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TASMANIAN INDUSTRIAL COMMISSION

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

Tasmanian Trades and Labor Council
(T12940 of 2007)
Private Sector Awards
Public Sector Awards

FULL BENCH:
PRESIDENT P L LEARY
DEPUTY PRESIDENT P C SHELLEY
COMMISSIONER T J ABEY

Wage Rates – State Wage Case 2007 – application amended - application to vary private and public sector awards – award wage rates to be increased by $22.70 per week - wage related allowances to be increased by 3.8% – meal allowance increased to $14.10 - State Minimum Wage rate determined at $527.10 - s.35(1)(b) – operative date ffpp 1 August 2007

BAKING INDUSTRY AWARD

ORDER -

No. 1 of 2007
(Consolidated)

AMEND THE **BAKING INDUSTRY AWARD** BY DELETING ALL CLAUSES CONTAINED THEREIN AND INSERTING IN LIEU THEREOF THE FOLLOWING; AND THE AWARD IS CONSOLIDATED:

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1. TITLE

This award shall be known as the "Baking Industry Award".

2. SCOPE

This award is established in respect of the Baking Industry (as defined).

3. ARRANGEMENT

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4. DATE OF OPERATION

This award shall be operative from the first full pay period commencing on or after 1 August 2007.

5. SUPERSESSION AND SAVINGS

This award incorporates and supersedes the Baking Industry Award No. 2 of 2006 (Consolidated).

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

6. AWARD INTEREST AND PARTIES BOUND

(a) The following employee organisations have an interest in this award under Section 63(10) of the Act:

(i) the Liquor, Hospitality and Miscellaneous Union - Tasmanian Branch;

(ii) the Shop Distributive and Allied Employees Association, Tasmanian Branch.

(b) The following employer organisation has an interest in this award under Section 63(10) of the Act:

The Retail Traders Association of Tasmania.

(c) The following organisation is deemed to have an interest in this award pursuant to Section 62(2) of the Act:

the Tasmanian Chamber of Commerce and Industry Limited.

(d) The following organisation is deemed to have an interest in this award pursuant to Section 62(3) of the Act:

the Tasmanian Trades and Labor Council.

7. DEFINITIONS

General Definitions

'Baking Industry' for the purposes of this award shall mean the industry of:

(a) the making and/or baking and/or distributing of bread, bread rolls and other yeast raised products, crumpets, cakes, biscuits, pies, pastries, sausage rolls, savoury rolls and/or other similar products however described; and

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(b) the sale by retail and/or wholesale of such products; and

(c) may include the serving of such products for consumption on the premises.

'Casual employee' means any person who is employed on an irregular basis as and when required by the employer and by mutual consent between the employer and employee and includes any employee employed for a period not exceeding 5 days at any one time.

'Merchandising' means providing and maintaining a display of product in a client's premises.

'Part-time employee' means a person engaged to regularly work for less hours per day or week than those prescribed for full-time employees in Clause 19 - Hours of Work.

'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.

Classification Definitions

BAKERY EMPLOYEE
Level One **Proposed Relativity 78%**
Production/Distribution

An employee on entry to the industry and without relevant work experience who undertakes induction training which may include information on the enterprise, conditions of employment, introduction to supervisors and fellow employees, training and career path opportunities, plant layout, work and documentation procedures, occupational health and safety, equal employment opportunity and quality control/ assurance.

An employee at this level performs routine duties essentially of a manual nature and to the level of their training:

1. exercises minimal judgement

2. works under direct supervision

An employee at this level is undertaking structured training so as to enable them to work at Bakery Employee Level Two.

Promotional Criteria

An employee shall remain at this Level until he or she is capable of effectively performing the tasks required at this level through assessment or appropriate certification. Once so assessed or certified an employee shall progress to Level 2.

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BAKERY EMPLOYEE
Level Two **Proposed Relativity 82%**
Production/Distribution

Includes an employee who has completed up to three months structured training so as to enable the employee to perform work within the scope of this level or who has completed a relevant traineeship.

An employee at this level undertakes elementary tasks under routine supervision associated with the production of bread or other products including:-

1. loading and/or unloading product from machines

2. housekeeping duties including the cleaning and storage of bakery equipment

3. maintaining simple records

4. understand basic concepts of quality as they relate to the preparation of food products

5. understands and works from basic written and/or spoken instructions

6. is able to, where relevant, store, check, pack, dispatch, document, invoice and store goods and / or materials as required;

Sales

Includes an employee with less than 6 months relevant experience in the retail industry as a junior or an adult. An employee at this level performs, under direct supervision, basic sales and customer service and liaison duties requiring the exercise of little or no discretion. Duties may include:

- operation of cash register
- preparation of food including salad rolls etc
- visual merchandising
- sales and customer assistance
- general cleaning

Promotional Criteria (Sales)

An employee shall progress to a Level 4 (Sales) position after 6 months service. This shall mean 830 hours actual service.

PROVIDED that an employee engaged predominantly on cleaning duties will remain at this level until required by the employer to perform duties at the next level for which the

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employee is qualified by virtue of training or experience other than as required by Clause 17 - Higher Duties

Promotional Criteria (All other employees)

An employee will remain at this level until required by the employer to perform duties at the next level for which the employee is qualified by virtue of training or experience other than as required by Clause 17 - Higher Duties.

BAKERY EMPLOYEE
Level Three Proposed Relativity 87.4%
Production/Distribution

Includes an employee working above the skills of an employee at level two and to the level of their training and :-

1. Is responsible for the quality of their own work.

2. Works under routine supervision either individually or in a team environment.

3. Exercises discretion within the level of their skills and training.

Indicative of the tasks which an employee at this level may perform are the following:-

- operates with flexibility between tasks and/or production processes;
- operates machinery and equipment requiring the exercise of discretion, knowledge and skill beyond that of an employee at Level Two;
- operates a fork lift up to 5000 kg lifting capacity for which a licence is required;
- merchandising skills after 3 months (but not less than 260 working hours) of experience*;*
- maintain records;
- understands and applies basic quality control / assurance techniques and initiates remedial action;
- use of basic keyboard skills;
- driver of a motor vehicle up to and including 4.5 GVM.

Clerical (Adult Entry Level)

Includes an employee who works within established procedures and under direct supervision and who uses one or more of the following skills to the standard described:-

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1. Machine Operation

   Operating telephone/intercom systems, telephone answering machines, facsimile machines, photocopiers, franking machines, guillotine.

2. Information Handling

   Sorting, opening, and distributing incoming mail, processing outgoing mail, maintaining a mail register, receiving incoming and dispatching outgoing courier mail, delivering messages and documents to the appropriate person and/or location, preparing and collating simple documents, sorting and filing documents and records in an established paper filing system, taking telephone messages.

3. General

   Acquiring and applying a limited knowledge of simple office procedures and requirements.

Promotional Criteria

An employee will remain at this level until required by the employer to perform duties at the next level for which the employee is qualified by virtue of training or experience other than as required by Clause 17 - Higher Duties.

BAKERY EMPLOYEE
Level Four **Proposed Relativity 92.4%**
Production/Distribution

Includes an employee who works above and beyond the skills of an employee at Level Three and to the level of their training and who:-

1. co-ordinates work in a team environment or works individually under general supervision

2. assists in the provision of on-the-job training to the limit of their training and experience

3. is responsible for assuring the quality of their own work

4. works from relatively complex instructions and procedures and exercises discretion within the limit of their skills

Indicative tasks which an employee at this level may perform are:-

- operating a variety of baking and other equipment requiring diverse skills and/or knowledge

- driver of a motor vehicle in excess of 4.5 but not exceeding 15 GVM

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- detailed knowledge of the production and/or distribution process of the business
- devising and/or providing in-store display and product demonstration and have appropriate product knowledge
- lubrication and basic non trade maintenance of bakery equipment
- intermediate keyboard skills

Sales

Includes an employee who works beyond the level of skill of a Bakery Employee Level Two (Sales). Employees at this level work under general supervision and exercise discretion within the scope of this grade.

