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TASMANIAN INDUSTRIAL COMMISSION

s23 application for award or variation of award

Tasmanian Trades and Labor Council
(T11548 of 2004)
Private Sector Awards

Tasmanian Trades and Labor Council
(T11564 of 2004)
Private Sector Awards

Tasmanian Trades and Labor Council
(T11566 of 2004)
Private and Public Sector Awards

FULL BENCH:

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

Wage Rates – State Wage Case July 2004 – applications to vary private sector awards in a manner consistent with the Australian Industrial Relations Commission in Print PR002004 – Safety Net Review – Award rates to be increased by \$19 per week – Wage related allowances increased by 3.5% - Meal allowances increased to \$12.70 – Supported Wage increased to \$61 per week – Operative date ffpp 1 August 2004 – State Minimum Wage determined at \$467.40 – s.35(1)(b)

**Australian Liquor, Hospitality and Miscellaneous Workers Union -
Tasmanian Branch**
(T11412 of 2004)

FULL BENCH:

PRESIDENT P L LEARY
DEPUTY PRESIDENT P C SHELLEY
COMMISSIONER J P McALPINE

Award variation – union name change - application approved

RESTAURANT KEEPERS AWARD

ORDER BY CONSENT -

**No. 4 of 2004
(Consolidated)**

CLAUSES 6, 8, 15 and 22 ARE VARIED, AND THE AWARD IS CONSOLIDATED

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1. TITLE

This award shall be known as the "Restaurant Keepers Award".

2. SCOPE

This award is established in respect of the industries of:

- (a) Restaurant Keeper;
- (b) Keeper of a boarding house accommodating four or more boarders;
- (c) Keeper of a Hostel;
- (d) Caterer;
- (e) Keeper of an Unlicensed Residential Club; and
- (f) Supplier of cooked or prepared food which is not to be consumed on the supplier's premises so long as the supplier is not within the jurisdiction of the Retail Trades Award.

3. ARRANGEMENT

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4. DATE OF OPERATION

This award shall come into operation from the first full pay period to commence on or after 1 August 2004.

5. SUPERSESSION AND SAVINGS

This award incorporates and supersedes the Restaurant Keepers Award No. 2 of 2003 (Consolidated), No 3 of 2003, No 1 of 2004, No 2 of 2004 and No 3 of 2004.

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

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6. PARTIES AND PERSONS BOUND

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

- (a) all employers (whether members of a Registered Organisation or not) who are engaged in the industry specified in Clause 2 - Scope;
- (b) all employees (whether members of a Registered Organisation or not) for whom classifications appear in this award and who are engaged in the industry specified in Clause 2 - Scope;
- (c) the following organisations of employees in respect of whom award interest has been determined:
 - (i) the Liquor, Hospitality and Miscellaneous Union - Tasmanian Branch, and the officers of that organisation and their members who are employed in the industry specified in Clause 2 - Scope;
 - (ii) the Australian Municipal, Administrative, Clerical and Services Union, and the officers of that organisation and their members who are employed in the industry specified in Clause 2 - Scope; and
 - (iii) the Shop, Distributive and Allied Employees Association, Tasmanian Branch, and the officers of that organisation and their members who are employed in the industry specified in Clause 2 - Scope.
- (d) the following organisations of employers in respect of whom award interest has been determined:
 - (i) the Australian Mines and Metals Association (Incorporated), Tasmanian Branch and the officers of that organisation and their members who are engaged in the industry specified in Clause 2 - Scope;
 - (ii) The Retail Traders Association of Tasmania and the officers of that organisation and their members who are engaged in the industry specified in Clause 2 - Scope;
 - (iii) the Tasmanian Chamber of Commerce and Industry Limited.

7. DEFINITIONS

- (a) INTRODUCTORY/ENTRY LEVEL

'Introductory Level' shall mean a worker who enters the industry and is unable to meet the competency requirements of Grade 1 will remain in this level for a maximum of 494 hours.

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PROVIDED that an additional 494 hours may be served at this level by mutual agreement between the employer and employee, and the union where such an employee is a union member. Further, if any disagreement arises from this provision it shall be determined in accordance with the disputes settling clause of this award.

(b) FOOD AND BEVERAGE SERVICE

- **'Food And Beverage Service Grade 1'** shall mean an employee with at least 494 hours experience carrying out a broad range of functions at this level.

Duties include any or all of the below listed duties which are indicative of this grade, under supervision:

- cleaning and tidying of kitchen, food preparation or customer services areas, including the cleaning of equipment, crockery and general utensils, as well as general cleaning duties in and around the employer's premises;
- assembly and preparation of ingredients for cooking including preparation of takeaway foodstuffs;
- handling, storing and distributing goods, including pantry items;
- setting and/or wiping down tables, removing food plates, emptying ashtrays and picking up glasses;
- providing general assistance to employees of a higher grade.

Shall not (except a takeaway service attendant in a takeaway establishment) include service to customers.

PROVIDED that the following categories of employees, who would ordinarily be classified as Food and Beverage Service Grade 2, may perform the duties of Grade 2 under close supervision, and be paid as Food and Beverage Service Grade 1, to achieve the competency levels of Food and Beverage Service Grade 2:

- An employee without previous experience in the relevant duties at Food and Beverage Service Grade 2 shall remain in this grade for a maximum of 60 hours actual service; or
- An employee with at least one years experience performing the relevant duties in Grade 2 and who has not been employed performing such duties in the immediately preceding two years or an employee with the appropriate level of training without previous industry experience performing the relevant duties in Grade 2 shall remain on this level for a maximum of 30 hours.

PROVIDED FURTHER that this progression shall only apply to employees engaged to perform duties at Food and Beverage Service Grade 2.

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- **'Food And Beverage Service Grade 2'** shall mean an employee who has the appropriate level of training, undertaking functions at a level of complexity greater than Grade 1 and as applicable has completed the required service at Food and Beverage Service Grade 1.

Shall competently undertake any or all of the below listed duties under routine supervision and shall be responsible for ensuring the quality and accuracy of their own work but may be still training in aspects of the duties.

Duties include any of the following:

- heating prepared meals and/or preparing simple food items, such as sandwiches and salads;
 - cooking of breakfasts and snacks, baking pastry, cooking or butchering;
 - undertaking general waiting duties of both food and/or beverages, including cleaning of restaurant equipment, preparing tables and sideboards, taking customer orders, serving food and/or beverages and clearing tables, and under general supervision the greeting and seating of guests;
 - supplying, dispensing or mixing of liquor, including cleaning of bar area and equipment, preparing the bar for service, taking orders and serving drinks;
 - assisting in the cellar;
 - receipt of monies;
 - receiving, storing and distributing goods;
 - engaged in delivery duties;
- **'Food And Beverage Service Grade 3'** shall mean an employee who has the appropriate level of training undertaking functions at a level of complexity greater than Grade 2;

shall competently undertake any or all of the below duties with little or no supervision.

Duties include any of the following:

- undertaking general waiting duties of both food and liquor service including supplying, dispensing or mixing of liquor;
- non-cooking kitchen duties of a specialised nature;
- cooking duties including baking, pastry cooking or butchery;
- as Food and Beverage Attendant Grade 2 who is involved in the operation of mechanical lifting device or attending TAB terminal;

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- taking reservations, greeting and seating guests;
 - full control of a cellar or liquor store (including the receipt, delivery and recording of goods within such an area);
 - mixing a range of sophisticated drinks;
 - may provide guidance, supervision and training to employees at this or lower grades.
- **'Food And Beverage Service Grade 4'** shall mean an employee who has completed an apprenticeship or who has passed the appropriate trade test.

Duties include any of the following:

- cooking (known as a Commis Chef), baking, pastry cooking or butchering;
 - specialised skilled duties in a fine dining room or restaurant.
- **'Food And Beverage Service Grade 5'** shall mean an employee who has completed an apprenticeship or who has passed the appropriate trade test and appropriate additional training; or appropriate level of management training.

Shall be engaged in the supervision and training of other employees including the development of on-the-job training for other employees.

Duties include any of the following:

- general or specialised cooking (known as Demi Chef), butchering, baking or pastry cooking and/or supervises and trains other cooks and kitchen employees;
 - supervisor of a food and beverage area who has overall responsibility for a bar, series of bars or food outlet area/s
 - supervision, training and co-ordination of food and beverage staff or stock control for a bar or series of bars or food outlets.
- **'Food And Beverage Service Grade 6'** shall mean an employee who has completed the appropriate level of trade and post-trade training;

Shall supervise, co-ordinate and/or train other kitchen staff.

Duties include any of the following:

- cooking (known as a Chef de Partie), baking, pastry cooking or butchering who carries out the ordering and stock control.

Shall also include a cook solely responsible for other cooks and employees in a single kitchen establishment.

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(c) GUEST SERVICE

- **'Guest Service Grade 1'** shall mean an employee undertaking the appropriate level of training with at least three months experience undertaking a broad range of functions at a level higher than that prescribed for the introductory level employee.

Duties include any of the following:

- laundry and/or linen duties which may include minor repairs to linen or clothing such as buttons, zips, seams, and working with flat materials;
- the collection and delivery of guests' personal dry-cleaning and laundry, linen and associated materials to and from accommodation areas;
- performs general cleaning duties (not in accommodation areas);
- parking guest cars;

'STORE PERSON' - receives and stores general and perishable goods including cleaning of stores area.

'PERSON NOT OTHERWISE CLASSIFIED' - included within this grade shall be any employee for which no specific grade exists in this award.

- **'Guest Service Grade 2'** shall mean an employee undertaking the appropriate level of training;

undertake a range of functions with little or no supervision.

Duties include any of the following:

- servicing accommodation areas and cleaning thereof;
- receiving and assisting guests at the entrance to the establishment;
- transferring guests' baggage to and from rooms;
- driving a passenger or courtesy vehicle;
- providing butler services, basic food or beverage service and personalised guest service;
- assists in the maintenance of dress standards and good order at the establishment;

HANDY PERSON - routine repair work and maintenance in and about the establishment.

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STORE PERSON - store duties outlined at Grade 1 and in addition may also operate a mechanical lifting equipment such as a forklift and/or may perform duties of a more complex nature.

- **'Guest Service Grade 3'** shall mean an employee undertaking the appropriate level of training;

shall competently undertake any or all of the below listed duties with little or no supervision or is carrying out duties at Grade 1 or 2 and is responsible for the training and supervision of other employees at lower grades.

Duties include any of the following:

- providing butler services, basic food or beverage service and personalised guest service;
 - major repair of linen and/or clothing including basic tailoring and major alterations and refitting;
 - dry-cleaning;
 - timekeeping of staff, security of keys, checking in and out of delivery vehicles.
- **'Greenkeeper Grade 1'** shall mean a greenkeeper or gardener who attends and maintains a garden; and/or

cares for the alignment, maintenance and satisfactory condition of all sporting and playing areas and may be required to operate machinery or equipment and carry out minor repairs and maintenance thereto.

- **'Greenkeeper Grade 2'** shall mean a greenkeeper or gardener employee with the appropriate level of training undertaking functions at a level of complexity greater than Grade 1; and

shall competently undertake any or all of the duties outlined at Grade 1 with little or no supervision and may assist in the training and supervision of other employee/s. A non-trade greenkeeper, working alone shall be included at this grade.

