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TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984
s.23 application for award or variation of award

Tasmanian Trades and Labor Council
(T8737 of 1999)

ALL AWARDS CONTAINING SUPPORTED WAGE SYSTEM PROVISIONS OF THE TASMANIAN INDUSTRIAL COMMISSION

FULL BENCH:
PRESIDENT F D WESTWOOD
COMMISSIONER R J WATLING
COMMISSIONER P A IMLACH

Award variation - wage rates clause - "Supported Wage System" - adjust minimum amount payable from $45 per week to $51 per week - variations approved - orders to issue - operative from ffpp 1/2/00

HAIRDRESSERS AWARD

ORDER BY CONSENT-

No. 1 of 2000
(Consolidated)

CLAUSE 8 IS VARIED AND THE AWARD IS CONSOLIDATED

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1. TITLE

This award shall be known as the "Hairdressers Award".

2. SCOPE

This award is established in respect of:

(a) The trade of Hairdresser, Barber and/or Wigmaker;

(b) Proprietor of a Beauty Salon; and

(c) Proprietor of a Health and Physical Culture Studio.

3. ARRANGEMENT

Subject Matter	Clause No.	Page No.
Title	1	2
Scope	2	2
Arrangement	3	2
Date of Operation	4	3
Supersession and Savings	5	3
Parties and Persons Bound	6	3
Definitions	7	4
Wage Rates	8	6
Annual Leave	9	12
Carer's Leave	9A	15
Casual Employees	10	16
Certificate Allowance	11	16
Compassionate Leave	12	17
Contract of Employment	13	17
Equipment Allowance	14	17
Holidays with Pay	15	18
Hours of Work	16	18
Limitation of Duties	17	20
Meal Allowance	18	21
Overtime	19	21
Parental Leave	20	22
Part-Time Employees	21	39
Payment of Wages	22	39
Preference To Unionists	23	40
Resolution of Disputes	24	40
Rest Period	25	41
Right of Entry of Union officials	26	41
Rubber Gloves	27	42

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Saturday, Sunday and Holiday Work	28	42
Saving	29	43
Shorter Working Week - Saving	30	43
Sick Leave	31	44
Steward	32	45
Superannuation	33	45
Time and Wages Book	34	47
Uniforms	35	48
Schedule		49

4. DATE OF OPERATION

This award shall come into operation from the first full pay period to commence on or after
1 February 2000.

5. SUPERSESSION AND SAVINGS

This award incorporates and supersedes the Hairdressers Award No 2 of 1996 (Consolidated), No 3 of 1996, No 1 of 1997, No 1 of 1998, No 1 of 1999 and No 2 of 1999.

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

6. PARTIES AND PERSONS BOUND

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

(a) all employers (whether members of a Registered Organisation or not) who are engaged in the industry specified in Clause 2 - Scope;

(b) all employees (whether members of a Registered Organisation or not) for whom classifications appear in this award and who are engaged in the industry specified in Clause 2 - Scope.

(c) the following organisations of employees in respect of whom award interest has been determined:-

(i) the Australian Liquor, Hospitality and Miscellaneous Workers Union, Tasmanian Branch and the officers of that organisation and their members who are engaged in the industry specified in Clause 2 - Scope.

(ii) the Shop, Distributive and Allied Employees' Association, Tasmanian Branch, and the officers of that organisation and their members who are engaged in the industry specified in Clause 2 - Scope; and

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(d) the following organisations of employers in respect of whom award interest has been determined:-

(ii) the Retail Traders Association of Tasmania and the officers of that organisation and their members who are engaged in the industry specified in Clause 2 - Scope; and

(iii) the Tasmanian Chamber of Commerce and Industry Limited.

7. DEFINITIONS

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

'A part-time employee' is one engaged to regularly work for less hours per day or week than those prescribed for full-time employees.

'A holder of a Hairdresser's Certificate' is one who has successfully completed an apprenticeship in hairdressing under the Vocational Education and Training Act 1995 and who has successfully completed a trade course conducted by the Education Department in male hairdressing operations only, or

one who has successfully completed an apprenticeship in hairdressing under the Vocational Education and Training Act 1995 and who has successfully completed a trade course conducted by the Education Department in female hairdressing operations only.

'**A holder of a Principal's Certificate'** is one who has successfully completed an apprenticeship in hairdressing under the Vocational Education and Training Act 1995 and who has successfully completed a trade course conducted by the Education Department in male hairdressing operations only, or

one who has successfully completed an apprenticeship in hairdressing under the Vocational Education and Training Act 1995 and who has successfully completed a trade course conducted by the Education Department in female hairdressing operations only, and has had at least two years experience in the appropriate class of hairdressing operations after completing the terms of the apprenticeship under the said Act.

'A holder of a Master's Certificate' is one who has successfully completed an apprenticeship in hairdressing under the Vocational Education and Training Act 1995 and who has successfully completed a trade course conducted by the Education Department in both female and male hairdressing operations and had at least two years experience in both male and female hairdressing operations after completing the term of apprenticeship under the said Act, or

one who has successfully completed an apprenticeship in hairdressing under the Vocational Education and Training Act 1995, and who has successfully completed a trade

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course conducted by the Education Department in both male and female hairdressing operations, and
who has successfully completed two of the following three courses conducted by the Education Department -

Salon Administration
Biology of Hair and Skin
Beauty Culture

'Beautician' shall mean any person engaged in the work of facial treatment, scalp treatment and massage in connection with the foregoing; the practice of make-up including general stage, television and photographic make-up, corrective make-up, eyebrow shaping and eyebrow and eye lash tinting, eye make-up in all forms, manicure and pedicure, removal of superfluous hair through waxing and ear piercing.

'Beauty Therapist' shall mean any person engaged in the work of facial and body therapy and shall include such things as dietetics, facial massage, body massage, deportment and exercise, all facets of make-up, manicure and pedicure, treatment of superfluous hair through waxing, bleaching, epilation and electrolysis, cellulite treatment, muscle toning, the use of electrical apparatus for high frequency treatments, desincrustation and ionization.

'All Others' - shall mean any person engaged in -

(a) beauty culture or beauty therapy industry;

(b) health and physical culture studios;

(c) health and fitness centres;

(d) persons performing manicures, pedicures, chiropody or podiatry.

