

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

TASMANIAN INDUSTRIAL COMMISSION

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

Minister Administering the Tasmanian State Service Act 1984
(T9049 of 2000)

General Conditions of Employment Award
Community and Health Services (Public Sector) Award
Electrical/Electronic Trades (Public Sector) Award
Medical Practitioners (Public Sector) Award
Metal Trades (State Employees) Award
Miscellaneous Workers (Public Sector) Award
Tasmanian Ambulance Service Award
Tourism Tasmania Award

FULL BENCH:
DEPUTY PRESIDENT R J WATLING
COMMISSIONER T J ABEY
COMMISSIONER P C SHELLEY

Award variation - nominated public sector awards - State Service Accumulated Leave Scheme - application granted - 1 January 2001

COMMUNITY AND HEALTH SERVICES (PUBLIC SECTOR) AWARD

ORDER BY CONSENT -

No. 1 of 2001

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

THE **COMMUNITY AND HEALTH SERVICES (PUBLIC SECTOR) AWARD** IS VARIED IN THE FOLLOWING MANNER:

1. By deleting Clause 1 - CONTENTS, and inserting in lieu thereof the following:

"1. CONTENTS

| <u>Subject Matter</u> | <u>Clause No.</u> | <u>Page No.</u> |
|---|-------------------|-----------------|
| Contents | 1 | |
| Title | 2 | |
| Scope | 3 | |
| Date of Effect | 4 | |
| Supersession and Savings | 5 | |
| Award Interest and Parties Bound | 6 | |
| Definitions | 7 | |
| (a) General Definitions | | |
| (b) Classification Standards | | |
| - Operational Employees | | |
| - Administrative and Clerical Employees | | |
| - Technical Employees | | |
| - Professional Employees | | |
| Salaries | 8 | |
| (a) Operational Employees | | |
| (b) Administrative and Clerical Employees | | |
| (c) Technical Employees | | |
| (d) Professional Employees | | |
| (e) Apprentices | | |
| (f) Supported Wage System | | |
| Abandonment of Employment | 9 | |
| Accommodation and Other Requirements | 10 | |
| Allowances | 11 | |
| (a) Annual Leave | | |
| (b) District | | |
| (c) First Aid | | |
| (d) Higher Duties, More Responsible Duties and Mixed Functions | | |
| (e) Kilometreage | | |
| (f) Meal | | |
| (g) Training Courses and Conference | | |
| (h) Travelling | | |
| Annual Leave | 12 | |
| Apprentices | 13 | |
| Board and Lodging | 14 | |
| Casual Employees | 15 | |
| Compassionate Leave | 16 | |
| Contract of Employment | 17 | |

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

| | |
|--|----|
| Excess Fares | 18 |
| Grievance and Dispute Settlement Procedure | 19 |
| Holidays with Pay | 20 |
| Hours of Work - Day Worker | 21 |
| Leave Expenses - Bass Strait Islands | 22 |
| Lifting of Patients | 23 |
| Maternity Leave | 24 |
| Meals on Duty | 25 |
| Notice Board | 26 |
| Overtime - Other than Shiftworkers | 27 |
| Part-time Employees | 28 |
| (a) Annual Leave - Part-time Shiftworkers | |
| (b) Calculation of Hourly Rate | |
| (c) District Allowance | |
| (d) Hours of Work | |
| (e) Leave Without Pay | |
| (f) Overtime | |
| (g) Shift Work - Part-time Employees | |
| (h) Sick Leave for Part-time Employees | |
| Payment of Wages | 29 |
| Recall, On Call and Close Call | 30 |
| Protective Clothing and Safety Appliances | 31 |
| Salary Increments | 32 |
| Shift Work | 33 |
| (a) Afternoon Shift and Night Shift Allowances | |
| (b) Broken Shifts | |
| (c) Daylight Saving | |
| (d) 48 Hours Notice of Transfer in Emergencies | |
| (e) Hours | |
| (f) Overtime | |
| (g) Rosters | |
| (h) Saturday, Sunday, and Holidays with Pay | |
| Sick Leave | 34 |
| Special Rates | 35 |
| (a) Cold Places | |
| (b) Confined Spaces | |
| (c) Dirty Work | |
| (d) Hot Places | |
| (e) Rates not Subject to Penalty Additions | |
| State Service Accumulated Leave Scheme | 36 |
| Uniforms | 37 |
| Union Officials - Right of Entry | 38 |
| Union Representatives/Stewards | 39 |
| Work Above Floor Level | 40 |
| Work Away from Normal Place of Duty | 41 |
| Appendix 1 - State Service Accumulated Leave Scheme" | |

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

2. By deleting Clause 36 - UNIFORMS, and inserting in lieu thereof the following:

"36. STATE SERVICE ACCUMULATED LEAVE SCHEME

An employee shall be entitled to participate in the State Service Accumulated Leave Scheme under the terms and conditions specified in Appendix 1."

