
2nd year of service & thereafter	48506
Class XII	
1st year of service	49363
2nd year of service & thereafter	50212

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Class XIII	
1st year of service	51054
2nd year of service & thereafter	51899
Class XIV	53552
Class XV	55290
Class XVI	57140
Class XVII	58938

2. Information Officers

Class I	
1st year of service	29709
2nd year of service	30218
3rd year of service	30741
4th year of service & thereafter	31284
Senior Information Officer	
1st year of service	31911
2nd year of service & thereafter	32495

**DIVISION B**

Classifications

- (i) Technical
- (ii) Trade
- (iii) Labouring
- (iv) Utility
- (v) Professional

1. Apprentice

Percentage of 1<sup>st</sup> year of Service  
of the relevant Tradesperson's  
rate (4-year term)

1st year apprenticeship	44.5%
2nd year apprenticeship	57.5%
3rd year apprenticeship	75.0%
4th year apprenticeship	88.0%

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**PROVIDED** that:

- (a) An additional amount of \$1.70 per week (\$75.00 per annum) shall be paid to an apprentice for each appropriate annual technical school examination passed. Such amounts shall be cumulative to an amount of \$4.30 (\$224.00 per annum) and in each case shall be paid as from the beginning of the first full pay period commencing on or after the first day of January following such examination.
- (b) On completion of their indentured period apprentices shall progress to the relevant tradesperson's rate as established under the classification scale in this award.
- (c) Except where otherwise specifically determined by this award the terms and conditions of employment of apprentices in respect of period of indenture; form and effect of indenture; assignment of indenture; cancellation of, and determination of disputes in relation to indentures; proportionate number of apprentices to tradespersons employed; preparatory education; course of apprenticeship and the standards of education and trade experience for such course in each trade; attendance of apprentices at compulsory classes and time off for attendance thereof; payment for examinations passed and disciplinary measures, shall be in accordance with the provisions of the Industrial and Commercial Training Act, 1985 and the regulations made thereunder.
- (d) The ordinary hours of employment of apprentices shall not in any case exceed those of a tradesperson.
- (e) No apprentice under the age of eighteen years shall be required to work overtime or shift work at times which would prevent his/her attendance at any course of instruction as required by the Industrial and *Commercial Training Act 1985* and the regulations made thereunder.
- (f) Apprentices attending technical colleges or schools and presenting reports of satisfactory conduct shall be reimbursed all fees paid by them.

## 2. Tradespersons and Technicians

	Salary per Annum
	\$
Class I	33937
Class II	
1st year of service	34803
2nd year of service & thereafter	35154
Building Works Foreman	35394
Garden Works Foreman	36122



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3. Trade Assistants, Labourers, and Utility Officers

1st year of service	30275
2nd year of service	30517
3rd year of service	30772
4th year of service	31108
5th year of service & thereafter	31254

4. Leading Hand Allowance

	\$
In charge of not more than 1 person	14.30
In charge of 2 and not more than 5 persons	32.00
In charge of 6 and not more than 10 persons	48.50
In charge of over 10 persons	54.00

5. Curator

	Salary per annum
	\$
Class 1	
1st year of service	33811
2nd year of service	34459
3rd year of service	35343
4th year of service	44099
5th year of service	38556
6th year of service	40580
7th year of service & thereafter	42515

**PROVIDED** that a person who has obtained a degree of either an approved university or college of advanced education requiring:

- (i) a minimum of three years full-time study shall be paid a minimum salary rate as for the second year of service; or
- (ii) a minimum of four years full-time study shall be paid a minimum salary as for the fourth year of service

**PROVIDED ALWAYS** that a person who either at an approved university or college of advanced education has been admitted to:

- (i) a Master's Degree shall be paid a minimum salary rate as for the fourth year of service; or
- (ii) the Degree of Doctor shall be paid a minimum salary rate as for the fifth year of service.

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	Salary per Annum \$
Class II	
Grade 1	
1st year of service	44112
2nd year of service & thereafter	44997
Grade 2	
1st year of service	46461
2nd year of service & thereafter	47923
Class III	
1st year of service	49389
2nd year of service & thereafter	50846
<b>6. <u>Site Superintendent</u></b>	
Class I	
1st year of service	35525
2nd year of service	36765
3rd year of service	38006
4th year of service	39511
5th year of service	41024
6th year of service & thereafter	42417
Class II	
Grade 1	
1st year of service	44457
2nd year of service & thereafter	45470
Grade 2	
1st year of service	46603
2 <sup>nd</sup> year of service and thereafter	47737
Class III	
1st year of service	49683
2nd year of service	51029
3rd year of service	52361
4th year of service & thereafter	53708

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## **DIVISION C**

### **SUPPORTED WAGE SYSTEM**

(a) Eligibility criteria

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

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

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

(b) For the purposes of this division:

- (i) **'Supported Wage System'** means the Commonwealth Government System to promote employment for people who cannot work at full award wages because of a disability.
- (ii) **'Accredited Assessor'** means a person accredited by the management unit established by the Commonwealth under the Supported Wage System to perform assessments of an individual's productive capacity within the Supported Wage System.
- (iii) **'Disability Support Pension'** means the pension available under the Commonwealth pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991*, as amended from time to time, or any successor to that scheme.
- (iv) **'Assessment instrument'** means the form provided for under the Supported Wage System that records the assessment of the productive capacity of the person to be employed under the Supported Wage System.

