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**TASMANIAN INDUSTRIAL COMMISSION**

**Industrial Relations Act 1984**

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)**

**PUBLIC ACCOUNTANTS AWARD**

**ORDER BY CONSENT –**

**No. 1 of 2004  
(Consolidated)**

PART I, CLAUSES 4 AND 6 ARE VARIED; PART III, CLAUSES 1 AND 6 ARE VARIED; PART IV, CLAUSES 1 AND 2 ARE VARIED, AND THE AWARD IS CONSOLIDATED

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## **PART I - APPLICATION AND OPERATION OF THE AWARD**

### **1. TITLE**

This award shall be known as the "Public Accountants Award".

### **2. INDEX**

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### **3. SCOPE**

This award is established in respect of the following groups of trades:

- (a) Public Accountant;
- (b) Trustee Company;
- (c) Sharebroker;
- (d) Building Society;
- (e) Company Manager;
- (f) Finance Company and/or Agency;
- (g) Commission Agent; Indent and Forwarding Agent; and/or Customs Agent;
- (h) Trade Protective Institute and/or Debt Collector; and
- (i) The Industry of a Credit Union.

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

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

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## **5. AWARD INTEREST**

- (a) The following employee organisation has an interest in this award under Section 63(10) of the *Industrial Relations Act 1984*:

the Australian Municipal, Administrative, Clerical and Services Union.

- (b) The following organisation has an interest in this award pursuant to Section 62(2) of the *Industrial Relations Act 1984*:

The Tasmanian Chamber of Commerce and Industry Limited.

- (c) The following organisation has an interest in this award pursuant to Section 62(3) of the *Industrial Relations Act 1984*:

the Tasmanian Trades and Labor Council.

## **6. SUPERSESION**

This award incorporates and supersedes the Public Accountants Award No. 2 of 2003 (Consolidated) and No 3 of 2003.

# **PART II - EMPLOYMENT RELATIONSHIP AND ASSOCIATED MATTERS**

## **1. EMPLOYMENT CATEGORIES**

- (a) Casual Employees

A casual employee for working ordinary time shall be paid per hour one- thirty-seventh and a half of the weekly rates prescribed for the work which he or she performs. In addition thereto a casual employee shall receive 20 percent of the ordinary hourly rate in respect of each hour for which he or she is paid; such additional amount to be payment in lieu of annual leave, sick leave and public holidays.

- (b) Part-Time Employees

- (i) Part-time employees engaged to work 20 or more hours per week shall be entitled to the holidays, annual leave and sick leave as prescribed in Part VI - Leave and Holidays with Pay, Clauses 1 - Annual Leave, 4 - Holidays with Pay and 6 - Sick Leave hereof, provided that payment therefore shall be made at the rate normally paid to such employees for a similar period of time worked.

The wage rates payable per hour shall be one one-thirty-seventh and a half of the relevant rate above set out.

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- (ii) Part-time employees engaged to work less than 20 hours per week shall be paid per hour one-thirty-seventh and a half of the weekly rates prescribed for the work he or she performs. In addition thereto such employees shall receive 20 percent of the ordinary hourly rate in respect of each hour for which he or she is paid; such additional amount to be payment in lieu of annual leave, sick leave and public holidays.
- (c) **'Adult Entry'** shall mean the entry point for adult employees (21 years and over) with less than 12 months' employment experience either as a junior or adult, with one or more employer. Such an employee shall be classified under Part III – Wages and Related Matters, Clause 2 – Classification Descriptors, on accumulation of 12 months' experience.

## **2. TERMINATION OF EMPLOYMENT**

- (a) With the exception of employees engaged as casuals, all employment shall be by the week and the employment of an employee will not be terminated except for misconduct which would justify instant dismissal, without at least one week's notice being given by the employer to the employee and the employee shall likewise give to the employer one week's notice of the intention to terminate such employment. If one week's notice be not given by the employer or employee, one week's wages shall be paid or forfeited as the case may be and in the case of misconduct, wages shall be paid up to the time of dismissal only.

Any dispute on what constitutes misconduct shall be determined by the Tasmanian Industrial Commission whose decision shall be final.

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

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### **PART III - WAGES AND RELATED MATTERS**

#### **1. WAGE RATES**

(a) Adults

	Base Rate Relativity %	Base Rate \$	Safety Net Adjustment \$	Weekly Wage Rate \$
Adult entry (as defined)				
1st 6 months service	80	333.80	142.00	475.80
2nd 6 months service	85	354.60	142.00	496.60
Grade 1 (as defined)				
1A – 1st 12 months service	87	363.00	142.00	505.00
1B – After 12 months service	90	375.50	142.00	517.50
Grade 2 (as defined)				
2A – 1st 12 months service	92	383.80	142.00	525.80
2B – After 12 months service	95	396.30	142.00	538.30
Grade 3 (as defined)				
3A – 1st 12 months service	97	404.70	142.00	546.70
3B – After 12 months service	100	417.20	144.00	561.20
Grade 4 (as defined)	105	438.10	144.00	582.10
Grade 5 (as defined)	110	458.90	144.00	602.90
Grade 6 (as defined)	115	479.80	142.00	621.80
Grade 7 (as defined)	120	500.60	142.00	642.60

(b) Junior Employees

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

(i) Employees studying for qualifications listed in subclause (c) hereof -

	Percentage of Grade 2A	
	% (A)	% (B)
16 - 17 years of age	48	55
17 - 18 years of age	58	65
18 - 19 years of age	68	74
19 - 20 years of age	78	82
20 - 21 years of age	89	92

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Wage rates in column (A) are to be paid to employees who have not qualified for matriculation at a recognised University. Wage rates in column (B) are to be paid to employees who have so qualified for matriculation.

