

IN THE TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T.2372 of 1990

**IN THE MATTER OF AN APPLICATION BY
THE ASSOCIATION OF EMPLOYERS OF
WATERSIDE LABOUR TO VARY THE
SHIPPING AWARD**

**RE: DIVISION D - WHARF AND/OR
SHIPPING WATCHMEN**

ORDER -

**No 2 of 1990
(Consolidated)**

**AMEND THE SHIPPING AWARD BY DELETING ALL THE CLAUSES CONTAINED THEREIN
AND INSERTING IN LIEU THEREOF THE FOLLOWING:**

1. TITLE

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

2. SCOPE

This award is established in respect of the industries of:

- (a) Shipping, including the operation of ferries, barges, cruise vessels and charter vessels; and
- (b) Stevedoring.

3. ARRANGEMENT

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4. DATE OF OPERATION

This award shall come into operation from 18 May 1990.

PROVIDED that it is a term of this award (arising from the decision of the Tasmanian Industrial Commission State Wage Case of 30 October 1989) that the union(s) undertake(s), for the duration of the principles determined by that decision, not to pursue any extra claims, award or overaward, except where consistent with those principles.

5. SUPERSESSION AND SAVINGS

This award incorporates and supersedes No. 2 of 1989 (Consolidated) and No 1 of 1990.

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

6. PARTIES AND PERSONS BOUND

Unless otherwise specified, this award shall have application to and be binding upon:

- (a) all employers (whether members of a Registered Organisation or not) who are engaged in the industry specified in Clause 2 - Scope;
- (b) all employees (whether members of a Registered Organisation or not) for whom classifications appear in this award and who are engaged in the industry specified in Clause 2 - Scope;
- (c) the following organisations of employees in respect of whom award interest has been determined:
 - (i) the Federated Clerks Union of Australia, Tasmanian Branch and the officers of that organisation and their members who are employed in the industry specified in Clause 2 - Scope;
 - (ii) the Federated Miscellaneous Workers Union of Australia, Tasmanian Branch and the officers of that organisation and their members who are employed in the industry specified in Clause 2 - Scope;
 - (iii) the Merchant Service Guild of Australia, Victorian and Tasmanian Branches and the officers of that organisation and their members who are employed in the industry specified in Clause 2 - Scope;
- (d) the following organisation of employers in respect of whom award interest has been determined:

the Tasmanian Confederation of Industries.

7. DEFINITIONS

DIVISION A

'**Afternoon shift**' means any shift finishing after 6.00pm and at or before midnight.

'**Continuous work**' means work carried on with consecutive shifts of men throughout the 24 hours of at least six consecutive days without interruptions except during breakdowns or meal breaks, or due to unavoidable causes beyond the control of the employer.

'**Night shift**' means any shift finishing subsequent to midnight and at or before 8.00am.

'**Broken shift**' means a shift worked in two parts excluding a meal break of not more than one hour.

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

DIVISION B

'**Clerk**' includes book-keepers, timekeepers, cashiers, typists and/or stenographers, calculating and/or accounting machine operators.

8. WAGE RATES

DIVISION A - FERRY BOATS AND RIVER AND HARBOUR TRADE

1. WAGE RATES

Adult employees of a classification hereunder mentioned shall be paid the amount assigned opposite that classification:

	Amount per Week \$
(a) Vessels operating as Tugs -	
'Maydena', 'Boyer' -	
Master	313.60
Engineer	310.90
Deck Hand	266.20

(b)	Ferries and other vessels	
(i)	Passenger Ferries under 21.3 metres and other vessels	
	1. Master	389.10
	2. Engineer	389.10
	3. Coxswain (work boats)	359.50
	4. Fireman	330.60
	5. Deck hand (required to collect fares) and/or bar attendant	336.50
	6. Deck hand and/or linesman	327.90
(ii)	Passenger Ferries over 21.3 metres but under 38.1 metres (Cartela).	
	1. Master	395.50
	2. Engineer	395.50
	3. Deck hand (required to collect fares) and/or bar attendant	336.50
	4. Deck hand and/or linesman	327.90
(iii)	Vehicular Ferries; and Passenger Ferries over 38.1 metres	
	1. Senior Master	418.90
	2. Master (Other)	412.60
	3. Senior Engineer	416.30
	4. Engineer (Other)	412.60
	5. Deck hand (required to collect fares) and/or bar attendant	336.50
	6. Deck hand and/or linesman	327.90
(iv)	Bruny Island Ferry	
	1. Senior Master	482.90
	2. Master (Other)	474.90
	3. Senior Engineer	479.60
	4. Engineer (Other)	474.90
	5. Deck hand (required to collect fares) and/or bar attendant	389.40
	6. Deck hand and/or linesman	373.40
(c)	Hopper Barge (self-propelled) - M.V. 'Anson'	
	1. Master	400.80
	2. Mate	331.00
	3. Engineer	353.30
	4. Greaser/deck hand	301.00
	5. Deck hand	282.10

(d) Juniors	Percentage of the total wage for Classification 6, subclause (b)(i) hereof %	Amount per Week \$
Under 19 years of age	70	229.50
19 years of age	90	295.10
20 years of age	Adult Rate	327.90

On vessels where only one deck hand is permanently employed the deck hand shall be over 21 years of age, or if a junior is employed he shall be paid the adult rate.