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(c) Supported wage rates

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

Assessed capacity (paragraph 8(e)(iv))	% of prescribed award rate
10%	10
20%	20
30%	30
40%	40
50%	50
60%	60
70%	70
80%	80
90%	90

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

(d) Assessment of capacity

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

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

(e) Lodgment of assessment instrument

- (i) All assessment instruments under the conditions of this division, including the appropriate percentage of the award wage to be paid to the employee, shall be lodged by the employer with the Registrar of the Tasmanian Industrial Commission.
- (ii) All assessment instruments shall be agreed and signed by the parties to the assessment, provided that where a union which is party to the award, is not a party to the assessment, it shall be referred by the Registrar of the Tasmanian Industrial Commission to the union by certified mail and shall take effect unless an objection is notified to the Registrar of the Tasmanian Industrial Commission within 10 working days.

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(f) Review of assessment

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

(g) Other terms and conditions of employment

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

(h) Workplace adjustment

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

(i) Trial Period

- (i) In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this division for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding 4 weeks) may be needed.
- (ii) During that trial period the assessment of capacity shall be undertaken and the proposed wage rate for a continuing employment relationship shall be determined in accordance with paragraphs (d) and (e).
- (iii) The minimum amount payable to the employee during the trial period shall be no less than \$61 per week or such greater amount as is agreed from time to time between the parties.
- (iv) Work trials should include induction or training as appropriate to the job being trialed.
- (v) Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment shall be entered into based on the outcome of assessment under subclause (c) hereof.

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## **9. ABANDONMENT OF EMPLOYMENT**

Where an employee is absent from work for more than fourteen days without notifying the controlling authority of the reason for his/her absence from work, it shall be considered prima facie that the employee has abandoned his/her employment.

## **10. ANNUAL LEAVE**

### (a) Annual Leave Entitlement

Employees (other than casuals and rostered dayworkers) who complete twelve months continuous service shall be entitled to twenty working days annual leave for each year of service.

(b) Rostered dayworkers (as defined) who complete twelve months continuous service shall be entitled to 25 working days annual leave for each year of service.

(c) Part-time employees will receive a pro rata annual leave entitlement.

### (d) Additional Annual Leave

An employee (other than a rostered dayworker) who is required to work on ten Saturdays and ten Sundays in any leave year shall be entitled to an additional five working days annual leave.

### (e) Restrictions on Annual Leave Accrual

Annual leave shall not accrue during any period of absence of, or exceeding, ninety days in the aggregate in any leave year to an employee except when that employee is on long service leave, annual leave, leave of absence due to illness or injury arising out of and in the course of employment and sick leave.

**PROVIDED** that an employee initiated leave of absence without pay exceeding twenty days in the aggregate in any leave year shall not be used for the purposes of annual leave accrual.

### (f) Sickness During Annual Leave

(i) An employee who is injured or becomes ill while absent on annual leave may, on written application to the controlling authority, be credited with a period of annual leave equal to the number of working days during which the employee was injured or ill.

(ii) Where in accordance with paragraph (i) above the controlling authority credits an employee with an additional number of working days annual leave, it shall deduct a similar number of working days from any sick leave credit to which the employee is entitled.

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(iii) An application made under paragraph (i) of this subclause shall be accompanied by a certificate from a legally qualified medical practitioner.

(g) Allowance in Lieu of Annual Leave

After twenty consecutive working days of service, an employee who resigns or whose employment is terminated by the controlling authority through no fault of the employee shall be paid an allowance in lieu of annual leave.

The allowance shall be the equivalent of one two hundred and sixtieth of the appropriate annual salary at the time of termination for each day of annual leave accrued at that date.

(h) Annual Leave in Advance

(i) The controlling authority may allow an employee annual leave in whole or in part, in advance before the right to such leave has accrued. In such case, a further period of annual leave shall not commence to accrue until after the expiration of the twelve months in respect of which the annual leave or part thereof has been taken before it accrued.

(ii) Where annual leave or part thereof has been granted pursuant to paragraph (i) before the right thereto has accrued due, and the employee subsequently resigns, retires or is dismissed from service before completing the twelve months continuous service in respect of which the leave was granted, and the amount paid by the controlling authority to the employee for the annual leave or part so taken in advance exceeds the amount which the controlling authority is required to pay to the employee under subclauses (a) and (b) of this clause, the controlling authority shall not be liable to make any payment to the employee under subclauses (a) and (b) of this clause, and shall be entitled to deduct the amount of excess from any remuneration payable to the employee upon the termination of employment.

(i) Annual Leave Loading

Prior to going on annual leave an employee shall be paid a loading by way of additional salary, calculated at the rate of salary prescribed for the relevant classification as contained in this award.

