

This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.

IN THE TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T.466 of 1986

**IN THE MATTER OF AN APPLICATION BY
THE MINISTER FOR PUBLIC
ADMINISTRATION TO VARY THE INLAND
FISHERIES COMMISSION STAFF
AWARD**

**RE: SUSPENSION OF 17.1/2 PER
CENT RECREATION LEAVE
ALLOWANCE**

ORDER -

No. 2 of 1986

AMEND THE **INLAND FISHERIES COMMISSION STAFF AWARD** IN THE FOLLOWING MANNER:

S095

This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.

Add the following proviso to Clause 17 - Recreation Leave Allowance:

"PROVIDED FURTHER that:

Notwithstanding the foregoing, during the period 1.9.86 to 31.8.87 (such period to be referred to as the "relevant period") the following shall apply:

1. No permanent full-time or permanent part-time employee subject to this award shall suffer involuntary retrenchment.
2. During the relevant period any dispute arising regarding the alleged involuntary retrenchment of any employee, except where consistent with the normal turnover of labour, (e.g. casuals and temporaries employed for a specific period or purpose) shall be referred to the Commission for determination.
3. Subject to 9., all employees to whom this clause applies shall forego not less than or more than one full year's entitlement to recreation leave allowance during the relevant period.
4. The amount of allowance to be foregone by shift workers shall be calculated as if the shift worker were a day worker. The difference between the amount calculated on that basis and payment according to projected roster shall be retained by the employee during the relevant period.
5. Where more than one payment falls due to an employee during the relevant period, the first such payment only shall be foregone (provided that payment represents a full year's entitlement), and the second entitlement shall be retained by the employee.
6. Where at the end of the relevant period an employee has not foregone any allowance due to deferred leave or for any other reason, the amount that would have been foregone shall be debited against the employee's recreation leave card and only the residue (being the difference between the amount that would otherwise fall due and the amount debited against his leave card at the end of the relevant period) shall be payable to the employee in due course.
7. For the purpose. of determining the amount to be foregone or debited, the calculation shall be based upon the employee's actual or notional salary as at 1.10.85.
8. An employee who, having foregone one entitlement during the relevant period, subsequently resigns, shall not be entitled to a refund of the amount foregone.
9. A person who is engaged during the relevant period shall have his recreation leave card debited on a pro rata basis at the end of the relevant period and calculated in accordance with 7.
10. Any dispute regarding calculation or entitlement may be referred to the Commission for determination.

This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.

11. Except for the purpose of recovering amounts debited in accordance with 6. and 9., this provision shall cease to operate after 31.8.87."

INTERPRETATION:

The intention of the foregoing, whether ascertainable from the words used or not, is to ensure that each employee otherwise entitled to recreation leave allowance shall, during the relevant period, or where leave has been deferred as soon as possible thereafter, forego not more than one or less than one recreation leave allowance during that period.

For shift workers the amount to be foregone is to be calculated on a notional basis as if the shift worker were a day worker instead. The residue of the shift worker's normal "payment as to roster" allowance shall remain an entitlement to the shift worker concerned.

Persons commencing during the relevant period shall also forego a pro rata amount calculated on the same formula.

Where no recreation leave allowance becomes payable during the relevant period, the employee shall not, simply for that reason, be excused from foregoing the actual or notional amount that would have otherwise have been foregone during the relevant period.

Where calculated amounts cannot, for technical reasons, be foregone during the relevant period, those or the pro-rated amounts are to be debited against any entitlement falling due outside the relevant period.

It is a condition of this provision that during the relevant period no employee subject to any of the awards affected shall suffer involuntary retrenchment, except in accordance with the normal and customary turnover of labour. (e.g. casual employees engaged intermittently, or temporaries engaged for a specific purpose or for a specified period.)

It is also intended that disputes regarding alleged individual involuntary retrenchment or calculation of individual amounts to be foregone be referred to the Commission for determination - at least in the first instance.

This recreation leave allowance clause continues to apply during the relevant period but only to the extent permitted by the foregoing.

Except for the purpose of recovering amounts not actually recovered during the relevant period, the proviso ceases to have effect after 31 August 1987."

L.A. Koerbin
PRESIDENT

17 September 1986