- (ii) Employees other than in (i) of this subclause.

	Percentage of Grade 2A
	%
Under 16 years of age	40
16 to 17 years of age	45
17 to 18 years of age	55
18 to 19 years of age	70
19 to 20 years of age	80
20 to 21 years of age	90

- (iii) When determining the margin payable to an employee attaining the age of 21 years who has been employed as a junior clerk in the trades or groups of trades 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.

- (c) Allowance for qualification

- (i) Employees who have progressively passed or completed examinations prescribed by the following bodies shall, in addition to the amounts prescribed in subclauses (i) or (ii) of this clause, be paid the amounts set out in the following scale with proportionate amounts for each subject within a group, stage or section.

Additional Amounts Per Week	Stage 1 \$	Stage 2 \$	Stage 3 \$	Stage 4 \$	On completion \$
National Institute of Accountants	22.40	48.30			
Institute of Chartered Secretaries and Administrators	22.40	35.90	53.40	71.30	88.90
Institute of Chartered Accountants	17.70	44.70	66.90	88.90	
Aust. Society of Accountants	17.70	44.70	66.90	88.90	
University Degree of Accounting or B. Ec.	22.40	44.70	66.90		
Diploma of Accounting	22.40	44.70	66.90		

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**PROVIDED** the allowances for qualifications listed above shall apply for one course of study only, ie if two or more qualifications are held the highest shall apply and shall in no way be cumulative.

(ii) An employee who is employed by a practising accountant, at 21 years of age or over without previous experience in such an office shall be paid the following percentages of the allowances prescribed in (i) of this subclause.

1st years experience	50%
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2nd years experience	75%
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Thereafter, the allowance prescribed for the appropriate classification.

**PROVIDED** that an employee who has entered the employ of a practising accountant and who has not had three years experience before attaining the age of 21 years shall be paid the appropriate percentage of the allowance prescribed herein according to his or her years of experience.

## **2. CLASSIFICATION DESCRIPTORS**

### **CLERICAL AND ADMINISTRATIVE EMPLOYEE GRADE 1**

#### GRADING

Employees shall be classified at this grade where they are required to meet the "General Requirements" described below and required to exercise any one or more of the "Skill Requirements" described below.

#### GENERAL REQUIREMENTS

Employees in this grade perform, and are accountable for clerical and office tasks, as directed, within the skill levels set out. They work within established routines, methods and procedures. Supervision is direct.

Employees in this grade shall be able to acquire and apply a limited knowledge of office procedures and requirements.



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## SKILL REQUIREMENTS

### Technical Skills

#### Machine Operation

Employees at this level are able to operate telephone/ intercom systems, telephone answering machines, facsimile machines, photocopiers, franking machines and guillotines, provide basic telephone advice to customers and clients and take and redirect telephone calls and messages.

#### Information Handling Skills

Employees at this level are able to receive, sort, open and distribute incoming mail, process outgoing mail, receive incoming and dispatch outgoing courier mail, deliver messages and documents to appropriate persons and locations, prepare and collate documents and sort and file documents/records accurately in correct location/sequence using an established paper-based filing system.

## **CLERICAL AND ADMINISTRATIVE EMPLOYEE GRADE 2**

### GRADING

Employees shall be classified at this grade where they are required to meet the "General Requirements" described below and required to exercise any one or more of the "Skill Requirements" described below.

### GENERAL REQUIREMENTS

Employees in this grade perform tasks using a more extensive range of skills and knowledge at a level higher than required in Grade 1. They are responsible and accountable for their own work which is performed within established routines, methods and procedures. Supervision is routine.

Employees in this grade are able to acquire and apply a working knowledge of office or sectional operating procedures and requirements; acquire and apply a working knowledge of the organisation's structure and personnel in order to deal with enquiries at first instance, locate appropriate staff in different sections, relay internal information, respond to or redirect enquiries and greet visitors.

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## SKILL REQUIREMENTS

### Technical Skills

Employees at this grade shall be capable of exercising all skills set out below.

### Machine Operation

Employees at this level are able to operate adding machines, switchboard, paging system, telex machine, typewriter and calculator.

### Computer Operation

Employees at this level are able to use knowledge of keyboard and function keys to enter and retrieve data through computer terminal. Employees are able to use basic email functions to send, open and forward email messages.

### Keyboard Operation

Employees at this level are able to type at 25 words per minute with 98 percent accuracy. Utilise basic word processing skills.

### Information Handling Skills

Employees at this level are able to maintain a mail register and records; maintain established paper-based filing/records systems in accordance with set procedures including creating and indexing new files, distributing files within the organisation as requested and monitor file locations; transcribe information into records, complete forms, take telephone messages.

### Business/Financial Skills

Employees at this level are able to keep appropriate records; prepare and record petty cash transactions; undertake bank transactions (deposits and withdrawals).

## **CLERICAL AND ADMINISTRATIVE EMPLOYEE GRADE 3**

### GRADING

Employees shall be classified at this grade where they are required to meet the "General Requirements" described below and required to exercise any one or more of the "Skill Requirements" described below.

Employees holding a relevant Certificate III or accredited equivalent who are required to use skills and perform tasks within the range of Grade 3, shall be classified at this grade.

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## GENERAL REQUIREMENTS

Employees in this grade perform tasks using a more extensive range of skills and knowledge at a level higher than required in Grade 2. They are responsible and accountable for their own work which is performed within established guidelines. They exercise limited discretion within the range of their skill and knowledge. Supervision is general.

They must be able to acquire a working knowledge of the organisation's products/services, functions, locations and clients, and respond to, and act upon most internal/external enquiries in their own function area.

