IN THE TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T.553 of 1986

IN THE MATTER OF AN APPLICATION BY THE MINISTER FOR PUBLIC ADMINISTRATION TO VARY THE GENERAL CONDITIONS OF SERVICE AWARD

RE: OVERTIME

ORDER BY CONSENT -

No. 5 of 1986

AMEND THE GENERAL CONDITIONS OF SERVICE AWARD IN THE FOLLOWING MANNER:
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1. Delete from Clause 7 -- Definitions, the definition of 'Controlling Authority' and insert in lieu thereof the following:

"'Controlling Authority' means --

(a) the Minister administering the Tasmanian State Service Act 1984, and includes wherever necessary any Head of Agency or other person delegated in writing to act on the Minister's behalf in accordance with the provisions of the Tasmanian State Service Act 1984, and

(b) the principal officer of the Tasmanian Development Authority established pursuant to the provisions of the Tasmanian Development Act 1983."

2. Insert after the definition of 'Controlling Authority' in Clause 7 - Definitions, the following:

"'Employee' means a person permanently or temporarily employed under the provisions of the Tasmanian State Service Act 1984, or the Tasmanian Development Act 1983."

3. Delete from Clause 10 - Hours of Duty and Penalty Payments, subclause B. Penalty Payments, paragraph 3. Overtime and insert in lieu thereof the following:

"3. Overtime

3.1 A controlling authority may require any employee to work reasonable overtime, and such employee shall work overtime in accordance with the conditions hereinafter set forth.

3.2 No payment shall be made for overtime worked unless the overtime work performed is at the direction of the employee's supervisor who shall obtain prior approval from the controlling authority that such overtime be worked.

3.3 Subject to paragraphs 3.5, 3.6 and 3.7 of this subclause, an employee required to work overtime shall be entitled to payment for such overtime worked, in accordance with the following rates:-

(a) Other than Shift Workers

(i) Monday to Friday inclusive - at the rate of time and one-half of his/her normal salary rate for the first three hours, and double time thereafter;

(ii) Saturdays and Sundays - at the rate of double his/her normal salary rate for all time so worked;
(iii) Public Holidays - at the rate of double and one-half of his/her normal salary rate for all time so worked.

PROVIDED THAT an employee who holds a position which regularly requires him/her to work on public holidays shall, where mutually agreeable, be paid, in addition to any paid time-off in lieu granted, at the rate of time and a half of his/her ordinary rate for the first eight hours worked during his/her normal spread of hours, and thereafter in accordance with the overtime rates set forth in subparagraph (a) hereof. Provided that no employee shall receive in the aggregate more than the equivalent of double time and a half of his/her ordinary rate.

(b) Shift Workers - an employee required to work shift work for all time worked in excess of or outside the ordinary working hours prescribed, or on a shift other than a rostered shift shall -

(i) if employed on continuous work (as defined) be paid at double his/her ordinary salary rate;

(ii) if employed on other than continuous shift work be paid from Monday to Friday, inclusive, at the rate of time and a half of his/her normal salary rate for the first three hours and double time thereafter, and for overtime worked on his/her rostered day off or on a Saturday, Sunday or a public holiday, at the rate of double his/her normal salary rate, except in each case when the time is worked either by arrangement between the employees themselves or for the purpose of effecting customary rotation of shifts.

PROVIDED THAT when not less than eight hours notice has been given to the controlling authority by a relief employee that he/she will be absent from work and the employee whom he/she should relieve is not relieved and is required to continue to work on his/her rostered time off, the unrelieved employee shall be paid double time.

3.4 For the purpose of computing overtime, each day’s work shall stand alone.

3.5 An employee’s entitlement to payment for overtime worked shall be computed at his/her normal salary rate EXCEPT that -

(a) where, unless the controlling authority otherwise determines, such employee is in receipt of a salary of or exceeding the maximum salary entitlement payable to a Clerical Employee Class VII under the Clerical Employees Award, BUT not exceeding the maximum salary entitlement payable to a Clerical Employee Class X of the said award, his/her entitlement to payment for overtime shall be computed at the rate of the maximum salary entitlement payable to a Clerical Employee Class VII;
(b) where the whole of or any portion of the staff of a State Service Agency or State Authority is required to perform overtime work of such a character as not to warrant the payment of the rates specified in paragraph 3.3 of this subclause, the controlling authority shall, subject to subparagraph (a) hereof, determine the rate which shall be allowed, and such rate shall be applicable to all or any of the eligible employees engaged in such work, irrespective of any difference in the salary rate received by them respectively.

3.6 Employees who do not work under close supervision, or whose hours of duty are not specifically defined shall not be entitled to the payment of overtime EXCEPT that where such an employee is required to work overtime and where in the opinion of the controlling authority concerned special circumstances exist, such controlling authority may either authorise the payment of the overtime rates set forth in paragraph 3.3 hereof, or some proportion thereof or, the payment of an allowance in settlement of any overtime so worked.

PROVIDED THAT a field officer who satisfies the requirements of subparagraph (a) of paragraph 3.5 hereof, who is required to work bona fide approved overtime, shall be entitled to be paid for that overtime at the appropriate rate unless he/she elects to take the equivalent time off in lieu.

3.7 Employees in receipt of a salary in excess of the maximum salary entitlement determined for a Clerical Employee Class X under the Clerical Employees Award, shall not be entitled to payment for overtime worked.

3.8 (a) No overtime work other than that of shift workers shall commence before 6.15 p.m. on any day except in cases of extreme urgency or in those cases where overtime is worked on a Saturday, Sunday or public holiday, or where in the opinion of the controlling authority special circumstances exist which warrant commencement at an earlier hour;

(b) An employee other than a shift worker working overtime on a Saturday, Sunday or on a public holiday shall be entitled to a meal break of thirty minutes between the hours of 12 noon and 2 p.m. Provided that such meal break shall not be regarded as time worked;

(c) Except in cases of extreme urgency, and with the prior approval of the controlling authority, an employee shall not be permitted or required to perform overtime work on more than four nights in any fortnight, or for more than eight hours in any one day.
3.9  (a) When overtime work is necessary it shall, whenever reasonably practicable, be so arranged that employees have at least eight consecutive hours off duty between the work of successive days.

(b) Employees who work so much overtime between the termination of their ordinary work on one day and the commencement of their ordinary work on the next day that the employee has not had at least eight consecutive hours off duty between those times, shall, subject to this section, be released after completion of such overtime until that employee has had eight consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

(c) Subject to paragraph 3.5 of this subclause, if on the instructions of the controlling authority, employees resume or continue work without having had eight consecutive hours off duty, they shall be paid at double their normal salary rates until they have been released from duty for a continuous period of at least eight hours and they shall then be entitled to be absent until they have had eight consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

(d) This paragraph shall not apply to an employee on standby who is recalled to duty unless that employee is required to work for an actual period of three hours or more on such recall or on each of such recalls.

(e) Until otherwise determined by the Tasmanian Industrial Commission, this paragraph shall not apply to field officers and employees who do not work under close supervision.

3.10 Where practicable an employee required to work overtime shall be given at least twenty-four hours notice prior to the commencement thereof."

DATE OF OPERATION

The foregoing amendments shall take effect on and from 9 December 1986.

R.K. Gozzi
COMMISSIONER

6 January 1987

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