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8. WAGE RATES

1. ADULTS

(a) Adult employees of a classification hereunder mentioned shall be paid the weekly wage rate assigned opposite that classification

(i) Operative from the first full pay period to commence on or after 2 October 1998:

		Base Rate $	Supplementary Payment $	Weekly Wage Rate $
1	The Holder of a Hairdressers Certificate (as defined)	352.60	44.00	396.60
2	The Holder of Principals Certificate (as defined)	369.40	44.00	413.40
3	The Holder of a Masters Certificate (as defined)	387.90	44.00	431.90
4	Beauty Therapist	387.90	44.00	431.90
5	Beautician	350.10	44.00	394.10
6	All Others	339.10	44.00	383.10

(ii) Operative from the first full pay period to commence on or after 14 October 1998:

		Base Rate $	Supplementary Payment $	Weekly Wage Rate $
1	The Holder of a Hairdressers Certificate (as defined)	352.60	48.00	400.60
2	The Holder of Principals Certificate (as defined)	369.40	48.00	417.40
3	The Holder of a Masters Certificate (as defined)	387.90	48.00	435.90
4	Beauty Therapist	387.90	48.00	435.90
5	Beautician	350.10	48.00	398.10
6	All Others	339.10	48.00	387.10

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(b) Supported Wage System

(i) Eligibility criteria

Subject to this subclause an employer may engage employees at a supported wage rate (as set out in paragraph (iii) of this subclause) who meet the impairment criteria for receipt of a Disability Support Pension and who, because of their disability, are unable to perform the range of duties to the competence level normally required for the class of work for which they are engaged.

PROVIDED that this subclause does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers' compensation legislation or any provision of this award relating to the rehabilitation of employees who are injured in the course of their current employment.

PROVIDED FURTHER that this subclause does not apply to employers in respect of their facility, programme, undertaking, service or the like which receives funding under the Disability Services Act 1986 and fulfils the dual role of service provider and sheltered employer to people with disabilities who are in receipt of or are eligible for a disability support pension, except with respect to an organisation which has received recognition under s.10 or under s.12A of the above Act, or if a part only has received recognition, that part.

(ii) For the purposes of this subclause:

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

(2) '**Accredited Assessor'** means a person accredited by the management unit established by the Commonwealth under the Supported Wage System to perform assessments of an individual's productive capacity within the Supported Wage System.

(3) '**Disability Support Pension'** means the pension available under the Commonwealth pension scheme to provide income security for persons with a disability as provided under the Social Security Act 1991, as amended from time to time, or any successor to that scheme.

(4) **'Assessment instrument'** means the form provided for under the Supported Wage System that records the assessment of the productive capacity of the person to be employed under the Supported Wage System.

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(iii) Supported wage rates

Employees to whom this subclause applies shall be paid the applicable percentage of the minimum rate of pay prescribed by this award for the class of work which the person is performing according to the following schedule:

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

(Provided that the minimum amount payable shall be not less than $51 per week.)

(iv) Assessment of capacity

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

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

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

(v) Lodgment of assessment instrument

(1) All assessment instruments under the conditions of this subclause, including the appropriate percentage of the award wage to be paid to the employee, shall be lodged by the employer with the Registrar of the Tasmanian Industrial Commission.

(2) All assessment instruments shall be agreed and signed by the parties to the assessment, provided that where a union which is party to the award, is not a party to the assessment, it shall be referred by the Registrar of the Tasmanian Industrial Commission to the union by certified mail and shall take effect unless an objection is notified to the

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Registrar of the Tasmanian Industrial Commission within 10 working days.

(vi) Review of assessment

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

(vii) Other terms and conditions of employment

Where an assessment has been made, the applicable percentage shall apply to the wage rate only. Employees covered by the supported wage provisions of this subclause shall be entitled to the same terms and conditions of employment as all other workers covered by this award who are paid on a pro rata basis.

(viii) Workplace adjustment

An employer wishing to employ a person under the provisions of this subclause shall take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve re-design of job duties, working time arrangements and work organisation in consultation with other workers in the area.

(ix) Trial Period

(1) In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this subclause for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding 4 weeks) may be needed.

(2) During that trial period the assessment of capacity shall be undertaken and the proposed wage rate for a continuing employment relationship shall be determined in accordance with paragraphs (iv) and (v).

(3) The minimum amount payable to the employee during the trial period shall be no less than $51 per week or such greater amount as is agreed from time to time between the parties.

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

(5) Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment shall be entered into based on the outcome of assessment under paragraph (iii) hereof.

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2. APPRENTICES

The employment of apprentices shall be in accordance with the requirements of the Vocational Education and Training Act 1995, and regulations made thereto.

(a) The minimum ordinary weekly wage rates to be paid by employers to apprentices shall be the undermentioned percentages of the current minimum weekly wage rate for the holder of a Principal's Certificate.

PROVIDED that the rates of payment outlined herein, incorporate the Proficiency Allowance prescribed by the Tasmanian State Training Authority.

	Percentage of weekly wage rate for Classification 2 of Section 1, subclause (a) hereof ($413.40) %	Weekly Wage Rate $
1st year		
- first six months	40	165.40
- second six months	42	173.60
2nd year	55	227.40
3rd year	75	310.10
4th year	90	372.10

(ii) Operative from the first full pay period to commence on or after 14 October 1998:

	Percentage of weekly wage rate for Classification 2 of Section 1, subclause (a) hereof ($417.40) %	Weekly Wage Rate $
1st year		
- first six months	40	167.00
- second six months	42	175.30
2nd year	55	229.60
3rd year	75	313.10
4th year	90	375.70

The said minimum rates shall be calculated to the nearest 10 cents.

(b) An employee who is under the age of 21 on the completion of his/her apprenticeship, or any junior, other than a probationer or an apprentice, who uses the tools in performing work usually carried out by a fully qualified hairdresser shall be paid not less than the appropriate weekly wage rate prescribed for a fully qualified hairdresser.

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(c) Tool allowances in accordance with the scale prescribed in Clause 14 - Equipment Allowance shall be paid to apprentices, in addition to the rates prescribed herein.

(d) The period of apprenticeship shall be 4 years.

(e) The proportionate number of apprentices that may be employed, the conditions of apprenticeship, shall be as prescribed by the Tasmanian State Training Authority.

(f) Apprentices shall be indentured in accordance with the requirements of the Tasmanian State Training Authority. Indentures may be obtained on application to the Tasmanian State Training Authority.

(g) Supported Wage System

As provided for in Section 1 - Adults, subclause (b) of this Clause.