Indicative tasks which an employee at this level may perform are:-

- sales techniques
- general product knowledge
- loss prevention
- general cleaning
- wrapping and packaging of goods
- interpretation of detailed instructions and work procedures
- assistance to a limited degree in on-the-job training
- reconciliation of cash register
- maintain/establish paper-based filing/ records systems in accordance with set procedures
- sales and customer assistance
- interpersonal communication
- pricing and ticketing
- information technology
- stock display
- slicing of bread
- handling cash including security measures
- stocktaking
- ordering of stock not requiring the exercise of discretion

Clerical

Includes an employee who works beyond the level of skill of a Bakery Employee Level Three (Clerical). They are responsible and accountable for their own work within established routines, methods and procedures and work under routine supervision.

An employee at this level is able to utilise one or more of the skills listed below to the skill level described.

1. Machine Operation:-

- Operating adding machine, switchboard, paging system, telex machine, typewriter, calculator.

- Using knowledge of keyboard and function keys to enter and retrieve data through computer terminal.

- Copy typing at 25 words per minute with 98% accuracy.

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2. Information**:-**

- Maintaining mail register and records, maintaining established paper based filing/records systems in accordance with set procedures including creating and indexing new files/distributing files within the organisation as requested, monitoring file locations, transcribing information into records, completing forms and taking telephone messages

3. General:-

- Acquiring and applying a working knowledge of office or sectional operating procedures and requirements.

- Acquiring and applying a basic working knowledge of the organisational structure, company products and services and personnel in order to deal with initial staff enquiries, locating appropriate staff in different sections, relaying internal information, responding to or redirecting visitors etc.

- Keeping appropriate records.

- Preparing and recording petty cash transactions, undertake basic banking.

Promotional Criteria

An employee will remain at this level until required by the employer to perform duties at the next level for which the employee is qualified by virtue of training or experience other than as required by Clause 17 - Higher Duties.

BAKERY EMPLOYEE
Level Five **Proposed Relativity 100%**
Production/Distribution

An employee at this level performs work above and beyond the skills of an employee at Production/Distribution Level Four and to the level of their training and qualifications, applies skills acquired through the successful completion of a trade certificate level in baking or through equivalent qualification. They :-

1. Understand and apply quality control techniques.

2. Exercise discretion within the scope of this level.

3. Perform work under general supervision either individually or in a team environment.

4. Exercise good interpersonal and communication skills

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Indicative tasks which an employee at this level may perform are as follows:-

- mixes and makes doughs;
- prepares sugar products for ornamental purposes;
- inspects and approves product to established standards;
- assists and/or provides on-the-job training;
- supervises the work of production/distribution employees;
- operate any relevant lifting equipment;

Maintenance

An employee at this level will possess a trade certificate or tradesperson's rights certificate in any one of the following trades:

- electronic/electrical trades;
- mechanical trades;
- painting;
- carpentry.

and is able to exercise the skills and knowledge of that trade. They:

1. Understand and apply quality control techniques.
2. Exercise good interpersonal and communications skills.
3. Exercise discretion within the scope of this level.
4. Work under limited supervision either individually or in a team environment.

Indicative tasks which an employee at this level may perform are as follows:

- operate all lifting equipment incidental to their work;
- exercise good hygiene practices consistent with working in the bakery industry;
- exercise clean-up skills consistent with the health and hygiene requirements of the bakery industry;
- maintain plant and equipment or buildings to maximum efficiency levels;
- participate in installation and/or repositioning of plant or equipment.

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Sales

Includes an employee who works beyond the skill level of a Bakery Employee Level Four - Sales. In most cases employees at this level will be in supervisory positions and be required to exercise both discretion and initiative.

Indicative tasks which an employee at this level may perform are:-

- management of a defined section;
- supervision of other sales staff
- sole responsibility for the shop front area on a regular basis for the major part of the trading day
- ordering stock
- use of a visual display unit
- detailed product knowledge
- detailed visual merchandising skills
- training of other sales staff
- opening and closing of premises and associated security

Clerical

Includes an employee who works beyond the skill level of a Bakery Employee Level Four - Clerical. An employee at this level is responsible and accountable for their own work within established guidelines and under general supervision. The employee exercises discretion within the range of the employee's skills and is able to utilise one or more of the skills listed below:-

1. Machine Operation:-

   Operating computerised radio telephone equipment, micro/personal computer printing devices, dictaphones and typewriters;

   Producing documents and correspondence using knowledge of standard formats, touch typing at 50 words per minute with 98% accuracy and audio typing;

   Using one software application package developed for a micro/personal computer to create a database file structure, a spreadsheet/worksheet or a graphic; or an accounting payroll file following standard procedures and using existing models/fields of information;

   Using a central computer resource to an equivalent standard;

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Using one software package to create, format, edit, proof read, correct, print and save text documents.

2. Information Handling:-

Employees at this level use computer based or other record management systems to file and retrieve records such as accounts, stock inventory, finance and personnel records.

3. Business/Financial:-

Maintaining records and journals, sorting, processing and recording transactions such as incoming/outgoing cheques, invoices, debit/ credit items, payroll data, establish petty cash imprest system.

4. General:-

Acquisition of a working knowledge of the organisations products/services, functions, locations and clients;

Responding to and acting upon most enquiries within their own function area.

Promotional Criteria

An employee will remain at this level until required by the employer to perform duties at the next level for which the employee is qualified by virtue of training or experience other than as required by Clause 17 - Higher Duties.

BAKERY EMPLOYEE
Level Six **Proposed Relativity 105%**
Production/Distribution

An employee at this level works above and beyond the skills of an employee at level Five and:-

- is capable of basic fault finding and minor maintenance of baking machinery, etc;

In the performance of these duties such an employee:

- is responsible for the efficient operation of a designated work area;
- is responsible for the work of other employees;
- may provide trade training;
- possesses a sound knowledge of the employers operation;
- understands and implements safety, quality control and hygiene, etc, techniques;

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- is responsible for the quality of the product.

Maintenance

An employee at this level works above and beyond the skills of an employee at Bakery Employee Level 5 - Maintenance and to the level of their training.

Has completed 33% of an appropriate post-trade certificate and is required to undertake work requiring the utilisation of skills acquired in that certificate.

- exercises trade skills relevant to the specific requirements of the enterprise at a level higher than a Bakery Employee Level 5 - Maintenance;
- provides trade guidance and assistance as part of a work team;
- understands and implements quality control techniques;
- works under general supervision;
- exercises discretion within the scope of this level;
- exercises supervisory skills;
- exercises good interpersonal and communication skills.

Promotional Criteria

An employee will remain at this level until required by the employer to perform duties at the next level for which the employee is qualified by virtue of training or experience other than as required by Clause 17 - Higher Duties.

BAKERY EMPLOYEE
Level Seven **Proposed Relativity 110%**
Production/Distribution

An employee at this level works above and beyond the skill and/or responsibility level of all other Production / Distribution employees. Such an employee is:-

- responsible for the overall manufacturing process of the enterprise including quality and hygiene techniques;
- responsible for the supervision of all employees in any designated work area and provides relevant guidance and on the job training;
- required to liaise with management regarding production requirements;
- responsible for inventory and stock controls as well as receipt of raw materials and dispatch of finished product;

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- sometimes involved in determining daily or weekly work schedules;
- required to furnish regular reports on production activities and other relevant information.

Maintenance

An employee at this level is a special class tradesperson and possesses appropriate certification.

In addition to the tasks of an employee at Bakery Employee Level 7 - Maintenance an employee at this level:

1. Works under limited supervision either individually or in a team environment.
2. Assists in the provision of training in conjunction with supervisors and trainers.

Indicative tasks at this level may include:

- exercising high precision trade skills using various materials and/or specialised techniques;
- working on complex or intricate circuitry;
- installing, repairing, maintaining, testing etc complex, machinery and equipment which utilise hydraulic and pneumatic principles.

Clerical

Employees at this Level perform clerical and administrative duties using a more extensive range of skills and knowledge at a level higher than required in Level 5. They are responsible and accountable for their own work. They exercise initiative, discretion and judgement within the range of their skills and knowledge. Supervision is minimal.