An employee (other than a rostered dayworker) shall receive loading calculated at the rate of 17.5 percent of his/her normal salary, plus where applicable, any allowance of a permanent nature payable to such employee and deemed by the controlling authority to be in the nature of additional salary.

A rostered dayworker shall receive a loading calculated at the rate of 17.5 percent of his/her normal salary rate plus, where applicable, any allowances of a permanent nature payable to such employee and deemed by the controlling authority to be in the nature of additional salary.

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**PROVIDED** that an employee who would have received penalty payments for working on roster as prescribed in Clause 28 - Saturday, Sunday & Holiday Work - Rostered Dayworkers of this award, had he/she not been on annual leave during the relevant period, and where such payments would have entitled such employee to a greater monetary amount than a loading of 17.5 percent of his/her normal salary plus allowances, the annual leave loading shall be calculated as an amount equivalent to the rosters penalties he/she would have received in accordance with his/her projected shift roster.

**PROVIDED ALWAYS** that such loading shall:

- (A) Be calculated on the basis of a maximum period in any one leave year as follows:
  - (1) In the case of a rostered dayworker a period of five weeks (twenty-five working days) annual leave; and
  - (2) In all other cases a period of four weeks (twenty working days) annual leave.
- (B) In no case where the loading is calculated on the basis of 17.5 percent of normal salary shall it exceed the allowance which would be payable in respect of the classification of Administrative and Clerical Employee Class IX of the Clerical Employees Award (SO81), on and from the first day of October, in respect of all recreation leave accrued during the previous 12 months.
- (C) Not apply to proportionate annual leave accrued by an employee in the leave year of the year of termination of service where such employee voluntarily resigns or whose services are terminated for disciplinary or other good reason.

Payment of annual leave loading due shall be made when an employee embarks upon an annual leave period exceeding ten working days.

Employees not complying with the above shall receive their leave loading as soon as practicable after the expiration of the leave year in which payment of the leave loading falls due.

## **11. AVAILABILITY ALLOWANCE**

An employee, other than an employee to whom the provisions of Clause 30 - Standby of this award relates, who is directed by the controlling authority to remain at home or within close telephone contact thereof, and to be ready to return to work without delay or within a reasonable time of being recalled or to monitor telephone calls and/or attend to after hours calls if required shall be paid an allowance of 106.00 cents per hour.

**PROVIDED** that employees on availability duty who are recalled to work shall be paid in accordance with the provisions of Clause 26 - Recall to Work of this award.



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## **12. 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 applications being made to, and approved by the controlling authority, 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 five (5) 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 purposes 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.

## **13. CONTRACT OF EMPLOYMENT**

- (a) Employees other than casual employees shall be paid fortnightly by electronic funds transfer or cheque. Casual employees shall be similarly paid at the conclusion of the particular period of employment or fortnightly whichever occurs first.
- (b) Casual employees shall be paid in the proportion that the hours worked bear to the normal weekly rate prescribed for the equivalent full-time employee, plus a twenty per centum loading to compensate for annual leave, sick leave and public holidays.

**PROVIDED** that a casual employee's terms of engagement shall be by the hour with a minimum payment of three hours for each day worked; however, where work practices are such that it is considered inappropriate to apply the conditions stipulated by this proviso, such conditions may be varied by agreement between the employee organisation and the controlling authority.

- (c) A part-time employee shall be paid in proportion that the hours worked bear to the normal weekly rate prescribed for the equivalent full-time employee.
- (d) The normal weekly salary rate means 1/52nd of a full-time employee's annual salary exclusive of allowances and overtime.
- (e) The controlling authority and all persons employed who are subject to the provisions of this award shall have the right to terminate employment, such termination, unless otherwise specified in an instrument of appointment or by agreement between the parties, shall be effected by two weeks' notice given by either party at any time during the period Monday to Friday or by the payment or forfeiture of two weeks' pay as the case may be.

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This shall not affect the right of the controlling authority to dismiss employees without notice for misconduct.

**PROVIDED** that in such cases the employee shall be paid up to the time of dismissal.

#### **14. DISPUTE PROCEDURE**

If a dispute or grievance arises the following procedure shall apply:

- (a) The matter shall be discussed between the employee or group of employees and the immediate supervisor. The workplace representative of the association may be present if desired by either party.
- (b) If unresolved the matter shall be referred to the site manager and discussed with the employee(s). The workplace representative of the association may be present if desired by either party.
- (c) If unresolved the general secretary of the association and the chairman of the authority or their delegates shall be notified and the dispute shall be discussed between them.
- (d) If unresolved the matter shall be referred to the Tasmanian Industrial Commission.
- (e) The procedures in (a), (b) and (c) above shall take place wherever possible over a period not exceeding seven days.

Whilst a dispute or grievance is being dealt with in accordance with this procedure, work shall continue except in the case of a health and safety matter.

#### **15. FIRST AID CERTIFICATE**

An employee who is required by the controlling authority to act as First Aid Officer and who possesses a current St John Ambulance First Aid Certificate shall be paid an allowance of \$573 per annum.