3. By deleting Clause 37 - UNION OFFICIALS - RIGHT OF ENTRY, and inserting in lieu thereof the following:

"37. UNIFORMS

- (a) Where the employer approves, sufficient suitable and serviceable uniforms shall be provided free of cost to all employees in any occupational group which is required to wear uniforms.
- (b) An employee on leaving their employment shall return any uniform or part thereof provided which is still being used prior to ceasing employment."

4. By deleting Clause 38 - UNION REPRESENTATIVES/STEWARDS, and inserting in lieu thereof the following:

"38. UNION OFFICIALS - RIGHT OF ENTRY

Union officials shall have right of entry within the work place as prescribed in Section 77(1) of the Tasmanian *Industrial Relations Act 1984*.

PROVIDED that the union official makes the employer aware of his/her presence before entering a work area."

5. By deleting Clause 39 - WORK ABOVE FLOOR LEVEL, and inserting in lieu thereof the following:

"39. UNION REPRESENTATIVES/STEWARDS

An employee appointed as a union representative/steward, upon notification by the relevant union to the employer that they are recognised as the accredited representative of the union to which they belong, shall be allowed all necessary time during working hours to submit to the employer matters affecting the employees they represent and further shall be allowed reasonable time during working hours to attend to job matters affecting the union.

PROVIDED that a union representative/steward shall seek the permission of their supervisor before interviewing employees other than outside of their work place and such permission shall not be unreasonably withheld."

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

6. By deleting Clause 40 – WORK AWAY FROM NORMAL PLACE OF DUTY, and inserting in lieu thereof the following:

"40. WORK ABOVE FLOOR LEVEL

In no circumstances shall appliances other than a suitable platform or ladder be used for carrying out work above floor level. Employees engaged on such work are required to comply with the manufacturers specifications regarding the use of such equipment and safety policies and similar instructions available in the workplace.

Work above floor level is defined as that which requires an employee to work on a platform or ladder which raises the employee to a height at least one metre above normal floor height."

7. By inserting after Clause 40 - WORK ABOVE FLOOR LEVEL, the following:

"41. WORK AWAY FROM NORMAL PLACE OF DUTY

Starting time shall be at the usual place of employment and transport shall be provided to and from distant jobs, except where, having regard to the employee's usual place of residence in relation to the distant job, it is, in the opinion of the employer, more convenient for the employee to commence work at the distant job rather than at his/her usual place of employment, in which case starting time shall be at the distant job."

8. By adding APPENDIX 1 - STATE SERVICE ACCUMULATED LEAVE SCHEME, at the end of the award as follows:

"APPENDIX 1

STATE SERVICE ACCUMULATED LEAVE SCHEME

1. TITLE

The scheme is to be known as the "State Service Accumulated Leave Scheme" (SSALS).

2. SUMMARY OF SCHEME

The SSALS allows Heads of Agency to approve Plans under which participating employees will, by taking a reduction in normal salary for a given period, become entitled at the end of that period to a pre-determined amount of special ("accumulated") leave during which they will be paid salary at the same reduced rate.

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

3. INTERPRETATION

The conditions and administrative arrangements in the SSALS are to be administered in conjunction with the *Tasmanian State Service Act 1984*, the *Tasmanian State Service Regulations 1985*, relevant Awards, Industrial Agreements, Administrative Instructions and Employment Instructions.

'accumulated leave' means the period of time that is accumulated under the Plan as leave during a work period.

'leave period' means the period specified in a Plan when a participating employee is absent from work on accumulated leave.

'normal salary' means the salary that would be paid to a participating employee if that person was not participating in a Plan and includes salary expressed as an annual rate, fortnightly rate, weekly rate, daily rate or hourly rate. It includes all allowances that are paid as an annual rate, fortnightly rate, weekly rate, daily rate or hourly rate but not overtime payments and shift work penalty rates unless they are paid as a component of an annualised rate.

'operational requirements' means the need to ensure that the Agency is to be operated as effectively, efficiently and economically as possible.

'participating employee' means an employee whose election to participate in a Plan has been approved by their Head of Agency.

'Plan' means an arrangement in the SSALS consisting of a specified work period followed by a specified leave period.

'work period' means the period specified in a Plan when an employee is at work.