In addition they may be required to supervise and be responsible for the work of five or more clerical employees.

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8. WAGE RATES

(a) Adult employees shall be paid in accordance with the following classification structure which shall be read in conjunction with the classification definitions contained in Clause 7 - Definitions.

	Base Rate Relativity %	Base Rate $	Safety Net Adjustment $	Weekly Wage Rate $
Bakery Employee Level One	78.00	325.40	201.70	527.10
Level Two	82.00	342.10	201.70	543.80
Level Three	87.40	364.60	201.70	566.30
Level Four	92.40	385.50	201.70	587.20
Level Five	100.00	417.20	203.70	620.90
Level Six	105.00	438.10	203.70	641.80
Level Seven	110.00	458.90	203.70	662.60

(b) Junior Employees - Production/Distribution/Transport

The minimum weekly wage rates that shall be paid to junior employees shall be the undermentioned percentages of the adult weekly wage rate for a Bakery Employee - Level 2.

	% of Weekly Wage Rate for a Bakery Employee Level 2
Under 17 years of age	50
17 to 18 years of age	60
18 to 19 years of age	70
19 years of age and over	100

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(c) Junior Employees - Sales

The minimum weekly wage rate that shall be paid to junior employees shall be the undermentioned percentages of the adult weekly wage rate for a Bakery Employee Level - 4:-

	% of Weekly Wage Rate for a Bakery Employee Level 4
Under 17 years of age	54
17 to 18 years of age	59
18 to 19 years of age	73
19 to 20 years of age	86
20 to 21 years of age	90

(d) Junior Employees - Clerical

The minimum weekly wage rate that shall be paid to junior employees shall be the undermentioned percentages of the adult weekly wage rate for a Bakery Employee - Level 3.

	% of Weekly Wage Rate for a Bakery Employee Level 3
Under 16 years of age	40
16 to 17 years of age	45
17 to 18 years of age	55
18 to 19 years of age	70
19 to 20 years of age	80
20 to 21 years of age	90

(e) Apprentices

The minimum weekly wage rate that shall be paid to apprentices shall be the undermentioned percentages of the adult weekly wage rate for a Bakery Employee Level 5:

	% of Weekly Wage Rate for a Bakery Employee Level 5
1st year	50
2nd year	60
3rd year	75
4th year	90

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(f) Adult Apprentices

The minimum weekly wage rate that shall be paid to apprentices shall be the undermentioned percentages of the adult weekly wage rate for a Bakery Employee Level 5:

	% of Weekly Wage Rate for a Bakery Employee Level 5
1st year	78
2nd year	87.4
3rd year	92.4

(g) Supported Wage System

(i) Eligibility criteria

Subject to this subclause an employer may engage employees at a supported wage rate (as set out in paragraph (iii) of this subclause) 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 subclause 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 ALWAYS that this subclause 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.

(ii) For the purposes of this subclause:

(1) **'Supported Wage System'** means the Commonwealth Government System to promote employment for people who cannot work at full award wages because of a disability.

(2) **'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.

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(3) **'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.

(4) **'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.

(iii) Supported wage rates

Employees to whom this subclause 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 (d))	% 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.

(iv) 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:

(1) the employer and a union party to the award, in consultation with the employee or, if desired by any of these;

(2) the employer and an accredited Assessor from a panel agreed by the parties to the award and the employee.

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(v) Lodgment of assessment instrument

(1) All assessment instruments under the conditions of this subclause, 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.

(2) 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.

(vi) 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.

(vii) 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 subclause 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.

(viii) Workplace adjustment

An employer wishing to employ a person under the provisions of this subclause 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.

(ix) Trial Period

(1) 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 subclause for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding 4 weeks) may be needed.

(2) 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 (iv) and (v).

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(3) 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.

(4) Work trials should include induction or training as appropriate to the job being trialed.

(5) 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 paragraph (iii) hereof.

(h) Minimum Wage

(i) Minimum Wage

No employee shall be paid less than the minimum wage.

(ii) Amount of Adult Minimum Wage

(1) The minimum wage for full-time adult employees not covered by subclause (g) - Supported Wage System is $527.10 per week.

(2) Adults employed under a supported wage system clause shall continue to be entitled to receive the wage rate determined under that clause. Provided that such employees shall not be paid less than the amount determined by applying the percentage in the supported wage system clause applicable to the employee concerned to the amount of the minimum wage specified in subclause (ii)(1).

(3) Adults employed as part-time or casual employees shall continue to be entitled to receive the wage rate determined under the casual and part-time clauses of the award. Provided that such employees shall not be paid less than pro rata the minimum wage specified in subclause (ii)(1) according to the number of hours worked.

(iii) How the Minimum Wage Applies to Juniors

(1) The wage rates provided for juniors by this award continue to apply unless the amount determined under subclause (iii)(2) is greater.

(2) The minimum wage for an employee to whom a junior rate of pay applies is determined by applying the percentage in the junior wage rates clause applicable to the employee concerned to the relevant amount in subclause (ii)(1).

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(iv) Application of Minimum Wage to Certain Employees

Due to existing applicable award wage rates being greater than the relevant proportionate minimum wage, this clause will not apply to employees falling within the scope of the National Training Wage (Tasmanian Private Sector) Award and Trainees undertaking an apprenticeship.

(v) Application of Minimum Wage to Award Rates Calculation

The minimum wage:

(1) applies to all work in ordinary hours;

(2) applies to the calculation of overtime and all other penalty rates, superannuation, payments during personal leave, long service leave and annual leave, and for all other purposes of this award; and

(3) is inclusive of the arbitrated safety net adjustment provided by the July 2007 State Wage Case Decision (T.12940 of 2007) and all previous safety net and state wage case adjustments.

9. ANNUAL LEAVE

(a) Period of Leave

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

This period of leave shall be known as annual leave for the purposes of this award.

(b) Annual Leave Exclusive of Holidays

If any of the holidays referred to in Clause 18 - Holidays with Pay fall during an employee's period of annual leave and falls on a day which, for that employee, would have been an ordinary working day, the employee shall be credited with one additional day for such holiday.

(c) Payment in Lieu Prohibited

Except as provided in subclause (h) of this clause, payment shall not be made or accepted in lieu of taking annual leave.

(d) Broken Leave

Annual Leave shall be taken in one or two continuous periods. Where annual leave is taken in two continuous periods, one period shall be of at least 21 consecutive days, including non-working days.

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PROVIDED that the employer and employee may agree that annual leave may be taken in two periods neither of which is 21 consecutive days or in three separate periods.

Agreement reached in accordance with this subclause shall only apply in respect of one year's annual leave entitlement and new agreements will be required in future years.

PROVIDED HOWEVER that an employee may, with the consent of the employer take short-term annual leave not exceeding five days in any calendar year at a time or times separate from any of the periods determined in accordance with this subclause.

(e) Time of Taking Leave

Annual Leave shall be given and taken at a time fixed by the employer within a period not exceeding 6 months from the date when the right to annual leave accrued and after not less than 2 weeks' notice to the employee.

(f) Payment for Period of Leave

(i) All employees before going on leave shall be paid the amount of wages they would have received in respect of the ordinary time which they would have worked had they not been on leave during the relevant period.

(ii) In addition, all employees (including part-time employees [as defined]) shall receive a loading of 17.1/2% on payments made for annual leave as prescribed in paragraph (i) for annual leave falling due. Such loading shall not apply to proportionate leave on termination of service.

(iii) Part-time employees who agree to receive payment in lieu of pro rata entitlements to annual leave, personal leave and holidays with pay, shall be paid a loading on each anniversary date of employment. Such loading shall be calculated in the following manner.

(iv) 70% of the average weekly wage for the 3 months prior to the anniversary date falling due. This average weekly wage is to exclude the 20% loading paid in lieu of annual leave, personal leave and holidays with pay.

(g) Leave Allowed Before Due Date

(i) An employer may allow annual to an employee before the right thereto has accrued, however, where it is taken in such a case a further period of annual leave will not commence to accrue until after the end of the 12 months in respect of which annual leave has been taken before it accrued.