In all cases where keep is provided by the employer the abovementioned wage rate may be respectively reduced by \$7.80 per week.

DIVISION B - CLERKS

1. WAGE RATES

Adult employees of a classification hereunder mentioned shall be paid the amount assigned opposite that classification.

Classification	Amount per Week \$
1. First year's adult experience	268.30
Second year's adult experience	288.50
Third year's adult experience & thereafter	315.50
2. An accountant or chief clerk wholly responsible for the office work and who prepares the balance sheet and profit and loss account	424.40
3. A clerk who is in charge of and responsible for the work of -	
(a) Five or more employees	374.60
(b) Three or four employees	356.30
(c) Two employees	336.80

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

2. JUNIORS

The minimum rates of wages that may be paid to juniors shall be the undermentioned percentages of the second year adult rate adjusted to the nearest 10 cents:-

	Percentage of Second Year Adult Rate	Amount per Week \$
Under 16 years of age	40	115.40
16 to 17 years of age	45	129.80
17 to 18 years of age	55	158.70
18 to 19 years of age	70	202.00
19 to 20 years of age	80	230.80
20 to 21 years of age	90	259.70

Proviso

When determining the amount payable to an employee attaining the age of 21 years, who has been employed as a junior clerk in the trade or groups of trades in respect of which awards of the Tasmanian Industrial Commission are established, experience obtained after reaching the age of 18 years shall be counted as adult experience.

Additional Payments

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

	Amount \$
Under 16 years of age	1.00
16 to 17 years of age	1.20
17 to 18 years of age	1.30
18 to 19 years of age	1.50
19 to 20 years of age	1.90
20 to 21 years of age	2.00
21 years of age and over	2.60

DIVISION C - INTRASTATE AND COASTAL VESSELS

1. WAGE RATES

Employees of a classification hereunder mentioned shall be paid the amount assigned opposite that classification for the following vessel:

		Amount per Week \$
(a)	M.V. 'Flinders Trader'	
	Classification	
	1. Mate	302.80
	2. Engineer	302.80
	3. Second Mate	267.90
	4. Second Engineer	267.90
	5. Boatswain	250.20
	6. Deck hand	240.40
	7. Cook	240.40

	Percentage of the total wage for Item 6 %	Amount per Week \$
8.	Deck boy -	
	Under 19 years	60 144.20
	At 19 years	80 192.30
	At 20 years	90 216.40

(b) M.V. 'Emu Bay'

The wage rates and conditions of work applicable to employees engaged on the aforementioned vessels shall be in accordance with those set out in the terms of a written agreement reached between the operators of the said vessels and the Merchant Service Guild (Tasmanian Branch).

The form of the agreement shall be subject to the approval of the Tasmanian Industrial Commission and shall include a provision for the reference of all disputes to the President of the Tasmanian Industrial Commission for determination.

(c) M.V. 'Roger Rougier'	Amount per Week \$
Classification	
1. Master	438.30
2. Mate	389.00
3. First Engineer	430.10
4. Second Engineer	389.00
5. Deck Hand	240.40
6. Deck Hand/Cook	240.40

2. MINIMUM WAGE

- (a) Notwithstanding the provisions of subclause 1 hereof, no adult employee shall be paid less than the rate of \$241.10 per week.
- (b) Provided that payments for overtime, special rates, holiday and weekend penalties, and shift allowances prescribed in this award shall not be taken into account in the calculation of such minimum weekly rate of wage.

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

CONDITIONS FOR EMPLOYEES IN DIVISION A

9. ANNUAL LEAVE

(a) Period of Leave

(i) Dayworkers and Shiftworkers

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

(ii) Continuous Shift Workers

In addition to the leave prescribed in Section (i) of this clause, continuous shiftworkers, shall be allowed 7 consecutive days' leave including non-working days.

Where an employee with twelve months' continuous service is engaged for part of the 12 monthly period as a seven day shift worker, he shall be entitled to have the period of annual leave prescribed in Section (i) increased by one half a day for each month he is continuously engaged.

For the purpose of this clause, employees employed on the Bruny Ferry shall be deemed to be shift workers and shall qualify for the additional leave prescribed by this subclause, provided that such employee has been rostered to perform and actually carried out work on not less than 10 Saturdays and not less than 10 Sundays during any one leave year.

