

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

**TASMANIAN INDUSTRIAL COMMISSION**

**Industrial Relations Act 1984**

s23 application for award or variation of award

**Tasmanian Trades and Labor Council**

(T11548 of 2004)

Private Sector Awards

**Tasmanian Trades and Labor Council**

(T11564 of 2004)

Private Sector Awards

**Tasmanian Trades and Labor Council**

(T11566 of 2004)

Private and Public Sector Awards

**FULL BENCH:**

PRESIDENT P L LEARY

COMMISSIONER T J ABEY

COMMISSIONER J P McALPINE

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

**Australian Liquor, Hospitality and Miscellaneous Workers Union -**

**Tasmanian Branch**

(T11412 of 2004)

**FULL BENCH:**

PRESIDENT P L LEARY

DEPUTY PRESIDENT P C SHELLEY

COMMISSIONER J P McALPINE

**Award variation – union name change - application approved**

**CHILD CARE AND CHILDRENS SERVICES AWARD**

**No. 2 of 2004**

**(Consolidated)**

PART I – CLAUSES 4, 5 AND 6 ARE VARIED; PART III – CLAUSE 1 IS VARIED; AND THE AWARD IS CONSOLIDATED:

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

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

### **1. TITLE**

This award shall be known as the Child Care and Childrens Services Award.

### **2. INDEX**

<u>Subject Matter</u>	<u>Clause No.</u>
-----------------------	-------------------

#### **Part I – Application And Operation Of The Award**

Title	1
Index	2
Scope	3
Date of Operation	4
Award Interest	5
Supersession	6
General Definitions	7

#### **Part II – Employment Relationship And Associated Matters**

Definitions	1
Contract of Employment	2
Employment Categories	3
In-Service Training	4
Mixed Functions	5
Program Planning Time	6

#### **Part III – Wage Rates And Related Matters**

Wage Rates	1
Classification Descriptors	2
Payment of Wages	3
Superannuation	4

#### **Part IV – Hours Of Work, Penalty Payments, Shift Work And Overtime**

Hours of Work	1
Make Up Time	2
Meal Break	3
Minimum Start	4
Overtime	5
Rostered Days Off	6

#### **Part V – Leave And Holidays With Pay**

Definitions	1
Annual Leave	2

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

Bereavement Leave	3
Carer's Leave	4
Holidays with Pay	5
Parental Leave	6
Sick Leave	7

#### **Part VI – Consultation And Dispute Resolution**

Disputes and Grievances	1
Enterprise Flexibility	2
Structural Efficiency	3

#### **Part VII – Occupational Health And Safety, Tools and Amenities**

Tools, Equipment and Protective Clothing	1
--	---

#### **Part VIII – Award Compliance And Union Related Matters**

Leave Reserved	1
Notice Board	2
Union Stewards	3

### **3. SCOPE**

This award is established in respect of the industry of providing care for children in child care services not subject to the Independent Schools (Non-Teaching Staff) Award or the Disability Service Providers Award.

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

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

### **5. AWARD INTEREST**

- (a) The following employee organisations have an interest in this award pursuant to Section 63(10) of the *Industrial Relations Act 1984*:

the Liquor, Hospitality and Miscellaneous Union - Tasmanian Branch.

- (b) The following employer organisation has an interest in this award pursuant to Section 63(10) of the *Industrial Relations Act 1984*:

The Association of Independent Schools of Tasmania Incorporated.

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

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

the Tasmanian Chamber of Commerce and Industry Limited.

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

the Tasmanian Trades and Labor Council.

## **6. SUPERSESSION**

This award incorporates and supersedes the Child Care and Childrens Services Award No. 2 of 2003 (Consolidated) No. 3 of 2003, No. 4 of 2003, No. 5 of 2003 and No. 1 of 2004.

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

## **7. GENERAL DEFINITIONS**

**'Back-up care situation'** shall be care provided for children in a situation where the parents/guardians of the children are also on the premises.

**'Child care service'** shall mean, without limiting the generality of the term, Family Day Care Services, Community/Neighbourhood Houses, Back-up Care, Long Day-Care Centres, Occasional Care Services, Out of School Hours Care Services, including Vacation Care Programs, Part-time Child Care Centres, Play Centres, Play Sessions, Playgroups and Playgroup Support Services.