## SKILL REQUIREMENTS

### Technical Skills

Employees at this grade shall be capable of exercising all skills set out below.

### Machine Operation

Employees at this level are able to operate computerised radio telephone equipment, micro/personal computer, printing devices attached to a personal computer, dictaphone equipment and typewriters.

### Keyboard Operation

Employees at this level are able to produce documents and correspondence using knowledge of standard formats, touch type at 40 words per minute with 98 per cent accuracy and audio type.

### Computer Operation

Employees at this level are able to use at least one software application package developed for a micro-personal computer to create a database file structure or a spreadsheet/worksheet or a graphic, or an accounting/payroll or industry specific file following standard procedures and using existing models/fields of information; or use a central computer resource to an equivalent standard.

### Word Processing

Employees at this level are able to use at least one software package to create, format, edit, proof read, correct, print and save documents.

### Secretarial Skills

Employees at this level are able to take shorthand notes at 70 words per minute and transcribe with 95 per cent accuracy.

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#### Information Handling Skills

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

#### Business/Financial Skills

Employees at this level are able to maintain records and journals, sort, process and record transactions such as incoming/outgoing cheques, invoices, debit/credit items, payroll data and establish petty cash imprest system.

### **CLERICAL AND ADMINISTRATIVE EMPLOYEE GRADE 4**

#### GRADING

Employees shall be classified at this grade where they are required to meet the "General Requirements" described below and required to exercise any one or more of the "Skill Requirements" described below.

#### GENERAL REQUIREMENT

Employees in this grade perform tasks using a more extensive range of skills and knowledge at a level higher than required in Grade 3. They are responsible and accountable for their own work and exercise discretion and initiative in the organisation of work within prescribed limits. Supervision is limited.

Employees in this grade are able to provide detailed advice and information on the organisation's products and services; respond to client/public/supplier problems within own function area using such techniques as personal interview and liaison; explain organisation's viewpoint to clients and appropriate persons related to own function area.

Employees in this grade shall be capable of guiding employees graded at a lower level by means of personal instruction and demonstration. This may include general supervision of up to 4 employees.

Employees in this grade shall be capable of acquiring and using specialist vocabulary, such as technical, medical or legal terminology, within the scope of this grade.

#### SKILLS REQUIREMENTS

##### Technical Skills

Employees at this grade shall be capable of exercising all skills set out below.

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#### Keyboard Operation

Employees at this level are able to format complex documents using technical data, technical language, tables, graphs, text design, indexing, variable type face; produce documents in specified legal form or to comply with regulations or standards.

#### Computer Operation

Employees at this level are able to use at least two application software packages developed for a micro/personal computer at a standard equal to Grade 3 such as database, communications, accounting, payroll/personnel, spreadsheets, graphics, other applications; or are able to use a central computer resource to an equivalent standard.

#### Word Processing

Employees at this level are able to use at least two software packages at a standard equal to Grade 3; or are able to apply additional functions such as search and replace, variable fonts, moving and merging across documents, text columns, money columns, tables, eg. to produce financial statements, printed forms.

#### Secretarial Skills

Employees at this level are able to arrange travel bookings and itineraries; make appointments; screen telephone calls; follow visitor protocol procedures; establish telephone contact on behalf of executive; take shorthand notes at 90 words per minute and transcribe with 95 per cent accuracy.

#### Information Handling Skills

Employees at this level are able to maintain a computer based records management system; identify, access and extract information from internal sources.

#### Business/Financial Skills

Employees at this level are able to prepare cash payment summaries, banking reports and bank statements; maintain wage and salary records; follow credit referral procedures; apply purchasing and inventory control requirements; post journal entries to ledger.

### **CLERICAL AND ADMINISTRATIVE EMPLOYEE GRADE 5**

#### GRADING

Employees shall be classified at this grade where they are required to meet the "General Requirements" described below and required to exercise any one or more of the "Skill Requirements" described below.

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## GENERAL REQUIREMENTS

Employees in this grade perform duties using a more extensive range of skills and knowledge at a level higher than required in Grade 4. They are responsible and accountable for their own work, and may have limited responsibility for the work of others. They exercise initiative, discretion and judgement within the range of their skills and knowledge. Supervision is minimal.

Employees in this grade must be able to acquire a detailed knowledge of organisation's operations and structures and a basic knowledge of the industry or field of interest in which the organisation operates. Respond to and act upon complex issues/arrangements in such areas as consumer/client services, special products/service knowledge, production and planning schedules, material supply and transport/freight arrangements.

Employees in this grade shall be capable of guiding employees in lower grades by means of personal instruction and demonstration.

## SKILL REQUIREMENTS

### Technical Skills

#### Computer Operations

Employees at this level are able to use at least three application software packages developed for a micro/personal computer at a standard equal to Grade 4 or use a central computer resource to an equivalent standard; or apply knowledge of advanced functions of a single application software package to manipulate data, such as modify fields of information, develop a new database or spreadsheet model; or graph previously prepared spreadsheets, or perform reconciliation,

and/or

#### Word Processing

Employees at this level are able to apply advanced functions including macros, sorting and functions and thesaurus using at least one software package; or apply knowledge of additional functions defined in Grade 4 using at least two software packages.

#### Secretarial Skills

Employees at this level are able to write shorthand notes at 100 words per minute and transcribe at 95 per cent accuracy; maintain executive diary; respond to invitations; organise internal meetings on behalf of executive; establish and maintain reference lists/personal contact systems for executives; maintain current working and personal filing systems for executive.

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#### Information Handling Skills

Employees at this level are able to create new forms of files and records as required using computer-based records systems; access, identify, and extract information as required from external sources, eg. databases, libraries, local authorities; maintain subscriptions for required technical, trade and other publications and maintain circulation, indexing and filing systems for those publications; review/close files, archive files.