3. JUNIOR WORKERS

(a) Junior Workers

In a salon where there are not less than 4 employees engaged on hairdressing duties, one junior worker may be employed, but such junior employee shall be employed solely on the duties of tea and tidy work and messenger. The weekly wage rates for such junior worker shall be as follows:-

(i) Operative from the first full pay period to commence on or after 2 October 1998:

	Percentage of $355.50 %	Weekly Wage Rate $
16 years of age and under to 17 years of age	54	192.00
17 to 18 years of age	60	213.30
18 to 19 years of age	73	259.50
19 to 20 years of age	86	305.70
20 to 21 years of age	90	320.00

(ii) Operative from the first full pay period to commence on or after 14 October 1998:

	Percentage of $359.50 %	Weekly Wage Rate $
16 years of age and under to 17 years of age	54	194.10
17 to 18 years of age	60	215.70
18 to 19 years of age	73	262.40
19 to 20 years of age	86	309.20
20 to 21 years of age	90	323.60

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(b) Junior workers employed under Classifications, 4, 5 and 6, Section 1, subclause (a), hereof (Beauty Therapist, Beautician, All Others):-

(i) Operative from the first full pay period to commence on or after 2 October 1998:

	Percentage of weekly wage rate for Classification 6, Section 1, subclause (a) hereof ($383.10) %	Weekly Wage Rate $
17 years of age and under to 18 years	60	229.90
18 to 19 years of age	73	279.70
19 to 20 years of age	86	329.50
20 to 21 years	90	344.80

(ii) Operative from the first full pay period to commence on or after 14 October 1998:

	Percentage of weekly wage rate for Classification 6, Section 1, subclause (a) hereof ($387.10) %	Weekly Wage Rate $
17 years of age and under to 18 years	60	232.30
18 to 19 years of age	73	282.60
19 to 20 years of age	86	332.90
20 to 21 years	90	348.40

(c) Supported Wage System

As provided for in Section 1 - Adults, subclause (b) of this Clause.

9. ANNUAL LEAVE

(a) Period of Leave

Except as provided in Clause 10 - Casual Employees, and subclause (b) of Clause 21 - Part-time Employees hereof, a period of 152 hours paid annual leave shall be allowed annually to an employee after each 12 months of employment on weekly hiring.

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(b) Broken Leave

Leave allowed under the provisions of subclause (a) shall be given and taken in one consecutive period, or if the employer and the employee agree, in one of the following methods:-

(i) In two separate periods, the lesser of which shall be not less than seven consecutive days, ie. five working days.

(ii) In any combination, provided one period shall be not less than seven consecutive days, ie. five working days.

(c) Annual Leave Exclusive of Public Holidays

If any of the holidays prescribed by Clause 15 - Holidays with Pay hereof, falls 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.

(d) Payment in lieu prohibited

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

(e) Time of taking leave

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

(f) Payment for period of leave

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

(ii) In addition thereto all employees (including part-time employees engaged to work 20 or more hours per week) shall receive a loading of 17 1/2 per cent 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 leave 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.

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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 the 12 months continuous service in respect of which the leave was granted, the employer may, for each completed month of the qualifying period of 12 months t 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 15 - Holidays with Pay hereof.

(h) Proportionate leave on termination of service

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

12.67 hours for each completed month of continuous service. This service shall be in respect of which leave has not been granted, providing that the provisions of this subclause shall not apply to probationary apprentices for whom the qualifying period of service before entitlement shall be 3 months.

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

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

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

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

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

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

(vi) An employer shall record these short term annual leave arrangements in the time and wages book, as prescribed in Clause 34 - Time and Wages Book, of this award.

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9A 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 31 - Sick Leave, of the award for absences to provide care and support for either members of their immediate family or household who need their care and support when they are ill.

Leave may be taken for part of a single day.

For the purposes of this clause, part-time employees who are not in receipt of a loading in lieu of entitlements as specified in subclause 21(b) - Part-time Employees, of this award shall be entitled to use up to a maximum of one week of any current or accrued sick leave entitlement.

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

(ii) If required the employee must establish, either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person.

(iii) The entitlement to use sick leave in accordance with this subclause is subject to the person being either:

(1) a member of the employee's immediate family, or

(2) a member of the employee's household.

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

(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.

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(iv) Where practicable the employee must give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and the person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.

(v) In normal circumstances an employee must not take carer's leave under this clause where another person has taken leave to care for the same person.

(b) Unpaid Carer's Leave

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

(c) Grievance Process

Clause 24 - Resolution of Disputes, of this award also applies to a dispute about the operation or effect of this clause."

10. CASUAL EMPLOYEES

A casual employee (as defined) for working ordinary time shall be paid per hour one-fortieth of the weekly rates prescribed for the work which the employee performs, plus 20%; such additional amount to be payable in lieu of annual leave, sick leave, and public holidays provided that as from 13 June 1990 the divisor shall become one thirty eighth.

11. CERTIFICATE ALLOWANCE

An employee who has successfully completed a course in -

(a) Salon Administration

(b) Biology of Hair and Skin

(c) Beauty Culture

being courses conducted by the Education Department, shall be paid, in addition to the weekly rate, an amount of $3.70 per week for each of the successfully completed courses."

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12. COMPASSIONATE LEAVE

An employee shall on the death of a wife, husband, father, mother, child, step-child, brother, sister, mother-in-law, father-in-law, step-mother, step-father, grand-father, grand-mother, be entitled upon application being made to, and approved by the employer, to leave up to and including the day of the funeral of such relative and such leave will be without deduction of pay not exceeding the number of ordinary hours worked by the employee in 3 ordinary days, provided that no payment shall be made in respect of an employee's rostered days off.

Proof of such death, in the form of a death notice or other written evidence, shall be furnished by the employee to the satisfaction of the employer, provided furthermore that this clause shall have no operation while the period of entitlement to leave under it coincides with any other period of entitlement to leave.

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

13. CONTRACT OF EMPLOYMENT

With the exception of employees engaged as specified in Clause 10 - Casual Employees hereof, employment shall be by the week and the employment of an employee shall not be terminated except for misconduct or neglect of duty 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 the employment. If one week's notice is not given by the employer or employee, one week's wages shall be paid or forfeited as the case may be.

14. EQUIPMENT ALLOWANCE

(a) All employees engaged in classifications that are proclaimed as trades under the Vocational Education and Training Act 1995 shall either be supplied with all tools by the employer or be paid a tool allowance of not less than $8.30 per week.

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

(b) The employer shall be responsible for providing all electrical equipment.

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15. HOLIDAYS WITH PAY

(a) All employees (other than casuals or part-time employees mentioned in subclause (b), Clause 21 - Part-Time Employees hereof) shall be allowed the following days as paid holidays:-

New Year's Day, Australia Day, Hobart Regatta Day (south of Oatlands), Labour Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Show Day (as defined), Recreation Day (where Hobart Regatta Day is not observed), Christmas Day and Boxing Day.

(b) Payment for the holidays mentioned in subclause (a) which are taken and not worked, shall be at the normal rate of pay which would have applied to the employee concerned, when, if it were not for such holiday, he had been at work.

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

(d) **'Show Day'** means not more than one local show day observed on an employee's ordinary working day, other than a Saturday or a Sunday, in the city, town or district in which the employee is employed; or such other day which, in the absence of such a local show day, is agreed on by the employee and the employer, therefore making a total of 11 paid public holidays per year.

16. HOURS OF WORK

(a) The ordinary hours of work shall be an average of 38 per week to be worked on one of the following bases:-

(i) seven hours thirty-six minutes per day; or

(ii) eight hours per day on four days and six hours on one day in each week; or

(iii) eight hours per day on nine days and four hours on one day in each fortnight; or

(iv) eight hours per day on nineteen days followed by a rostered day off; or

(v) eight hours per day with an accumulation of rostered days off up to a maximum of 12.