(b) Annual Leave exclusive of Public Holidays

- (i) The annual leave prescribed by subclause (a) shall be exclusive of any of the holidays prescribed by Clause 14 - Holidays with Pay of this Division.
- (ii) Where a public holiday occurs on a day on which an employee is "rostered off" an additional day shall be added to such employee's annual leave. The provisions of this subclause shall not apply when a public holiday falls and is observed on a Saturday or on a Sunday.

(c) Leave to be Taken and Given

The leave prescribed in this clause shall be given and taken within six months of becoming due.

(d) Payment for Period of Leave

All employees, before going on annual leave, shall be paid the amount of wages they would have received in respect of the ordinary time they would have worked had they not been on leave during the relevant period. In addition thereto, all employees other than casual employees, shall be paid an amount equivalent to the minimum wage as prescribed in subclause 2 of Division C, Clause 8 - Wage Rates. This amount shall apply to all leave taken on and from the 1st day of July 1975.

(e) Proportionate Leave on Termination of Service

If after one completed month of service in any twelve-monthly period an employee lawfully leaves his employment, or his employment is terminated by the employer through no fault of the employee the employee shall be paid at his ordinary rate of wage as follows:

Thirteen and one third hours for each completed month of continuous service, the service being in respect of which leave has not been granted.

10. CASUAL RATES

Casual employees, viz. employees who are engaged as such, and whose employment is of a casual nature shall be paid per hour one fortieth of the weekly rates prescribed for the work performed and in addition thereto an amount representative of a loading of 20%.

PROVIDED that from 1 November 1989 the divisor shall be one thirty-eighth.

11. COMPASSIONATE LEAVE

An employee shall on the death of a wife, husband, father, mother, child, stepchild, brother, sister, mother-in-law, father-in-law, stepmother, stepfather, grandfather, grandmother, be entitled upon application being made to, and approved by the employer, to leave up to and including the day of the funeral of such relative and such leave will be without deduction of pay not exceeding the number of ordinary hours worked by the employee in 3 ordinary days, provided that no payment shall be made in respect of an employee's rostered days off.

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

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

12. CONTRACT OF EMPLOYMENT

Employment shall be by the week terminable only by a week's notice from either the employer or the employee unless the amount of a week's wages be paid or allowed in lieu of such notice.

13. DISTANT WORK

- (a) Except as otherwise determined herein an employee engaged on distant work, i.e. work at a place which in the opinion of the employer, because of its distance from, or the restricted facilities available for travelling to and from his usual place of residence reasonably necessitates the employee's living and sleeping elsewhere than at such usual place, shall be allowed

\$11.30 per day in addition to his ordinary rates if free board and accommodation is not found by his employer, or \$4.50 per day in addition to his ordinary rates if accommodation only be found. Where the time so employed includes an additional part of a day, the allowance shall be at the rate of \$1.70 per meal.

(b) An employee:

(i) engaged in one place to work in another; or

(ii) sent, other than at his own request, from his usual place of employment to another, for work which can reasonably be regarded as permanent,

who is thus involved in a change of residence, shall be paid in accordance with the provisions of subclause (a) hereof and of Clause 36 - Travelling Time and Allowances of this award.

Provided that such payments shall cease after a period of three months or after he has taken up abode at the new place of employment, whichever event is the sooner.

(c) Where the employer offers to provide free weekend transport between the distant work and the employee's place of engagement, the provisions of subclause (a) shall apply to working days only.

(d) The time spent in travelling to and from the work site at the beginning and end of his employment at the site and at weekends shall be paid for at ordinary rates when outside normal working hours.

14. HOLIDAYS WITH PAY

(a) All employees (other than casuals) shall be allowed the following days as paid holidays:- New Year's Day, Australia Day, Hobart Regatta Day (south of Oatlands), Labour Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Show Day (as defined), the first Monday in November (where Hobart Regatta Day is not observed), Christmas Day and Boxing Day.

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

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

15. HOURS

(a) Day Workers

Subject to the provisions of Clause 16 - Implementation of 38-Hour Week, the ordinary hours of employment shall not exceed 38 per week, to be worked in periods of not more than 8 hours per day, Monday to Friday, inclusive, between the hours of 7.00am and 6.00pm each day.

(b) Shift Workers

Subject to the provisions of Clause 16 - Implementation of 38-Hour Week, the ordinary hours of employment shall not exceed eight, including a twenty minute meal break (to be taken not later than five hours after the commencement of shift), in each twenty-four hour period, or more than 38 hours in each week. The 38 hours shall be worked in five days. Provided that where possible shift workers shall be given forty eight hours notice of change of shift.