#### **16. HIGHER DUTIES ALLOWANCE**

##### 1. Higher Duties Allowance

- (1) Where an employee is directed by the controlling authority to perform temporarily the duties of an employee with a higher classification for a period of five days or more, that employee shall be paid an allowance equal to the difference between the employee's own salary and the minimum salary of the higher position.

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- (2) Where an employee is directed by the controlling authority to perform temporarily a part of the duties of an employee with a higher classification for a period of five days or more, that employee will receive an allowance established by reference to the proportion that the duties assumed bear to the whole of the duties of the higher position and the difference between the employee's substantive salary and the minimum salary of the higher position.
- (3) Where an employee is promoted to a higher position in which that employee has previously been performing the duties in a temporary capacity, that employee will receive the increment to which the employee would normally have been entitled had the employee been promoted to the position at the commencement of the period of acting duty.
- (4) Where an employee continues to perform the higher duties as provided for in paragraph 1 (1) for a period of more than twelve months an increment, if provided for in the higher classified position, shall be paid.

**PROVIDED** that no employee shall be entitled to receive any increase in salary by virtue of this subparagraph unless, in the opinion of the controlling authority, his conduct, diligence and efficiency during the twelve months immediately prior to the date from which such increase would be payable shall have been satisfactory.

- (5) For the purposes of subclause (1), reference to employee does not include temporary or casual employees.

## 2. More Responsible Duties Allowance

- (1) Where an employee is required to perform more responsible duties for a period of five days or more and which are not capable of being paid as provided for in paragraphs 1 (1) and 1 (2) above, the controlling authority shall authorise a more responsible duties allowance.

The allowance shall be established by reference to the value of the more responsible duties involved.

- (2) For the purposes of subclause (2) reference to employee does not include temporary or casual employees.
- (3) Where an employee receiving an allowance under subclauses (1) or (2) above proceeds on approved leave, sick leave or leave in lieu of overtime, the employee will continue to receive that allowance provided that the duties continue after the period of such leave.

## 3. Payment for overtime shall be at the classification rate inclusive of the allowance provided in paragraphs (1) or (2) above.

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## **17. HOURS OF WORK**

- (a) The ordinary hours of work for employees other than rostered day workers shall be thirty-eight per week, worked in five days Monday to Friday between 7.00am and 7.00pm each day.
- (b) The ordinary hours of rostered day workers shall be thirty-eight per week, worked between 7.00am and 7.00pm each day in accordance with a roster covering the seven days of the week.

The following provisos shall apply to subclauses (a) and (b) above.

**PROVIDED** that no employee shall work more than tenduonsecutive days in any one fortnightly period.

**PROVIDED ALWAYS** that the ordinary hours of work and the normal spread of hours may be restructured as to all or a section of the employees by mutual agreement between the controlling authority, the majority of employees affected and the employee organisation.

**PROVIDED FURTHER** that in negotiations concerning restructured hours of work the parties shall have regard for the following:

- (i) Maximum efficiency of controlling authority operations.
  - (ii) Retention of normal controlling authority productivity levels.
  - (iii) Flexibility in any agreement to enable rostered day/s off (for employees other than rostered day workers) to be taken on days which may include but are not necessarily limited to Monday or Friday and may not necessarily be limited to the same day/s off each month.
- (c) An unpaid meal break of at least thirty minutes but not exceeding sixty minutes shall be taken no more than five hours after the commencement of the period of work.
  - (d) Where agreement is reached between the controlling authority and the employee organisation on the restructuring of hours of work the following shall apply:
    - (i) No more than ten hours shall be worked in any one day at ordinary rates of pay and no more than one meal break shall be observed.
    - (ii) No more than one hundred and fifty-two hours shall be worked in any two consecutive fortnightly pay periods.

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**18. INDUSTRIAL CLOTHING**

- (a) Where an employee is required by the controlling authority to wear a uniform in the course of employment, such uniform shall be provided free of cost to the employee.
- (b) Where on the determination of the controlling authority an employee's duties are such as to require the wearing of protective clothing, including wet weather gear, such protective clothing shall be provided free of cost to the employee.
- (c) Employees supplied with uniforms and or protective clothing on leaving their employment shall, if required to do so by the controlling authority, return such uniform or protective clothing in use by them immediately prior to their leaving.

**PROVIDED** that any uniforms or clothing returned by employees shall, before re-issue to other employees, be cleaned and disinfected.

- (d) An employee who is, pursuant to subclause (b) supplied with protective clothing or wet weather gear, shall wear it in such a way as to achieve the purpose for which it is supplied.
- (e) The controlling authority shall replace uniforms, protective clothing and wet weather gear on a "fair wear and tear" basis.

**19. KILOMETREAGE ALLOWANCE**

- (a) Occasional User Category

Where an employee 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:

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	36.25 (100%)	31.17 (86%)
- Any additional kilometres	19.21 (53%)	16.67 (46%)

- (b) For the purposes of subclauses (a) and (b), the rates specified therein shall apply as follows:

RATE 1 Applies to motor vehicles generally recognised as having an engine capacity of 2:0 litres or more and includes rotary engines.