- **'Greenkeeper Grade 3'** shall mean a gardener or greenkeeper who has completed an apprenticeship or who has passed the appropriate trade test.
- **'Greenkeeper Supervisor'** shall mean a tradesperson, greenkeeper known as a Supervisor, Curator or Superintendent - in charge, who is responsible for the operation of an area and in charge of the greenkeeping or gardening area where more than one greenkeeper is employed;

an advanced skill and/or supervisory course will have been completed.

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(d) ADMINISTRATIVE (INCLUDING FRONT OFFICE)

- **'Clerical Grade 1'** shall mean an employee undertaking the appropriate level of training with at least three months experience;

shall competently undertake any or all of the below listed duties under direct supervision and will exercise minimal discretion:

- basic clerical and routine office duties including collating, filing, photocopying, delivering messages and typing and data processing.

- **'Clerical Grade 2'** shall mean an employee undertaking the appropriate level of training:

carries out routine and repetitive functions, speed, accuracy and reliability expected. Limited decision making, may have responsibility for guidance of Grade 1 personnel and juniors. Calculations of moderately complex nature.

Eg. Shorthand Typist, Switchboard Attendant (solely engaged), Telex Operator, Despatch Clerk, Production Clerk, Punch Card Operator, Verifier, Accountant Machine Operator.

- **'Clerical Grade 3'** shall mean an employee who has the appropriate level of training and who performs any of the following:

- operates adding machines, switchboard, paging system, telex machine, typewriter and calculator;
- uses knowledge of keyboard and function keys to enter and retrieve data through computer terminal;
- copy types at 25 words per minute with 98 percent accuracy;
- maintains mail register and records;
 - maintains 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;
 - transcribes information into records, completes forms, takes telephone messages;
- acquires and applies a working knowledge of office or sectional operating procedures and requirements;
 - acquires and applies a working knowledge of the organisation's structure and personnel in order to deal with inquiries at first instance, locates appropriate staff in different sections, relays internal information, responds to or redirects inquiries, greets visitors;

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- keeps appropriate records;
 - sorts, processes and records original source financial documents (eg. invoices, cheques, correspondence) on a daily basis; maintains and records petty cash, prepares bank deposits and withdrawals and does banking;

and who has the appropriate level of training and also performs any of the following:

- operates computerised radio telephone equipment, micro/personal computer, printing devices attached to personal computer, dictaphone equipment, typewriters;
- produces documents and correspondence using knowledge of standard formats, touch types at 40 words per minutes with 98 percent accuracy, audio types;
- uses one or more software application package(s) developed for a micro/personal computer to operate and populate a database, spreadsheet/worksheet to achieve a desired result; graph previously prepared spreadsheet; use simple menu utilities of personal computer;
 - follows standard procedures or template for the preceding functions using existing models/fields of information. Creates, maintains and generates simple reports;
 - uses a central computer resource to an equivalent standard;
- uses one or more software package(s) to create, format, edit, proof read, spell check, correct, print and save text documents, eg. standard correspondence and business documents;
- takes shorthand notes at 70 words per minutes and transcribed with 95 percent accuracy;
- arranges travel bookings and itineraries, makes appointments, screens telephone calls, follows visitor protocol procedures, establishes telephone contact on behalf of executive;
- applies a working knowledge of the organisation's products/services, function, locations and clients;
 - responds to and acts upon most internal/external inquiries from own function area;
- uses and maintains a computer-based record management system to identify, access and extract information for internal sources;
 - maintains circulation, indexing and filing systems for publications, reviews files, closes files, archives files;

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- maintains financial records and journals, collects and prepares time and wage records; prepares accounts queries from debtors; posts transactions to ledgers.
- **'Clerical Supervisor'** shall mean an employee undertaking the appropriate level of training which requires a technical (may including accounting degree) and/or supervisory training;

shall undertake a broad range of clerical functions including the total range of clerical and administrative functions utilising advance skills with little or no supervision and will supervise and be accountable for the work of other clerical employees and for the assessment and/or delivery of on-the-job training of other employees. Will include a professionally qualified accountant and chief clerk total responsibility for administration of an office.

(e) GENERAL DEFINITIONS

'Accommodation establishment' shall mean an establishment that provides accommodation, including all work classifications as defined in this award (but not including establishments within the jurisdiction of the Hotels, Resorts, Hospitality and Motels or Licensed Clubs Awards). Without limiting the generality of this provision it shall include industrial catering (where accommodation provided) hostel, boarding house or unlicensed residential club.

'Casual employee' means any person specially engaged to work on irregular basis, as or when required by mutual consent between employer and employee, but does not include any person employed on a part-time or full-time basis.

'Catering contractor' shall mean an employer who under an arrangement with his client, contracts to cater for private functions held at or away from the contractor's premises.

'Food and beverage establishment' shall mean an establishment where food and/or beverage are prepared and/or sold including all work classifications as defined in this award (but not including accommodation or any establishment within the jurisdiction of the Hotels, Resorts, Hospitality and Motels or Licensed Clubs Awards). Without limiting the generality of this provision it shall include a restaurant, takeaway food, cafeteria, canteen, coffee shop and tea house.

'Industrial caterer' shall mean an employer carrying on the business of catering and/or providing accommodation for an unlimited number of persons involved in Industrial Undertakings on location where catering is provided for on the basis of a minimum of two main meal times per day.

'Licensed establishment' shall mean an establishment licensed under the Licensing Act so long as the licensed establishment is not within the jurisdiction of the Hotels, Resorts, Hospitality and Motels or Licensed Clubs Awards.

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'Progression/promotion' will be on the basis of the duties carried out by the employee and having acquired the skill and competency outlined in the appropriate level of training (subject to phasing-in period) and on being selected on merit when a position becomes available.

'Rostered day off' for the purposes of this award, a rostered day off (RDO) shall be considered to be any continuous 24 hour period between the completion of the last ordinary shift and the commencement of the next ordinary shift on which an employee is rostered on for duty.

'Spread of hours' means the period of time elapsing from the time an employee commences duty to the time the employee ceases duty within any period of 24 hours.

'Union' for the purposes of this award shall mean the Australian Liquor, Hospitality and Miscellaneous Workers Union - Tasmanian Branch thereof.

8. WAGE RATES

1. CAREER STRUCTURE / GRADES

An adult employee of a grade specified in the table hereunder shall be paid the weekly wage rate assigned opposite the grade wage / salary.

	Base Rate Relativity %	Base Rate \$	Safety Net Adjustment \$	Weekly Wage Rate \$
(i) Introductory/Entry Level	78.00	325.40	142.00	467.40
(ii) Food & Beverage Service				
Food and Beverage Service Grade 1	82.00	342.10	142.00	484.10
Food and Beverage Service Grade 2	88.00	367.20	142.00	509.20
Food and Beverage Service Grade 3	92.40	385.50	142.00	527.50
Food and Beverage Service Grade 4	100.00	417.20	144.00	561.20
Food and Beverage Service Grade 5	110.00	458.90	144.00	602.90
Food and Beverage Service Grade 6	115.00	479.80	142.00	621.80
(iii) Guest Service				
Guest Service Grade 1	82.00	342.10	142.00	484.10
Guest Service Grade 2	88.00	367.20	142.00	509.20
Guest Service Grade 3	92.40	385.50	142.00	527.50
Greenkeeper Grade 1	88.00	367.20	142.00	509.20
Greenkeeper Grade 2	92.40	385.50	142.00	527.50
Greenkeeper Grade 3	100.00	417.20	144.00	561.20
Head Greenkeeper	110.00	458.90	144.00	602.90

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(iv) Administrative

Clerical Grade 1	90.00	375.50	142.00	517.50
Clerical Grade 2	95.00	396.30	142.00	538.30
Clerical Grade 3	100.00	417.20	144.00	561.20
Clerical Supervisor	120.00	500.60	142.00	642.60

(v) General Provisions

- (1) Notwithstanding the recognition of these career path streams, such streaming does not prevent employees undertaking duties across different streams.

PROVIDED that where work is undertaken at a higher grade and/or at a higher rate than Clause 24 - Mixed Functions - Higher and Lower Grade Work applies.

- (2) Any employee who is at the date of this award in receipt of a wage rate in excess of that herein prescribed shall not have his/her weekly wage rate reduced as a result of this award.

2. MINIMUM WAGE

(a) Minimum Wage

No employee shall be paid less than the minimum wage.

(b) Amount of Adult Minimum Wage

- (i) The minimum wage for full-time adult employees not covered by subclause 5 - Supported Wage System, is \$467.40 per week.
- (ii) 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 (b)(i).
- (iii) 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 (b)(i) according to the number of hours worked.

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(c) How the Minimum Wage Applies to Juniors

- (i) The wage rates provided for juniors by this award continue to apply unless the amount determined under subclause (c)(ii) is greater.
- (ii) 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 (b)(i).

(d) 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.

(e) Application of Minimum Wage to Award Rates Calculation

The minimum wage:

- (i) applies to all work in ordinary hours;
- (ii) applies to the calculation of overtime and all other penalty rates, superannuation, payments during sick leave, long service leave and annual leave, and for all other purposes of this award; and
- (iii) is inclusive of the arbitrated safety net adjustment provided by the July 2004 State Wage Case Decision (T11548 of 2004) and all previous safety net and state wage case adjustments.

3. JUNIORS

The minimum weekly wage rate to be paid to junior employees shall be the undermentioned percentages of the weekly wage rate prescribed for the appropriate adult weekly wage rate calculated to the nearest 10 cents:

Age	Administrative (based on Clerical Grade 2) %	All Others (based on appropriate grade) %
Under 16 years of age	40	54
16 to 17 years of age	45	54
17 to 18 years of age	55	60
18 to 19 years of age	70	75
19 to 20 years of age	80	90
20 to 21 years of age	90	100

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(a) Administrative

When determining the weekly wage rate payable to an employee attaining the age of 21 years, who has been employed as a junior Administrative employee in the occupations or groups of occupations in respect of which awards of the Tasmanian Industrial Commission are established, applicable to private industry employees experience obtained after reaching the age of 18 years shall be counted as adult experience.

(b) Licensed Establishments

The minimum percentage payable to all employees, except Administrative, shall be 60 percent of the appropriate adult weekly wage rate.

(c) No employee under the age of 18 years shall be required to work more than 10 hours in a shift.

4. APPRENTICES

Food and Beverage Trade

Percentage of Food &
Beverage Grade 4
%

First 6 months	62
Second 6 months	76
Third 6 months	76
Fourth 6 months	90
Fifth 6 months	90

Greenkeeping

Percentage of Greenkeeper
Grade 3
%

First year	45
Second year	55
Third year	75
Fourth year	90

Kitchen Trades

Percentage of Food &
Beverage Grade 4
%

First year	50
Second year	65
Third year	80
Fourth year	90

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5. SUPPORTED WAGE SYSTEM

(a) Eligibility Criteria

Subject to this subclause an employer may engage employees at a supported wage rate (as set out in paragraph (c) 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 FURTHER that this subclause does not apply to employers in respect of their facility, program, 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 Section 10 or under Section 12A of the above Act, or if a part only has received recognition, that part.