**'Community/neighbourhood houses'** shall be establishments which provide programs and services to members of the community and which provide backup child care whilst such programs and services are in operation.

**'Family day care'** shall be a child care service which co-ordinates and supervises the placement of children in the homes of approved people for the purpose of the provision of child care.

**'Long day-care centre'** shall be a child care establishment where children are cared for, for a minimum of 5 days per week and 48 weeks per year.

**'Occasional care services'** shall be child care centres which provide care for children on an occasional or irregular basis.

**'Out of school hours care services'** shall be services, which provide child, care for children of school age before and after school and/or during school vacation periods.

**'Part-time child care centre'** shall be a child care centre which operates for less than 5 days per week and 48 weeks per year.

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

**'Play centres and play sessions'** shall be licensed services, which provide sessional care for children aged 3 to 5 years.

**'Playgroups'** shall be services, which provide play experiences for children in a group situation with the parents or guardians of the children present.

**'Playgroup support services'** shall be services which provide support to playgroups.

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

### **1. DEFINITIONS**

**'Casual employee'** shall be any person who is employed on a casual basis, and shall include any person who is employed for a period not exceeding 20 ordinary working days at any one time.

**'Full-time employee'** shall be any person engaged regularly and works 38 hours per week.

**'Intermittent employee'** shall be a person employed on a regular basis in a Community House, Place Centre or Group, or an Out of School Hours Program or Vacation Care Program, where the period of employment exceeds 20 ordinary working days, but the program runs for less than 48 weeks per year.

**'Junior employee'** shall be any person who has not reached the age of 20 years.

**'Part-time employee'** shall be any person engaged regularly to work for fewer hours per day or week than those prescribed for full-time employees.

**'Trainee - Child Care'** shall mean a person employed by the employer under the terms of a Traineeship program and any agreements attached thereto.

**'Training Agreement'** shall mean an agreement registered under the provisions of the *Vocational Education and Training Act 1994*.

### **2. CONTRACT OF EMPLOYMENT**

- (a) Except as hereinafter provided, employment shall be by the fortnight. Any employee not specifically engaged as a casual employee shall be deemed to be employed by the fortnight.
- (b) Any employee other than a casual employee willing to work, who works for less than a full working fortnight, shall be entitled to a full fortnight's wages.

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

- (c) Employment shall be terminated by two weeks' notice given by either party or by the payment or forfeiture of two weeks' wages, as the case may be. This shall not affect the right of the employer to dismiss an employee for serious misconduct or serious neglect of duty, in which case wages shall be paid up to the time of dismissal only.
- (d) Employees other than those engaged on a part-time or casual basis, 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 in accordance with Part IV - Hours of Work, Penalty Payments Shift Work and Overtime, Clause 1 - Hours of Work for each week that he/she 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.
- (e)
  - (i) In the case of unsatisfactory work performance or misconduct not sufficient to justify instant dismissal, written documentation will be issued to the employee indicating what the problem is, what standard is required and what further action may result if the problem continues.
  - (ii) An employee involved in such disciplinary procedures shall undertake such counselling as may be reasonably requested by the employer.
  - (iii) In circumstances where normal disciplinary procedures have failed, the employer may, with the approval of the union secretary, suspend an employee for a period not exceeding one week.
- (f)
  - (i) An employer may direct an employee to carry out such duties as are within the limits of the employee's skill, competence and training consistent with the classification structure of this award provided that such duties are not designed to promote deskilling.
  - (ii) Any direction issued by an employer shall be consistent with the employer's responsibilities to provide a safe and healthy working environment.

**PROVIDED** that the management of individual Child Care Centres may enter into contracts with directors requiring a period of notice longer than prescribed by this clause and the terms of such contract shall prevail over this clause.

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

### **3. EMPLOYMENT CATEGORIES**

(a) Casual Employees

A casual employee (as defined) for working ordinary time shall be paid per hour one thirty-eighth of the weekly rates prescribed for the classification level which is commensurate with that employee's qualifications, training and years of experience, as defined in Part III – Wage Rates and Related Matters, Clause 2 – Classification Descriptors of this award. In addition thereto a casual employee shall receive 20% of the ordinary hourly rate in respect of each hour for which he/she is paid; such additional amount to be payment in lieu of annual leave, sick leave and Holidays with Pay.