#### Business/Financial Skills

Employees at this level are able to reconcile accounts to balance; follow-up unpaid accounts; calculate wage and salary requirements; calculate work valuations; prepare bank reconciliations.

#### Supervisory Skills

Employees at this level are able to allocate work tasks to individuals, check work progress and correct errors. Normally 5 or more subordinates would be involved.

#### Specialist Skills

Employees at this level are able to apply knowledge of export and customs documentation requirements and procedures; apply knowledge of relevant industrial award rates of pay and conditions and occupational health and safety requirements.

### **CLERICAL AND ADMINISTRATIVE EMPLOYEE GRADE 6**

#### GRADING

Employees shall be classified at this grade where they are required to meet the "General Requirements" described below and required to exercise any one or more of the "Skill Requirements" described below.

#### GENERAL REQUIREMENTS

Employees in this grade perform duties using a more extensive range of skills and knowledge at a level higher than required in Grade 5. They are responsible and accountable for their own work, and may have limited responsibility for the work of a section or unit. They exercise initiative, discretion and judgement within the range of their skills and knowledge. Supervision is by means of reporting to more senior officers as required.

Employees in this grade are able to apply knowledge of the organisation's objectives, performance, projected areas of growth and product trends; and general industry conditions, eg. knowledge of competitors and major clients market structure in the performance of their own responsibilities.

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Employees in this grade shall be capable of guiding employees graded at a lower level by means of personal instruction and demonstration.

#### SKILL REQUIREMENTS

##### Technical Skills

##### Computer Operations

Employees at this level are able to use at least two application software packages on a micro/personal computer to a standard equal to Grade 5 or use a central computer resource to an equivalent standard; or assist in operating a mainframe computer

and/or

##### Word Processing

Employees at this level are able to use complex functions such as moving columns, creating displays of charts or graphs, booklet or report format on at least one software package; or apply knowledge of advanced functions defined in Grade 5 using at least two software packages.

##### Secretarial Skills

Employees at this level are able to write shorthand notes at 120 words per minute and transcribe at 95 percent accuracy; attend executive/organisational meetings and take minutes; establish current working and personal executive filing system, answer correspondence from verbal or rough handwritten instructions; organise teleconferences.

##### Information Handling Skills

Employees at this level are able to establish new paper based/manual filing systems for the organisation; assist in undertaking research [locate/solicit, summarise/extract and interpret information] related to function area; compose original business correspondence from minimal instructions.

##### Business/Financial Skills

Employees at this level are able to post transactions to ledger and prepare a trial balance; prepare financial/tax schedules; calculate costings, stock pricing; complete personnel/payroll data for authorisation.

##### Supervisory Skills

Employees at this level are able to assist in the development of work quality and performance in a team environment; solve operational problems in own work functional area and resolve operational problems for staff in lower grades; co-ordinate work flow within a section or unit and counsel and advise staff who are under direct supervision.



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## Specialist Skills

Employees at this level are able to apply working knowledge of industrial/employment law, equal opportunity, workers' compensation and superannuation procedures.

## **CLERICAL AND ADMINISTRATIVE EMPLOYEE GRADE 7**

### GRADING

Employees shall be classified at this grade where they are required to meet the "General Requirements" described below and required to exercise any one or more of the "Skill Requirements" described below.

### GENERAL REQUIREMENTS

Employees in this grade perform duties using a more extensive range of skills and knowledge at a level higher than required in Grade 6. They are responsible and accountable for their own work, and may have designated responsibility for the unit/section under their supervision. They exercise initiative, discretion and judgement within the range of their skills and knowledge. Supervision is by means of reporting to more senior officers as required.

Employees in this grade are able to assist in developing policy or new products and services to meet changing market or other circumstances; identify and assess internal and external factors impacting on production and service delivery and identify future trends.

Employees in this grade are able to assist in the delivery of structured training courses and apply a knowledge of training materials and aids; train employees (where required) in lower grades by means of personal instruction and demonstration.

### SKILL REQUIREMENTS

#### Technical Skills

#### Computer Operations

Employees at this level are able to use and integrate a variety of application software packages within a micro/personal computer network; or use a central computer resource to an equivalent standard; or evaluate and determine optimum software solutions (using existing software/programs) to meet new or different application requirements; or use macro functions on a spreadsheet package.

and/or

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#### Word Processing Skills

Employees at this level are able to use all word processing functions identified at lower Grades and integrate word processing software with other application software packages to produce complex text and data documents; apply knowledge of desk top publishing to integrate documents and select style sheets appropriate to final presentation; determine all document production design needs without instructions.

#### Secretarial Skills

Employees at this level are able to arrange conferences and external meetings; originate executive correspondence; assist executive in preparing, attending and following up appointments, interviews, meetings, etc; act on delegated authority of executive.

#### Business/Financial Skills

Employees at this level are able to assist in preparing - budgets, cashflow records, balance sheets, trading accounts, cash management analysis, relevant taxation requirements; administer individual executive salary packages, travel expenses and allowances, company transport; administer specialised salary and payroll requirements, assist in financial forecasting; interpret and prepare financial information for senior management and prepare reports and assessment relevant to areas of responsibility.

#### Supervisory Skills

Employees at this level are able to plan and organise work priorities of unit or section; reschedule work loads as necessary and resolve operational problems in area of responsibility; monitor work quality of those supervised; use observations, diagnosis and intervention skills to ensure unit/section meets objectives; organise and chair necessary work meetings/conferences; assist in planning future sectional/office organisational resources and equipment needs.