4. PLANS

The SSALS consists of arrangements known as Plans. For example:

| Work Period | Percentage of Normal Salary payable during the period of the Plan | Leave Period |
|--------------------|--|---------------------|
| Four Years | 80% "The Four over Five Year Plan" | One Year |
| Three Years | 75% "The Three over Four Year Plan" | One Year |
| Twenty Months | 83.3% "The 20 over 24 Month Plan" | Four Months |
| Eighteen Months | 75% "The 18 over 24 Month Plan" | Six Months |
| Forty Eight Weeks | 92.3% "The 48 over 52 Week Plan" | Four Weeks |

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

| | | |
|--|--|---|
| Forty Weeks | 76.9% "The 40 over 52 Week Plan" | Twelve Weeks |
| (Other Plan) "A" | $\frac{A}{A+B} \times \frac{100}{1} = \dots\%$ (to one decimal place) | (Other Plan) "B" |
| Years Months Weeks | The.... over..... Year Month Plan" Week | Year Months Weeks |

5. APPLICATION OF SSALS

- 5.1 The Head of an Agency, after considering the operational requirements of the Agency, determines whether any Plan or Plans are to be available to employees in the Agency.
- 5.2 A Head of an Agency may make any Plan or Plans available to employees in that Agency or an employee or employees can request the Head of Agency that a Plan be made available to them.
- 5.3 A Plan may be made available to any permanent employee (full or part-time) including an employee who works shifts. A Plan may be made available to any temporary employee the term of whose contract of employment is sufficient to cover the period of the plan.
- 5.4 The Head of Agency determines:
 - whether one or more Plans will be made available to all or only some of the employees;
 - whether particular Plans will be made available to particular categories of employees;
 - whether quotas will apply to the number of employees who may participate in a Plan, and whether quotas will apply to any category of employees;
 - the selection arrangements where quotas are imposed; and
 - the commencement date of any Plan.
- 5.5 Where an employee participating in a Plan is promoted, transferred, seconded or otherwise moved either into another Agency or within their own Agency the Head of the Agency in which the employee is thereafter employed will, after consultation with the employee and taking into account the operational requirements of the Agency, determine whether or not the employee is able to continue on their Plan.
- 5.6 If the Head of Agency determines under Clause 5.5 that the employee is not able to continue on their Plan, the Head of Agency may forthwith terminate the employee's

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

Plan whereupon the employee becomes entitled to a period of accumulated leave which bears the same proportion to the total leave period of the Plan as the period worked under the Plan bears to the total work period, to be remunerated at the percentage of normal salary payable during the period of the Plan. The employee may apply to the Head of Agency at any time to take that leave, and it shall be granted as soon as can be, consistent with the operational requirements of the Agency.

6. HOW TO PARTICIPATE IN SSALS

- 6.1 Where the Head of an Agency offers a Plan to an employee the employee may elect to participate in the Plan by lodging an election in writing with the Head of Agency in any form which the Head of Agency may approve.
- 6.2 The Head of the Agency may accept or reject an election to participate made in accordance with Clause 6.1.
- 6.3 The Head of Agency will notify the employee in writing if the employee's election has been disapproved.
- 6.4 Where the employee's election is approved, the Head of Agency will endorse approval on the form of election which was lodged by the employee, and will provide the employee with a copy of that endorsed form.
- 6.5 An employee's election under Clause 6.1 does not entitle the employee to participate in a Plan until it is approved by the Head of Agency in accordance with Clause 6.4.
- 6.6 A participating employee wishing to withdraw from a Plan must apply in writing to their Head of Agency who may refuse the application if he or she considers such refusal to be reasonably required to meet the operational requirements of the Agency.

7. CONDITIONS AND ADMINISTRATIVE ARRANGEMENTS

- 7.1 Work Period to be completed prior to Period of Leave

The work period specified in a Plan must be completed before a participating employee can commence the leave period specified in that Plan.

- 7.2 Suspension of Plan

The Head of Agency on the application of the employee or otherwise can in writing suspend a Plan.

In deciding to suspend a plan, either on application of the employee or otherwise, the Head of Agency will take into account the employee's circumstances and response to any proposal to suspend, and what is reasonably required to meet the

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

operational requirements of the Agency. Suspension may occur either during the work period or the leave period of the Plan, and will be for such period as may be specified by the Head of Agency in the instrument by which the Plan is suspended.

Where the total period of the Plan comprises five years or more (for example a four over five plan) the Plan may only be suspended with the agreement of the employee.

An employee is entitled to compensation for reasonable expenses incurred by the employee, but not otherwise recoverable, as a result of the Head of Agency's decision to suspend the plan otherwise than on the application of the employee.

7.3 Accumulated Leave

Accumulated leave is to be managed in accordance with any legislative requirements and with any guidelines which may be issued by the relevant Head of Agency which are not inconsistent with the SSALS.

A record is to be kept to show at all times the exact amount of the accumulated leave for each participating employee.

On withdrawal from a Plan, the accumulated leave is to be taken immediately or either wholly or in part at a later time approved by the Head of Agency, at the percentage of normal salary payable during the period of the Plan. It is not to be paid out unless the participating employee's employment ends.