(b) Part-time and Intermittent Employees

- (i) Part-time employees shall be entitled to the annual leave, holidays and sick pay as prescribed in Part V – Leave and Holidays with Pay, Clause 2 - Annual Leave, Clause 5 – Holidays with Pay, and Clause 7 - Sick Leave of this award.

**PROVIDED** that payment therefore shall be made at the rate normally paid to such employees for a similar period of time worked.

**PROVIDED ALWAYS** that such employees employed prior to 18 August 1986 may elect to continue to receive in addition to their hourly rate an allowance of 20% where such payment is made in lieu of annual leave, sick leave and Holidays with Pay.

**PROVIDED FURTHER** that from 1 January 1987 all part-time employees engaged to work less than 20 hours per week shall be entitled to the annual leave, sick leave and Holidays with Pay, as prescribed, in lieu of the additional 20% payment.

- (ii) The hourly rate for part-time employees shall be calculated by dividing the relevant weekly rate by one thirty-eighth.
- (iii) The hourly rate for intermittent employees shall be calculated in accordance with Part II – Employment Relationship and Associated Matters, Clause 3 – Employment Categories, subclause (a) - Casual Employees of the award. The hourly rate includes payment in lieu of annual leave, sick leave and Holidays with Pay.
- (iv) The contract of employment for intermittent employees shall be in accordance with Part II – Employment Relationship and Associated Matters, Clause 2 - Contract of Employment, subclause (c) of this award.

(c) Trainee - Child Care

- (i) Trainees shall be engaged for a period of twelve months as full-time employees.

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

**PROVIDED** that trainees shall be subject to a satisfactory probation period of up to one month.

- (ii) No existing permanent employees shall be displaced by a trainee and trainees are not required to be additional to existing staffing levels.
- (iii) Existing full-time and part-time untrained employees up to and including the age of 24 years may choose to convert their position to a traineeship.

**PROVIDED** that there is genuine agreement to the conversion between the employer and the employee, and

**PROVIDED ALWAYS** that the conversion shall not affect the permanent status for the employee.

- (iv) An employee who is required to supervise a trainee shall be allowed a minimum of 30 minutes per fortnight of paid non-contact time in order to fulfil their record-keeping responsibilities relating to the traineeship.
- (v) A trainee shall receive on-the-job training by the employer as specified in the Training Agreement (as defined) and the off-the-job training shall be provided by a training institution/organisation approved by the Training Authority of Tasmania or other relevant body which may replace it.
- (vi) The employer shall agree to the overall training program being monitored by officers of the Training Authority of Tasmania and shall agree to training record books being part of the monitoring process.
- (vii) Time spent by the trainee on off-the-job training shall be allowed without loss of continuity of employment.
- (viii) The trainee shall be considered for any vacancy at his/her place of employment at the time of the satisfactory completion of their employment.
- (ix) Under normal circumstances overtime shall not be worked by trainees. However, if overtime is worked the normal allowances and penalties will apply.
- (x) The union shall be afforded reasonable access to the trainees for the purpose of explaining the roles and functions of the union.
- (xi) Trainees shall not perform higher duties in the course of their traineeship.
- (xii) Trainees shall be exempt from action in respect of industrial disputes. However, the employer shall observe the provisions determined by the Training Authority of Tasmania in respect of the use of trainees in the time of industrial disputes.



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

- (xiii) A monitoring committee with representatives from the union and appropriate employer organisation and governments shall be established in Tasmania to monitor the progress of traineeships implemented under the provisions of this award.