(c) Employees - Bruny Ferry

The ordinary hours of employment for employees engaged on the Bruny Ferry shall not exceed an average of seventy six per fortnight to be worked within a spread of twelve hours per day or shift between 6.00am on Monday and midnight of the following Sunday.

PROVIDED that for all work done in excess of 8 hours per day (up to 12 hours per day) the rates of pay shall be one and one quarter times the ordinary rate.

16. IMPLEMENTATION OF 38-HOUR WEEK

(a) From 1 November 1988 ordinary hours of work shall be an average of 38 per week as provided in Clause 15 - Hours.

(b) Except as provided for in subclause (e), (e) and (f) hereof, the method of implementation of the 38-hour week may be one of the following:

- (i) by employees working less than 8 ordinary hours each day;
or
- (ii) by employees working less than 8 ordinary hours on one or more days each week; or
- (iii) by fixing one day in which all employees will be off during a particular work cycle, or

- (iv) by rostering employees off on various days of the week during a particular work cycle so that each employee has one day off during that cycle.
- (c) On each site, an assessment should be made as to which method of implementation best suits the business and the proposal shall be discussed with the employees concerned, the objective being to reach agreement on the method of implementation.
- (d) In the absence of agreement at site-level, the method of implementation provided in subclause (b)(iv) of this clause shall be the method of implementation on that site.
- (e) Subject to the provisions of subclause (d) of Clause 15 - Hours, the employer and the majority of employees in the plant or section or sections concerned may agree that the ordinary working hours are to exceed 8 on any day, thus enabling a week day to be taken off more frequently than would otherwise apply.
- (f) Circumstances may arise where different methods of implementation of a 38-hour week may apply to various groups or sections of employees in the plant or establishment concerned. OR, by agreement a plant or establishment may adopt a method not identified in subclause (b) above.

(g) Notice of Days Off

Except as provided in subclause (h) hereof, in cases where, by virtue of the arrangement of his ordinary working hours an employee, in accordance with subclauses (b) (iii), and (iv) hereof, is entitled to a day off during his work cycle, such employee shall be advised by the employer at least four weeks in advance of the week day he is to take off.

(h) Subsequent Days

- (i) An employer, with the agreement of the majority of employees concerned, may substitute a day an employee is to take off in accordance with subclauses (b) (iii), and (iv) hereof, for another day in the case of breakdown in machinery or a failure or shortage of electric power or to meet the requirements of the business in the event of rush orders or some other emergency situation.
- (ii) An individual employee, with the agreement of his employer, may substitute the day he is to take off for another day.

(i) Accumulation of Rostered Days Off

Where an employer and employees agree, rostered days off may accumulate to a maximum of 6 days which shall be taken at a mutually agreed time.

(j) Sickness on Day Off

From 7 September 1988, where an employee is sick or injured on the week day he is to take off in accordance with subclause (b)(iii) or (iv) or subclause (d) of this clause, he shall not be entitled to sick pay nor will his sick pay entitlement be reduced as a result of his sickness or injury that day.

(k) Averaging of Payment

Subject to subclause (f) above where the method of implementation adopted is in accordance with subclause (b)(iii) and (iv) of this clause, the wages paid each week for ordinary hours shall be paid so that in each week when 40 hours is worked 2 hours pay shall be kept in hand and paid to the employee in the pay week that the rostered day off occurs to enable an averaging of payments for ordinary time to occur.

(l) On Site Agreements

Any agreement reached pursuant to subclause (c) of this clause shall be notified in writing to the Federated Miscellaneous Workers Union of Australia, Tasmanian Branch and to the Tasmanian Confederation of Industries within 14 days of its making.

At any time either party to such agreement may seek to review the agreement provided that should the agreement be altered, details of the alteration shall be notified in writing to the Federated Miscellaneous Workers Union of Australia, Tasmanian Branch and to the Tasmanian Confederation of Industries.

17. LOSS OF PERSONAL EFFECTS

If by fire, foundering, collision or stranding an employee sustains damage or loss to his equipment or personal effects an employer shall reimburse the employee for such loss but the amount of such reimbursement shall not exceed the sum of \$90.00.

18. MATERNITY LEAVE

(a) Eligibility for Maternity Leave

An employee who becomes pregnant, shall upon production to her employer of a certificate from a duly qualified medical practitioner stating the presumed date of her confinement, be entitled to maternity leave provided that she has had not less than 12 months' continuous service with that employer immediately preceding the date upon which she proceeds upon such leave.

For the purposes of this clause:

- (i) An employee shall include a part-time employee but shall not include an employee engaged upon casual or seasonal work.
- (ii) Maternity leave shall mean unpaid maternity leave.