The method of implementation shall be determined and may be reviewed from time to time at each establishment, whereby the primary consideration shall be the efficient maximisation of the business of each establishment, but where practicable, consideration shall be given to providing a rostered day off as per (a) (iv) of this clause.

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In the event of a dispute in relation to the method of implementation, the procedures set out in Clause 24 - Resolution of Disputes - shall be followed.

(b) Subject to Clause 30 - Shorter Working Week - Saving - the ordinary hours shall be worked in 5 days of 8 consecutive hours (excluding meal breaks) between the hours of 7.00 a.m. and 6.00 p.m. Monday to Friday inclusive.

(c) The hours of work prescribed by this clause shall, excepting for a meal break of not less than 45 minutes nor more than 60 minutes, be continuous on each day. Such meal break shall be taken between the hours of 11.00 a.m. and 3.00 p.m.

In circumstances whereby a second meal break is required on any one day, such break shall not be less than 30 minutes.

(d) Except where overtime is worked for a period not exceeding one hour after normal finishing time, no employee shall work for more than 5 hours without a break of not less than 45 minutes for a meal.

(e) In circumstances where a Rostered Day off applies, this day may be substituted for another day, provided that agreement is reached between the employer and employee/s. Provided further that such agreement will not be unreasonably withheld.

(f) Employees other than those engaged as provided for in Clauses 10 and 21 hereof, shall, notwithstanding anything contained in Section 49 of the Industrial Relations Act 1984, be paid the weekly wage prescribed for a week of 38 hours for each week that he is ready, willing and available for work during the hours prescribed herein and, in addition thereto, such overtime or other penalty rates, if any, that may have occurred during the relevant period.

(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.

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

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

(vi) An employer shall record Rostered Days Off arrangements in the time and wages book, as prescribed in Clause 34 - Time and Wages Book, of this award each time this provision is used.

(h) Make Up Time

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

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

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

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

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

(v) An employer shall record make up time arrangements in the time and wages book, as prescribed in Clause 34 - Time and Wages Book, of this award each time this provision is used."

17. LIMITATION OF DUTIES

No person other than those in receipt of the rate of wage prescribed for a hairdresser or an apprentice shall be required to perform or shall perform any part of the work normally performed by a hairdresser or apprentice, with the exception of the task of shampooing.

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18. MEAL ALLOWANCE

(a) Subject to Clause 30 - Shorter Working Week - Saving, an employee who has worked six hours or more during ordinary time and who is required to work overtime for more than one and a half hours shall be either supplied with an adequate meal by the employer or be paid $10.40 meal money.

(b) Any dispute as to what constitutes an adequate meal shall be referred to and decided by the Tasmanian Industrial Commission.

19. OVERTIME

(a) For all work performed outside of the hours prescribed in Clause 16 - Hours of Work hereof, on Monday to Friday inclusive, and subject to subclause (f) of this clause, payment shall be made at the rate of time and one half for the first 3 hours and double time thereafter.

(b) An employee who is required or recalled to work overtime after a period of one hour from the time fixed for ceasing work, whether or not the employee has been notified before ceasing work, shall receive a minimum payment as for 3 hours overtime worked.

(c) No apprentice under the age of 18 years shall be required to work overtime unless he or she so desires.

(d) In computing overtime each day's work shall stand alone.

(e) For the purpose of determining the appropriate hourly rate for overtime purposes, the appropriate weekly rates shall be divided by forty. Provided that the word ‘forty' shall be replaced by ‘thirty-eight' as from 13 June 1990.

(f) For the purpose of determining overtime entitlements of an employee, any employee who works ten minutes or more past the time fixed for ceasing work shall be paid overtime rate for all time worked after the time fixed for ceasing work.

Provided that this subclause shall not be used to obtain unpaid work from an employee on a regular basis.

(g) 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.

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

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20. PARENTAL LEAVE

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

PART A - MATERNITY LEAVE

(a) Nature of Leave

Maternity leave is unpaid leave.

(b) Definitions

For the purpose of this part:

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

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

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

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

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

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

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

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

(c) Eligibility for maternity leave

(i) An employee who becomes pregnant, upon production to her employer of the certificate required by subclause (d) hereof, shall be entitled to a period of up to 52 weeks maternity leave provided that such leave shall not extend beyond the child's first birthday. This entitlement shall be reduced by any period of paternity leave taken by the employee's spouse in relation to the same child and apart from paternity leave of up to one week at the time of confinement shall not be taken concurrently with paternity leave.

(ii) Subject to subclauses (f) and (i) hereof the period of maternity leave shall be unbroken and shall, immediately following confinement, include a period of six weeks compulsory leave.

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(iii) The employee must have had at least 12 months continuous service with that employer immediately preceding the date upon which she proceeds upon such leave.

(d) Certificate

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

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

(ii) a statutory declaration stating particulars of any period of paternity leave sought or taken by her spouse and that for the period of maternity leave she will not engage in any conduct inconsistent with her contract of employment.

(e) Notice Requirements

(i) An employee shall, not less that ten weeks prior to the presumed date of confinement, produce to her employer the certificate referred to in paragraph (d)(i).

(ii) An employee shall give not less than four weeks notice in writing to her employer of the date upon which she proposes to commence maternity leave stating the period of leave to be taken and shall, at the same time, produce to her employer the statutory declaration referred to in paragraph (d)(ii).

(iii) An employer by not less than 14 days notice in writing to the employee may require her to commence maternity leave at any time within the six weeks immediately prior to her presumed date of confinement.

(iv) An employee shall not be in breach of this clause as a consequence of failure to give the stipulated period of notice in accordance with paragraph (ii) hereof if such failure is occasioned by the confinement occurring earlier than the presumed date.

(f) Transfer to a safe job

Where in the opinion of a registered medical practitioner, illness or risks arising out of the pregnancy or hazards connected with the work assigned to the employee make it inadvisable for the employee to continue at her present work, the employee shall, if the employer deems it practicable, be transferred to a safe job at the rate and on the conditions attaching to that job until the commencement of maternity leave.

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

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(g) Variation of Period of Maternity Leave

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

(1) the period of maternity leave may be lengthened once only by the employee giving not less than 14 days' notice in writing stating the period by which the leave is to be lengthened;.

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

(ii) The period of maternity leave may, with the consent of the employer, be shortened by the employee giving not less than 14 days' notice in writing stating the period by which the leave is to be shortened.

(h) Cancellation of Maternity Leave

(i) Maternity leave, applied for but not commenced, shall be cancelled when the pregnancy of an employee terminates other than by the birth of a living child.