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(ii) Where leave has been granted to an employee under this subclause and the employee subsequently leaves or is dismissed from the service of the employer before completing the 12 months' continuous service in respect of which the leave was granted, the employer may, for each completed month of the qualifying period of 12 months not served by the employee, deduct from whatever remuneration is payable on termination, one twelfth of the amount of wages paid on account of the annual leave which amount shall not include any sums paid for any of the holidays prescribed by Clause 18 - Holidays with Pay.

(h) Proportionate Leave on Termination of Service

Except as otherwise provided by this clause, if after 1 completed month of service in any 12 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 the pro-rata leave at the ordinary rate of wage as follows:

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

(i) Notwithstanding provisions elsewhere in the award, the employer and the majority of employees at an enterprise may agree to establish a system of single day annual leave absences provided that:

(i) An employee may elect, with the consent of the employer, to take annual leave in single day periods or part of a single day not exceeding a total of five days in any calendar year at a time or times agreed between them.

(ii) Access to annual leave, as prescribed in paragraph (i) above, shall be exclusive of any shutdown period provided for elsewhere under this award.

(iii) An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken.

(iv) An employee or the employees may choose to request a union party to this award, to represent their interests in negotiations referred to in paragraph (i) of this subclause.

(v) Once a decision has been taken to introduce an enterprise system of single day annual leave, in accordance with this clause, its terms must be set out in the time and wages records kept pursuant to Regulation 25 of the Industrial Relations Regulations 1993.

(vi) An employer shall record these short term annual leave arrangements in the time and wages book, as prescribed in Clause 28 - Time and Wages Book of this award.

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10. BEREAVEMENT LEAVE

(a) Paid Leave Entitlement

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 or grandchild 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 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.

(b) Unpaid Bereavement Leave

An employee may take unpaid bereavement leave by agreement with the employer.

(c) Casual Employees and Employees in Receipt of a Loading in lieu of Paid Leave – Caring Responsibilities

(i) Subject to the evidentiary requirements in subclause (a), casual employees and employees in receipt of a loading in lieu of paid leave are entitled to not be available to attend work, or to leave work upon the death in Australia of an immediate family or household member.

(ii) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee and employees in receipt of a loading in lieu of paid leave are not entitled to any payment for the period of non-attendance.

(iii) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

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11. CASUAL AND PART-TIME EMPLOYEES

(a) Part Time employees (as defined) and Casual employees (as defined) shall be employed in accordance with this clause to the extent that provisions of this clause differ with other provisions of this award. Where this clause is silent other provisions of this award shall apply.

(b) Ordinary Hours of Employment

(i) Part Time Employees

A part time employees constant number of hours per week shall be as determined between the employer and the employee pursuant to the contract of service. Once established they shall not be varied by either party otherwise than by:

(1) the giving of at least one weeks notice; or

(2) by mutual consent

The ordinary hours of work for a part time employee shall not exceed 7 hours and 36 minutes on any shift and shall be worked continuously excepting for meal breaks. Such meal breaks shall be of no less than 30 minutes nor more than one hour in duration and be taken no less than 3 hours and not more than 6 hours after the commencement of the shift.

A part time employee may be engaged to work on up to five consecutive days in any week.

(ii) Casual Employees

A casual employee shall be engaged by the hour provided that the employee shall not be required to work ordinary time on more than 5 consecutive days. Casual employees shall not be required to work more than 38 ordinary time hours per week nor more than 7 hours and 36 minutes ordinary time on any shift.

(c) Payment for Ordinary Hours

(i) Part Time employees shall be paid the wage prescribed for the employees constant number of hours for each week that the employee is ready, willing and available for work during the hours prescribed by the contract of service and in addition such overtime payments to which the employee may have become entitled during the relevant period.

(ii) Casual employees shall be paid the wage prescribed for the ordinary time hours worked and in addition such overtime payments to which the employee may have become entitled during the relevant period.

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(iii) Subject to subclause (b) of this clause a part time or casual employee for working ordinary hours shall be paid per hour the following percentages of the appropriate classification level contained in Clause 8 - Wage Rates for the work performed:-

Day and time	Part Time Employees Percentage of the appropriate weekly wage rate %	Casual Employees % %
Monday to Friday between 3 am and 8 pm	2.63	3.16
Monday to Friday between 8 pm and 3 am	3.29	3.95
Saturday	3.95	4.74
Sunday	4.61	5.53
Sunday (where production solely for distribution and sale on Monday)	3.95	4.74
Holiday where day before off in lieu occurs	3.95	4.74
Holiday where day before in lieu does not occur	6.58	7.89

PROVIDED that hourly rates are to be calculated to the nearest whole cent with fractions less than 0.5 cents being disregarded.

PROVIDED HOWEVER that a part time employee may, with the agreement of the employer on an annual basis, elect to be paid at the rate of pay applicable to casual employees in lieu of paid personal leave, annual leave and payment for Holidays in accordance with Clause 18 - Holidays with Pay.

(d) Minimum Engagement

A part time or casual employee shall be engaged for a minimum period of three hours for each separate engagement at the appropriate rate of pay.

(e) Overtime - Part Time and Casual Employees

A part time or casual employee required to work in excess of the ordinary hours of work specified in subclause (b) of this clause or in excess of five consecutive days in one week shall be paid per hour the following percentages of the appropriate classification level contained in Clause 8 - Wage Rates for the work performed.

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Day	Part Time Employees	Casual Employees
	Percentage of the appropriate weekly wage rate	
	%	%
Monday to Saturday first two hours	3.95	4.47
Monday to Saturday third and subsequent hours	5.26	5.79
Sunday	5.26	5.79
Holidays with Pay	6.58	7.11

For the purpose of determining overtime entitlements, any employee who works ten minutes or more past the time fixed for ceasing work shall be paid overtime for all time worked after the time fixed for ceasing work. In computing overtime each days work shall stand alone.

12. CLOTHING

Where an employee is required to wear a washable outer garment, the employer shall supply same, and it shall be the responsibility of the employer to make arrangements to have such garment laundered or, alternatively, pay to the employee, the sum of $3.85 per week extra for such laundering.

13. CONTRACT OF EMPLOYMENT

(a) All employees, other than casuals, shall be employed by the week.

(b) An employer may engage an employee initially for a one month probationary period during which time the employer or the employee may terminate the employment contract by the giving of one day's notice or payment or forfeiture of one day's wages as the case may be.

(c) Except as provided for in subclause (e) employment may be terminated by a week's notice on either side given at any time during the week or by the payment or forfeiture of a week's wages, as the case may be.

This shall not affect the right of an employer to dismiss an employee without notice for neglect of duty or misconduct and in such cases wages shall be paid up to the time of dismissal only.

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(d) The employer in the event of misconduct may suspend an employee without pay. The maximum period of suspension shall be one week. Should the employee not agree to the suspension the union may refer the matter to the Tasmanian Industrial Commission. If upon examination the Tasmanian Industrial Commission forms the view that the suspension was harsh or unjust, it may vary the term of or rescind the suspension.

Prior to the implementation of the suspension the matter shall be discussed with an official of the union, or written notification shall be provided to the union. Where written means of notifying the employer's intention is used the employer shall not implement the suspension until 24 hours (excluding weekends and public holidays) after the union would reasonably have been expected to receive such notification. Provided that in exceptional circumstances the suspension may be implemented immediately.

(e) Stand Down

(i) An employer may deduct payment for any time an employee cannot be usefully employed because of any stoppage of work or breakdown of machinery of at least 24 consecutive hours for which the employer cannot reasonably be held responsible.

(ii) The employer shall provide to each affected employee written notice of the stand down period.

(iii) After advising the employer, an employee who has been stood down may leave his or her employment without providing the period of notice required in subclause (c) herein.

(iv) An employee shall be paid for any of the holidays specified in Clause 18 - Holidays with Pay which occur during the stand down period.