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RATE 2 Applies to motor vehicles generally recognised as having an engine capacity of less than 2:0 litres.

- (c) The rates specified above shall not be varied as a consequence of National Wage Case decisions. The rates shall be varied upon application subsequent to 30th March and 30th 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. Rate 1 variations for the first 10,000 kilometres travelled shall be calculated in accordance with the formula specified in decision T33 of 1985 dated 13 June 1985. Variations to the other rates specified in the tables in subclause (a) shall be calculated by applying the percentage shown in brackets to the relevant first 10,000 kilometres rate (as varied) shown as 100%.
- (d) 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 to travel a greater distance in that year.
- (e) In addition the following allowances shall be paid to employees:
  - (i) Where authorised to use a utility, four-wheel drive motor vehicle or any other special type of motor vehicle approved by the controlling authority - \$9.90 per month.
  - (ii) Where authorised to use a trailer attached to the motor vehicle - 2.97 cents for each kilometre travelled on duty with the trailer attached.
  - (iii) Where authorised to use a motor vehicle on work involving the regular carrying of heavy equipment - \$9.90 per month.
  - (iv) Where authorised to use a motor cycle - 9.67 cents for each kilometre travelled on duty.
- (f) 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.
- (g) A kilometreage allowance in excess of or at variance with the rates set forth in subclause (a) of this clause may be paid if, on the determination of the controlling authority, special circumstances exist which justify such excess or variation.

## **20. LEAVE RESERVED**

Leave reserved has been agreed on the following matters:

- (a) Sick Leave
- (b) Trade and Trades Assistant classifications

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## **21. MATERNITY LEAVE**

- (a) An employee who has become pregnant:
- (i) is entitled to leave of absence for the period for which she makes application in accordance with this clause, being a period that complies with the requirements of subclause (b); and
  - (ii) shall, subject to subclause (c), absent herself from duty during the period commencing six weeks before the expected date of confinement and ending at the expiration of six weeks from the day on which her pregnancy terminates.
- PROVIDED** that the provisions for maternity leave as set down in this clause shall not apply to an employee with less than twelve months continuous service.
- (b) The period of leave referred to in subclause (a) (i) is a period of leave that does not exceed fifty-two weeks in length, and that commences not earlier than twenty weeks before the expected date of the employee's confinement.
- (c) Subclause (a)(ii) does not apply to an employee where the controlling authority is satisfied, on the production of a certificate from a legally qualified medical practitioner, that the employee is fit:
- (i) to continue duty until a date specified in that certificate; or
  - (ii) to resume duty after her confinement on a date specified in that certificate.
- (d) On application being made by an employee, the controlling authority shall grant to her the leave of absence to which she is entitled under subclause (a).
- (e) Subject to subclause (f), at any time during which an employee is absent from duty in pursuance of leave of absence granted under, or pursuant to the requirements of subclause (a), she may amend an application made under subclause (d), so as to extend or reduce the period referred to in the application, but so that the altered period complies with the requirements of subclause (b), and the controlling authority shall, in accordance with the amended application, vary the grant of leave of absence to that employee.
- (f) An employee granted leave of absence under this clause shall give the controlling authority one month's notice in writing of her intention to resume duty, except when the controlling authority, in circumstances he considers to be exceptional, accepts a shorter period of notice.

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- (g) Subject to subclause (h), where an employee is granted leave of absence under this clause, she may notify the controlling authority that she desires to treat as leave of absence on account of sickness such amount of leave of absence granted under this clause as is equal to the amount of leave of absence on the grounds of sickness to which she is entitled under Clause 29 - Sick Leave of this award.
- (h) The period of leave of absence which may, under subclause (g), be treated as leave of absence on account of sickness shall not exceed sixty-one working days.
- (i) A reference in subclause (g) to sickness shall be deemed not to include references to sickness arising out of or in the course of the employment of an employee or arising from her default or misconduct.
- (j) An employee is not entitled to pay in respect of any period of leave of absence during which she is required under this clause to absent herself from duty, except in so far as that period is, or is to be treated as, a period of absence with leave in respect of which she is entitled to pay, or any proportion of her pay, pursuant to any other condition prescribed by this award.
- (k) Subject to subclause (g), nothing in this clause prevents the grant of leave of absence to an employee under any other provision of this award, or prejudices or affects her rights in respect of the granting of any such leave of absence.

**22. MEAL ALLOWANCE**

- (a) Where an employee is required to commence duty at his/her headquarters not less than one and a half hours before, or to remain on duty for not less than one and a half hours after the normal hours of duty, and that requirement necessitates obtaining a meal away from home, that employee shall, subject to this paragraph, be paid a meal allowance at the following rates:

Meal	Rate of Allowance \$
Breakfast	7.25
Lunch (or midday meal)	8.00
Dinner (or evening meal)	14.10

**PROVIDED** that where an employee who is required to work overtime on a Saturday, Sunday or public holiday, has been given prior notice thereof the previous day or earlier, there shall be no entitlement to the payment of meal allowances, BUT where such prior notice has not been given he/she shall attract such payment.