#### Specialist Skills

Employees at this level are able to use knowledge of basic statistics to interpret data from spread sheets, statistical tables, graphs and frequency tables using tools such as mean, mode, median variation, etc; apply knowledge of exchange rate fluctuations in areas of functional responsibility; apply working knowledge of legal requirements, eg. personal income tax and company tax law, company law, contract law, superannuation law and local government and environmental regulation.

### **3. ESTIMATING SERVICE**

In estimating the number of years' service of an employee in order to ascertain the minimum rate of wages to which such employee may be entitled, the total experience in the service of every employer in the trade or group of trades covered by this award shall be taken. In the case of part-time and casual employees, a "year's service" shall be deemed to be 1660 hours of actual service.

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#### **4. PAYMENT OF WAGES**

Payment of wages shall be made at least twice in each month.

#### **5. SUPERANNUATION**

(a) Definitions

**'Eligible Employee'** shall mean an employee whether weekly, part-time or casual, who has had at least three months continuous service with an employer. An employee who has so qualified with one employer, subject to this award shall not be required to serve the qualifying period with any subsequent employer subject to this award.

(b) Contribution

The employer shall make a contribution in accordance with the provisions of the relevant Federal Superannuation Guarantee legislation into a superannuation fund approved under the legislation in respect of all eligible employees (as defined).

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

(c) Casual and Part-time Employees

In the case of eligible casual and part-time employees, contributions shall be made where the employee works at least 38 hours over a Fund billing statement month.

#### **6. 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 is \$467.40 per week.

(ii) 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.

## **PART IV - ALLOWANCES**

### **1. TEA MONEY**

An employee who has worked six hours or more during ordinary time and who is required to work overtime for more than two hours shall be paid a meal allowance of \$12.70.

**PROVIDED** that this allowance shall not be paid if the employee has received notice on the previous day that he or she will be required to work after the normal finishing time.

### **2. TRAVELLING TIME, ALLOWANCE AND BOARD**

- (a) An employee who is required to perform work at a place other than his or her usual place of work shall be paid all fares and reasonable travelling expenses, including \$12.70 for each meal, together with the cost of board and lodging, if the employee has to remain away from his or her home for a night.

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- (b) An employee who is required to travel in connection with his or her employer's business shall be paid at ordinary rates up to a maximum of eight hours per day and thereafter at the rate of time and one half.
- (c) An employee who uses his or her own means of conveyance in travelling in connection with his or her employer's business shall be reimbursed at the following rates:

Ordinary Cars	Engine Capacity		Rate per Kilometre
		Rotary Engine Car	
1600 cc or less	800cc or less		48.9 cents
1601 to 2600 cc	801 - 1300cc		58.5 cents
2601 cc and Over	1301cc and over		59.5 cents

- (d) In addition to the amounts prescribed under subclauses (a), (b) and (c) hereof, an employee who is required to remain away from his or her normal place of residence for four nights or more shall be reimbursed all reasonable travelling, overnight and accommodation expenses.

## **PART V - HOURS OF WORK, PENALTY PAYMENTS, SHIFT WORK AND OVERTIME**

### **1. HOURS**

- (a) The ordinary hours of work shall be an average of 37.5 hours per week averaged over a 28 day cycle.
- (b) The ordinary hours of work shall be between 8.00 am and 6.30 pm Monday to Friday inclusive.
- (c) Subject to subclause (a) by agreement between the employer and an employee, up to 10 hours may be worked on any day at ordinary time.
- (d) The hours of work prescribed by this clause shall, excepting for a meal break of not less than 45 minutes nor more than 75 minutes, be continuous on each day. Such meal break shall be taken between the hours of 11.30 am and 2.30 pm. By agreement between the employer and employee, the meal break may be less than 45 minutes but shall not be less than 30 minutes.
- (e) Except where overtime is worked for a period not exceeding one hour after normal finishing time, no employee shall work for more than five hours without a meal break of customary duration.

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(f) Make Up Time

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

- (i) An employee may elect, with the consent of the employer, to work 'make up time' under which the employee takes time off during ordinary 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 at each time this provision is used.

(g) Rostered Days Off

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

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- (v) Once a decision has been taken to introduce an enterprise system of RDO flexibility, in accordance with this clause, its terms must be set on in the time and wages records kept pursuant to Regulation 25 of the *Industrial Relations Regulations 1993*.
- (vi) An employer shall record RDO arrangements in the time and wages book at each time this provision is used.

## **2. OVERTIME**

- (a) All time worked before the time fixed for commencing work, or after the time fixed for ceasing work, or in excess of the ordinary hours, or in excess of the ordinary weekly hours, or on a Saturday shall be paid at the rate of time and a half for the first three hours and double time thereafter.

In computing overtime, each day's work shall stand alone.

Where an employee requests and the employer agrees, time off at the penalty equivalent may be allowed in lieu of payment for overtime.

**PROVIDED** that such time off shall be paid at the ordinary rate.

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

- (b) Requirement to Work Reasonable Overtime
  - (i) Subject to paragraph (ii) an employer may require an employee to work reasonable overtime at overtime rates.
  - (ii) An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable having regard to:
    - (1) any risk to employee health and safety;
    - (2) the employee's personal circumstances including any family responsibilities;
    - (3) the needs of the workplace or enterprise;
    - (4) the notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and
    - (5) any other relevant matter.

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### **3. HOLIDAYS AND SUNDAY WORK**

Double time shall be paid for all work performed on Sunday or on any of the holidays specified in Part VI - Leave and Holidays with Pay, Clause 4 - Holidays with Pay.

### **4. REST PERIOD**

Employees shall be allowed a rest period between the start of work and the midday meal break and rest period between the resumption of work after the midday meal break and the cessation of work for the day. One rest period shall be of 10 minutes duration and one of five minutes duration to be taken at such times as may be mutually arranged between the employer and the employees.