#### **4. IN-SERVICE TRAINING**

- (a) Employees, other than those engaged on a casual basis shall be entitled to paid in-service training leave to attend approved in-service training courses. The minimum amount of paid in-service training for each employee shall be 15 hours.
- (i) The employer shall keep an accurate record of all in-service training undertaken by employees. Employees shall have access to this information upon request.
- (ii) If employees are not given the opportunity to participate in in-service training then they shall still progress to the next incremental level within their classification structure after each year of service.
- (b) In-service training may include any of the following **PROVIDED** that the training has been approved by the Director/Co-ordinator of the service:
- seminars, including in-house seminars;
  - workshops, including in-house workshops;
  - short courses;
  - lectures;
  - training packages; and
  - non-certificated TAFE courses.

#### **5. MIXED FUNCTIONS**

Employees engaged continuously for four hours or more on duties carrying a higher rate than their ordinary classification shall be paid the higher rate for the whole of that day's work.

**PROVIDED** that employees required to take charge of a centre will be paid at the rate of a Level 5, Assistant Director, except where the period of relief is for five or more working days in which case the appropriate classification will be paid.

**PROVIDED ALWAYS** that mixed functions shall not apply to an employee relieving another employee on a rostered day off.

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

## **6. PROGRAM PLANNING TIME**

- (a) Recognising the work involved in preparing programs, the need for non-contact time to plan for the care of children and the need for all children's services workers to keep abreast of current trends in child care:
  - (i) All contact staff shall be allowed a regular period of contact free time per week for program preparation and reading.
  - (ii) The length of the contact free time shall be one hour per week for all full-time contact staff and pro rata time for all part-time staff.
- (b) The time at which non-contact time shall be provided shall be determined at each establishment by agreement between the Director/Co-ordinator and the employee.

## **PART III – WAGE RATES AND RELATED MATTERS**

### **1. WAGE RATES**

- (a) Incremental progression within each level for Children's Services Workers and Directors shall be after completion of one year's service and 15 hours in-service training within that year, subject to the provisions of Part II – Employment Relationship and Associated Matters, Clause 4 – In-Service Training, subclause (a) of this award. **Excepting Where** progression on the basis of completion of competency-based training modules is specified in Part III – Wage Rates and Related Matters, Clause 2 – Classification Descriptions of this award.
- (b) The minimum weekly rates of wages that shall be paid to employees classified hereunder shall be the base rate and supplementary payments appearing opposite that classification.

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

	Base Rate \$	Safety Net Adjustment \$	Weekly Wage Rate \$
Children's Services Worker Level 1			
1st year	360.90	142.00	502.90
2nd year	368.50	142.00	510.50
3rd year and thereafter	375.50	142.00	517.50
Children's Services Worker Level 2			
1st year	375.50	142.00	517.50
2nd year	386.90	142.00	528.90
3rd year and thereafter	401.30	142.00	543.30
Children's Services Worker Level 3			
1st year	410.00	142.00	552.00
2nd year	427.40	144.00	571.40
3rd year and thereafter	447.90	144.00	591.90
In-charge	458.20	144.00	602.20
Children's Services Worker Level 4			
1st year	458.20	144.00	602.20
2nd year	468.40	142.00	610.40
3rd year and thereafter	478.70	142.00	620.70
In-charge	488.90	142.00	630.90
Children's Services Worker Level 4A			
1st year	488.90	142.00	630.90
2nd year	509.40	142.00	651.40
3rd year and thereafter	529.90	142.00	671.90
In-charge	540.20	142.00	682.20
Children's Services Worker Level 5			
1st year	543.30	142.00	685.30
2nd year	553.50	142.00	695.50
3rd year and thereafter	563.80	142.00	705.80
Children's Services Worker Level 5A			
Assistant Director Level 1			
1st year	553.50	142.00	695.50
2nd year	563.80	142.00	705.80
3rd year and thereafter	574.00	142.00	716.00
Assistant Director Level 2			
1st year	563.80	142.00	705.80
2nd year	574.00	142.00	716.00
3rd year and thereafter	584.30	142.00	726.30

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

Assistant Director Level 3			
1st year	574.00	142.00	716.00
2nd year	584.30	142.00	726.30
3rd year and thereafter	594.50	142.00	736.50
Children's Services Director Level 1			
1st year	604.80	142.00	746.80
2nd year	615.00	142.00	757.00
3rd year and thereafter	635.30	140.00	775.30
Children's Services Director Level 2			
1st year	656.00	140.00	796.00
2nd year	666.30	138.00	804.30
3rd year and thereafter	676.50	138.00	814.50
Children's Services Director Level 3			
1st year	686.80	138.00	824.80
2nd year	697.00	138.00	835.00
3rd year and thereafter	707.30	138.00	845.30