- (b) Where the duties of an employee require that employee to travel from his/her headquarters and the employee is more than sixty kilometres by the most direct route by road therefrom at his/her normal meal hour, that employee shall, subject to this paragraph, be paid:



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in the case of a meal purchased by the employee at any hotel, boarding house, or public eating place, a meal allowance at the following rates:

Meal	Rate of Allowance \$
Breakfast	7.25
Lunch (or midday meal)	8.00
Dinner (or evening meal)	14.10

- (c) The meal allowances prescribed in subclause (b) shall not be paid unless the controlling authority is satisfied that the employee was required to perform his/her duties at such a place and time that it was not reasonably practical for him/her to return to his/her normal place of residence for a meal, and that the employee in the case where a meal is purchased, did in fact incur the expense claimed, and unless:
  - (i) in the case of breakfast, the employee was required to commence duty not less than one and a half hours before the normal hour for commencing duty; and
  - (ii) in the case of dinner, the employee was required to remain on duty for not less than one and a half hours after the normal hour for ceasing duty.
- (d) A meal allowance in excess of or at variance with the rates set forth in this subclause may be paid if, on the determination of the controlling authority concerned, special circumstances existed which justified the excess or variation.

**23. NEW APPOINTMENTS AND PROMOTIONS**

The commencing salary of a person or employee either on first appointment or on promotion to a position within a class or grade of a classification in respect of which salary scales are prescribed by this award under Clause 8 - Salaries, shall be the minimum salary, except in any case where, in the opinion of the controlling authority, the qualifications and the practical experience of such person or employee in the appropriate field justify a higher salary.

**PROVIDED** that all new appointments and promotions of employees, other than temporary or casual employees, shall be in accordance with merit.

**24. OVERTIME**

For all work done outside the ordinary hours of work overtime shall be paid at the rate of:

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(a) Employees other than Rostered Dayworkers

- (i) Monday to Friday - time and a half for the first three hours and double time thereafter.
- (ii) Saturday and Sunday - double time.
- (iii) Public Holidays - double time and one half.

(b) Rostered Dayworkers

An employee required by the controlling authority to work in excess of or outside of his/her ordinary rostered working hours shall be paid from Monday to Friday inclusive, at the rate of time and a half of the normal salary rate for the first three hours and double time thereafter, and for overtime worked on a rostered day off or on a Saturday, Sunday, or a Public Holiday, at the rate of double the normal salary rate.

(c) Payment for Overtime

By prior agreement between the controlling authority and employee, the compensation for overtime may be:

- (i) payment at the appropriate overtime rates, as set out above; or
- (ii) a combination of time off in lieu and payment at overtime rates; or
- (iii) payment of an allowance in settlement of any overtime worked.

**PROVIDED** that where time off in lieu is granted at the employee's request it shall be taken at ordinary time rates.

(d) Requirement to Work Overtime

An employee may be required by the controlling authority to work reasonable overtime, and wherever possible, shall be given twenty- four hours notice of the need to work overtime.

(e) Overtime to be Approved

No payment shall be made for overtime worked unless the overtime work performed is at the direction of the employee's supervisor who shall obtain prior approval from the controlling authority that such overtime be worked.

(f) Each Day's Work Stands Alone

For the purpose of computing overtime, each day's work shall stand alone.

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(g) Limitation on Overtime Payments

An employee's entitlement to payment for overtime worked shall be computed at his/her normal salary rate except that where, unless the controlling authority otherwise determines, such employee is in receipt of a salary of or exceeding the maximum salary entitlement payable to a Class VIII employee under Division A of this award. BUT not exceeding the maximum salary entitlement payable to a Class XI employee covered by Division A of this award, his/her entitlement to payment for overtime shall be computed at the rate of the maximum salary entitlement payable to a Class VIII, Division A employee.

(h) Eight Hours Break

When overtime work is necessary it shall, whenever practicable, be so arranged that employees have at least eight consecutive hours off duty between the work of successive days.

An employee who works so much overtime between the termination of the ordinary work of one day and the commencement of the ordinary work on the next day that he/she has not had at least eight consecutive hours off duty between those times shall, subject to this subclause, be released after completion of such overtime until they have had at least eight consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

If on the instruction of the controlling authority an employee resumes or continues work without having had eight consecutive hours off duty, he/she shall be paid at double the normal salary rate until released from duty for a continuous period of at least eight hours without loss of pay for ordinary working time occurring during such absence.

The provisions of this subclause shall not apply to an employee on standby who is recalled to duty unless that employee is required to work for an actual period of three hours or more on such recall or on each of such recalls.

The provisions of this subclause shall not apply to employees who do not work under close supervision.

(i) Meal Breaks During Overtime

Where a period of overtime in continuation of the ordinary hours of work is estimated by the controlling authority to take one and a half hours or more, the employee shall, before the expiration of five hours from the completion of his/her last meal period, be required to take a meal break of at least thirty minutes without deduction of pay.

An employee shall not work overtime for longer than five hours without a meal break of at least thirty minutes.