Where a participating employee moves to another Agency the exact amount of the accumulated leave and salary for that employee is to be transferred to that Agency not later than twenty working days after the date of movement.

7.4 Payment during the Leave Period

During the leave period the participating employee will receive salary at the percentage of normal salary payable during the period of the Plan. Normal employment conditions will apply as if the employee was on annual leave. An employee may, on request, receive a lump sum payment in either one or two instalments.

7.5 Salary Increments

Salary increments will accrue throughout the period of a Plan.

7.6 Superannuation

Superannuation contributions are to be paid throughout the period of a Plan and in accordance with the rate of salary applicable under the Plan.

It is the responsibility of a participating employee to obtain any personal superannuation advice from the Retirement Benefits Fund Board or from the employee's own adviser(s).

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

A participating employee's superannuation contributions (where the employee is a contributor to a superannuation scheme other than Retirement Benefits Fund) and entitlements depends upon the employment arrangements for that employee.

An Agency's superannuation responsibilities and financial obligations for participating employees depends upon the nature of the employment arrangements for each participating employee.

7.7 Other Compulsory Deductions from Pay

Compulsory deductions from pay will be made throughout the period of a Plan.

("Compulsory deductions" include garnishees, salary attachments, court orders, etc.)

7.8 Voluntary Deductions from Pay

Voluntary deductions from pay (including life insurance premiums, private health fund premiums, union membership fees etc) made by the Agency at the request of an employee will continue throughout the period of the Plan.

7.9 Administrative Records

An Agency administering a Plan must maintain proper separate records of accruals based upon that Plan.

7.10 Recreation Leave

Recreation leave entitlements accrue throughout the period of the Plan and will be taken otherwise than during the leave period of a Plan at the percentage of normal salary payable during the period of the Plan. Whenever taken, entitlements will be deducted from credits in the normal manner.

7.11 Sick Leave

Sick leave entitlements taken during the period of a Plan will be taken at the rate of salary applicable under the Plan and will be deducted from credits in the normal manner.

Sick leave entitlements will accrue throughout the period of the Plan and access to those entitlements will be in accordance with the Tasmanian State Service Regulations and any relevant Award provisions.

7.12 Maternity Leave and Adoption Leave

Where a participating employee is absent on maternity leave or adoption leave, either within the work period of a Plan or during the leave period, the employee's participation in the Plan is not affected by that maternity or adoption leave. Salary arrangements established by the Plan apply during maternity or adoption leave.

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

7.13 Other Leave

Payment of all other leave entitlements (including leave on account of special circumstances, bereavement leave, leave of absence with or without pay, Defence Force leave, leave for jury service, leave in lieu of overtime, etc) taken during the currency of a Plan will be at the rate of salary applicable under the Plan. Such entitlements will when taken be deducted from credits in the normal manner, and are to be taken otherwise than during the leave period of a Plan.

7.14 Long Service Leave

Long service leave is provided for in the *Long Service Leave (State Employees) Act 1994*.

Long service leave entitlements accrue throughout the work period of a Plan. The leave period is not to be regarded as a period of employment in calculating length of employment for the purposes of the Act, but is not to be taken as interrupting the continuous employment of a participating employee. Long Service leave entitlements are to be taken otherwise than during the leave period of a Plan.

Where a participating employee is absent on long service leave in the work period of a Plan the employee's participation in the Plan is not postponed for the duration of that long service leave, and salary is to be paid at the rate of salary applicable under the Plan.

7.15 State Service Holidays (Public Holidays)

The leave period of a Plan is to be extended by the number of State Service holidays (public holidays) falling within it.

7.16 Workers Compensation

A Plan is to be suspended during any period of incapacity for which the worker is entitled to compensation under the provisions of the *Workers Rehabilitation and Compensation Act 1988*, effective from the day before the commencement of the period of incapacity and terminating upon the last day of the incapacity. Upon suspension of a Plan in accordance with this provision, the employee reverts to normal salary entitlement.

7.17 Employment during Period of Leave

A participating employee shall not be employed elsewhere in the Tasmanian State Service during the leave period of a Plan.

Where a participating employee wishes to undertake employment outside the Tasmanian State Service during the leave period of a Plan, the employee is required to comply with the provisions of Section 79 of the *Tasmanian State Service Act 1984*.

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

7.18 Cessation of Employment

Where a participating employee ceases to be employed in the Tasmanian State Service, the Plan will thereupon terminate and the Head of the Agency will pay in one lump sum to that former employee, or to that person's estate, the exact amount of that former participating employee's accumulated leave entitlement less the prescribed income tax and any other compulsory deductions not later than twenty working days after termination."

OPERATIVE DATE

These variations shall come into operation on and from 1 January 2001.

Tim Abey
COMMISSIONER

8 January 2001