(b) For the purposes of this subclause:

'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.

'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.

'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.

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

(c) 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:

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Assessed capacity (paragraph (d))	Percentage of prescribed award rate
10%	10
20%	20
30%	30
40%	40
50%	50
60%	60
70%	70
80%	80
90%	90

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

(d) Assessment of Capacity

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

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

(e) Lodgment of Assessment Instrument

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

(f) Review of Assessment

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

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(g) Other Terms and Conditions of Employment

Where an assessment has been made, the applicable percentage shall apply to the wage rate only. Employees covered by the supported wage provisions of this 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.

(h) 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.

(i) Trial Period

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

9. ANNUAL LEAVE

(a) Period of Leave

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

By agreement between the employer and the employee annual leave may be taken in more than one period.

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(b) Leave to be Given and Taken

The annual leave shall be given and taken within a period of 12 months of such leave falling due and, except as provided in subclause (c) of this clause, payment shall not be made or accepted in lieu thereof.

(c) Proportionate Leave on Termination of Service

Where an employee on weekly hiring is engaged for a period of less than 12 months or whose employment is terminated within the period by the employer through no fault of the employee, or the employee lawfully leaves the employment, the employee shall be paid at the ordinary rate of wage as follows:

twelve and two thirds hours for each completed month of continuous service.

(d) Annual Leave Exclusive of Public Holidays

The annual leave prescribed by this clause shall be exclusive of any of the holidays mentioned in Clause 20 - Holidays with Pay hereof, and if any such holiday falls within the period of an employee's annual leave, another day or days shall be added to that leave for each such holiday so falling.

Where the holiday falls as aforesaid and the employee fails without reasonable cause, proof whereof shall be upon him or her to attend for work at his or her ordinary starting time on the working day immediately following the last day of the period of his or her annual leave; he or she shall not be entitled to be paid for any such holiday.

(e) Calculation of Service

Where the employer is a successor or assignee or transmittee of a business, if an employee was in the employment of the employer's predecessor at the time when he became such successor or assignee or transmittee, the employee in respect of the period during which he was in the service of the predecessor shall, for the purpose of this clause, be deemed to be in the service of the employer.

(f) Payment for Period of Leave

(i) Employees other than Takeaway Service Attendants and Clerks

All employees, before going on annual leave, shall be paid the amount of wages they would have received in respect of the ordinary time they would have worked had they not been on leave during the relevant period. In addition thereto, all employees, other than casual employees, shall be paid an additional loading of 17.5 per cent.

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(ii) Takeaway Service Attendants and Clerks

- (1) 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.
- (2) In addition thereto all employees (including part-time employees engaged to work 20 or more hours per week) shall receive a loading of 17 1/2 percent on payments made for annual leave as prescribed in subparagraph (1) hereof.

Such loading shall not apply to proportionate leave on termination of service.

(g) Pro rata for Part-time Employees on Termination

For the purposes of calculation, a part-time employee's payment shall be determined by:

$$\frac{\text{average number of hours worked each week in the accrual period}}{38} \times 12 \frac{2}{3} \text{ hours for each completed month of service}$$

For payment of annual leave to part-time employees the 10 percent loading shall be paid for all purposes. The pro rata loading outlined in subclause (f) of this clause shall also apply.

- (h) 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.

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- (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 36 - Time and Wages Records/Awards of this award.

10. ANNUAL SALARY

- (a) As an alternative to being paid by the week according to Clause 8 - Wage Rates, by agreement between the employer and the employee, an employee can be paid at a rate equivalent to an annual salary of at least 25 percent or more above the rate prescribed in Clause 8 - Wage Rates, times 52 for the work being performed. In such cases, there is no requirement under Clause 25 - Overtime and Other Penalty Rates, to pay overtime and penalty rates in addition to the weekly award wage.

PROVIDED that the salary paid over a year was sufficient to cover what the employee would have been entitled to if all award overtime and penalty rate payment obligations had been complied with.

PROVIDED FURTHER that in the event of termination of employment prior to completion of a year the salary paid during such period of employment shall be sufficient to cover what the employee would have been entitled to if all award overtime and penalty rate payment obligations had been complied with.

- (b) An employee being paid according to subclause (a) of this clause, shall be entitled to a minimum of eight days off per four week cycle. Further, if an employee covered by this clause is required to work on a public holiday, such employee shall be entitled to a day off in lieu or a day added to his or her annual leave entitlement.
- (c) Where payment in accordance with subclause (a) of this clause is adopted, the employer shall keep a daily record of the hours worked by an employee which shall show the date and start and finish times of the employee for the day. The record shall be countersigned weekly by the employee and shall be kept at the place of employment for a period of at least six years.

11. BOARD AND LODGING

The amount that may be deducted from the wages prescribed for adult employees shall be as follows:

- (a) Board and lodging \$50.00 per week
- (b) Board only \$46.00 per week

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- (c) Lodging only \$ 3.00 per week

For persons not on adult wages the percentage of the adult rate as outlined in Clause 8 - Wage Rates, shall be applied when determining the above for such persons.

The employer may deduct \$2.50 for each meal supplied to the employee and \$1.00 for both morning and afternoon tea.

12. BREAKAGES

An employer shall not charge a sum against nor deduct from the wages of an employee in respect of breakages of crockery or other utensils except in the case of wilful misconduct.

13. CARER'S LEAVE

- (a) Paid Carer's Leave

- (i) In accordance with this subclause, an employee is entitled to use up to a maximum of five days per annum of any current or accrued sick leave entitlement provided for at Clause 32 - Sick Leave, of the award for absences to provide care and support for either members of their immediate family or household who need their care and support when they are ill. Leave may be taken for part of a single day.

For the purposes of this clause part-time employees shall be entitled to use up to a maximum of one week of any current or accrued sick leave entitlement.

Where a part-time employee's hours of work are not constant the employee's entitlement to carer's leave shall be based on the average number of weekly hours worked by the employee during the 12 month period immediately preceding the commencement of the relevant period of carer's leave or the employee's actual period of service if less than 12 months.

- (ii) If required the employee must establish, either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person.
- (iii) The entitlement to use sick leave in accordance with this subclause is subject to the person being either:
- (1) a member of the employee's immediate family, or
 - (2) a member of the employee's household.

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

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- (A) spouse (including a former spouse, a de facto spouse and a former de facto spouse) of the employee. A de facto spouse, in relation to a person, means a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; and
 - (B) child or an adult child (including an adopted child, a step child, a foster child or an ex nuptial child), parent (including foster parent, step parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse of the employee.
- (iv) Where practicable the employee must give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and the person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.
 - (v) In normal circumstances an employee must not take carer's leave under this clause where another person has taken leave to care for the same person.
- (b) Unpaid Carer's Leave

An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care to a family or household member who is ill.

- (c) Grievance Process

Clause 19 - Grievance Procedure, also applies to a dispute about the operation or effect of this clause."

14. CASUAL EMPLOYEES

- (a) A casual employee shall be engaged for a minimum period of two hours; each engagement shall stand alone and shall be paid at the rate of one thirty-eighth of the appropriate weekly wage rate prescribed in Clause 8 - Wage Rates, plus:
 - (i) 25 percent for all work performed Monday to Friday inclusive;
 - (ii) 50 percent for all work performed on Saturday;
 - (iii) 75 percent for all work performed on Sundays;
 - (iv) 150 percent for all work performed on public holidays.
- (b) The provisions of Clause 21 - Hours of Work, subclauses (a), (b) and (c), and Clause 25 - Overtime and Other Penalty Rates, subclauses (a), (b), (c), (d) and (e), shall not apply to casual employees.

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(c) Trainee

An employee, engaged as a casual, for in-house training purposes may be engaged for up to two, two-hour shifts over a two-week period and this rate shall not be subject to the provision of subclause (a)(i) of this clause. No employee shall be engaged under this provision without the employer participating in appropriate discussions with the Tasmanian Chamber of Commerce and Industry Limited and the Australian Liquor, Hospitality and Miscellaneous Workers Union - Tasmanian Branch, and approval being granted by both organisations.

PROVIDED that current employees including casuals, as at 1 November 1988, are not to have their hours of work or wages reduced as a result of the introduction of a rate for juniors 16 years of age and under.

15. CHANGE ROOM, TOILET ACCOMMODATION AND FIRST AID EQUIPMENT

An employee who has undertaken a first aid course and who is the holder of a current, recognised first aid qualification such as a certificate from St John's Ambulance or similar body shall be paid a weekly allowance of \$6.30 per week if he or she is appointed by the employer to perform first aid duty.

Provision of the above facilities shall be in accordance with those prescribed in the *Industrial Safety, Health and Welfare Act 1977* and Regulations made thereto.

16. COMPASSIONATE LEAVE

An employee shall on the death of a wife, husband, father, mother, child, stepchild, brother, sister, mother-in-law, father-in-law, stepmother, stepfather, grandfather, grandmother, be entitled upon application being made to and approved by the employer, to leave up to and including the day of the funeral of such relative and such leave will be without deduction of pay not exceeding the number of ordinary hours worked by the employee in three 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 FURTHER that this clause shall have no operation while the period of entitlement to leave under it coincides with any other period of entitlement to leave.

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

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17. EXISTING WAGE RATES

An employee who is at present in receipt of a wage rate in excess of that herein prescribed shall not have his wage rate reduced as a result of this award.

18. FULL WEEK'S WAGES

Employees other than those engaged on a part-time or casual basis, shall, notwithstanding anything contained in Section 79 of the *Industrial Relations Act 1984*, be paid the weekly wage rate prescribed for a week of 38 hours for each week that he is ready, willing and available for work during the hours prescribed in Clause 21 - Hours of Work hereof and in addition thereto, such overtime or other penalty rates, if any, that may have occurred during the relevant period.

19. GRIEVANCE PROCEDURE

With respect to each of the employers covered by this award, disputes or grievance between it and its employees or any of them shall be settled in accordance with the procedures set out below:

- (a) Any grievance, claim or dispute which arises shall, where possible, be settled by discussion on the job between the employee and the management.
- (b) If the matter is not resolved at this level, the matter will be further discussed between the affected employee, the union delegate and the management.
- (c) If no agreement is reached, the relevant union organiser and delegate will discuss the matter with representatives of the employer.
- (d) Should the matter still not be resolved the following procedures may be followed:
 - (i) A joint discussion shall be held between representatives of the Tasmanian Chamber of Commerce and Industry Limited and the Australian Liquor, Hospitality and Miscellaneous Workers Union - Tasmanian Branch.
 - (ii) If the matters are not finalised they shall be referred to the Tasmanian Industrial Commission.
- (e) Whilst the foregoing procedure is being followed work shall continue normally without bans or limitations. Where it is agreed that there is an existing custom, work shall continue in accordance with that custom, but in other cases, the work shall continue in accordance with the direction of the company. No party shall be prejudiced as to the final settlement by the continuance of work in accordance with this subclause.