**PROVIDED** that an employee may be required to take the shorter rest period at the work station.

## **PART VI - LEAVE AND HOLIDAYS WITH PAY**

### **1. ANNUAL LEAVE**

(a) Period of Leave

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

(b) Annual Leave Exclusive of Public Holidays

If any of the holidays prescribed by Clause 4 - Holidays with Pay hereof, fall within an employee's period of annual leave and is observed on a day which in the case of that employee would have been an ordinary working day, there shall be added to that leave one day for each such holiday so occurring.

(c) Payment in Lieu Prohibited

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

(d) Time of Taking Leave

Annual Leave shall be given at a time fixed by the employer within a period not exceeding 12 months from the date when the right to annual leave accrued and after not less than two weeks' notice to the employee.



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(e) Broken Leave

An employee has the prior right to take annual leave in one part if so desired, however, by mutual agreement between the employer and the employee annual leave may be taken in more than one part.

(f) Payment for Period of Leave

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

(ii) In addition thereto all employees (including part-time employees engaged to work 20 or more hours per week) shall receive a loading of 17.5 percent on payment made for annual leave as prescribed in paragraph (i) hereof. Such loading shall not apply to proportionate leave on termination of service.

(g) Leave Allowed before Due Date

An employer may allow annual leave to an employee before the right thereto has accrued due, but where it is taken in such a case a further period of annual leave shall not commence to accrue until after expiration of the 12 months in respect of which annual leave has been taken before it accrued.

Where leave has been granted to an employee pursuant to this subclause before the right thereto has accrued due and the employee subsequently leaves or is discharged from the service of the employer before completing 12 months' continuous service in respect of which the leave was granted, the employer may, for each completed month of the qualifying period of 12 months not served by the employee, deduct from whatever remuneration is payable upon the termination of the employment one-twelfth of the amount of wage paid on account of the annual leave which amount shall not include any sums paid for any of the holidays prescribed by Clause 4 - Holidays with Pay.

(h) Proportionate Leave on Termination of Service

If after one month's continuous service in any qualifying 12 monthly period an employee lawfully leaves his or her employment, or his or her employment is terminated by the employer through no fault of the employee the employee shall be paid at the ordinary rate of wage as follows:

Twelve and a half hours for each completed month of continuous service.

## **2. BEREAVEMENT LEAVE**

An employee shall on the death of a member of the employee's immediate family, or a member of the employee's household 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

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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.

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** that no such payment shall be made in respect of an employee's rostered days off (as defined).

**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.

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

- (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.

### **3. 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 6 - 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.

For the purposes of this clause, part-time employees, who are not in receipt of a loading in lieu of entitlements as specified in subclause (i) of Part II - Employment Relationship and Associated Matters, Clause 1 (b) - Part-time Employees, shall be entitled to use up to a maximum of one week of any current or accrued sick leave entitlements per annum.

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.

Leave may be taken for part of a single day.

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- (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:

- (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

- (i) 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.
- (ii) A part-time employee in receipt of a loading in lieu of entitlements to paid leave as specified in subclause (ii) of Part II - Employment Relationship and Associated Matters, Clause (1) (b) - Part-time Employees, shall be entitled to take a maximum of one week's unpaid carer's leave per annum.

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Where a part-time employee's hours of work are not constant the employee's entitlement to unpaid 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.

(c) **Grievance Process**

Any dispute or claim arising out of Carer's Leave provisions of the award shall be dealt with in the following manner:

- (i) the matter shall first be discussed between the employee and the employee's immediate supervisor;
- (ii) if not settled the matter shall be discussed between the employee's workplace delegate or representative and the immediate supervisor and the relevant manager with the authority to approve leave;
- (iii) if not settled the employee may elect to refer the matter to the relevant union official to enable discussions between the appropriate union representatives and management representatives to occur;
- (iv) if not settled the matter may be submitted to the Tasmanian Industrial Commission for determination.

**4. HOLIDAYS WITH PAY**

(a) **Definitions**

**'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.

- (b) All employees (other than casuals and part-time employees mentioned in subclause (ii) of Part II - Employment Relationship and Associated Matters, Clause (1) (b) - Part-time 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.

By agreement between the employer and an employee an alternative day may be observed in lieu of any of the holidays specified in subclause (b). This shall not apply in the case of Christmas Day, Boxing Day, New Year Day and Good Friday.

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- (c) Payment for the holidays mentioned in subclause (b) 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 or she had been at work.
- (d) Payment to an employee for work performed on holidays mentioned in subclause (b) shall be at the rates prescribed in Part III - Wages and Related Matters, Clause 3 - Estimating Service, that is double time.

## **5. PARENTAL LEAVE**

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

### (a) Definitions

For the purposes of this clause:

- (i) **'Child'** means a child of the employee under the age of one year except for adoption of a child where **'child'** means a person under the age of five years who is placed with the employee for the purposes of adoption, other than a child or step-child of the employee or of the parent of the employee or a child who has previously lived continuously with the employee for a period of six months or more.
- (ii) **'Continuous service'** means service under an unbroken contract of employment and includes:
  - (1) any period of leave taken in accordance with this clause;
  - (2) any period of part-time employment worked in accordance with this clause; or
  - (3) any period of leave or absence authorised by the employer or by the award.
- (iii) **'Employee'** includes a part-time employee but does not include an employee engaged upon casual work, unless that work has been under a continuous contract of employment of at least 12 months.
- (iv) **'Female employee'** means an employed female who is pregnant or is caring for a child she has borne or a child who has been placed with her for adoption purposes.
- (v) **'Male employee'** means an employed male who is caring for a child borne of his spouse or a child placed with the employee for adoption purposes.