(c) Junior Rates (Children's Services Workers)

- (i) Trained Junior (1 year trained)  
Percentages of 1st year rate of Children's Services Worker Level 2 classification
  - 1st year 85%
  - 2nd year 90%
  - 3rd year 95%
- (ii) Trained Junior (2 year trained)  
Percentages of 1st year rate of Children's Services Worker Level 3 classification
  - 1st year 85%
  - 2nd year 90%
  - 3rd year 95%
- (iii) Untrained Junior  
Percentages of 1st year rate of Children's Services Worker Level 1 classification
  - 1st year 70%
  - 2nd year 80%
  - 3rd year 90%
- (iv) Junior Rates (Junior Clerical Assistant)  
Percentage of 1st year rate of Child Care Support Worker Level 2 classification  
On Commencement 70%
  - After 1 year 80%
  - After 2 years 90%

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

(d) Trainee – Child Care (as defined) - Junior

(i) Trainees Engaged as Such

The weekly wages payable to Trainee Child Care (as defined), engaged as such shall be determined by multiplying the rate for an untrained junior, 1st year in subclause (c) - Junior Rates (Children's Services Workers), paragraph (iii) - Untrained Junior by 39 (which represents the actual weeks spent on the job) and dividing that sum by 52 to provide a weekly wage.

**PROVIDED** that the rate determined shall in no case be less than the minimum rate prescribed by the Australian Traineeship Guidelines.

(ii) Existing Employees

(1) Employees employed upon the basis of later conversion to trainee

An existing employee who has been employed on the basis of later conversion to a trainee shall have his/her weekly wage rate determined by applying the formula referred to in paragraph (i) to his/her existing wage rate.

**PROVIDED** that the rate determined shall in no case be less than the minimum rate prescribed in the Australian Traineeship Guidelines.

(2) Employees who agree to convert to trainee

(A) Full-time Employees

An existing full-time employee, other than an employee referred to in subparagraph (ii)(1) who agrees to undertake a traineeship shall have his/her weekly wage rate determined by applying the formula referred to in paragraph (i) to his/her existing wage rate but only where this has been agreed to by the employee without duress. Unless there is genuine agreement between the employer and the converting employee to apply the formula referred to, the trainee will be paid the same wage as that which would have applied had he/she not converted to a traineeship.

**PROVIDED** that the rate determined shall in no case be less than the minimum prescribed by the Australian Traineeship guidelines.

(B) Part-time Employees

Where an existing part-time employee has agreed to undertake a traineeship as in (A) above the weekly wage rate shall be determined by applying the formula to the full-time rate for that employee's classification.

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

**PROVIDED** that the rate determined shall in no case be less than the minimum rate prescribed by the Australian Traineeship Guidelines.

(e) Trainee - Child Care (as defined) - 20-24 years

(i) Trainees Engaged as Such

The weekly wages payable to a Trainee Child Care (as defined), engaged as such, aged between 20 to 24 years shall be determined by multiplying the rate for an untrained Children's Services Worker, Level 1 - 1st year by 39 (which represents the actual time spent on the job) and dividing that sum by 52 to provide a weekly wage.

**PROVIDED** that the rate determined shall in no case be less than the minimum rate prescribed in the Australian Traineeship Guidelines.

(ii) Existing Employees

(1) Employees employed upon the basis of later conversion to trainee

An existing employee aged between 20 and 24 years who has been employed on the basis of later conversion to a trainee shall have his/her weekly wage rate determined by applying the formula referred to in paragraph (i) above to his/her existing wage rate.

**PROVIDED** that the rate determined shall in no case be less than the minimum rate prescribed by the Australian Traineeship Guidelines.