(b) Period of Leave and Commencement of Leave

- (i) Subject to subclauses (c) and (f) hereof, the period of maternity leave shall be for an unbroken period of from 6 to 52 weeks and shall include a period of 6 weeks compulsory leave to be taken immediately following confinement.
- (ii) An employee shall, not less than 10 weeks prior to the presumed date of confinement, give notice in writing to her employer stating the presumed date of confinement.
- (iii) An employee shall give not less than 4 weeks' notice in writing to her employer of the date upon which she proposes to commence maternity leave stating the period of leave to be taken.
- (iv) An employer by not less than 14 days' notice in writing to the employee may require her to commence maternity leave at any time within 6 weeks immediately prior to her presumed date of confinement.
- (v) An employee shall not be in breach of this clause as a consequence of failure to give the stipulated period of notice in accordance with paragraph (iii) hereof, if such failure is occasioned by the confinement occurring earlier than the presumed date.

(c) Transfer to a Safe Job

Where in the opinion of a duly qualified medical practitioner, illness or risks arising out of the pregnancy or hazards connected with the work assigned to the employee make it inadvisable for the employee to continue at her present work, the employee shall, if the employer deems it practicable, be transferred to a safe job at the rate and on the conditions attaching to that job until the commencement of maternity leave.

If the transfer to a safe job is not practicable, the employee may, or the employer may require the employee to, take leave for such period as is certified necessary by a duly qualified medical practitioner. Such leave shall be treated as maternity leave for the purposes of subclauses (g), (h), (i) and (j) hereof.

(d) Variation of Period of Maternity Leave

(i) Provided the addition does not extend the maternity leave beyond 52 weeks, the period may be lengthened once only, save with the agreement of the employer, by the employee giving not less than 14 days' notice in writing stating the period by which the leave is to be lengthened.

(ii) The period of leave may, with the consent of the employer, be shortened by the employee giving not less than 14 days' notice in writing stating the period by which the leave is to be shortened.

(e) Cancellation of Maternity Leave

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

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

(f) Special Maternity Leave and Sick Leave

(i) Where the pregnancy of an employee not then on maternity leave terminates after 28 weeks other than by the birth of a living child then:

- (a) she shall be entitled to such period of unpaid leave (to be known as special maternity leave) as a duly qualified medical practitioner certifies as necessary before her return to work, or
 - (b) for illness other than the normal consequences of confinement she shall be entitled, either in lieu of or in addition to special maternity leave, to such paid sick leave as to which she is then entitled and which a duly qualified medical practitioner certifies as necessary before her return to work.
- (ii) Where an employee not then on maternity leave suffers illness related to her pregnancy, she may take such paid sick leave as to which she is then entitled and such further unpaid leave (to be known as special maternity leave) as a duly qualified medical practitioner certifies as necessary before her return to work, provided that the aggregate of paid sick leave, special maternity leave and maternity leave shall not exceed 52 weeks.
 - (iii) For the purposes of subclauses (g), (h) and (i) hereof, maternity leave shall include special maternity leave.
 - (iv) An employee returning to work after the completion of a period of leave taken pursuant to this subclause shall be entitled to the position which she held immediately before proceeding on such leave or, in the case of an employee who was transferred to a safe job pursuant to subclause (c), to the position she held immediately before such transfer.

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

(g) Maternity Leave and Other Entitlements

Provided the aggregate of leave including leave taken pursuant to subclauses (c) and (f) hereof does not exceed 52 weeks:

- (i) An employee may, in lieu of or in conjunction with maternity leave, take any annual leave or any part thereof to which she is then entitled.
- (ii) Paid sick leave or other paid authorised award absences (excluding annual leave), shall not be available to an employee during her absence on maternity leave.

(h) Effect of Maternity Leave on Employment

Notwithstanding any award or other provision to the contrary, absence on maternity leave shall not break the continuity of service of an employee but shall not be taken into account in calculating the period of service for any purpose of an award.

(i) Termination of Employment

(i) An employee on maternity leave may terminate her employment at any time during the period of leave by notice given in accordance with this award.

(ii) An employer shall not terminate the employment of an employee on the ground of her pregnancy or of her absence on maternity leave, but otherwise the rights of an employer in relation to termination of employment are not hereby affected.

(j) Return to Work After Maternity Leave

(i) An employee shall confirm her intention of returning to her work by notice in writing to the employer given not less than 4 weeks prior to the expiration of her period of maternity leave.

(ii) An employee, upon expiration of the notice required by paragraph (i) hereof, shall be entitled to the position which she held immediately before proceeding on maternity leave or, in the case of an employee who was transferred to a safe job pursuant to subclause (c) to the position which she held immediately before such transfer. Where such position no longer exists but there are other positions available for which the employee is qualified and the duties of which she is capable of performing, she shall be entitled to a position as nearly comparable in status and salary or wage to that of her former position.

(k) Replacement Employees

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

(ii) Before an employer engages a replacement employee under this subclause, the employer shall inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.