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20. HOLIDAYS WITH PAY

- (a) All employees (other than casual employees) 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 holiday, he 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.
- (d) **'Show Day'** means not more than one local show day observed on an employee's ordinary working day, other than a Saturday or a Sunday, in the city, town or district in which the employee is employed; or such other day which, in the absence of such a local show day, is agreed on by the employee and the employer, therefore making a total of 11 paid public holidays per year.
- (e) An employee shall not be required to take a rostered day off on any of the holidays prescribed by (a) of this clause, hereof notwithstanding the following:

PROVIDED that it is mutually agreed between the employer and the employee:

- (i) payment of one day of ordinary pay may be made to the employee on the immediate succeeding pay day;
- (ii) a rostered day off with pay may be observed on a working day within 28 days of the holiday concerned;
- (iii) one day with pay may be added to the employee's annual leave entitlement. In the absence of mutual agreement between the employer and the employee this provision will apply.
- (f) An employer may by agreement with the employee work that employee on any public holiday prescribed in subclause (a) of this clause, provided an agreed substitute day off is provided at the penalty equivalent of time and one half. The substitute day shall by agreement between the employer and employee be taken either within 28 days of the entitlement being accrued or as an addition to annual leave.

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21. HOURS OF WORK

(a) Ordinary Hours

The hours of all permanent full-time employees shall be an average of 38 hours per week to be worked on the following basis:

- (i) (1) seven hours thirty six minutes per day (this option shall not apply to persons employed in a restaurant in a retail store); or
- (2) eight hours per day on four days and six hours on one day in each week (this option shall not apply to persons employed in a restaurant in a retail store); or
- (3) eight hours per day on nine days and four hours on one day in each fortnight; or
- (4) eight hours per day on nineteen days with accumulated rostered leisure time in form of a rostered leisure day in each four week period; or
- (5) eight hours per day, with an accumulation of rostered leisure time in form of rostered leisure days that can be stored up to a maximum of five before being taken; or
- (6) by agreement between the employer and the employee and/or the union, the arrangements of hours of work can be implemented within any one or combination of the following:

152 hours per each four week period; or

160 hours per each four week period, with a day banked per period up to a maximum of five.

- (ii) The hours of work arrangements agreed upon in subparagraph (6) hereof shall be subject to the following conditions:

Within a minimum of six hours and a maximum of 12 hours per day and shall be exclusive of meal break intervals, subject to Clause 23 - Meal and Rest Periods.

PROVIDED that where shifts of more than 10 hours per day are rostered for work, employees working such hours cannot be rostered for work on more than three consecutive days without a break of at least 48 hours.

PROVIDED FURTHER that no more than eight shifts of more than 10 hours can be worked in a four week period without consultation with the State Branch of the Union.

In relation to this subparagraph, an employee shall be entitled to eight full days off per four week period.

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No employee shall work more than ten days in succession without a rostered day off.

(b) Spread of Hours

The time worked, exclusive of meal breaks, shall be worked within a spread of 10 hours from commencing time except for employees covered by the provisions of subparagraph (a)(ii) hereof.

(c) Minimum Break between Shifts

The roster for all employees on weekly hire shall provide for a minimum of ten hours break between the finish of ordinary hours on one day and the commencement of ordinary hours on the following day. In the case of changeover of rosters, eight hours shall be substituted for ten hours.

(d) Wage Entitlements

Employees shall be entitled to a week's wages in accordance with Clause 8 - Wage Rates of this award for each week of work. Notwithstanding the provision of this subclause, an employer may, subject to agreement with the employee pay wages fortnightly according to the actual hours worked in that fortnightly pay period.

(e) Pay Day

In the event that an employee by virtue of the arrangement of his ordinary working hours is rostered off duty on a day which coincides with pay day such employee shall be paid no later than the working day immediately following such pay day.

(f) Special Provisions for Banking of Days

(i) Where a rostered day off which has resulted from the method of implementation of the 38-hour week set out in subclause (a) of this clause, falls on a public holiday, the following day may be taken where practicable in lieu thereof.

(ii) Each day of paid leave (not including annual leave, long service leave and periods of workers' compensation) and any public holiday occurring during any cycle of four weeks shall be regarded as a day worked for accrual purposes.

(g) Payment in Lieu of Accumulated Leisure Time

An employee who has not worked a complete four week cycle in order to accrue a rostered day off shall be paid a pro rata amount for credits accrued for each day worked in such cycle payable for the rostered day off (ie. an amount of 24 minutes for each eight hours worked or two hours for each 40 hours worked). Likewise an employee who has "banked" the maximum number of days as outlined in subclause (a) of this clause, shall have any subsequent accruals paid out in the same manner.

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(h) Implementation of Hours

- (i) In such establishment, an assessment should be made as to which method of implementation best suits the business and the proposal shall be discussed with the employees concerned, the objective being to reach agreement on the method of implementation. A representative of the Australian Liquor, Hospitality and Miscellaneous Workers Union - Tasmanian Branch, and the Tasmanian Chamber of Commerce and Industry Limited may join in such consultation.
- (ii) If agreement cannot be reached on the method of implementation, the procedures as outlined in Clause 19 - Grievance Procedure, shall apply.
- (iii) The method of implementation shall be notified in writing to the Australian Liquor, Hospitality and Miscellaneous Workers Union - Tasmanian Branch, and the Tasmanian Chamber of Commerce and Industry Limited.
- (iv) Where notification of the method of implementation is not given in accordance with (ii) and (iii) of this subclause, the method of implementation shall be as prescribed in (a)(i)(3) of this clause, for all provisions of this award.

(i) 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 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 negotiation 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 records kept pursuant to Regulation 25 of the *Industrial Relations Regulations 1993*.
- (v) An employer shall record make up time arrangements in the time and wages book, as prescribed in Clause 36 - Time and Wages Records/Awards, of this award.

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(j) 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 to provide that:

- (i) An employee may elect, with the consent of the employer, to take a rostered day off at any time.
- (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 negotiation referred to in paragraph (i) of this subclause.
- (v) Once a decision has been taken to introduce an enterprise system of Rostered Days Off flexibility, in accordance with this clause, its terms must be set on in the time and wages records kept pursuant to Regulation 25 of the *Industrial Relations Regulations 1993*.
- (vi) An employer shall record Rostered Days Off arrangements in the time and wages book, as prescribed in Clause 36 - Time and Wages Records/Awards of this award.

22. MEAL ALLOWANCE

- (a) An employee required to work overtime for not less than one and a half hours and who has not been notified the day before that he or she will be so required to work shall be paid \$12.70 for each meal or be provided with a meal, without charge, by the employer.
- (b) **PROVIDED** that a meal allowance will only be paid in circumstances whereby an employee has worked at least six hours in ordinary time prior to the commencement of the overtime.
- (c) In a **restaurant in a retail store** the payment shall be made without the provisos as outlined in subclause (a) and (b) of this clause and shall be paid on the day overtime is worked and prior to the meal break being taken.

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23. MEAL AND REST PERIODS

(a) Meal Periods

- (i) Each employee shall be granted a meal interval of not less than 30 minutes to be commenced after completing not less than one hour and not later than six hours of duty.

PROVIDED that where it is not possible to grant the meal interval on any day, the said meal interval shall be treated as time worked and paid at the rate of the day plus half time additional at the ordinary weekly rate until released for a meal or to the end of the shift.

PROVIDED FURTHER that when an employee is required to work in excess of five hours after the first meal interval, he or she shall be granted a further meal interval of 20 minutes to be treated as time worked.

Where a rostered meal break requires an employee to work for more than six hours before such a meal break, then an employee shall be allowed a 20 minute break without loss of pay during such work period at a time suitable to the employer.

- (ii) Notwithstanding the provisions of subclause (a) of this clause, employees rostered to work more than 10 ordinary hours in a shift shall be entitled to one paid 20 minute rest break in lieu of the unpaid meal break referred to in subclause (a) of this clause. In rostering for this break the employer shall make all reasonable efforts to provide the break at a time which gives the employee an even mix of work time and break.
- (iii) Where an employee is required to work overtime and such overtime follows the completion of the employee's normal hours of work a 20 minute paid meal break shall be allowed where such overtime exceeds two hours work.

(b) Rest Periods

- (i) Employees shall be allowed a rest period of 10 minutes duration between the start of work and the midday meal break and one of five minutes duration between the midday meal break and the cessation of work for the day, to be taken at such times as may be mutually arranged between the employer and the employees.
- (ii) Notwithstanding the foregoing, in the case of part-time and casual employees, they shall only be entitled to the 10 minute rest period if they work at least three hours and the second five minute rest period if they work at least a further two hours.
- (iii) The rest periods prescribed in this subclause shall be given and taken in the employer's time. Where an employee receives a paid 20 minute break in accordance with subclause (a)(ii) as outlined in this clause the rest periods outlined in this subclause may be added to that 20 minute break.

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- (iv) The rest periods prescribed in this subclause shall not apply on a Saturday morning when the establishment is open for business from 8.00 am to midday only.

24. MIXED FUNCTIONS - HIGHER AND LOWER GRADE WORK

- (a) An employee engaged for half or more than half of one day on duties carrying a higher rate than his or her ordinary classification shall be paid at the higher rate for the whole of such day. If for less than half of one day he or she shall be paid the higher rate for the time so worked.
- (b) A higher paid employee shall, when necessary, relieve a lower paid employee without loss of pay.
- (c) The provisions of this clause shall not apply to an employee who relieves another employee who is taking time off in accordance with Clause 21 - Hours of Work, subclauses (a)(i)(2), (3), (4), (5) and (6).

25. OVERTIME AND OTHER PENALTY RATES

- (a) **Overtime** - For all time of duty outside the ordinary hours of duty each day or in excess of the hours prescribed in Clause 21 - Hours of Work of this award, or before the time fixed for commencing work or after the time fixed for ceasing work, payment shall be made at the rate of time and a half for the first two hours and double time thereafter. For the purposes of computing overtime each day shall stand alone.

In addition all overtime worked by employees of food and beverage establishments between midnight and 6.30am shall be paid for at the rate of double time.

Notwithstanding the rate prescribed in this subclause, at the instigation of the employee there may be an agreement in writing between the employer and the employee to take time off with pay equivalent to the amount for which payment would otherwise have been made. Such accumulated time must be taken within four weeks from the time of accrual.

- (b) Saturday and Sunday Work - Permanent Employees employed as 1 December 1994.

All permanent employees employed as at 1 December 1994 shall be entitled to the following weekend penalty rates:

- (i) For all ordinary time worked between midnight Friday and midnight Saturday time and a half of the wages for the respective classification as 1 December 1994 shall be paid until such amount is exceeded by time and a quarter as provided for in subclause (c)(i) of this clause when the provisions of subclause (c)(ii) shall apply.

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- (ii) For all ordinary time worked between midnight Saturday and midnight Sunday time and three quarters shall be paid.
- (c) **Saturday and Sunday Work - Permanent Employees Employed after 1 December 1994**

All permanent employees who commence to be employed after 1 December 1994 shall be entitled to the following weekend penalty rates:

- (i) For all ordinary time worked between midnight Friday and midnight Saturday time and a quarter rate shall be paid.
- (ii) For all ordinary time worked between midnight Saturday and midnight Sunday time and three quarters shall be paid.
- (d) **Holiday Work** - All time worked on any of the holidays mentioned in Clause 20 - Holidays with Pay hereof shall be paid at the rate of double time and one half.
- (e) **Rostered Day Off** - An employee required to work on his or her rostered day off shall be paid at the rate of double time with a minimum payment of two hours. Such minimum shall not apply where the overtime is continuous from the previous day's duty.