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Notwithstanding any other provision in this award, where an employee working overtime can complete his/her work within an hour of the ordinary finishing time, he/she may continue to work for that period without a meal break provided that he/she does not work for more than five and a half hours from the previous meal break.

Where overtime is worked before the ordinary hour of commencing work and such overtime is of one and a half hours duration or more, the employee shall, within five hours of the commencement of such overtime, be required to take a thirty minute meal break without deduction of pay. Nothing in this subclause shall in any way affect the taking by an employee of the ordinary meal break prescribed by this award.

(j) Provision of Meals During Overtime

An employee required to work overtime for more than one and a half hours before the commencement or after cessation of normal working hours shall either be supplied with a meal by the controlling authority, or paid for the first meal in accordance with Clause 22 - Meal Allowance. A meal allowance shall be paid for each subsequent meal break taken in accordance with the provisions of this clause.

**PROVIDED** that where an employee who is required to work overtime has been given prior notice the previous day or earlier he/she shall not be entitled to the payment of meal allowance unless the period of overtime worked in any day is more than five hours.

## **25. PUBLIC HOLIDAYS**

All employees, other than casual employees, shall be entitled to the following holidays without deduction from their fortnightly pays:

Christmas Day, Boxing Day, New Year's Day, Australia Day, Hobart Cup Day (half day), Hobart Regatta Day, Eight Hour Day, Good Friday, Easter Monday, Easter Tuesday, Anzac Day, Queen's Birthday, and Hobart Show Day.

**PROVIDED** that if any other day be, by State Act of Parliament or State Proclamation, substituted for any of the abovementioned holidays, the day so substituted shall be observed.

## **26. RECALL TO WORK**

An employee recalled to work overtime after ceasing work, without prior notice thereof to meet an emergency situation, and who is eligible, in accordance with Clause 24 - Overtime, subclause (g) of this award, for the payment of overtime worked, shall in respect of the first recall be paid for a minimum of four hours at the appropriate overtime rate, and in respect of subsequent calls occurring during the four hour spread of which a minimum payment has been attracted, no extra payment shall accrue until the time

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actually worked exceeds four hours. Payment for all recalls occurring outside the first minimum payment spread shall be calculated at the appropriate overtime rate for actual time worked. Time reasonably spent in travelling to and from work shall be regarded as time worked.

**PROVIDED** that where an employee by custom and practice returns to work for short periods to perform specific duties such as the checking of equipment or machinery, security or caretaking type duties and the like, shall on the determination of the controlling authority be excluded from the provisions of this clause.

## **27. SALARY INCREMENTS**

- (a) Except where otherwise determined by this award, an employee, while holding a position classified or graded within a class or grade of a classification in respect of which a salary scale is prescribed by this award, and who for not less than twelve months has been in receipt of a salary less than the maximum salary prescribed for such classification, shall be entitled to receive the annual increment prescribed for such classification until the maximum salary rate is reached.

**PROVIDED** that an employee who was an employee on the date of this award shall be entitled to receive such increment on the anniversary of the date upon which he/she received his/her last salary increment in respect of his/her present position.

**PROVIDED ALWAYS** that an employee engaged to work on a part-time basis shall receive such increment on completion of the number of hours that full-time employee would have worked during the period of one complete year.

- (b) An employee whilst continuing to hold the same position shall, unless the controlling authority otherwise determines, be deemed, for the purposes of this clause, to have been in receipt of a salary during a period of leave without pay in the twelve months immediately following the date upon which his/her previous salary increment was awarded.

**PROVIDED** that an employee initiated leave of absence without pay exceeding twenty days in the aggregate shall not contribute to the accrual of service for the purpose of incremental advancement.

- (c) Notwithstanding anything contained in this award, no employee shall be entitled to receive any increase in salary by virtue of this clause unless, in the opinion of the controlling authority, his/her conduct, diligence and efficiency during the twelve months immediately prior to the date from which such increase would be payable shall have been satisfactory.

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## **28. SATURDAY, SUNDAY AND HOLIDAY WORK - ROSTERED DAYWORKERS**

- (a) For Saturday work rostered dayworkers shall be paid at time and one half of their normal salary rate for rostered duty.
- (b) For Sunday work rostered dayworkers shall be paid at double their normal salary rate for rostered duty.
- (c) For work on a public holiday rostered dayworkers shall be paid at double time and one half for rostered duty.

## **29. SICK LEAVE**

- (a) (i) An employee is entitled, during each of the sick leave periods provided for in this clause, to leave of absence on account of sickness, either on full pay, half pay, or without pay, according to the following scale:
  - (A) An employee having not less than 10 years' service:
    - (1) on full pay, 132 working days;
    - (2) on half pay, 66 working days; and
    - (3) without pay, 66 working days.
  - (B) An employee having not less than 5 years' service but less than 10 years' service:
    - (1) on full pay, 66 working days;
    - (2) on half pay, 66 working days; and
    - (3) without pay, 132 working days.
  - (C) An employee having less than 5 years' service:
    - (1) on full pay, 22 working days;
    - (2) on half pay, 44 working days; and
    - (3) without pay, 132 working days.
- (ii) For the purposes of this clause, "sick leave periods" means the period of 3 years commencing on the day on which an employee first reports for duty, whether on probation or not, and every period of 3 years following after that first-mentioned period.
- (iii) An employee shall be required to produce a certificate from a legally qualified medical practitioner for all leave of absence due to illness in excess of three or more consecutive working days or five working days in the aggregate in one year of service.