- (iii) Before an employer engages a person to replace an employee temporarily promoted or transferred in order to replace an employee exercising her rights under this clause, the employer shall inform that person of the temporary nature of the promotion or transfer and of the rights of the employee who is being replaced.
- (iv) **PROVIDED** that nothing in this subclause shall be construed as requiring an employer to engage a replacement employee.
- (v) A replacement employee shall not be entitled to any of the rights conferred by this clause except where her employment continues beyond the 12 months' qualifying period.

19. MEAL ALLOWANCE

- (a) An employee required to work overtime for more than one and a half hours, or in the case of employees engaged on the Bruny Ferry, beyond 8.00pm, shall either be supplied with an adequate meal by the employer, or be paid \$4.90 meal money.
- (b) When a vessel is proceeding outside the harbour limits for a period exceeding twenty-four hours, the victualling of the crew shall be the responsibility of the employer and no deductions shall be made for it.

20. MEAL BREAKS ON ALL VESSELS OPERATING WITHIN HARBOUR LIMITS

- (a) A meal break of one hour shall be allowed between 11.30am and 2.00pm to employees on permanent day work on all vessels operating within harbour limits.
- (b) Working during meal intervals shall be avoided as far as possible. If employers require work to continue during a recognised meal interval the employee shall be paid at the rate of double time. Any fraction of an hour less than thirty minutes worked during a meal interval shall be paid for as half an hour and any fraction of an hour in excess of thirty minutes so worked shall be paid for as a full hour.

21. MEALS ON VESSELS OPERATING AS TUGS

A meal break of one hour shall be allowed between 11.30am and 2.00pm provided that if a meal is not commenced before 1.00pm and the vessel is under way at the time, a disturbed meal allowance of 84 cents shall be paid for such meal.

22. MIXED FUNCTIONS

- (a) When an employee is required to perform duties carrying a higher rate than his normal classification for a time exceeding 3 hours on any day he shall be paid at such higher rate for all work on that day.
- (b) The master of a vessel powered by an engine of 150kw governed power or over, who is required to act in a dual capacity as master and engine-driver shall be paid an additional \$11.25 per week, or 28.1 cents per hour, whilst so engaged.
- (c) Bruny Ferry Employees

An employee nominated to act as Master or engineer on a relieving basis shall be paid an allowance of \$31.80 per week extra on the rates as prescribed in Clause 22 - Mixed Functions and Clause 15 - Hours of this award whilst working in a lower capacity.

PROVIDED that such extra rate shall not be in substitution for the higher rate as prescribed when so acting as Master or engineer.

23. NEEDS OF THE INDUSTRY

- (a) For the purpose of meeting the needs of the industry the employer may require any employee to work reasonable overtime, including work on Sundays and holidays at the rate prescribed by this award and, unless reasonable excuse exists, the employee shall work in accordance with such requirements.
- (b) The parties to the award recognise that developments to improve the efficiency of the industry must be considered. Employers will adopt a consultative approach with employees where change in the industry is likely to occur.

24. OVERTIME

- (a) For all work done outside ordinary hours the rates of pay shall be time and a half for the first two hours and double time thereafter, such double time to continue until the completion of overtime work.

The aggregate of hours worked in excess of ordinary hours in each day shall constitute the amount of overtime at the appropriate rate.

PROVIDED that or all work performed on an employee's rostered days off, payment shall be made at the rate of double time.

PROVIDED ALWAYS that a continuous shift worker shall be paid at the rate of double time for all overtime worked.

Except as provided in this subclause, or subclause (b) hereof, in computing overtime, each day's work shall stand alone.

For all time worked by employees on the Bruny Ferry in excess of 12 hours on any day or shift, the minimum payment shall be at the rate of double time.

(b) Rest Period after Overtime

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

An employee (other than employees on vessels operating as tugs) who worked so much overtime between the termination of his ordinary work on one day and the commencement of his ordinary work on the next day that he has not had at least ten consecutive hours off duty between those times, shall, subject to this subclause, be released after completion of such overtime until he has had ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

If on the instructions of his employer such an employee resumes or continues work without having had such ten consecutive hours off duty he shall be paid at double rates until he is released from duty for such period and he shall be entitled to be absent until he has had ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

25. PAY ABSTRACT

Employers shall supply to each employee on or before pay day a statement showing the number of ordinary hours and overtime hours worked during the relevant period and the deductions, if any, that have been made from the wages.

26. PROTECTIVE EQUIPMENT

Deck hands on the Bruny Island Ferry shall be provided with oilskins, south-westerns and torches.

27. RATES NOT CUMULATIVE

Penalty rates prescribed herein are not cumulative so as to exceed the maximum of double the ordinary rates excepting as to payments for work performed on public holidays or broken shifts.