Rostered Day Off for the purposes of this subclause shall be the two full days off each week to which the employee is entitled.

- (f) **Rostered Leisure Time** - shall mean the time accrued and taken as Rostered Leisure Time under the provisions of Clause 21 - Hours of Work, subclause (a)(i)(4), (5) and (6). Where the day has not been substituted for other Rostered Leisure Time and the employee is required to work on that day, payment shall be time and a half for the first two hours and double time thereafter.

NOTE Payment of the outlined penalties in subclauses (a), (b), (c), (d), (e) and (f) in this subclause shall be based on the ordinary hourly rate determined by dividing the appropriate weekly wage rate of the classification in which the employee is working by 38.

- (g) **Other Penalty**
 - (i) An employee required to work any of his/her ordinary hours prior to 7.00am or after 7.00pm shall be paid an additional sum as outlined in the below listed columns per ordinary hour or part thereof:

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	Column A Licensed establishment	Column B Unlicensed establishment, Caterer, etc., (except an Industrial Caterer and Restaurant in a Retail Store)	Column C Industrial Caterer	Column D Restaurant in a Retail Store
7.00pm to midnight	\$1.21 from the first pay period on or after 1 April 2004 Provided that the amount will increase to \$1.38 from the first full pay period on or after 1 January 2005	Nil	\$1.21 from the first pay period on or after 1 April 2004. Provided that the amount will increase to \$1.38 from the first full pay period on or after 1 January 2005	Nil
Midnight to 7.00am	\$1.80 from the first pay period on or after 1 April 2004 Provided that the amount will increase to \$1.97 from the first full pay period on or after 1 January 2005	Nil	\$1.80 from the first pay period on or after 1 April 2004 Provided that the amount will increase to \$1.97 from the first full pay period on or after 1 January 2005	Nil

- (ii) an employee who is required to work any of his/her ordinary time between the hours of 7.00pm to 7.00am to whom paragraph (i) above applies shall be paid a minimum of \$1.83 from the first pay period after 1 April 2004 provided that this amount will increase to \$1.97 from the first pay period on or after 1 January 2005 for any one day.

PROVIDED that a casual who is required to work any of his/her hours between 7.00pm to 7.00am to whom paragraph (i) above applies shall be paid a maximum daily payment of three hours.

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26. 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.

PART A - MATERNITY LEAVE

(a) Nature of Leave

Maternity leave is unpaid leave.

(b) Definitions

For the purpose of this part:

'Employee' includes a part-time employee but does not include an employee engaged upon casual or seasonal work.

'Paternity leave' means leave of the type provided for in Part B - Paternity Leave.

'Child' means a child of the employee under the age of one year.

'Spouse' includes a de facto or a former spouse.

'Continuous service' means service under an unbroken contract of employment and includes:

- (i) any period of leave taken in accordance with this clause;
- (ii) any period of part-time employment worked in accordance with this clause; or
- (iii) any period of leave or absence authorised by the employer or by the award.

(c) Eligibility for Maternity Leave

- (i) An employee who becomes pregnant, upon production to her employer of the certificate required by subclause (d) hereof, shall be entitled to a period of up to 52 weeks maternity leave provided that such leave shall not extend beyond the child's first birthday. This entitlement shall be reduced by any period of paternity leave taken by the employee's spouse in relation to the same child and apart from paternity leave of up to one week at the time of confinement shall not be taken concurrently with paternity leave.
- (ii) Subject to subclauses (f) and (i) hereof the period of maternity leave shall be unbroken and shall, immediately following confinement, include a period of six weeks compulsory leave.
- (iii) The employee must have had at least 12 months continuous service with that employer immediately preceding the date upon which she proceeds upon such leave.

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(d) Certificate

At the time specified in subclause (e) hereof the employee must produce to her employer:

- (i) a certificate from a registered medical practitioner stating that she is pregnant and the expected date of confinement;
- (ii) 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.

(e) Notice Requirements

- (i) An employee shall, not less than ten weeks prior to the presumed date of confinement, produce to her employer the certificate referred to in paragraph (d)(i).
- (ii) An employee shall give not less than four weeks notice in writing to her employer of the date upon which she proposes to commence maternity leave stating the period of leave to be taken and shall, at the same time, produce to her employer the statutory declaration referred to in paragraph (d)(ii).
- (iii) An employer by not less than 14 days notice in writing to the employee may require her to commence maternity leave at any time within the six weeks immediately prior to her presumed date of confinement.
- (iv) An employee shall not be in breach of this clause as a consequence of failure to give the stipulated period of notice in accordance with paragraph (ii) hereof if such failure is occasioned by the confinement occurring earlier than the presumed date.

(f) Transfer to a Safe Job

Where 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 shall, if the employer deems it practicable, be transferred to a safe job at the rate and on the conditions attaching to that job until the commencement of maternity leave.

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

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(g) Variation of Period of Maternity Leave

- (i) Provided the maximum period of maternity leave does not exceed the period to which the employee is entitled under subclause (c) hereof:
 - (1) the period of maternity leave may be lengthened once only by the employee giving not less than 14 days' notice in writing stating the period by which the leave is to be lengthened;
 - (2) the period may be further lengthened by agreement between the employer and the employee.
- (ii) The period of maternity leave may, with the consent of the employer, be shortened by the employee giving not less than 14 days' notice in writing stating the period by which the leave is to be shortened.

(h) Cancellation of Maternity Leave

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

(i) Special Maternity Leave and Sick Leave

- (i) Where the pregnancy of an employee not then on maternity leave terminates after 28 weeks other than by the birth of a living child then:
 - (1) she shall be entitled to such period of unpaid leave (to be known as special maternity leave) as a registered medical practitioner certifies as necessary before her return to work; or
 - (2) for illness other than the normal consequences of confinement she shall be entitled, either in lieu of or in addition to special maternity leave, to such paid sick leave as to which she is then entitled and which a registered medical practitioner certifies as necessary before her return to work.
- (ii) Where an employee not then on maternity leave suffers illness related to her pregnancy, she may take such paid sick leave as to which she is then entitled and such further unpaid leave (to be known as special maternity leave) as a registered medical practitioner certifies as necessary before her return to work, provided that the aggregate of paid sick leave, special maternity leave and maternity leave shall not exceed the period to which the employee is entitled under subclause (c) hereof.

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- (iii) For the purposes of subclauses (j), (k) and (l) hereof, maternity leave shall include special maternity leave.
- (iv) An employee returning to work after the completion of a period of leave taken pursuant to this subclause shall be entitled to the position which she held immediately before proceeding on such leave or, in the case of an employee who was transferred to a safe job pursuant to subclause (f) hereof, to the position she held immediately before such transfer.

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

(j) Maternity Leave and Other Leave Entitlements

- (i) **PROVIDED** the aggregate of any leave including leave taken under this part, does not exceed the period to which the employee is entitled under subclause (c) hereof, an employee may, in lieu of or in conjunction with maternity leave, take any annual leave or long service leave or any part thereof to which she is entitled.
- (ii) Paid sick leave or other paid authorised award absences (excluding annual leave or long service leave), shall not be available to an employee during her absence on maternity leave.

(k) Effect of Maternity Leave on Employment

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

(l) Termination of Employment

- (i) An employee on maternity leave may terminate her employment at any time during the period of leave by notice given in accordance with this award.
- (ii) An employer shall not terminate the employment of an employee on the ground of her pregnancy or of her absence on maternity leave, but otherwise the rights of an employee in relation to termination of employment are not hereby affected.

(m) Return to Work After Maternity Leave

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

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- (ii) An employee, upon returning to work after maternity leave or the expiration of the notice required by paragraph (i) hereof, shall be entitled to the position which she held immediately before proceeding on maternity leave or, in the case of an employee who was transferred to a safe job pursuant to subclause (f) hereof, to the position which she held immediately before such transfer or in relation to an employee who has worked part-time during the pregnancy the position she held immediately before commencing such part-time work.

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

(n) Replacement Employees

- (i) A replacement employee is an employee specifically engaged as a result of an employee proceeding on maternity leave.
- (ii) Before an employer engages a replacement employee the employer shall inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.
- (iii) Before an employer engages a person to replace an employee temporarily promoted or transferred in order to replace an employee exercising her rights under this part, the employer shall inform that person of the temporary nature of the promotion or transfer and of the rights of the employee who is being replaced.
- (iv) Nothing in this part shall be construed as requiring an employer to engage a replacement employee.

PART B - PATERNITY LEAVE

(a) Nature of Leave

Paternity leave is unpaid leave.

(b) Definitions

For the purpose of this part:

'Employee' includes a part-time employee but does not include an employee engaged upon casual or seasonal work.

'Maternity leave' means leave of the type provided for in Part A - Maternity Leave (and includes special maternity leave).

'Child' means a child of the employee or the employee's spouse under the age of one year.

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'Spouse' includes a de facto or a former spouse.

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

'Continuous service' means service under an unbroken contract of employment and includes:

- (i) any period of leave taken in accordance with this clause;
- (ii) any period of part-time employment worked in accordance with this clause; or
- (iii) any period of leave or absence authorised by the employer or by the award.

(c) Eligibility for Paternity Leave

A male employee, upon production to his employer of the certificate required by subclause (d) - Certification shall be entitled to one or two periods of paternity leave, the total of which shall not exceed 52 weeks, in the following circumstances:

- (i) an unbroken period of up to one week at the time of confinement of his spouse;
- (ii) a further unbroken period of up to 51 weeks in order to be the primary care-giver of a child provided that such leave shall not extend beyond the child's first birthday. This entitlement shall be reduced by any period of maternity leave taken by the employee's spouse and shall not be taken concurrently with that maternity leave.

The employee must have had at least 12 months continuous service with that employer immediately preceding the date upon which he proceeds upon either period of leave.

(d) Certification

At the time specified in subclause (e) the employee must produce to his employer:

- (i) 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 of which the birth took place;
- (ii) in relation to any period to be taken under paragraph (c)(ii) hereof, a statutory declaration stating:
 - (1) he will take that period of paternity leave to become the primary care-giver of the child;
 - (2) particulars of any period of maternity leave sought or taken by his spouse; and

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(3) for the period of paternity leave he will not engage in any conduct inconsistent with his contract of employment.

(e) Notice Requirements

(i) The employee shall, not less than ten weeks prior to each proposed period of leave, give the employer notice in writing stating the dates on which he proposes to start and finish the period or periods of leave and produce the certificate and statutory declaration required in subclause (d) hereof.

(ii) The employee shall not be in breach of this subclause as a consequence of failure to give the notice required in paragraph (i) hereof if such failure is due to:

(1) the birth occurring earlier than the expected date; or

(2) the death of the mother or the child; or

(3) other compelling circumstances.

(iii) The employee shall immediately notify his employer of any change in the information provided pursuant to subclause (d) hereof.

(f) Variation of Period of Paternity Leave

(i) **PROVIDED** the maximum period of paternity leave does not exceed the period to which the employee is entitled under subclause (c) hereof:

(1) the period of paternity leave provided by paragraph (c)(ii) may be lengthened once only by the employee giving not less than 14 days notice in writing stating the period by which the leave is to be lengthened;

(2) the period may be further lengthened by agreement between the employer and the employee.