(f) (i) An employer may direct an employee to carry out such duties as are within the limits of the employee's skill, competence and training consistent with the classification structure of this award provided that such duties are not designed to promote de-skilling.

(ii) An employer may direct an employee to carry out such duties and use such tools and equipment as may be required provided that the employee has been properly trained in the use of such tools and equipment.

(iii) Any direction issued by an employer pursuant to paragraphs (i) and (ii) herein shall be consistent with the employer's responsibilities to provide a safe and healthy working environment.

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14. DISPUTES PROCEDURE

The following procedure shall be observed in the resolution of grievances and/or disputes which may arise.

(a) An employee shall first discuss the grievance and/or dispute with the employee's immediate supervisor.

(b) Should the matter remain unresolved following the procedure outlined in subclause (a) the matter shall be referred to the relevant union shop steward who shall take the matter up with the employer.

(c) Should the matter remain unresolved it shall be referred to an official of the relevant union who shall discuss the matter with the employer who may elect to be represented by his or her industrial relations adviser.

(d) Should the above procedure fail to resolve the grievance and/or dispute either party may elect to refer the matter to the Tasmanian Industrial Commission for conciliation and/or arbitration.

(e) Whilst the above procedure is being observed all work shall continue normally without disruption of any kind.

(f) In the event of a stoppage of work through a strike or stop work meeting the plant shall be left in a safe and hygienic condition.

15. FIRST AID ALLOWANCE

An employee holding current first aid qualifications from St John Ambulance, Red Cross Society or other similar and/or accredited body, who is appointed by the employer to perform first aid duty, shall receive an additional $7.30 per week.

16. FULL WEEKS WAGES TO BE PAID

Except as provided in Clause 13 - Contract of Employment, all employees, other than those engaged on a part-time or casual basis, shall be paid the weekly wage rate and any overtime or other penalty rates for each week that the employee is ready, willing and available for work.

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17. HIGHER DUTIES

(a) An employee required to temporarily perform the work of a higher graded position shall be paid the higher rate while so engaged.

(b) An employee required to act in a higher graded position for a period in excess of 3 months in any calendar year or for an unbroken period of more than 3 calendar months, shall be regraded to the higher level.

PROVIDED that an employee will not be regraded to the higher level if the employee has been acting as relief for an employee on workers compensation or parental leave. In these circumstances, the employer shall regularly consult with the relief employee and advise, wherever reasonably practicable, the date upon which the period of relief employment is expected to end.

(c) While undertaking training, an employee may be required to undertake higher graded work without additional payment.

18. 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), Recreation Day (where Hobart Regatta Day is not observed), Christmas Day and Boxing Day.

(b) Payment for the holidays mentioned in subclause (a) of this clause 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 holidays, the employee had been at work.

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

19. HOURS OF WORK

(a) Ordinary hours of work shall not exceed 38 per week to be worked in any 5 days of 7 hours and 36 minutes (excluding the meal break specified in subclause (b) of this clause) Monday to Sunday inclusive.

(b) Meal Breaks

A meal break of not less than 30 minutes shall be allowed after not less than three hours nor more than six hours work to be arranged by agreement between the employer and employee.

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(c) Rosters

(i) Rostered hours of work shall be fixed by the employer and provided to the employees at least one week in advance.

(ii) Rostered hours of work shall not be changed by the employer without the giving at least 7 day's notice or by agreement between the employer and the employee.

PROVIDED that in exceptional circumstances beyond the control of the employer, the employee may be advised of a change in his or her rostered hours of work on the previous working day.

(d) Rest Break Between Shifts

(i) An employee (other than a casual) shall be entitled to not less than 10 consecutive hours off duty between the end of the employee's ordinary day or shift and the commencement of the employee's ordinary work on the next day or shift

PROVIDED that in exceptional circumstances such as the breakdown of machinery the rest break shall be 8 hours in lieu of 10 hours

(ii) An employee required to commence work without having had such 10 or 8 hour break as specified in subclause (d)(i) shall be paid at overtime rates until the break is allowed.

(e) Ordinary Time Loadings and Penalty Rates

In addition to the hourly wage rates calculated as one thirty-eighth of the weekly wage rates specified in Clause 8 - Wage Rates, an employee performing ordinary time work in accordance with this clause shall be paid the following loadings:

(i) Work Performed between 8.00 pm and 3.00 am - 25% for each hour worked.

(ii) Saturday Work - 50% for each hour worked.

(iii) Sunday Work - 75% for each hour worked.

PROVIDED that where the purpose of work on a Sunday is solely for the production of product for distribution and sale on Monday the loading shall be 50% for each hour worked.

(iv) Holidays with Pay

An employee required to work on any of the holidays referred to in Clause 18 - Holidays with Pay shall either, as agreed between the employer and the employee:

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(A) be paid at double time and a half for all hours worked; or

(B) be allowed the day off before the holiday and, in addition, be paid at the rate of time and a half for all hours worked.

PROVIDED that agreements reached in accordance with this paragraph are to be reduced to writing and kept as part of the employment records required by Section 75 of the *Industrial Relations Act 1984*.

(f) Make Up Time

Notwithstanding provisions elsewhere in the award, the employer and the majority of employees at an enterprise may agree to establish a system of make up time provided that:

(i) An employee may elect, with the consent of the employer, to work 'make up time' under which the employee takes time off during ordinary working hours, and works those hours at a later time, during the spread of ordinary hours provided in the award.

(ii) An employee on shift work may elect, with the consent of their employer, to work 'make up time' under which the employee takes time off ordinary hours and works those hours at a later time, at the shift work rate which would have been applicable to the hours taken off.

(iii) An employee or the employees may choose to request a union party to this award, to represent their interests in negotiations referred to in paragraph (i) of this subclause.

(iv) Once a decision has been taken to introduce an enterprise system of make up time, in accordance with this clause, its terms must be set out in the time and wages record kept pursuant to Regulation 25 of the Industrial Relations Regulations 1993.

(v) An employer shall record these make up time arrangements in the time and wages records kept as prescribed in clause 29 - Time and Wages Book of this award.

(g) Rostered Days Off

Notwithstanding provisions elsewhere in the award, the employer and the majority of employees at an enterprise may agree to establish a system of Rostered Days Off provided that:

(i) An employee may elect, with the consent of the employer, to take a rostered day off at any time.

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(ii) An employee may elect, with the consent of the employer, to take rostered days off in part day amounts.

(iii) An employee may elect, with the consent of the employer, to accrue some or all rostered days off for the purpose of creating a bank to be drawn upon by the employee at times mutually agreed by the employer, or subject to the reasonable notice by the employee or the employer.

(iv) An employee or the employees may choose to request a union party to this award to represent their interests in negotiations referred to in paragraph (i) of this subclause.

(v) Once a decision has been taken to introduce an enterprise system of RDO flexibility, in accordance with this clause, its terms must be set out in the time and wages records kept pursuant to Regulation 25 of the Industrial Relations Regulations 1993.

(vi) An employer shall record these RDO arrangements in the time and wages book, as prescribed in Clause 28 - Time and Wages Book of this award.

20. NOTICE BOARD

The employer shall provide a notice board of reasonable dimensions to be erected in the establishment upon which accredited union representatives shall be permitted to post formal union notices signed or countersigned by the representative posting them.

Any notice posted on a noticeboard not signed or countersigned may be removed by an accredited union representative or by the employer.

PROVIDED that a copy of all notices shall be provided to the employer.

21. OVERTIME

(a) All work performed in excess of ordinary hours shall be deemed to be overtime and shall be paid in accordance with this clause.

An employee may be required to work reasonable overtime in accordance with the employer's requirements.

(b) Monday to Saturday

The rate of pay for overtime performed on any day Monday to Saturday inclusive shall be at time and one half for the first two hours, and double time thereafter.

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(c) Sunday

The rate of pay for overtime worked on a Sunday shall be double time for all hours so worked.

(d) Holidays with Pay

The rate of pay for overtime worked on any of the holidays with pay specified in Clause 18 - Holidays with Pay shall be double time and one half for all hours so worked.