28. RECALL TO WORK

Employees who are recalled to work special trips outside their ordinary hours shall be paid as for a minimum of four hours work at appropriate rates. Provided that for second or subsequent recalls in the same interval between ordinary hours payment shall only be for the time so worked.

29. REFERENCE OF DISPUTES

Any dispute arising in respect of any matter to which this award relates shall be referred to the Tasmanian Industrial Commission, whose decision shall be final.

30. SATURDAY WORK

For all time of rostered duty on a Saturday payment shall be made at the rate of time and one-half.

31. SHIFT ALLOWANCE

Shift workers employed on afternoon, night or broken shifts shall be paid 15% more than the ordinary rates for such shifts.

When in any day a shift is worked in two periods a travelling allowance of \$1.75 shall be paid to each employee working such broken shift, provided his place of residence is in excess of 1.5 kilometres from his place of work.

32. SICK LEAVE

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

- (i) he shall not be entitled to such leave of absence for any period in respect of which he is entitled to workers' compensation;
 - (ii) unless prevented by exceptional circumstances, employees who will be absent from work on account of personal illness/injury shall notify the employer of such impending absence prior to the commencement of the shift and in sufficient time for a replacement to be called;
 - (iii) he shall prove to the satisfaction of the employer (or in the event of a dispute the Secretary for Labour), that he was unable on account of such illness or injury to attend for work on the day or days for which the sick leave is claimed;
 - (iv) he shall not be entitled in any year (whether in the employment of one employer or of more) to sick leave credit in excess of two weeks of ordinary working time;
 - (v) for the purposes of administering paragraph (iv) of this subclause an employer may within one month of this award coming into operation or within two weeks of the employee entering his employment require an employee to make a sworn declaration or other written statement as to what paid leave of absence he has had from any employer during the then current year, and upon such statement the employer shall be entitled to rely and act.
- (b) Sick leave shall accumulate from year to year so that any balance of the period specified in subclause (a)(iv) of this clause which has in any year not been allowed to an employee by an employer as paid sick leave shall be credited to the employee and, subject to the conditions hereinbefore prescribed shall be allowed by that employer in a subsequent year without diminution of the sick leave prescribed in respect of that year.
- (c) An employer shall not be required to make any payment in respect of accumulated sick leave credits to an employee who is discharged or leaves his employment, or for any time an employee is absent from work without producing satisfactory evidence of personal illness.

33. SPECIAL RATES

- (a) Chipping Hammers - Employees using electric or pneumatic chipping hammers, wire brushing machine and sandblasting machine shall be paid at the rate of 7.2 cents per hour in addition to any other ordinary or overtime rate for the time so occupied.

Where a chipping hammer is being used in a confined space, suitable ventilation shall be installed, if practicable, before work commences.

- (b) Dirty Work - For any of the following work, an employee shall, in addition to any other ordinary or overtime rate payable under this award, be paid at the rate of 20.5 cents per hour for the time so occupied:

- Working inside boilers or furnaces
- Cleaning inside the casing of internal combustion engines
- Cleaning inside oil tanks in motor vessels
- Cleaning tubes, uptakes or smoke boxes where doors have to be opened
- Cleaning bilges (including roseboxes) and coffer dams.

34. SUNDAY AND HOLIDAY WORK

- (a) Employees required to work on a Sunday shall be paid at the rate of double time.
- (b) Employees required to work on a public holiday shall be paid at the rate of double time and one-half.

35. TIME AND WAGES RECORD

The employer shall keep or cause to be kept a record of the times during which each employee has been on duty, including the times of commencing and finishing duty by each employee on each day and the payments made to each employee, including wages, overtime payment and all allowances paid to him, and a duly accredited official of the Union shall be permitted by the employer to inspect such a record at a reasonable time during the office hours of the employer at his place of business.

36. TRAVELLING TIME AND ALLOWANCES

- (a) Employees who are required to travel from their regular place of employment to distant locations during periods that vessels are on the slip or undergoing repairs shall either be supplied with transport by the employer or reimbursed the cost of fares to and from the job. If they are required to remain away from their homes overnight, they shall be reimbursed the amount spent for board and lodging.

- (b) Where an employee, after having worked overtime, or a shift for which he has not been regularly rostered, finishes work at a time when public transport is no longer available, he shall be paid a distance allowance except where the employer provides or offers to provide transport for such employee to or from his home as the case applies.

The allowance shall be paid at the rates prescribed by the General Conditions of Service Award applying from time to time.

- (c) Travelling time at ordinary rates only shall be allowed each way when an employee is required to perform work away from his place of engagement which does not reasonably necessitate the employee residing on or near the job.

37. VESSELS ON WATCHES

- (a) Where a vessel is proceeding beyond harbour limits for a period in excess of two hours, the crew shall be paid an additional 25% of the normal rate.
- (b) Whilst the vessel is in an out-port, but not on watches, an additional 5% shall be paid.