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

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

(b) Entitlement

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

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

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

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

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

(c) Maternity Leave

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

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

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

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

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

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- (iv) An employee may commence maternity leave at any time within six weeks immediately prior to the expected date of birth.
- (v) Where an employee continues to work within the six week period immediately prior to the expected date of birth, or where the employee elects to return to work within six weeks after the birth of the child, an employer may require the employee to provide a medical certificate stating that she is fit to work on her normal duties.
- (vi) Special maternity leave
  - (1) Where the pregnancy of an employee not then on maternity leave terminates after 28 weeks other than by the birth of a living child, then the employee may take unpaid special maternity leave of such periods as a registered medical practitioner certifies as necessary.
  - (2) Where an employee is suffering from an illness not related to the direct consequences of the confinement, an employee may take any paid sick leave to which she is entitled in lieu of, or in addition to, special maternity leave.
  - (3) Where an employee not then on maternity leave suffers illness related to her pregnancy, she may take any paid sick leave to which she is then entitled and such further unpaid special maternity leave as a registered medical, practitioner certifies as necessary before her return to work. The aggregate of paid sick leave, special maternity leave and parental leave, including paternity leave taken by her spouse, may not exceed 52 weeks.
- (vii) Transfer to a safe job
  - (1) Where an employee is pregnant and, in the opinion of a registered medical practitioner, illness or risks arising out of the pregnancy or hazards connected with the work assigned to the employee make it inadvisable for the employee to continue at her present work, the employee will, if the employer deems it practicable, be transferred to a safe job at the rate and on the conditions attaching to that job until the commencement of maternity leave.
  - (2) If the transfer to a safe job is not practicable, the employee may elect, or the employer may require the employee to commence parental leave for such period as is certified necessary by a registered medical practitioner.

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(d) Paternity Leave

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

- (i) that a certificate from a registered medical practitioner which names his spouse, states that she is pregnant and the expected date of confinement, or states the date on which the birth took place, and
- (ii) written notification of the proposed dates on which the period of paternity leave will start and finish and
- (iii) a statutory declaration stating:
  - (1) that period of paternity leave will be taken to become the primary care-giver of a child;
  - (2) particulars of any period of maternity leave sought or taken by the mother, and
  - (3) that for the period of paternity leave, the employee will not engage in any conduct inconsistent with their contract of employment.
- (iv) The employee will not be in breach of this subclause if the failure to give the required period of notice is because of the birth occurring earlier than expected, the death of the mother of the child, or other compelling circumstances.

(e) Adoption leave

- (i) The employee will notify the employer at least ten weeks in advance of the date of commencement of adoption leave and the period of leave to be taken. An employee may commence adoption leave prior to providing such notice, where through circumstances beyond the control of the employee, the adoption of a child takes place earlier.
- (ii) Before commencing adoption leave, an employee will provide the employer with a statutory declaration stating:
  - (1) the employee is seeking adoption leave to become the primary care-giver of the child;
  - (2) particulars of any period of adoption leave sought or taken by any other person in respect of that child, and
  - (3) that for the period of adoption leave the employee will not engage in any conduct inconsistent with their contract of employment.



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- (iii) An employer may require an employee to provide confirmation from the appropriate government authority of the placement.
- (iv) Where the placement of a child for adoption with an employee does not proceed or continue, the employee will notify the employer immediately and the employer will nominate a time not exceeding four weeks from receipt of notification for the employee's return to work.
- (v) An employee will not be in breach of this subclause as a consequence of failure to give the stipulated periods of notice if such failure results from a requirement of an adoption agency to accept earlier or later placement of a child, the death of an adoptive parent or other compelling circumstances.
- (vi) An employee seeking to adopt a child is entitled to unpaid leave for the purpose of attending any compulsory interviews or examinations as are necessary as part of the adoption procedure. The employee and the employer should agree on the length of the unpaid leave. Where agreement cannot be reached, the employee is entitled to take up to two days unpaid leave. Where paid leave is available to the employee, the employer may require the employee to take such leave instead.

(f) Parental leave and other entitlements

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

(g) Part time work

(i) Entitlement

With the agreement of the employer:

- (1) An employee may work part-time in one or more periods at any time from the date of birth of the child until its second birthday or, in relation to adoption, from the date of placement of the child until the second anniversary of the placement.
- (2) A female employee may work part-time in one or more periods while she is pregnant where part-time employment is, because of the pregnancy, necessary or desirable.

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

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

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(iii) Pro Rata Entitlements

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

(iv) Transitional Arrangements - Annual Leave

- (1) An employee working part-time under this subclause shall be entitled to any leave accrued in respect of a period of full-time employment, as if the employee was still working full-time, in the position held prior to taking leave.
- (2) (A) A full-time employee shall be entitled to annual leave accrued in respect of a period of part-time employment under this subclause, as if the employee was working part-time in the position held, immediately before resuming full-time work.  
  
(B) Provided that, by agreement between the employer and the employee, the period over which the leave is taken may be shortened to the extent necessary for the employee to receive pay at the employee's current full-time rate.

(v) Transitional Arrangements - Sick Leave

An employee working part-time under this subclause 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.

(vi) Part-time Work Agreement

- (1) Before commencing a period of part-time employment under this subclause the employee and the employer shall agree:
  - (A) that the employee may work part-time;
  - (B) upon the hours to be worked by the employee, the days upon which they will be worked and commencing times for the work;
  - (C) upon the classification applying to the work to be performed; and
  - (D) upon the period of part-time employment.
- (2) The terms of this agreement may be varied by consent.