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

(g) Cancellation of Paternity Leave

Paternity leave, applied for under paragraph (c)(ii) hereof but not commenced, shall be cancelled when the pregnancy of the employee's spouse terminates other than by the birth of a living child.

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(h) Paternity Leave and Other Leave Entitlements

- (i) **PROVIDED** the aggregate of any leave, including leave taken under this part, does not exceed the period to which the employee is entitled under subclause (c) hereof, an employee may, in lieu of or in conjunction with paternity leave, take any annual leave or long service leave or any part thereof to which he is entitled.
- (ii) Paid sick leave or other paid authorised award absences (excluding annual leave or long service leave) shall not be available to an employee during his absence on paternity leave.

(i) Effect of Paternity Leave on Employment

Subject to this part, notwithstanding any award or other provision to the contrary, absence on paternity leave shall not break the continuity of service of an employee but shall not be taken into account in calculating the period of service for any purpose of any relevant award or agreement.

(j) Termination of Employment

- (i) An employee on paternity leave may terminate his employment at any time during the period of leave by notice given in accordance with this award.
- (ii) An employer shall not terminate the employment of an employee on the ground of his absence on paternity leave, but otherwise the rights of an employer in relation to termination of employment are not hereby affected.

(k) Return to Work after Paternity Leave

- (i) An employee shall confirm his intention of returning to work by notice in writing to the employer given not less than four weeks prior to the expiration of the period of paternity leave provided by paragraph (c)(ii) hereof.
- (ii) An employee, upon returning to work after paternity leave or the expiration of the notice required by paragraph (i) hereof, shall be entitled to the position which he held immediately before proceeding on paternity leave, or in relation to an employee who has worked part-time under this clause to the position he held immediately before commencing such part-time work.

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

(l) Replacement Employees

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

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- (ii) Before an employer engages a replacement employee the employer shall inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.
- (iii) Before an employer engages a person to replace an employee temporarily promoted or transferred in order to replace an employee exercising his rights under this part, the employer shall inform that person of the temporary nature of the promotion or transfer and of the rights of the employee who is being replaced.
- (iv) Nothing in this part shall be construed as requiring an employer to engage a replacement employee.

PART C - ADOPTION LEAVE

(a) Nature of Leave

Adoption leave is unpaid leave.

(b) Definitions

For the purpose of this part:

'Employee' includes a part-time employee but does not include an employee engaged upon casual or seasonal work.

'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 stepchild of the employee or of the spouse of the employee or a child who has previously lived continuously with the employee for a period of six months or more.

'Relative adoption' occurs where a child, as defined, is adopted by a grandparent, brother, sister, aunt or uncle (whether of the whole blood or half blood or by marriage).

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

'Spouse' includes a de facto spouse.

'Continuous service' means service under an unbroken contract of employment and includes:

- (i) any period of leave taken in accordance with this clause;
- (ii) any period of part-time employment worked in accordance with this clause, or
- (iii) any period of leave or absence authorised by the employer or by the award.

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(c) Eligibility

An employee, upon production to the employer of the documentation required by subclause (d) hereof shall be entitled to one or two periods of adoption leave, the total of which shall not exceed 52 weeks, in the following circumstances:

- (i) an unbroken period of up to three weeks at the time of the placement of the child;
- (ii) an unbroken period of up to 52 weeks from the time of the child's placement in order to be the primary care-giver of the child. This leave shall not extend beyond one year after the placement of the child and shall not be taken concurrently with adoption leave taken by the employee's spouse in relation to the same child. This entitlement of up to 52 weeks shall be reduced by:
 - (1) any period of leave taken pursuant to paragraph (i) hereof; and
 - (2) the aggregate of any periods of adoption leave taken or to be taken by the employee's spouse;

The employee must have had at least 12 months continuous service with that employer immediately preceding the date upon which he or she proceeds upon such leave in either case.

(d) Certification

Before taking adoption leave the employee must produce to the employer:

- (i)
 - (1) A statement from an adoption agency or other appropriate body of the presumed date of placement of the child with the employee for adoption purposes; or
 - (2) A statement from the appropriate government authority confirming that the employee is to have custody of the child pending application for an adoption order.
- (ii) In relation to any period to be taken under paragraph (c)(ii) hereof, 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 the employee's spouse; and
 - (3) for the period of adoption leave the employee will not engage in any conduct inconsistent with his or her contract of employment.

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(e) Notice Requirements

- (i) Upon receiving notice of approval for adoption purposes, an employee shall notify the employer of such approval and within two months of such approval, shall further notify the employer of the period or periods of adoption leave the employee proposes to take. In the case of a relative adoption the employee shall notify as aforesaid upon deciding to take a child into custody pending an application for an adoption order.
- (ii) An employee who commences employment with an employer after the date of approval for adoption purposes shall notify the employer thereof upon commencing employment and of the period or periods of adoption leave which the employee proposes to take.

PROVIDED that such employee shall not be entitled to adoption leave unless the employee has not less than 12 months continuous service with that employer immediately preceding the date upon which he or she proceeds upon such leave.

- (iii) An employee shall, as soon as the employee is aware of the presumed date of placement of a child for adoption purposes but no later than 14 days before such placement, give notice in writing to the employer of such date, and of the date of the commencement of any period of leave to be taken under paragraph (c)(i) hereof.
- (iv) An employee shall, ten weeks before the proposed date of commencing any leave to be taken under paragraph (c)(ii) hereof give notice in writing to the employer of the date of commencing leave and the period of leave to be taken.
- (v) An employee shall not be in breach of this part as a consequence of failure to give the stipulated period of notice in accordance with paragraphs (iii) and (iv) hereof if such failure is occasioned by the requirement of an adoption agency to accept earlier or later placement of a child, the death of the spouse or other compelling circumstances.

(f) Variation of Period of Adoption Leave

- (i) **PROVIDED** the maximum period of adoption leave does not exceed the period to which the employee is entitled under subclause (c) hereof:
 - (1) the period of leave taken under paragraph (c)(ii) hereof may be lengthened once only by the employee giving not less than 14 days notice in writing stating the period by which the leave is to be lengthened;
 - (2) the period may be further lengthened by agreement between the employer and employee.

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- (ii) The period of adoption leave taken under paragraph (c)(ii) hereof may, with the consent of the employer, be shortened by the employee giving not less than 14 days notice in writing stating the period by which the leave is to be shortened.

(g) Cancellation of Adoption Leave

- (i) Adoption leave, applied for but not commenced, shall be cancelled should the placement of the child not proceed.
- (ii) Where the placement of a child for adoption purposes with an employee then on adoption leave does not proceed or continue, the employee shall notify the employer forthwith and the employer shall nominate a time not exceeding four weeks from receipt of notification for the employee's resumption of work.

(h) Special Leave

The employer shall grant to any employee who is seeking to adopt a child, such unpaid leave not exceeding two days, as is required by the employee to attend any compulsory interviews or examinations as are necessary as part of the adoption procedure. Where paid leave is available to the employee the employer may require the employee to take such leave in lieu of special leave.

(i) Adoption Leave and Other Entitlements

- (i) **PROVIDED** the aggregate of any leave, including leave taken under this part, does not exceed the period to which the employee is entitled under subclause (c) hereof, an employee may, in lieu of or in conjunction with adoption leave, take any annual leave or long service leave or any part thereof to which he or she is entitled.
- (ii) Paid sick leave or other paid authorised award absences (excluding annual leave or long service leave), shall not be available to an employee during the employee's absence on adoption leave.

(j) Effect of Adoption Leave on Employment

Subject to this part, notwithstanding any award or other provision to the contrary, absence on adoption leave shall not break the continuity of service of an employee but shall not be taken into account in calculating the period of service for any purpose of any relevant award or agreement.

(k) Termination of Employment

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

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- (ii) An employer shall not terminate the employment of an employee on the ground of the employee's application to adopt a child or absence on adoption leave, but otherwise the rights of an employer in relation to termination of employment are not hereby affected.

(l) Return to Work After Adoption Leave

- (i) An employee shall confirm the intention of returning to work by notice in writing to the employer given not less than four weeks prior to the expiration of the period of adoption leave provided by paragraph (c)(ii) hereof.
- (ii) An employee, upon returning to work after adoption leave, shall be entitled to the position held immediately before proceeding on such leave or in relation to an employee who has worked part-time under this clause the position held immediately before commencing such part-time work.

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 shall be entitled to a position as nearly comparable in status and pay to that of the employee's former position.

(m) Replacement Employees

- (i) A replacement employee is an employee specifically engaged as a result of an employee proceeding on adoption leave.
- (ii) Before an employer engages a replacement employee the employer shall inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.
- (iii) Before an employer engages a person to replace an employee temporarily promoted or transferred in order to replace an employee exercising rights under this part, the employer shall inform that person of the temporary nature of the promotion or transfer and of the rights of the employee who is being replaced.
- (iv) Nothing in this part shall be construed as requiring an employer to engage a replacement employee.

PART D - PART-TIME WORK

(a) Definitions

For the purposes of this part:

'Male employee' means an employed male who is caring for a child born of his spouse or a child placed with the employee for adoption purposes.

'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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'Spouse' includes a de facto spouse.

'Former position' means the position held by a female or male employee immediately before proceeding on leave or part-time employment under this part whichever first occurs or, if such position no longer exists but there are other positions available for which the employee is qualified and the duties of which he or she is capable of performing, a position as nearly comparable in status and pay to that of the position first mentioned in this definition.

'Continuous service' means service under an unbroken contract of employment and includes:

- (i) any period of leave taken in accordance with this clause;
- (ii) any period of part-time employment worked in accordance with this clause; or
- (iii) any period of leave or absence authorised by the employer or by the award.

(b) Entitlement

With the agreement of the employer:

- (i) A male 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.
- (ii) 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.
- (iii) A female employee may work part-time in one or more periods at any time from the seventh week after the date of birth of the child until its second birthday.
- (iv) In relation to adoption a female employee may work part-time in one or more periods at any time from the date of the placement of the child until the second anniversary of that date.

(c) Return to Former Position

- (i) An employee who has had at least 12 months continuous service with an employer immediately before commencing part-time employment after the birth or placement of a child has, at the expiration of the period of such part-time employment or the first period, if there is more than one, the right to return to his or her former position.

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(ii) Nothing in paragraph (i) hereof shall prevent the employer from permitting the employee to return to his or her former position after a second or subsequent period of part-time employment.

(d) 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.

(e) Pro Rata Entitlements

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

(f) Transitional Arrangements - Annual Leave

(i) An employee working part-time under this part shall be paid for and take any leave accrued in respect of a period of full-time employment, in such periods and manner as specified in the annual leave provisions of this award, as if the employee were working full-time in the class of work the employee was performing as a full-time employee immediately before commencing part-time work under this part.

(ii) (1) A full-time employee shall be paid for and take any annual leave accrued in respect of a period of part-time employment under this part, in such periods and manner as specified in this award, as if the employee were working part-time in the class of work the employee was performing as a part-time employee immediately before resuming full-time work.

(2) **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.