38. UNIFORMS

Where an employee is required to wear a uniform or distinctive dress, same shall be provided by the employer free of cost to the employee.

CONDITIONS FOR EMPLOYEES IN DIVISION B

39. ESTIMATING SERVICE

In estimating the number of years service of an employee, the total clerical experience in the service of every employer in the trades or groups of trades in respect of which awards of the Tasmanian Industrial Commission are established shall be taken into account.

40. GENERAL CONDITIONS

The provisions of Clauses:

- 9. Annual Leave
- 11. Compassionate Leave
- 12. Contract of Employment
- 14. Holidays with Pay
- 15. Hours
- 16. Implementation of 38-Hour Week
- 18. Maternity Leave
- 19. Meal Allowance
- 23. Needs of the Industry
- 24. Overtime
- 25. Pay Abstract
- 27. Rates Not Cumulative
- 29. Reference of Disputes
- 30. Saturday Work
- 32. Sick Leave
- 34. Sunday and Holiday Work
- 35. Time and Wages Record
- 36. Travelling Time and Allowances

of Division A hereof shall also apply to this division.

CONDITIONS FOR EMPLOYEES IN DIVISION C

41. GENERAL CONDITIONS

The provisions of Clauses:

- 9. Annual Leave
- 10. Casual Rates
- 11. Compassionate Leave
- 12. Contract of Employment
- 14. Holidays With Pay
- 16. Implementation of 38-Hour Week
- 18. Maternity Leave
- 22. Mixed Functions
- 23. Needs of the Industry
- 25. Pay Abstract
- 29. Reference of Disputes
- 32. Sick Leave
- 33. Special Rates
- 35. Time and Wages Record
- 36. Travelling Time & Allowances

of Division A hereof shall also apply to this division.

42. HOURS

The maximum number of ordinary working hours per week in respect of which the rates of wages herein determined shall be paid shall be forty, to be worked in periods of not more than eight hours per day. Provided that the hours worked inclusive of overtime shall not exceed sixteen in any twenty-four hour day.

43. OVERTIME

- (a) An employee required to work outside the normal hours in his home port shall be paid at the rate of time and one-half for the first two hours and double time thereafter.
- (b) Payment for overtime worked away from the home port shall be at the rate of time and one-half.
- (c) Time off may be allowed in recompense for overtime worked away from the home port and payment for such time off shall be at the rate of time and one-half for each hour of overtime so worked including work performed on Saturday, and at the rate of two hours for each hour of work performed on Sundays and such public holidays as are prescribed in Clause 14 - Holidays with Pay. Time off allowed under the provisions of this subclause shall be at the discretion of the employer.
- (d) In computing overtime, each day's work shall stand alone provided that the appropriate overtime rate shall continue to apply until the completion of the overtime work commenced the day before.

44. SAILING BOARD

On the day of departure of the ship from any port, the clock time appointed for the departure shall be clearly stated on a notice board, fixed in a conspicuous place at the gangway and if any change be made the substituted time shall be likewise stated as early as practicable.

45. SATURDAY WORK

Except as provided in subclause (a) Clause 43 - Overtime hereof an employee required to work on a Saturday shall be paid at the rate of time and one-half for all time so worked.

46. SHIPWRECK OR STRANDING

- (a) If a ship, in the course of a voyage, becomes wrecked or stranded, and an employee is called upon for special efforts while the ship is still wrecked or stranded, he shall, for the time during which he so assists, be paid at the rate of \$1.37 per hour in addition to the ordinary rates.
- (b) For the purposes of this clause a ship shall be deemed to be wrecked if while at sea it is so disabled as to be in a dangerous crisis and unable for the time being to continue its voyage in the ordinary course of its operations.
- (c) Where a ship grounds in a tidal harbour or river and is refloated by ordinary means, without lightening cargo, it shall not be deemed to be wrecked or stranded within the last preceding subclause.
- (d) Notwithstanding anything in this clause, in a case of wreck or loss of the ship, proof that any seaman has not exerted himself to the utmost to save the ship, human life, cargo, stores and equipment shall bar his claim to wages as prescribed in the Navigation Act. Questions of fact shall be determined as provided for in the said Act.
- (e) If by fire, explosion, foundering, collision or stranding, an employee sustains damage or loss to his equipment or personal effects, an employer shall reimburse the employee for such loss but the amount of such reimbursement shall not exceed \$273.

47. SUNDAY AND HOLIDAY WORK

- (a) An employee required to work on a Sunday shall be paid at the rate of double time.
- (b) An employee required to work on a public holiday shall be paid at the rate of double time and one-half.


A. Robinson
DEPUTY PRESIDENT
30 May 1990