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

(i) Special Maternity Leave and Sick Leave

(i) Where the pregnancy of an employee not then on maternity leave terminates after 28 weeks other than by the birth of a living child then:

(1) she shall be entitled to such period of unpaid leave (to be known as special maternity leave) as a registered medical practitioner certifies as necessary before her return to work; or

(2) for illness other than the normal consequences of confinement she shall be entitled, either in lieu of or in addition to special maternity leave, to such paid sick leave as to which she is then entitled and which a registered medical practitioner certifies as necessary before her return to work.

(ii) Where an employee not then on maternity leave suffers illness related to her pregnancy, she may take such paid sick leave as to which she is then entitled and such further unpaid leave (to be known as special maternity leave) as a registered medical practitioner certifies as necessary before her return to work, provided that the aggregate of paid sick leave, special maternity leave

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and maternity leave shall not exceed the period to which the employee is entitled under subclause (c) hereof.

(iii) For the purposes of subclauses (j), (k) and (l) hereof, maternity leave shall include special maternity leave.

(iv) An employee returning to work after the completion of a period of leave taken pursuant to this subclause shall be entitled to the position which she held immediately before proceeding on such leave or, in the case of an employee who was transferred to a safe job pursuant to subclause (f) hereof, to the position she held immediately before such transfer.

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

(j) Maternity Leave and Other Leave Entitlements

(i) Provided the aggregate of any leave including leave taken under this part, does not exceed the period to which the employee is entitled under subclause (c) hereof, an employee may, in lieu of or in conjunction with maternity leave, take any annual leave or long service leave or any part thereof to which she is entitled.

(ii) Paid sick leave or other paid authorised award absences (excluding annual leave or long service leave), shall not be available to an employee during her absence on maternity leave.

(k) Effect of Maternity Leave on Employment

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

(l) Termination of Employment

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

(ii) An employer shall not terminate the employment of an employee on the ground of her pregnancy or of her absence on maternity leave, but otherwise the rights of an employer in relation to termination of employment are not hereby affected.

(m) Return to Work After Maternity Leave

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

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

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

(n) Replacement Employees

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

(ii) Before an employer engages a replacement employee the employer shall inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.

(iii) Before an employer engages a person to replace an employee temporarily promoted or transferred in order to replace an employee exercising her rights under this part, the employer shall inform that person of the temporary nature of the promotion or transfer and of the rights of the employee who is being replaced.

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

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PART B - PATERNITY LEAVE

(a) Nature of leave

Paternity leave is unpaid leave.

(b) Definitions

For the purpose of this part:

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

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

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

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

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

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

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

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

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

(c) Eligibility for Paternity Leave

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

(i) an unbroken period of up to one week at the time of confinement of his spouse;

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

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

(d) Certification

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

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

(ii) in relation to any period to be taken under paragraph (c)(ii) hereof, a statutory declaration stating:

(1) he will take that period of paternity leave to become the primary care-giver of the child;

(2) particulars of any period of maternity leave sought or taken by his spouse; and

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

(e) Notice Requirements

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

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

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

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

(3) other compelling circumstances.

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

(f) Variation of Period of Paternity Leave

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

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

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

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

(g) Cancellation of Paternity Leave

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

(h) Paternity Leave and Other Leave Entitlements

(i) Provided the aggregate of any leave, including leave taken under this part, does not exceed the period to which the employee is entitled under subclause (c) hereof, an employee may, in lieu of or in conjunction with paternity leave, take any annual leave or long service leave or any part thereof to which he is entitled.

(ii) Paid sick leave or other paid authorised award absences (excluding annual leave or long service leave) shall not be available to an employee during his absence on paternity leave.

(i) Effect of Paternity Leave on Employment

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

(j) Termination of Employment

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

(ii) An employer shall not terminate the employment of an employee on the ground of his absence on paternity leave, but otherwise the rights of an employer in relation to termination of employment are not hereby affected.

(k) Return to Work after Paternity Leave.

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(i) An employee shall confirm his intention of returning to work by notice in writing to the employer given not less than four weeks prior to the expiration of the period of paternity leave provided by paragraph (c)(ii) hereof.

(ii) An employee, upon returning to work after paternity leave or the expiration of the notice required by paragraph (i) hereof, shall be entitled to the position which he held immediately before proceeding on paternity leave, or in relation to an employee who has worked part-time under this clause to the position he held immediately before commencing such part-time work.

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

(l) Replacement Employees

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

(ii) Before an employer engages a replacement employee the employer shall inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.

(iii) Before an employer engages a person to replace an employee temporarily promoted or transferred in order to replace an employee exercising his rights under this part, the employer shall inform that person of the temporary nature of the promotion or transfer and of the rights of the employee who is being replaced.

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

PART C - ADOPTION LEAVE

(a) Nature of Leave

Adoption leave is unpaid leave.

(b) Definitions

For the purpose of this part:

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

'**Child**' means a person under the age of five years who is placed with the employee for the purposes of adoption, other than a child or step-child of the

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

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

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

'**Spouse**' includes a de facto spouse.

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

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

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

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

(c) Eligibility

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

(i) an unbroken period of up to three weeks at the time of the placement of the child;

(ii) an unbroken period of up to 52 weeks from the time of the child's placement in order to be the primary care-giver of the child. This leave shall not extend beyond one year after the placement of the child and shall not be taken concurrently with adoption leave taken by the employee's spouse in relation to the same child. This entitlement of up to 52 weeks shall be reduced by:

(1) any period of leave taken pursuant to paragraph (i) hereof; and

(2) the aggregate of any periods of adoption leave taken or to be taken by the employee's spouse;

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

(d) Certification

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

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(i) (1) A statement from an adoption agency or other appropriate body of the presumed date of placement of the child with the employee for adoption purposes; or

(2) a statement from the appropriate government authority confirming that the employee is to have custody of the child pending application for an adoption order.

(ii) In relation to any period to be taken under paragraph (c)(ii) hereof, a statutory declaration stating:

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

(2) particulars of any period of adoption leave sought or taken by the employee's spouse; and

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

(e) Notice Requirements

(i) Upon receiving notice of approval for adoption purposes, an employee shall notify the employer of such approval and within two months of such approval, shall further notify the employer of the period or periods of adoption leave the employee proposes to take. In the case of a relative adoption the employee shall notify as aforesaid upon deciding to take a child into custody pending an application for an adoption order.

(ii) An employee who commences employment with an employer after the date of approval for adoption purposes shall notify the employer thereof upon commencing employment and of the period or periods of adoption leave which the employee proposes to take. Provided that such employee shall not be entitled to adoption leave unless the employee has not less than 12 months continuous service with that employer immediately preceding the date upon which he or she proceeds upon such leave.

(iii) An employee shall, as soon as the employee is aware of the presumed date of placement of a child for adoption purposes but no later than 14 days before such placement, give notice in writing to the employer of such date, and of the date of the commencement of any period of leave to be taken under paragraph (c)(i) hereof.