(e) Meal Money

An employee required to work overtime for at least 2 hours beyond the employee's normal finishing time shall either be supplied with an adequate meal or be paid a meal allowance of $14.10.

PROVIDED that this provision shall not apply in circumstances where the employer has provided a minimum of 8 hours notice of the requirement to work overtime.

(f) Rest Period

(i) An employee (other than a casual employee) who works so much overtime between the termination of the ordinary work on one day and the commencement of their ordinary work on the next day that the employee did not have at least 10 consecutive hours off duty between those times shall be released after completion of such overtime until the employee has had 10 consecutive hours off duty without loss of pay for ordinary time work occurring during such absence.

PROVIDED that in exceptional circumstances such as the breakdown of machinery the rest break shall be of 8 hours in lieu of 10 hours

(ii) An employee required to commence work without having had such 10 or 8 hour break as specified in subclause (d)(i) shall be paid at overtime rates until the break is allowed.

(g) Call Back

An employee recalled to work overtime after leaving the employer's business premises (whether notified before or after leaving the premises) shall be paid for a minimum of 4 hours' work at the appropriate rate for each time the employee is so recalled.

PROVIDED that except in the case of unforeseen circumstances arising, the employee shall not be required to work the full 4 hours if the job the employee was recalled to perform is completed within a shorter period.

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This subclause shall not apply in cases where it is customary for an employee to return to the employer's premises to perform a specific job outside ordinary working hours, or where the overtime is continuous (subject to a reasonable meal break) with the completion or commencement of ordinary working time.

Overtime worked in the circumstances specified in this subclause shall not be regarded as overtime for the purposes of subclause (b) of this clause where the actual time worked is less than 2 hours on such recall or on each of such recalls.

(h) Time Off in Lieu of Payment

Notwithstanding provisions elsewhere in the award, the employer and the majority of employees at an enterprise may agree to establish a system of time off in lieu of overtime provided that:

(i) An employee may elect, with the consent of the employer, to take time off in lieu of payment for overtime at a time or times agreed with the employer.

(ii) Overtime taken as time off during ordinary time hours shall be taken at the ordinary time rate, that is an hour for each hour worked (unless otherwise provided elsewhere in the award).

(iii) An employer shall, if requested by an employee, provide payment at the rate provided for the payment of overtime as prescribed in this clause, for any overtime worked under this subclause where such time has not been taken within four weeks of accrual.

(iv) An employee or the employees may choose to request a union party to this award, to represent their interests in negotiations referred to in paragraph (i) of this subclause.

(v) Once a decision has been taken to introduce an enterprise system of time off in lieu, in accordance with this clause, its terms must be set out in the time and wages records kept pursuant to Regulation 25 of the Industrial Relations Regulations 1993.

(vi) An employer shall record these time off in lieu arrangements in the time and wages book as prescribed in Clause 28 - Time and Wages Book of this award.

(i) Requirement to work reasonable overtime

(i) Subject to paragraph (ii) of this subclause and subclause (h) of this clause, an employer may require an employee to work reasonable overtime at overtime rates.

(ii) An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable having regard to:

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(1) any risk to employee health and safety;

(2) the employee's personal circumstances including any family responsibilities;

(3) the needs of the workplace or enterprise;

(4) the notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and

(5) any other relevant matter.

22. PARENTAL LEAVE

Subject to the terms of this clause employees are entitled to maternity, paternity and adoption leave and to work part-time in connection with the birth or adoption of a child.

(a) Definitions

For the purposes of this clause:

(i) **'Child'** means a child of the employee under the age of one year except for adoption of a child where 'child' means a person under the age of five years who is placed with the employee for the purposes of adoption, other than a child or step-child of the employee or of the parent of the employee or a child who has previously lived continuously with the employee for a period of six month or more.

(ii) **'Continuous service'** means service under an unbroken contract of employment and includes:

(1) any period of leave taken in accordance with this clause;

(2) any period of part-time employment worked in accordance with this clause; or

(3) any period of leave or absence authorised by the employer or by the award.

(iii) **'Employee'** includes a part-time employee but does not include an employee engaged upon casual work, unless that work has been under a continuous contract of employment of at least 12 months.

(iv) **'Female employee'** means an employed female who is pregnant or is caring for a child she has borne or a child who has been placed with her for adoption purposes.

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(v) **'Male employee'** means an employed male who is caring for a child borne of his spouse or a child placed with the employee for adoption purposes.

(vi) **'Primary care-giver'** means a person who assumes the principal role of providing care and attention to a child.

(vii) **'Spouse'** includes a de facto or a former spouse.

(b) Entitlement

(i) After twelve months continuous service, parents are entitled to a combined total of 52 weeks unpaid parental leave on a shared basis in relation to the birth or adoption of their child. For mothers, maternity leave provisions apply and for male employees, paternity leave provisions apply. Adoption leave provisions apply in the case of adoption.

(ii) Subject to subclause (c)(vi), parental leave is to be available to only one parent at a time, in a single unbroken period, except that both parents may simultaneously take:

(1) for maternity and paternity leave, an unbroken period of up to one week at the time of the birth of the child;

(2) for adoption leave, an unbroken period of up to three weeks at the time of placement of the child.

(iii) Unless otherwise agreed between the employee and the employer, parental leave shall be granted and taken in accordance with the notice given by the employee as specified below.

(c) Maternity Leave

(i) An employee must provide notice to the employer in advance of the expected date of commencement of parental leave. The notice requirements are:

(1) of the expected date of confinement (included in a certificate from a registered medical practitioner stating that the employee is pregnant) – at least 10 weeks;

(2) of the date on which the employee proposes to commence maternity leave and the period of leave to be taken – at least 4 weeks.

(ii) Where the employee gives notice under (d) (i) the employee must also provide a statutory declaration stating particulars of any period of paternity leave sought or taken by her spouse, and that for the period of maternity leave she will not engage in any conduct inconsistent with her contract of employment.

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(iii) An employee will not be in breach of this clause if failure to give the stipulated notice is occasioned by confinement occurring earlier than the presumed date or other compelling circumstances.

(iv) An employee may commence maternity leave at any time within six weeks immediately prior to the expected date of birth.

(v) Where an employee continues to work within the six week period immediately prior to the expected date of birth, or where the employee elects to return to work within six weeks after the birth of the child, an employer may require the employee to provide a medical certificate stating that she is fit to work on her normal duties.

(vi) Special Maternity Leave

(1) 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 the employee may take unpaid special maternity leave of such periods as a registered medical practitioner certifies as necessary.

(2) Where an employee is suffering from an illness not related to the direct consequences of the confinement, an employee may take any paid personal leave to which she is entitled in lieu of, or in addition to, special maternity leave.

(3) Where an employee not then on maternity leave suffers illness related to her pregnancy, she may take any paid personal leave to which she is then entitled and such further unpaid special maternity leave as a registered medical, practitioner certifies as necessary before her return to work. The aggregate of paid personal leave, special maternity leave and parental leave, including paternity leave taken by her spouse, may not exceed 52 weeks.

(vii) Transfer to a safe job

(1) Where an employee is pregnant and, in the opinion of a registered 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 will, 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.

(2) If the transfer to a safe job is not practicable, the employee may elect, or the employer may require the employee to commence parental leave for such period as is certified necessary by a registered medical practitioner.

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(d) Paternity Leave

(i) A male employee will provide to the employer at least 10 weeks prior to each proposed period of paternity leave:

(1) that a certificate from a registered medical practitioner which names his spouse, states that she is pregnant and the expected date of confinement, or states the date on which the birth took place, and

(2) written notification of the proposed dates on which the period of paternity leave will start and finish and

(3) a statutory declaration stating:

(A) that period of paternity leave will be taken to become the primary care-giver of a child;

(B) particulars of any period of maternity leave sought or taken by the mother, and

(C) that for the period of paternity leave, the employee will not engage in any conduct inconsistent with their contract of employment.

(4) The employee will not be in breach of this subclause if the failure to give the required period of notice is because of the birth occurring earlier than expected, the death of the mother of the child, or other compelling circumstances.