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

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

(vii) Termination of Employment

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

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

(viii) Extension of Hours of Work

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

(ix) Nature of Part-time Work

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

(x) Inconsistent Award Provisions

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

- (1) limiting the number of employees who may work part-time;
- (2) establishing quotas as to the ratio of part-time to full-time employees;
- (3) prescribing a minimum or maximum number of hours a part-time employee may work; or

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- (4) requiring consultation with, consent of or monitoring by a union;  
and such provisions do not apply to part-time work under this clause.

(h) Replacement Employees

- (i) A replacement employee is an employee specifically engaged as a result of an employee proceeding on parental leave or working part time in accordance with this clause.
  - (ii) A replacement employee may be employed part-time. The provisions of this subclause in relation to annual leave and sick leave apply to the part-time employment of replacement employees.
  - (iii) Before an employer engages a replacement employee under this paragraph, the employer shall inform the person of the temporary nature of the employment and of the rights of the employee who is being replaced. Specifically, the employer must advise that the period of engagement is subject to variation or change in the event that the employee on leave exercises the right to vary the period of leave.
  - (iv) Unbroken service as a replacement employee shall be treated as continuous service.
  - (v) Nothing in this subclause shall be construed as requiring an employer to engage a replacement employee.
- (i) Return to former position after a period of parental leave or part time work

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

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

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

(j) Redundancy

- (i) If a position held by an employee prior to taking parental leave is likely to be made redundant before the employee returns to work, the employer must advise the employee of the impending redundancy, provide an opportunity for consultation and shall not disadvantage the employee by virtue of the taking of parental leave.
- (ii) Where such position no longer exists but there are other positions available which the employee is qualified for and is capable of performing, the employee will be entitled to a position as nearly comparable in status and pay to that of their former position.

**6. SICK LEAVE**

- (a) An employee, other than one engaged as a casual, or a part-time employee mentioned in subclause (ii) of Part II - Employment Relationship and Associated Matters, Clause (1) (b) - Part-time Employees, 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 or she shall not be entitled to such leave of absence for any period in respect of which he or she is entitled to workers' compensation;
  - (ii) he/she shall, as soon as possible and where practicable within one hour of the commencement of the employee's normal working day, inform the employer of his or her inability to attend for work, and as far as practicable state the nature of the illness or injury and the estimated duration of the absence;
  - (iii) he/she shall prove to the satisfaction of the employer (or in the event of a dispute, the Secretary for Labour) that he/she 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/she shall not be entitled in any year (whether in the employment of one or of more) to sick leave credit in excess of two weeks of ordinary working time.

**PROVIDED** that during the first three months of employment, such leave shall accrue on the basis of 6.25 hours for each completed calendar month of service with the employer;

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- (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 or her employment, require an employee to make a sworn declaration or other written statement as to what paid leave of absence has had from any employer during the then current year, and upon such statement the employer shall be entitled to rely and act.
- (b) Sick leave shall accumulate from year to year so that any balance of the period specified in subclause (a)(iv) of this clause which has in any year not been allowed to an employee by an employer as paid sick leave shall be credited to the employee and, subject to the conditions hereinbefore prescribed shall be allowed by that employer in a subsequent year without diminution of the sick leave prescribed in respect of that year.
- (c) An employer shall not be required to make any payment in respect of accumulated sick leave credits to an employee who is discharged or leaves his or her employment, or for any time an employee is absent from work without producing satisfactory evidence of personal illness.

## **7. STUDY LEAVE**

- (a) Employees sitting for examinations for any of the bodies specified in Part III - Wages and Related Matters, Clause 1(c) - Allowance for Qualification, of this award shall be allowed leave of absence without deduction of pay. Such leave of absence being sufficient to cover the duration of the examination and reasonable travelling time to and from the examination.
- (b) Employees studying for qualifications in any of the bodies specified in Part III - Wages and Related Matters, Clause 1(c) - Allowance for Qualification, of this award shall be allowed sufficient leave of absence to attend prescribed lectures.

## **PART VII - AWARD COMPLIANCE AND UNION RELATED MATTERS**

### **1. ENTERPRISE AGREEMENTS**

- (a) Notwithstanding anything contained in this award, but subject to the provisions of this clause, an enterprise agreement may be entered into between an employer and all or some of the employees engaged by that employer.
- (b) An agreement shall be subject to the following requirements:
  - (i) The majority of employees affected by the change must genuinely agree to the change.
  - (ii) The agreement taken as a whole shall not confer a lesser benefit to any employee than is available under the award.

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- (iii) The relevant union shall be advised by the employer of the intention to commence discussions with employees on an agreement under this clause.
  - (iv) The relevant union must be a party to the agreement.
  - (v) The relevant union shall not unreasonably oppose any agreement.
- (c) An enterprise agreement shall be signed by the parties, being the employer and the union, and contain the following:
- (i) The term of the agreement.
  - (ii) The parties covered by the agreement.
  - (iii) The classes of employees covered by the agreement.
  - (iv) The means by which a party may retire from the agreement.
  - (v) The means by which the agreement may be varied.
  - (vi) Where appropriate, the means by which any dispute arising in respect to the agreement may be resolved.
- (d) Any agreement which seeks to vary a provision of this award shall be referred to the Tasmanian Industrial Commission.

## **2. STRUCTURAL EFFICIENCY**

- (a) The parties to this award are committed to cooperating positively to increase the efficiency and productivity of enterprises and to enhance the career opportunities and job security of employees subject to the award.

Consistent with this objective consultative mechanisms shall be established appropriate to the size, structure and needs of the enterprise.

- (b) An employer may direct an employee to carry out such duties as are within the limits of an 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.

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### **3. RIGHT OF ENTRY OF UNION OFFICIALS**

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

Tim Abey  
**COMMISSIONER**

27 September 2004