(iv) An employee shall, ten weeks before the proposed date of commencing any leave to be taken under paragraph (c)(ii) hereof give notice in writing to the employer of the date of commencing leave and the period of leave to be taken.

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(v) An employee shall not be in breach of this part as a consequence of failure to give the stipulated period of notice in accordance with paragraphs (iii) and (iv) hereof if such failure is occasioned by the requirement of an adoption agency to accept earlier or later placement of a child, the death of the spouse or other compelling circumstances.

(f) Variation of Period of Adoption Leave.

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

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

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

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

(g) Cancellation of Adoption Leave

(i) Adoption leave, applied for but not commenced, shall be cancelled should the placement of the child not proceed.

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

(h) Special Leave

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

(i) Adoption Leave and Other Entitlements

(i) Provided the aggregate of any leave, including leave taken under this part, does not exceed the period to which the employee is entitled under subclause (c) hereof, an employee may, in lieu of or in conjunction with adoption leave, take any annual leave or long service leave or any part thereof to which he or she is entitled.

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(ii) Paid sick leave or other paid authorised award absences (excluding annual leave or long service leave), shall not be available to an employee during the employee's absence on adoption leave.

(j) Effect of Adoption Leave on Employment

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

(k) Termination of Employment

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

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

(l) Return to Work After Adoption Leave

(i) An employee shall confirm the intention of returning to work by notice in writing to the employer given not less than four weeks prior to the expiration of the period of adoption leave provided by paragraph (c)(ii) hereof.

(ii) An employee, upon returning to work after adoption leave, shall be entitled to the position held immediately before proceeding on such leave or in relation to an employee who has worked part-time under this clause the position held immediately before commencing such part-time work.

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

(m) Replacement Employees

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

(ii) Before an employer engages a replacement employee the employer shall inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.

(iii) Before an employer engages a person to replace an employee temporarily promoted or transferred in order to replace an employee exercising rights

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under this part, the employer shall inform that person of the temporary nature of the promotion or transfer and of the rights of the employee who is being replaced.

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

PART D - PART-TIME WORK

(a) Definitions

For the purposes of this part:

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

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

'Spouse' includes a de facto spouse.

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

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

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

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

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

(b) Entitlement

With the agreement of the employer:

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

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

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(iii) A female employee may work part-time in one or more periods at any time from the seventh week after the date of birth of the child until its second birthday.

(iv) In relation to adoption a female employee may work part-time in one or more periods at any time from the date of the placement of the child until the second anniversary of that date.

(c) Return to Former Position

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

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

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

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

(e) Pro Rata Entitlements

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

(f) Transitional Arrangements - Annual Leave

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

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

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

(g) Transitional Arrangements - Sick Leave

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

(h) Part-time Work Agreement

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

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

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

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

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

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

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

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

(i) Termination of Employment

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

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

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termination entitlement based on the period of full-time employment and all service as a part-time employee on a pro rata basis.

(j) Extension of Hours of Work

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

(k) Nature of Part-time Work

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

(l) Inconsistent Award Provisions

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

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

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

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

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

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

(m) Replacement Employees

(i) A replacement employee is an employee specifically engaged as a result of an employee working part-time under this part.

(ii) A replacement employee may be employed part-time. Subject to this subclause, subclauses (e), (f), (g), (h), (i) and (l) of this part apply to the part-time employment of replacement employees.

(iii) Before an employer engages a replacement employee under this subclause, the employer shall inform the person of the temporary nature of the employment and of the rights of the employee who is being replaced.

(iv) Unbroken service as a replacement employee shall be treated as continuous service as provided for in paragraph (a) Definitions, **'Continuous service'** of this Part.

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

21. PART-TIME EMPLOYEES

(a) 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 Clause 9 - Annual Leave, Clause 15 - Holidays with Pay and Clause 31 - Sick Leave hereof, provided that payment therefor shall be made at the rate normally paid to such employee for a similar period of time worked.

The wage rates payable per hour shall be one-fortieth of the relevant rate above set out provided that as from 13 June 1990 the divisor shall become one thirty-eighth.

(b) Part-time employees engaged to work less than 20 hours per week shall be paid per hour one-fortieth of the relevant rate set out plus an additional 20%, such payment being in lieu of public holidays, annual leave and sick leave, provided that as from the 13 June 1990 the divisor for the purpose of this subclause shall become one thirty-eighth.

22. PAYMENT OF WAGES

(a) Wages shall be paid weekly in the employer's time not later than 11.30 a.m. on each Wednesday. On or prior to pay day, the employer shall state to each employee in writing the amount of wages to which he or she is entitled, the overtime worked, the deductions made therefrom and the amount to be paid.

(b) The employer may elect, subject to agreement being reached with the majority of employees in the establishment concerned, to pay wages in cash, by cheque or by electronic fund transfer to the account nominated by the employee.

(c) Payment on Termination

Where the services of an employee are dispensed with, wages shall be paid on the day of dismissal or forwarded by post on the day following.

(d) Day off Coinciding with Pay Day

In the event that an employee, by virtue of the arrangement of the ordinary working hours, is to take a day off on a day which coincides with pay day, such employee shall be paid on the working day preceding pay day or in special circumstances where the employer and the employee agree payment may be made on the working day immediately following pay day.

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(e) Where an employer elects to pay employees by electronic fund transfer the employer shall pay to employees, in addition to any other entitlements, an amount to cover government fees and charges for one deposit and one withdrawal per day.

23. PREFERENCE TO UNIONISTS

(a) Preference in engagement of employees shall be given to persons who are adequately experienced and otherwise competent and who are either:

(i) members of the Tasmanian Branch of the Australian Hairdressers, Wigmakers and Hairworkers Employees' Federation; or

(ii) persons who are prepared at the point of engagement to give an undertaking that they will within 14 days make written application for membership of the Tasmanian Branch of the Australian Hairdressers, Wigmakers and Hairworkers Employees' Federation and remain members.

(b) If more than one person described in (a) (i) and (ii) hereof make application for employment, then the employer shall have absolute discretion to select any one or more of such persons.

(c) Owners of businesses, their spouses and children shall not be subject to the provisions of this clause.

(d) Conscientious objectors shall not be subject to the provisions of this clause.

(e) Prior to commencing employment, conscientious objectors who can satisfy the employer and the union that they have genuine conscientious grounds for not joining a union, shall be exempt from the requirements to join on condition that they contribute each year an amount equivalent to the annual union subscription to a charity mutually agreed between the union and the person in question, and, such contribution to charity shall be made within one month of the engagement of that employee.

To be granted exemption as a conscientious objector, the applicant must state his/her complete objection to joining all unions, not a union or particular unions.