(e) Adoption leave

(i) The employee will notify the employer at least ten weeks in advance of the date of commencement of adoption leave and the period of leave to be taken. An employee may commence adoption leave prior to providing such notice, where through circumstances beyond the control of the employee, the adoption of a child takes place earlier.

(ii) Before commencing adoption leave, an employee will provide the employer with a statutory declaration stating:

(1) the employee is seeking adoption leave to become the primary care-giver of the child;

(2) particulars of any period of adoption leave sought or taken by any other person in respect of that child, and

(3) that for the period of adoption leave the employee will not engage in any conduct inconsistent with their contract of employment.

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(iii) An employer may require an employee to provide confirmation from the appropriate government authority of the placement.

(iv) Where the placement of a child for adoption with an employee does not proceed or continue, the employee will notify the employer immediately and the employer will nominate a time not exceeding four weeks from receipt of notification for the employee's return to work.

(v) An employee will not be in breach of this subclause as a consequence of failure to give the stipulated periods of notice if such failure results from a requirement of an adoption agency to accept earlier or later placement of a child, the death of an adoptive parent or other compelling circumstances.

(vi) An employee seeking to adopt a child is entitled to unpaid leave for the purpose of attending any compulsory interviews or examinations as are necessary as part of the adoption procedure. The employee and the employer should agree on the length of the unpaid leave. Where agreement cannot be reached, the employee is entitled to take up to two days unpaid leave. Where paid leave is available to the employee, the employer may require the employee to take such leave instead.

(f) Parental Leave and Other Entitlements

An employee may in lieu of or in conjunction with parental leave, access any annual leave or long service leave entitlements which they have accrued subject to the total amount of leave not exceeding 52 weeks.

(g) Part time work

(i) Entitlement

With the agreement of the employer:

(1) An employee may work part-time in one or more periods at any time from the date of birth of the child until its second birthday or, in relation to adoption, from the date of placement of the child until the second anniversary of the placement.

(2) A female employee may work part-time in one or more periods while she is pregnant where part-time employment is, because of the pregnancy, necessary or desirable.

(ii) Effect of Part-time Employment on Continuous Service

Commencement on part-time work under this clause, and return from part-time work to full-time work under this clause, shall not break the continuity of service or employment.

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(iii) Pro Rata Entitlements

Subject to the provisions of this subclause and the matters agreed to in accordance with this subclause, part-time employment shall be in accordance with the provisions of this award which shall apply pro rata.

(iv) Transitional Arrangements - Annual Leave

(1) An employee working part-time under this subclause shall be entitled to any leave accrued in respect of a period of full-time employment, as if the employee was still working full-time, in the position held prior to taking leave.

(2) (A) A full-time employee shall be entitled to annual leave accrued in respect of a period of part-time employment under this subclause, as if the employee was working part-time in the position held, immediately before resuming full-time work.

(B) Provided that, by agreement between the employer and the employee, the period over which the leave is taken may be shortened to the extent necessary for the employee to receive pay at the employee's current full-time rate.

(v) Transitional Arrangements - Personal Leave

An employee working part-time under this subclause shall have personal leave entitlements which have accrued under this award (including any entitlements accrued in respect of previous full-time employment) converted into hours. When this entitlement is used, whether as a part-time employee or as a full-time employee, it shall be debited for the ordinary hours that the employee would have worked during the period of absence.

(vi) Part-time Work Agreement

(1) Before commencing a period of part-time employment under this subclause the employee and the employer shall agree:

(A) that the employee may work part-time;

(B) upon the hours to be worked by the employee, the days upon which they will be worked and commencing times for the work;

(C) upon the classification applying to the work to be performed; and

(D) upon the period of part-time employment.

(2) The terms of this agreement may be varied by consent.

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(3) The terms of this agreement or any variation to it shall be reduced to writing and retained by the employer. A copy of the agreement and any variation to it shall be provided to the employee by the employer.

(4) The terms of this agreement shall apply to the part-time employment.

(vii) Termination of Employment

(1) The employment of a part-time employee under this clause, may be terminated in accordance with the provisions of this award but may not be terminated by the employer because the employee has exercised or proposes to exercise any rights arising under this clause or has enjoyed or proposes to enjoy any benefits arising under this clause.

(2) Any termination entitlements payable to an employee whose employment is terminated while working part-time under this clause, or while working full-time after transferring from part-time work under this clause, shall be calculated by reference to the full-time rate of pay at the time of termination and by regarding all service as a full-time employee as qualifying for a termination entitlement based on the period of full-time employment and all service as a part-time employee on a pro rata basis.

(viii) Extension of Hours of Work

An employer may request, but not require, an employee working part-time under this clause to work outside or in excess of the employee's ordinary hours of duty provided for in accordance with paragraph (vi).

(ix) Nature of Part-time Work

The work to be performed part-time need not be the work performed by the employee in his or her former position but shall be work otherwise performed under this award.

(x) Inconsistent Award Provisions

An employee may work part-time under this clause notwithstanding any other provisions of this award which limits or restricts the circumstances in which part-time employment may be worked or the terms upon which it may be worked including provisions:

(1) limiting the number of employees who may work part-time;

(2) establishing quotas as to the ratio of part-time to full-time employees;

(3) prescribing a minimum or maximum number of hours a part-time employee may work; or

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(4) requiring consultation with, consent of or monitoring by a union;

and such provisions do not apply to part-time work under this clause.

(h) Replacement Employees

(i) A replacement employee is an employee specifically engaged as a result of an employee proceeding on parental leave or working part time in accordance with this clause.

(ii) A replacement employee may be employed part-time. The provisions of this subclause in relation to annual leave and personal leave apply to the part-time employment of replacement employees.

(iii) Before an employer engages a replacement employee under this paragraph, the employer shall inform the person of the temporary nature of the employment and of the rights of the employee who is being replaced. Specifically, the employer must advise that the period of engagement is subject to variation or change in the event that the employee on leave exercises the right to vary the period of leave.

(iv) Unbroken service as a replacement employee shall be treated as continuous service.

(v) Nothing in this subclause shall be construed as requiring an employer to engage a replacement employee.

(i) Return to Former Position after a Period of Parental Leave or Part Time Work

Unless other wise agreed between employee and employer, and consistent with the provisions of this clause

(i) An employee will give at least four weeks' notice prior of their intention to return to work after a period of parental leave or part time work in accordance with this clause.
(ii) An employee will be entitled to the position which they held immediately before proceeding on parental leave or part time work. In the case of an employee transferred to a safe job pursuant to subclause (c)(vii) of this clause, the employee will be entitled to return to the position they held immediately before such transfer.
(iii) During the period of parental leave an employee shall be entitled to return to work at any time, as agreed between the employer and the employee, provided that the employer may require notice of not more than four weeks.

(iv) An employee shall be entitled to extend the period of parental leave on one occasion, provided that the employer may require notice of not more than four weeks.

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By mutual agreement between the employee and the employer, the period of leave may be further extended.

(j) Redundancy

(i) If a position held by an employee prior to taking parental leave is likely to be made redundant before the employee returns to work, the employer must advise the employee of the impending redundancy, provide an opportunity for consultation and shall not disadvantage the employee by virtue of the taking of parental leave.

(ii) Where such position no longer exists but there are other positions available which the employee is qualified for and is capable of performing, the employee will be entitled to a position as nearly comparable in status and pay to that of their former position.

(k) Right To Request Variation To Parental Leave Provision

(i) An employee entitled to parental leave pursuant to the provisions of this clause may request the employer to allow the employee:

(1) to extend the period of simultaneous unpaid parental leave up to a maximum of eight weeks;

(2) to extend the period of unpaid parental leave by a further continuous period of leave not exceeding 12 months;

(3) to return from a period of parental leave on a part-time basis until the child reaches school age,

to assist the employee in reconciling work and parental responsibilities.

(ii) The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

(l) Communication During Parental Leave

(i) Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:

(1) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and

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(2) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.

(ii) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

(iii) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with (l)(i)(1).

23. PAYMENT OF WAGES

Wages shall be paid weekly no later than Thursday in each week.