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- (iv) Where an employee was, immediately before becoming a permanent employee a temporary employee, there shall be credited to that employee at the time of becoming a permanent employee (whether on probation or otherwise) the period of sick leave to which that employee would have been entitled at that time, as if that employee's total continuous service from the date of first reporting for duty as a temporary employee had been service as a permanent employee and the sick leave periods had commenced in accordance with subclause (2).
  - (v) Service as a temporary employee shall be deemed to be service for the purpose of subclause (1) when determining an employee's entitlement under that subclause.
  - (vi) The sick leave entitlement under subclause (4) shall replace any sick leave entitlement a temporary employee may have had immediately before that employee became a permanent employee.
  - (vii) The sick leave entitlement referred to in subclause (6) shall apply only to the balance of the current sick leave period calculated in accordance with subclause (4).
  - (viii) Where any permanent employee has, as a result of the application of subclause (6):
    - (A) at the commencement of any sick leave period, less sick leave entitlement on full pay than that employee had under Part B. of this clause at the time of becoming a permanent employee; and
    - (B) during that sick leave period, used the whole of the sick leave entitlement on full pay,  
  
that employee may be granted such further sick leave on full pay as the controlling authority may determine to the extent that any part of that employee's previous entitlement under Part B at the time of becoming a permanent employee would then have remained had that employee not become a permanent employee or until the sick leave entitlement on half pay, reduced as provided by subclause (9), had expired, whichever occurs first.
  - (ix) Each working day of the further sick leave on full pay granted in accordance with subclause (8) shall be counted as 2 working days' sick leave on half pay against that employee's entitlement under subclause (1).
- (b) (i) A temporary employee who has completed continuous service for 20 working days may be granted by the controlling authority, leave of absence on account of sickness:
- (A) for 10 working days, in respect of the first year of that employee's service; and

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(B) a further period of 9 working days for each completed year of service, in respect of the second and each subsequent year of that employee's continuous service,

but any period of leave so granted shall not exceed the authorised period of employment of that employee.

(ii) The provisions of Part A, subclause (3) apply to sick leave under this regulation.

(iii) A temporary employee, for the purposes of Part B of this clause does not include a temporary employee who receives a rate of remuneration that excludes the right to any sick leave entitlements.

### **30. STANDBY**

An employee required to be regularly rostered on an approved roster for standby duty to meet emergency situations, who is required to stand by at home on immediate call and may be required for immediate recall to duty, shall:

(a) if not required to commence work, be paid an amount equivalent to six hours at the normal salary rate; or

(b) if required to commence work, be paid in accordance with Clause 26 - Recall to Work of this award.

### **31. TRAVEL ALLOWANCE**

The rate of payment and conditions for travelling allowances shall be as determined from time to time under the General Conditions of Service Award.

### **32. GHOST TOUR GUIDES**

(a) Where an employee is employed as a Ghost Tour Guide to conduct Ghost Tours the following provisions specify the terms and conditions of this employment.

(b) Where a Ghost Tour Guide is also an employee of the Authority in another capacity work as a Ghost Tour Guide will not count for accrual purposes for that other employment.

(c) The working hours shall be for a minimum of 3 hours per night between the hours of 6.00 pm and midnight. The minimum payment will be 3 hours.



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**PROVIDED THAT** when unusual or specific events occur, or are scheduled, volunteers will be sought from the rostered pool of employees to undertake this work, which will be worked according to the terms and conditions specified by this award.

(d) (i) Work will be allocated according to a 28 day roster with employees being rostered to work up to 5 nights per week according to visitor demands.

(ii) There are two rosters, one for Summer and another for Winter.

The Summer roster operates from 1 December up to and including Easter the following year.

The Winter roster operates from the end of Easter up to and including 30 November of that year.

Employees will be required to express interest in employment for each roster.

The dates of operation of the Summer and Winter roster may change at the discretion of the Authority.

(iii) Due to unforeseen or unusual circumstances employees may be requested to work at short notice. If accepted, the minimum payment shall be 3 hours at the employees hourly rate as specified in clause (e)(i).

(e) (i) The following hourly rates of pay are inclusive of sick leave and recreation leave and public holidays.

Class 1	24.70
Class 2	25.40
Class 3	25.90
Class 4	26.60
Class 5	27.40

(ii) Progression to the next incremental level shall be automatic upon completion of 400 hours work as a Ghost Tour Guide at any particular class.

(iii) The rates specified above will be adjusted by the same relevant amount or percentage of any general wage increase applicable to the Authority.

(f) Conditions of employment not specified in this Division will be as prescribed elsewhere in this award.

P C Shelley  
**DEPUTY PRESIDENT**

22 June 2007