(g) Transitional Arrangements - Sick Leave

An employee working part-time under this part shall have sick 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.

(h) Part-time Work Agreement

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

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- (1) that the employee may work part-time;
 - (2) upon the hours to be worked by the employee, the days upon which they will be worked and commencing times for the work;
 - (3) upon the classification applying to the work to be performed; and
 - (4) upon the period of part-time employment.
- (ii) The terms of this agreement may be varied by consent.
 - (iii) 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.
 - (iv) The terms of this agreement shall apply to the part-time employment.
- (i) Termination of Employment
 - (i) 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.
 - (ii) 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.
 - (j) 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 subclause (h).
 - (k) 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.

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(l) 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:

- (i) limiting the number of employees who may work part-time;
- (ii) establishing quotas as to the ratio of part-time to full-time employees;
- (iii) prescribing a minimum or maximum number of hours a part-time employee may work; or
- (iv) requiring consultation with, consent of or monitoring by a union;

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

(m) Replacement Employees

- (i) A replacement employee is an employee specifically engaged as a result of an employee working part-time under this part.
- (ii) A replacement employee may be employed part-time. Subject to this subclause, subclauses (e), (f), (g), (h), (i) and (l) of this part apply to the part-time employment of replacement employees.
- (iii) Before an employer engages a replacement employee under this subclause, the employer shall inform the person of the temporary nature of the employment and of the rights of the employee who is being replaced.
- (iv) Unbroken service as a replacement employee shall be treated as continuous service as provided for in paragraph (a) Definitions, '**Continuous service**' of this Part.
- (v) Nothing in this part shall be construed as requiring an employer to engage a replacement employee.

27. PART-TIME EMPLOYEES

A part-time employee may be engaged in any of the classifications outlined in Clause 8 - Wage Rates.

PROVIDED such employee accepts employment on the following terms:

- (a) The ordinary hours of work of part-time employees shall be:

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not less than three hours and not longer than eight hours per day;
not less than two days a week and not more than five days a week;
not less than nine hours a week and not more than 35 hours a week;

except that for employees in a **restaurant in a retail store** the maximum weekly hours than can be worked shall be not more than 38 hours a week.

All time worked in excess of the hours outlined in this subclause shall be overtime and paid for at the rates prescribed in Clause 25 - Overtime and Other Penalty Rates. Preference of employment for increased hours shall be given to current part-time employees, up to the limits prescribed in this subclause over employing casual employees.

PROVIDED that such employees accept said hours.

- (b) (i) Payment for part-time work shall be based on the ordinary hourly rate determined by dividing the appropriate weekly wage rate of the classification in which the employee is working by 38.

PROVIDED that Clause 25 - Overtime and Penalty Rates shall also apply.

- (ii) Payment for part-time work in a licensed establishment shall be based on the ordinary hourly rate determined by dividing the appropriate weekly wage rate of the classification in which the employee is working by 38, plus an additional 10 percent. The additional 10 percent shall be regarded also as ordinary wages for the payment of annual leave, compassionate leave, sick leave and work not performed on a holiday.

PROVIDED that the said additional 10 percent shall not apply in addition to the rates prescribed for work on Saturday, Sunday, Holidays, overtime or where other penalty rates are prescribed in this award.

- (iii) The 10 percent shall not apply where part-time employees are employed for a specific number of hours each week as follows:

(1) The specific number of hours for such part-time employees shall be not less than 12 hours and not more than 32 hours each week and not less than eight hours each day to be worked in not more than five days each week.

(2) All time worked in excess of the rostered hours each day and the specific number of hours each week shall be overtime and paid for at the rates prescribed for other weekly employees in Clause 25 - Overtime and Other Penalty Rates of this Award.

(3) **PROVIDED** further by arrangement between the employer and the employee and/or the union the arrangement of hours of work can be implemented as follows:

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The specific number of hours shall be not less than 48 and not more than 128 per each four week period:

- (A) Not less than three hours and not longer than eight hours each day and not more than 19 days in each four week period.
 - (B) Employees shall be entitled to a minimum of nine full days off per each four week period.
 - (C) No employee shall work more than 10 days in succession without a rostered day off.
 - (D) All time worked in succession of the rostered hours each day and the specific number of hours each four week period shall be overtime and paid for at the rates prescribed for other weekly employees in Clause 25 - Overtime and other Penalty Rates of this Award.
- (4) A part-time employee shall be entitled to all provisions of a full-time employee on a pro rata basis.
- (c) A part-time employee shall be entitled to all provisions of a full-time employee on a pro rata basis.

PROVIDED that employees, including casuals, who commenced employment prior to 1 November 1988, are not to have their hours of work or wages reduced as a result of the introduction of a rate for juniors 16 years of age and under.

28. PAYMENT OF WAGES

- (a) All wages, including overtime, shall be paid on a day mutually agreed by the employer and a majority of the employees. Notwithstanding payment shall be no later than Thursday in the week of payment. An employee whose rostered day off or rostered leisure time off falls on a pay day shall be paid his wages before going off duty prior to his day off unless otherwise agreed between employer and employee. Employees who are paid their wages at any time other than during working hours shall, if kept waiting more than 15 minutes, be paid overtime rates for all such waiting time.

An employee paid in accordance with (b)(iii) herein shall be paid, on termination on the next week day not being a public holiday.

- (b) Wages may be paid at intervals of up to a fortnight by one of the following means:
- (i) cash;
 - (ii) cheque; and

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- (iii) payment into a financial institution of the employee's choice, without cost to the employee.

An employer may alter the interval and means of payment by giving three months notice.

- (c) At the time of payment of wages each employee shall be issued with a docket or pay envelope showing gross wage, overtime and penalty payments, specific deductions and net wage.
- (d) An employee whose ordinary hours are arranged in accordance with Clause 21 - Hours of Work of this award and who is paid average pay and who has not taken the day off or days due to them during the work cycle in which their employment is terminated, the wages due to that employee shall include the total credits accrued during the work cycle as mentioned in Clause 21 - Hours of Work of this award.

PROVIDED that where the employee has taken a day off during the work cycle in which his employment is terminated, the wages due to that employee shall be reduced by the total credits which have not accrued during the work cycle.

29. PENALTY RATES NOT CUMULATIVE

Where time worked is required to be paid for at more than the ordinary rate such time shall not be subject to more than one penalty, but shall be subject to that penalty which is to the employee's greatest advantage.

30. RIGHT OF ENTRY

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

31. ROSTER

A roster for all employees engaged on weekly hire showing normal starting and finishing times, rostered days off and the surname and initials of each employee shall be prepared by the employer and shall be posted in a conspicuous place or places accessible to the employees concerned. The roster shall be alterable by mutual consent at any time or by amendment of the roster on two days' notice. Where practicable one week's notice of rostered day or days off shall be given.

PROVIDED that the days off may be changed by mutual consent or through absence through sickness or other cause over which the employer has no control. In the case of an employee who is working in accordance with the provision of Clause 21 - Hours of Work, subclause (a)(i)(6) and Clause 27 - Part-time Employees, subclause (b)(iii), where practical three weeks notice shall be given.

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32. SICK LEAVE

- (a) An employee, other than one engaged as a casual who is absent from work on account of personal illness or on account of injury by accident shall be entitled to leave of absence without deduction of pay, subject to the following conditions and limitations:
- (i) he shall not be entitled to such leave of absence for any period in respect of which he is entitled to workers' compensation;
 - (ii) the employee shall, wherever possible inform the employer of his inability to attend for work prior to the commencement of such absence. The employee shall, as far as may be practicable, state the nature of the illness or injury and the estimated duration of the absence;
 - (iii) he shall prove to the satisfaction of the employer (or in the event of a dispute, the Secretary for Labour) that he was unable on account of such illness or injury to attend for work on the day or days for which the sick leave is claimed;
 - (iv) he shall not be entitled in any year to sick leave credit in excess of two weeks of ordinary working time.
- PROVIDED** that during the first three months of employment sick leave shall accrue on the basis of 6.33 hours for each completed month of service with the employer;
- (v) for the purpose of administering paragraph (iv) of this subclause, an employer may within one month of this award coming into operation or within two weeks of the employee entering his employment require an employee to make a sworn declaration or other written statement as to what paid leave of absence he has had from any employer during the then current year, and upon such statement the employer shall be entitled to rely and act.
- (b) Sick leave shall accumulate from year to year so that any balance of the period specified in subparagraph (a)(iv) of this clause which has in any year not been allowed to an employee by an employer as paid sick leave shall be credited to the employee, and subject to the conditions hereinbefore prescribed shall be allowed to that employee in a subsequent year without diminution of the sick leave prescribed in respect of that year.
- (c) An employer shall not be required to make any payment in respect of accumulated sick leave credits to an employee who is discharged or leaves his employment, or for any time an employee is absent from work without producing satisfactory evidence of personal illness.
- (d) Where the responsibility of a business and/or establishment is transferred from one employer to another the total accumulated sick leave of employees of that business and/or establishment shall continue to accrue for the purpose of subclause (b) of this clause and will not be reduced or affected by such transfer.

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- (e) Supervision shall determine the requirement to replace absent employees based on operational requirements.
- (f) Where an employee is sick or injured on his or her rostered day off they shall not be entitled to sick pay nor shall their sick pay entitlement be reduced as a result of their sickness or injury on that day.

33. STRUCTURAL EFFICIENCY

(a) Award Modernisation

- (i) The parties are committed to modernising the terms of the award so that it provides for more flexible working arrangements, improves the quality of working life, enhances skills and job satisfaction and will assist positively in the restructuring process.
- (ii) The unions are prepared to discuss all matters raised by employers for increased flexibility. The unions will be readily available to discuss award changes at the enterprise level. Accordingly and in conjunction with the testing of the new award structure the parties will identify and discuss award changes that might provide for productivity, efficiency and flexibility improvements across the industry to be embraced within the broad structure of the award.
- (iii) The parties will co-operate to review the award to remove obsolete references, remove ambiguities and discriminatory provisions and such other matters that may be identified that will enhance the process of modernising the terms of the award.
- (iv) The parties will co-operate positively to eliminate demarcation and optimising the multi-skilling and cross-skilling of employees at each enterprise and at the industry level.
- (v) Without limiting the rights of either an employer or a union to arbitration, any other measure designed to increase flexibility within an enterprise shall be implemented subject to the agreement of the parties to this award and subject to the following requirements:
 - (1) the majority of employees affected by the change at the site or enterprise must genuinely agree to change;
 - (2) no employee shall lose income as a result of the change;
 - (3) any agreement which affects a provision of this award shall be subject to approval by the Tasmanian Industrial Commission.

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- (b) 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 the award.

This provision should not deny such employee any award entitlement which might be applicable for performing work at a higher classification; nor should the provision enable the employer to pay an employee at a rate lower than the substantive classification for performing work of a lower classification.

34. SUPERANNUATION

- (a) Contribution

An employer shall make a contribution equivalent to nine percent of ordinary time earnings into an approved superannuation fund in respect to all eligible employees as from 25 November 2002.