24. RESOLUTION OF DISPUTES

In the event of any dispute or grievance between the employer and the employee/s, the following procedure shall be observed:

(a) The matter shall in the first instance be discussed at establishment level between the employer and the employee/s concerned.

(b) In the event that the matter remains unresolved, the officials of the relevant union may be involved. The employer may seek to involve the employer organisation.

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(c) Should the matter remain unresolved it shall be referred to the Tasmanian Industrial Commission for resolution.

(d) The above procedure is to be followed without resort to industrial disputation and the parties will in examining any issue have regard to the spirit as well as the letter of the provisions of this Award or any agreement or understandings previously reached.

25. REST PERIOD

An employee shall be allowed 2 rest periods during each working day, these periods to be of 10 minutes duration, the first to be taken between the hours of commencing work and the meal period prescribed in Clause 16 - Hours of Work hereof, and the other between the meal period previously mentioned and the time of ceasing work, provided that no rest period shall apply on Saturday morning.

26. RIGHT OF ENTRY OF UNION OFFICIALS

(a) For the purpose of interviewing employees on legitimate union business, an officer of an organisation of employees, accredited as hereinafter provided, may enter the employer's premises during regular meal times of employees on each day of the week on the following conditions:-

(i) That he produces his authority to the employer or the employer's representative;

(ii) that he interviews employees only at recognised places where they are taking their meal;

(iii) that not more than one representative of each of not more than 3 unions be on the premises at any one time;

(iv) that no one representative visits the premises more than once in each week; and

(v) that if the employer alleges that a representative is unduly interfering with his work or his methods, or is creating dissatisfaction amongst his employees, or is committing a breach of the previous conditions, the employer may refuse right of entry and bring such refusal before the Secretary for Labour.

(b) An officer shall be a duly accredited representative of an organisation if he be the holder for the time being of a certificate which has not been cancelled or revoked, signed by the secretary and bearing the signature of the holder. The certificate shall be in the following form or in a form not materially different therefrom:-

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(Name of Organisation)

This is to certify that.....whose signature appears hereunder, is a duly accredited representative of the abovenamed organisation for the purposes of the Hairdressers Award.

.....
Secretary
(Seal)
.....
Signature of Holder of
Certificate

(This Certificate is strictly not transferable).

27. RUBBER GLOVES

Where an employee is required to wear rubber gloves in the course of his employment such rubber gloves shall be provided by the employer.

28. SATURDAY, SUNDAY AND HOLIDAY WORK

For all time worked on Saturday, Sunday and Public Holidays, payment shall be made as follows:-

(a) Saturday

(1) Where the employer's business premises are open for normal business and require manning on Saturday, payment shall be made at the rate of double time with a minimum payment as for 2 hours worked.

(2) Where the employer's business premises are not open for normal business, payment shall be made at the rate of one and one half times the ordinary rate for the first 2 hours and double time thereafter.

(b) Sunday

For all time of duty on a Sunday payment shall be made at the rate of double time with a minimum payment as for 4 hours worked.

(c) Public Holidays

For all time of duty on any of the holidays mentioned in Clause 15 - Holidays with Pay hereof, payment shall be made at the rate of double time and one half with a minimum payment as for 4 hours worked.

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(d) Easter Saturday

For all time of duty on Easter Saturday, payment shall be made at the rate of double time and one half with a minimum payment as for 4 hours worked.

NOTE: The penalty rates prescribed in Clauses 19 (Overtime) and 28 (Saturday, Sunday and Holiday Work) hereof shall apply to part-time and casual employees in addition to other loadings prescribed for these classes of employees.

(e) Provided that the divisor rate for this clause shall remain at forty for 12 months until 13 June 1990 when it shall then become one thirty eighth.

(f) Where an employee requests and the employer agrees, time off at the penalty equivalent may be allowed in lieu of the penalty payment. Provided that such time off shall be paid at the ordinary rate.

29. SAVING

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

30. SHORTER WORKING WEEK - SAVING

As a consequence of the introduction of a thirty-eight hour week from the beginning of the first full pay period commencing on or after 12 June 1989, the following saving provisions relating to provisions applying in this award from the beginning of the first full pay period commencing on or after 4 May 1989 shall apply:

(a) Clause 16 - Hours of Work

An employee who, prior to 4 May 1989 has regularly worked in the period 7.00 a.m. to 8.00 a.m. Monday to Friday, shall continue to receive payment at the rate of time and one half whilst working such hours.

(b) Clause 28 - Saturday, Sunday and Holiday Work

An employee who prior to 4 May 1989 was regularly engaged to work on Saturday mornings shall continue to receive a minimum payment as for 3 hours worked, or the trading period, whichever is applicable.

(c) Clause 18 - Meal Allowance

An employee who prior to 4 May 1989 was regularly in receipt of a meal allowance, shall continue to receive such allowance whilst continuing to work in a similar work pattern, notwithstanding that there may not be an entitlement under the amended clause.

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For the purposes of this subclause, 'regularly' shall mean an employee who has received a meal allowance on at least 4 occasions in the 3 months prior to 4 May 1989.

(d) Settlement of Disputes

Any question arising under this clause which cannot be resolved at establishment level may be referred to the Tasmanian Industrial Commission for resolution.

31. SICK LEAVE

(a) An employee, other than one engaged as a casual or a part-time employee mentioned in subclause (b) of Clause 21 - Part-Time Employees of this Award, 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) the employee shall not be entitled to such leave of absence for any period in respect of which the employee is entitled to workers' compensation;

(ii) the employee 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 inability to attend for work, and as far as may be practicable, state the nature of the illness or injury and the estimated duration of absence;

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

(iv) he shall not be entitled in any year to sick leave credit in excess of seventy-six hours of ordinary working time.

PROVIDED that during the first three months of employment, sick leave shall accrue on the basis of 6.33 hours for each completed calendar month of service with the employer.

(v) For the purpose of administering paragraph (iv) of this subclause, an employer may within one month of this award coming into operation or within 2 weeks of the employee entering his employment, require an employee to make a sworn declaration or other written statement as to what paid leave of absence he has had from any employer during the then current year, and upon such statement the employer shall be entitled to rely and act.

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(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 as paid sick leave shall be credited to the employee and, subject to the conditions hereinbefore prescribed, shall be allowed by that employee in a subsequent year without diminution of the sick leave prescribed in respect of that year.

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

(d) Any sick leave accumulation standing to the credit of an employee as at 12 June 1989 shall be adjusted in the ration of 38/40.

32. STEWARD

An employee appointed steward in the salon, office or department in which he is employed shall, upon notification thereof to his employer, be recognised as the accredited representative of the union to which he belongs, and the shall be allowed the necessary time during working hours to interview the employer or his representatives on matters affecting employees whom he represents, provided that if the steward so requests it, he may be accompanied at such interview by another employee and/or by his union official.