PROVIDED that by mutual agreement between the employer and the majority of employees, wages may be paid in a manner otherwise than as specified above.

24. PERSONAL LEAVE

The provisions of this clause apply to an employee, other than one engaged as a casual or a part-time employee in receipt of a loading in lieu of an entitlement to paid leave as specified in Clause 11 – Casual and Part-Time Employees. The entitlement of casual employees and employees in receipt of a loading in lieu of an entitlement to paid leave are set out in subclause (i) – Casual Employees and Employees in Receipt of a Loading in lieu of Paid Leave – Caring Responsibilities.

(a) Definitions

The term **'immediate family'** includes:

(i) **spouse** (including a former spouse, a de facto spouse and a former de facto spouse) of the employee. A de facto spouse means a person of the opposite sex to the employee who lives with the employee as his or her husband or wife on a bona fide domestic basis; and

(ii) **child** or an **adult child** (including an adopted child, a step child or an ex-nuptial child), parent, grandparent, grandchild or sibling of the employee or spouse of the employee.

(b) Amount of Paid Personal Leave

(i) Paid personal leave is available to an employee, when they are absent:

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(1) due to personal illness or injury; or

(2) for the purposes of caring for an immediate family or household member who is sick and requires the employee's care and support or who requires care due to an unexpected emergency.

(ii) An employee shall be entitled to a personal leave credit of 76 hours of ordinary working time (whether in the employment of one employer or of more) in any 12 monthly period.

PROVIDED that in the first 3 months of employment personal leave shall accumulate on the basis of 6.33 hours for each completed month of continuous service. Provided that following completion of three months service an employee shall receive payment for any personal leave taken during the three months but not paid.

(iii) For the purpose of administering paragraph (ii) of this subclause, an employer may, within 2 weeks of the employee commencing employment, require the employee to provide a written statement of any personal leave he or she has had from an employer during the current year.

(iv) Personal leave shall accumulate from year to year so that any balance of the period specified in paragraph (b)(ii) of this clause which has in any year not been allowed to an employee by an employer as paid personal leave shall be credited to the employee, and subject to the conditions set out in this clause shall be allowed by that employer in a subsequent year without reduction of the personal leave prescribed in respect of that year.

(v) An employer shall not be required to make any payment in respect of accumulated personal leave credits to an employee who is discharged or leaves the employment, or for any time an employee is absent from work without producing satisfactory evidence of personal illness.

(c) Personal Leave for Personal Injury or Sickness

An employee is entitled to use the full amount of their personal leave entitlement including accrued leave for the purposes of personal illness or injury, subject to the conditions set out in this clause.

(d) Personal Leave to Care for an Immediate Family or Household Member

(i) An employee is entitled to use up to 10 days personal leave, including accrued leave, each year to care for members of their immediate family or household who are sick and require care and support or who require care due to an unexpected emergency, subject to the conditions set out in this clause.

Leave may be taken for part of a single day.

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(ii) By agreement between an employer and an individual employee, the employee may access an additional amount of their accrued personal leave for the purposes set out in paragraph (d)(i), beyond the limit set out in paragraph (d)(i). In such circumstances, the employer and the employee shall agree upon the additional amount that may be accessed.

(e) Employee Must Give Notice

The employee shall, prior to the commencement of the personal leave, inform the employer of the inability to attend for work, and as far as practicable, state the nature of the illness or injury and the estimated duration of the absence.

Where such notification is not given, the employer shall be entitled to require, as proof in accordance with paragraph (f)(i) herein, a certificate signed by a medical practitioner.

PROVIDED that where the employee is genuinely unable to give notification prior to the commencement of the shift, the requirements of paragraph (f)(i) herein shall apply.

(f) Evidence Supporting Claim

(i) the employee shall prove to the satisfaction of the employer (or in the event of a dispute, the Tasmanian Industrial Commission) that he or she was unable on account of such illness or injury to attend for work on the day or days for which the personal leave is claimed.

(ii) When taking leave to care for members of their immediate family or household who require care due to an unexpected emergency, the employee must, if required by the employer, establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

(g) Personal Leave and Workers' Compensation

The employee shall not be entitled to personal leave for any period in which the employee is entitled to worker's compensation;

(h) Unpaid Personal Leave

Where an employee has exhausted all paid personal leave entitlements, they are entitled to take unpaid personal leave to care for members of their immediate family or household who are sick and require care and support or who require care due to an unexpected emergency. The employer and the employee shall agree on the period. In the absence of agreement, the employee is entitled to take up to two days (up to a maximum of 16 hours) per occasion, provided the requirements of subclauses (e) and (f) are met.

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(i) Casual Employees and Employees in Receipt of a Loading in lieu of Paid Leave – Caring Responsibilities

Subject to the evidentiary and notice requirements in subclauses (e) and (f) casual employees and employees in receipt of a loading in lieu of paid leave are entitled to not be available to attend work, or to leave work if they need to care for members of their immediate family or household who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.

The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee and employees in receipt of a loading in lieu of paid leave are not entitled to any payment for the period of non-attendance.

An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

25. RIGHT OF ENTRY OF UNION OFFICIALS

Right of entry of union officials shall be in accordance with Section 77 of the *Industrial Relations Act 1984*.

26. STRUCTURAL EFFICIENCY

(a) The parties to this award are committed to cooperating positively to increase the efficiency, productivity and competitiveness of the Wholesale Plant Baking Industry and to enhance the career opportunities and job security of employees in the industry.

(b) At each plant or enterprise, the employer, the employees and the union may establish a consultative mechanism and procedures appropriate to the size, structure and needs of that plant or enterprise. Measures raised by the employer, employees or union for consideration consistent with the objectives of subclause (a) of this clause shall be processed through the consultative mechanism and procedure.

(c) Measures raised for consideration consistent with subclause (b) of this clause shall be related to implementation of the new classification structure, the facilitative provisions contained in this award, structural efficiency issues and matters concerning training.

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(d) Enterprise Flexibility

(i) Notwithstanding anything contained in this award, but subject to the provisions of this subclause, an agreement may be entered into between an employer and all or some of the employees engaged by that employer.

(ii) An agreement shall be subject to the following requirements:

(A) The majority of employees affected by the change must genuinely agree to the change.

(B) The agreement taken as a whole shall not confer a lesser benefit to any employee than is available under the award.

(C) The union shall be advised by the employer of the intention to commence discussions with employees on an agreement under this clause.

(D) The union must be a party to the Agreement.

(E) The union shall not unreasonably oppose any agreement.

(iii) Any enterprise agreement shall be signed by the parties, being the employer and the union, and contain the following:

(A) The term of the agreement.

(B) The parties covered by the agreement.

(C) The classes of employees covered by the agreement.

(D) The means by which a party may retire from the agreement.

(E) The means by which the agreement may be varied.

(F) Where appropriate, the means by which any dispute arising in respect to the agreement may be resolved.

(iv) Any agreement which seeks to vary a provision of this award shall be referred to the Tasmanian Industrial Commission.

27. SUPERANNUATION

(a) Contribution

(i) An employer shall make a contribution consistent with the requirements of the relevant legislation of the Federal Parliament for eligible employees into an approved fund (as defined).

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(ii) Contributions to the fund shall be made by the employer on at least a calendar monthly basis unless there are circumstances for which the employer cannot be held responsible.

(b) Definitions

'Approved fund' means a superannuation fund or scheme approved in accordance with the Commonwealth Operational Standards for Occupational Superannuation Funds.

28. TIME AND WAGES BOOK

Each employer shall keep a time and wages book or other suitable record which complies with the requirements of Section 75 of the *Industrial Relations Act 1984*.

29. UNION DELEGATE

An employee appointed union delegate at the workplace at which the employee is employed shall, after written notice to the employer, be recognised as an accredited representative of the union to which the employee belongs and shall be allowed the necessary time during work hours to interview the employer or the employer's representative on matters affecting employees whom the employee represents.

PROVIDED that if requested the delegate may be accompanied at such interview by another employee or a union official.

James P McAlpine
COMMISSIONER

17 July 2007