- (b) Eligible Employee means:

LICENSED ESTABLISHMENTS

- (i) Full-time and part-time employees:

an employee who immediately before the date on commencement of superannuation as provided in subclause (a) of this clause, has completed four weeks continuous service with the employer; or

an employee who subsequent to the date of commencement of superannuation completes four weeks continuous service with the employer; or

an employee who commences employment after the date of commencement of superannuation and who is an existing member of the scheme.

- (ii) Casual employee means:

an employee who immediately before the date of commencement of superannuation as provided in subclause (a) of this clause, has completed continuous service over two successive calendar months in each of which the employee has had not less than two engagements and has aggregate ordinary time earnings, as defined, equivalent to not less than \$57 for each week in the month calculated by the number of Fridays falling within the calendar month; or

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an employee who subsequent to the date of operation of superannuation completes continuous service over two successive calendar months in each of which the employee has had not less than two engagements and has aggregate ordinary time earnings, as defined, equivalent to not less than \$57 for each week in the month calculated by the number of Fridays falling within the calendar month; or

an employee who commences employment after the date of commencement of superannuation and who is an existing member of the scheme and has ordinary time earnings upon commencement or at any time thereafter of not less than \$57 per week in any one week.

PROVIDED that in any monthly contribution period the aggregate ordinary time earnings for a casual employee does not exceed \$200 no contribution shall be made in respect of such employee. However, where an employee is employed by more than one employer and his aggregate earnings with those employers exceeds \$200 per month, then each employer will, on production of satisfactory evidence by the employee, be required to make contributions in respect of earnings with that employer.

ALL OTHER ESTABLISHMENTS

Shall mean an employee whether weekly, part-time or casual, who has had at least six months continuous service with an employer subject to this award.

PROVIDED that in the case of eligible casual and part-time employees, contributions shall be made where the employee works at least 12 hours per week averaged over a Fund billing statement month.

PROVIDED FURTHER that in the case of an employee who has so qualified with one employer, that employee shall not be required to serve the qualifying period with any subsequent employer subject to this Award.

Ordinary Time Earnings

- (i) In the case of a full-time employee the weekly wage rates for the ordinary hours of the week prescribed by Clause 8 - Wage Rates together with payments prescribed by Clauses 9 - Annual Leave, 10 - Annual Salary, 16 - Compassionate Leave, 21 - Hours of Work, 22 - Meal Allowance, 32 - Sick Leave, 35 - Terms of Engagement and 37 - Tool Allowance, and the penalty payments on ordinary hours prescribed by Clause 25 - Overtime and Other Penalty Rates. Overaward payments shall also be included.

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- (ii) In the case of a part-time employee the weekly wage rates for the ordinary hours of the week prescribed by Clause 8 - Wage Rates together with payments prescribed by Clauses 9 - Annual Leave, 10 - Annual Salary, 16 - Compassionate Leave, 21 - Hours of Work, 22 - Meal Allowance, 27 - Part-time Employees, 32 - Sick Leave, 33 - Terms of Engagement and 37 - Tool Allowance, and the penalty payments on ordinary hours prescribed by Clause 25 - Overtime and Other Penalty Rates. Overaward payments shall also be included.
- (iii) In the case of a casual employee the weekly wage rates for the hours of the week prescribed by Clause 8 - Wage Rates, together with payments prescribed by Clauses 14 - Casual Employees, 22 - Meal Allowance and 28 - Payment of Wages, and the penalty payments on ordinary hours prescribed by Clause 25 - Overtime and Other Penalty Payments. Overaward payments shall also be included.

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

(c) Fund

Contributions determined in accordance with subclause (a) of this clause shall, subject to subclause (e) of this clause, be made into:

- (i) For licensed establishments - HOST, PLUS:
- (ii) For all other establishments - TASPLAN.

PROVIDED that restaurants in a retail store may also utilise the REST Scheme.

(d) Exemption

An employer may seek exemption from making contributions into either of the nominated approved funds in the following circumstances:

- (i) where employees subject to this award represent a minority of the total employees and contributions are already being made into an approved fund in respect of the majority of employees in any one establishment; or
- (ii) where the fund subject to the exemption application is an approved fund which was established prior to 1 January 1990 and Occupational Superannuation contributions equivalent to three percent of ordinary time earnings were being paid on behalf of all employees in the establishment covered by this award prior to 1 January 1990 and have continued to be paid since that date; or

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(iii) where an employer can demonstrate a special and compelling circumstance to justify the use of an approved fund other than either of the nominated approved funds.

(e) Procedure for Seeking Exemption

An employer seeking exemption shall, not later than 1 June 1990:

(i) Pursuant to Section 29 of the *Industrial Relations Act 1984* make application to the Industrial Commission;

(ii) Applications shall contain the following information:

- (1) Name of Fund;
- (2) Evidence of compliance with Commonwealth Operational Standards;
- (3) Summary of Structure and Benefits;
- (4) Level of Administration Charge;
- (5) Any other relevant information.

(iii) An employer who commences a new business after 1 June 1990 may make application for exemption in accordance with subclause (e) of this clause. Such application shall be made within one month of the commencement of operation of the new business. However, this provision shall not apply to a business which has been transmitted or was a subsidiary of a business subject to this award as at 1 June 1990.

(f) Notwithstanding anything elsewhere contained in this clause, an employee who belongs to the religious fellowship known as Brethren and who holds a certificate issued under an Act may nominate an alternative complying fund into which the contributions shall be paid.

(g) The following businesses are exempt from the requirement to necessarily use the nominated funds referred to in subclause (c) of this clause, but may in the alternative use either the nominated fund or the fund hereinafter specified:

Employers	Trading Name	Fund
Allamanda Pty Ltd	Ball & Chain	}
J Hill & J Splann	"Chats"	
A J & J M Shanny	Brandys Coffee Shoppe	
H & B Giizel	Delishus Cuisine	
J Y Bosworth	Renison Canteen	
P Bosch & R Garcia	Sisco's Restaurant	
T W & F C Owens & J & V Deegan	Red Grasshopper	} Chamber of Commerce

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D M Mohr	Rainbows End Coffee Shop		Industry
Heathridge Pty Ltd	Buccahinos		Superannuation
P & T Tremlett	The Bistro		Fund
Holloway Enterprises	Mures Fish Centre		
Mr Wooby's Pty Ltd	Mr Wooby's Coffee Lounge & Restaurant		
V Sanita	Mister Pizza		
C A Vautin	Pitstop Takeaways		
Western Holdings (Tas) Pty Ltd and CDC Nominees (GRC) Pty Ltd	Gordon River Cruises		
Goliath Portland Cement Pty Ltd			Goliath Supplementary Superannuation Fund
Salvation Army	Ashfield/Barrington Centre		Australian Retirement
John McMinn Catering Service	Botanical Gardens Restaurant		TASPLAN
Centacare Tasmania	Centacare Tasmania		Catholic Superannuation Fund

35. TERMS OF ENGAGEMENT

(a) Excepting as provided in subclause (b) of this clause, all employees (other than casual employees) shall be engaged by the week and shall be paid in accordance with the terms as outlined in Clause 28 - Payment of Wages.

At the time of engagement an employer shall inform the employee as to the terms of his or her engagement including whether full-time, part-time or a casual employee.

Two days' notice shall be given by the employer or the employee to terminate the employment or, in lieu of such notice, by the payment or forfeiture of two days' wages as the case may be. This shall not affect the right of an employer to dismiss an employee without notice for misconduct or neglect of duty, in which case wages shall be paid up to the time of dismissal only.

Notice for employees in a **restaurant in a retail store** shall be one week with one Week's notice being given by either employer or employee or payment of one week's wages.

PROVIDED that no employee shall be dismissed without notice for sickness, accident, or other reasonable cause if he or she informs the employer not later than three hours after the usual time for commencing work on any day of his or her inability to take up duty on that day and also, before that hour, informs the employer of his or her whereabouts and the reason for the absence.

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When notice of termination of service has been given employees shall be paid within 24 hours from the expiry of such notice.

- (b) During the first fortnight of engagement the employment may be terminated by the giving of one hour's notice by the employer or by the employee as the case may be.

36. TIME AND WAGES RECORDS/AWARD

- (a) Time and wages book or sheets shall be provided by the employer and kept by each employee. Each employee shall enter the following:
 - (i) Full name.
 - (ii) Start and finish times as well as all times when all meal, broken shifts, tea breaks are taken.
 - (iii) The signature of the employee verifying the record is correct.
- (b) The employer shall keep a record of the information as laid out in subclause (a) of this clause. In addition he shall keep a record of the following:
 - (i) Address and date of birth if under 21 years.
 - (ii) Employee's work classification.
 - (iii) Whether full-time, part-time or casual.
 - (iv) Award rate for the particular classification including hourly rate of pay, penalties, shift allowances, overtime and any other payments.
 - (v) Gross wage, any deductions and net wage with date of payment.
- (c) Any alterations to the information kept by the employee as detailed in subclause (a) of this clause, must be initialled by the employee concerned.
- (d) The employer shall keep such book or sheet available at all reasonable time and in a convenient place to which employee shall have access for the purpose of making such entries.
- (e) Such book or sheet may be inspected by the official of the Australian Liquor, Hospitality and Miscellaneous Workers Union - Tasmanian Branch at all reasonable hours.
- (f) A copy of this award shall be kept with time and wage book or sheets.

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- (g) In addition to the above each employee is required to enter on his time sheet and his employer is required to enter in the wage book or wages sheet the employee's membership number of the appropriate Superannuation Scheme and record of payment.

37. TOOL ALLOWANCE

All employees engaged in classifications that are proclaimed as trades under the *Industrial and Commercial Training Act 1985* shall either be supplied with all tools by the employer or be paid a tool allowance of not less than \$8.10 per week.

PROVIDED that such allowance shall not be subject to adjustment when computing payments for shift penalty rates, for weekend or holiday work, for overtime or for any other purpose.

38. TRAVELLING FACILITIES

When an employee is detained at work, having completed overtime, until it is too late to travel by the last regular conveyance to his or her usual place of residence, the employer shall provide a conveyance from the place of employment to the employee's home free of charge to the employee.

39. UNIFORMS

Where special uniforms, including white coats and/or other uniform types of dress are required to be worn, they shall be provided by the employer and shall remain the property of the employer. Such uniforms shall either be laundered at the employers' expense or at the option of the employer by the employee and the employee shall be paid \$2.00 per week in the case of weekly employees or, in the case of casual or part-time employees, five cents per hour for each hour worked, with a minimum payment of 50 cents per week.

Ordinary white aprons, cuffs, collars, caps or facings, usually worn by female employees, shall either be laundered at the employer's expense or at the option of the employer, the employee shall be paid 60 cents per week in addition to the employee's weekly wage.

An employee on commencing employment shall sign a receipt of item/s of uniform. Such receipt shall list the item/s of uniform and value of same. Upon ceasing employment if the employee does not return item/s of uniform in accordance with receipt the employer shall be entitled to deduct the value as stated on the receipt from the employee's termination wages.

Records of receipt shall be available for inspection by an official of the union. In the case of genuine wear and tear, damage, loss, theft that is not the employee's fault this provision shall not apply.

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Any disagreement concerning the value of item/s of uniform and any other aspect of this subclause shall be determined in accordance with Clause 19 - Grievance Procedure.

Tim Abey
COMMISSIONER

30 August 2004