33. SUPERANNUATION

(a) Contribution

An employer shall make a contribution equivalent to 3 percent of ordinary time earnings into an approved Superannuation Fund in respect of all eligible employees (as defined) as from 1 June 1990. Such earnings shall exclude overtime and allowances in the nature of reimbursement (such as meal money).

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

(b) 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 12 hours per week averaged over a fund billing statement month.

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(c) Definitions

'**Eligible Employee**' shall mean an employee whether weekly, part-time or casual, who has had at least 6 months continuous service with an employer subject to this award. Provided that in the case of an employee who has so qualified with one employer, that employee shall not be required to serve the qualifying period with any subsequent employer subject to this Award.

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

(d) Fund

Contributions determined in accordance with subclause (a) of this Clause shall, subject to clauses (e) and (f) of this Clause, be made into TASPLAN.

(e) Exemption

An employer may seek an exemption from making contributions into TASPLAN subject to all of the following circumstances:-

(i) Where a Fund for which an exemption application is made, is an 'Approved Fund' established prior to 1 January 1990; and

(ii) Occupational Superannuation contributions equivalent to 3 percent of ordinary time earnings were being paid on behalf of all employees in the establishment covered by this Award prior to 1 January 1990, and have continued to be paid since that date.

(f) Procedure for Seeking Exemption

(i) Applications for exemption must be lodged with the Tasmanian Industrial Commission by no later than 1 June 1990. Subsequently, subject to subclause (e) of this clause, the Commission shall determine whether an exemption is granted.

(ii) For the purpose of this clause, the following companies are exempt from contributing to TASPLAN for those employees for whom contributions (equivalent to the amount nominated in subclause (a)) have been made into the funds set out below on or prior to 1 January 1990.

In the case of those employees, contributions shall continue to be made in accordance with subclause (a) into the approved funds set out below:-

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Reflections in Hair (Walkers Enterprises)	AMP Super Leader
Hairworld (Nelvek P/L)	Tas Chamber of Commerce and Ind Super Fund
Hair Essentials	AMP Super Leader
Jay Tees Hair Design	AMP Super Leader
Madonna's Hair Design	Legal & General Fund
Maison Carol	AMP Super Leader
Glemby International	REST
L'Unico Haircutters	AMP Super Leader
Compliments Salon	AMP Super Leader
Salamanca Style	AMP Super Leader
Stephen Gardiner Hairdressing Pty Ltd	The Market Leaders Fund

(iii) For the purpose of this clause, 'Gi Gi's Hair Care' is exempt from contributing to TASPLAN for its employees for whom contributions (equivalent to the amount nominated in subclause (a)) shall be made into the Mercantile Mutual Master Superannuation Fund from 14 May 1993.

34. TIME AND WAGES BOOK

Each employer shall keep a time and wages book showing the name of each employee, his or her occupation, the commencing and finishing times of the hours worked each day and the wages and allowances paid each week with details of sick and annual leave.

The time book shall be open for inspection to a duly accredited union official during the usual office hours at the employer's office or other convenient place; provided that an inspection shall not be demanded unless the secretary of the union or the district secretary or organiser suspects that a breach of the award is being committed; provided also that only one demand for such inspection shall be made in any one fortnight at the same establishment.

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35. UNIFORMS

In hairdressing establishments when an employer requires an employee to wear protective clothing or distinctive dress or uniform, such uniform or protective clothing to be provided by the employer.

P A Imlach
COMMISSIONER

28 January 2000

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SCHEDULE

HAIRDRESSERS AWARD

T.1867 OF 1989

38-HOUR WEEK AND 4% SECOND TIER ADJUSTMENT

MATTERS INCLUDED IN AWARD:

1. SHAMPOOIST: The task of shampooing will not be limited to apprentice or qualified classifications.

2. ANNUAL LEAVE:

   (i) Proportionate leave changed from the equation of 13.1/2 to 12.2/3.

   (ii) Loading removed for part-timers.

   (iii) Leave to be taken in multiple periods based around the relevant provisions of the Retail Trades Award.

3. CASUAL EMPLOYEES:

   (i) The divisor to remain at 40 for 12 month period - from 13 June 1989.

   (ii) Definition - to be engaged for a specified period of time and not for a specific task.

4. CONTRACT OF EMPLOYMENT:

   The following provision to be deleted: 'service shall not be terminated by the employer or the employee during authorised absence of leave'.

5. PUBLIC HOLIDAYS:

   Work on public holidays to be calculated using ara0 divisor to apply for a twelve months period - from 13 June 1989.

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6. HOURS OF WORK:

   (i) Spread of hours 7.00 a.m. to 6.00 p.m.

   (ii) An employee may be required to remain at the work station to complete the task at hand on ordinary time for a specified period.

   (iii) Meal period to be from 45 minutes minimum to 60 minutes maximum.

   (iv) Meal period to be taken between 11.00 a.m. and 3.00 p.m.

   (v) 38-hour week subject to multiple methods of implementation as best suits the business.

   (vi) RDO's can be stored to a maximum of 12 per annum.

   (vii) RDO's can be taken on any day of the week.

   (viii) Work on RDO at ordinary time, and RDO taken later.

   (ix) Substitution on RDO's.

   (x) No sick leave allowed and none debited on an RDO.

   (xi) In-house discussions and review of 38-hour week arrangements.

7. MEALS: Retail Trades Award provision on qualification and payment of meals/allowance.

8. OVERTIME:

   (i) 40 divisor to apply for 12 months - from 13 June 1989.

   (ii) Time off in lieu of overtime as per Retail Trades Award provision.

   (iii) Travelling allowance after overtime to be deleted.

9. PART-TIME EMPLOYEES: 40 divisor to apply for a period of 12 months.

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10. PAYMENT OF WAGES: Cash/cheque or electronic fund transfer payment.

11. REST PERIOD: No rest period on Saturdays if half day worked.

12. SATURDAY, SUNDAYS AND HOLIDAYS:

    (i) 40 divisor to apply for a 12 month period.

    (ii) Minimum payment of 2 hours on a Saturday.

    (iii) Time off in lieu of penalty as per the Retail Trades Award.

13. SICK LEAVE:

    (i) 48-hours notice period deleted.

    (ii) Rate of accumulation in the first 3 months to be 6.33 hours for each 76 hours worked.

    (iii) Union to assist in reduction of absenteeism.

MATTERS AGREED BUT NOT INCLUDED IN AWARD

1. A prohibition on smoking in the work place to be progressively introduced.

2. An employee shall not refuse any reasonable request to perform work which he or she is assigned.

3. Deductions from pay may be made for poor punctuality - ie. if 10 minutes or more late.

4. An employee shall not refuse a reasonable request to work overtime.

5. Special agreement may be negotiated between the union and the THA for special award provisions and union membership.

6. All parties to co-operate in achieving compliance with current industry regulations.

7. Establishment of a 'Resolution of Disputes/Grievance' procedure.