(2) Employees who agree to convert to trainee

(A) Full-time Employees

An existing full-time employee, other than an employee referred to in paragraph (ii)(1) above who agrees to undertake a traineeship shall have his/her weekly wage rate determined by applying the formula referred to in paragraph (i) above to his/her existing wage rate but only where this has been agreed to by the employee without duress. Unless there is genuine agreement between the employer and the converting employee to apply the formula referred to the trainee will be paid the same wage as that which would have applied had he/she not converted to a traineeship.

**PROVIDED** that the rate determined shall in no case be less than the minimum prescribed by the Australian Traineeship Guidelines.

(B) Part-time Employees

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

(f) Child Care Support Workers

The minimum weekly wage rates of wages that shall be paid to employees classified hereunder shall be:

	Base Rate \$	Safety Net Adjustment \$	Weekly Wage Rate \$
Child Care Support Worker Level 1			
1st year	354.20	142.00	496.20
2nd year	357.80	142.00	499.80
3rd year and thereafter	364.80	142.00	506.80
Child Care Support Worker Level 2			
1st year	366.30	142.00	508.30
2nd year	370.40	142.00	512.40
3rd year and thereafter	376.40	142.00	518.40
Child Care Support Worker Level 3			
1st year	417.40	144.00	561.40
2nd year	420.50	144.00	564.50
3rd year and thereafter	423.50	144.00	567.50
Child Care Support Worker Level 4			
1st year	433.40	144.00	577.40
2nd year	438.80	144.00	582.80
3rd year and thereafter	444.40	144.00	588.40

(g) 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.

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

**PROVIDED ALWAYS** 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 Section 10 or under Section 12A of the above Act, or if a part only has received recognition, that part.

(ii) For the purposes of this subclause:

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

**'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.

**'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.

**'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.

(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 \$61 per week.



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

(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 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.

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

(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 four 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 \$61 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.

(h) Minimum Wage

(i) Minimum Wage

No employee shall be paid less than the minimum wage.

(ii) Amount of Adult Minimum Wage

- (1) The minimum wage for full-time adult employees not covered by subclause (g) - Supported Wage System is \$467.40 per week.
- (2) Adults employed under a supported wage system clause shall continue to be entitled to receive the wage rate determined under that clause. Provided that such employees shall not be paid less than the amount determined by applying the percentage in the supported wage system clause applicable to the employee concerned to the amount of the minimum wage specified in subclause (ii)(1).
- (3) Adults employed as part-time or casual employees shall continue to be entitled to receive the wage rate determined under the casual and part-time clauses of the award. Provided that such employees shall not be paid less than pro rata the minimum wage specified in subclause (ii)(1) according to the number of hours worked.

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

(iii) How the Minimum Wage Applies to Juniors

- (1) The wage rates provided for juniors by this award continue to apply unless the amount determined under subclause (iii)(2) is greater.
- (2) The minimum wage for an employee to whom a junior rate of pay applies is determined by applying the percentage in the junior wage rates clause applicable to the employee concerned to the relevant amount in subclause (ii)(1).

(iv) Application of Minimum Wage to Certain Employees

Due to existing applicable award wage rates being greater than the relevant proportionate minimum wage, this clause will not apply to employees falling within the scope of the National Training Wage (Tasmanian Private Sector) Award and Trainees undertaking an apprenticeship.

(v) Application of Minimum Wage to Award Rates Calculation

The minimum wage:

- (1) applies to all work in ordinary hours;
- (2) applies to the calculation of overtime and all other penalty rates, superannuation, payments during sick leave, long service leave and annual leave, and for all other purposes of this award; and
- (3) is inclusive of the arbitrated safety net adjustment provided by the July 2004 State Wage Case Decision (T.11548 of 2004) and all previous safety net and state wage case adjustments.

## **2. CLASSIFICATIONS DESCRIPTORS**

### **TRAINEE - CHILD CARE**

#### Qualifications and Experience

A person at this level shall be an unqualified person undertaking a structured on and off the job training program.

#### Skills and Knowledge

A person at this level would work under close supervision and at the completion of twelve months would have attained the competencies identified in the Child Care Traineeship Training Plan.

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

Advancement

In the case of juniors, progression to Untrained Junior - 3rd year shall be automatic upon completion of the traineeship.

In the case of adults, progression to Children's Services Workers Level 1 - 3rd year shall be automatic upon completion of the traineeship.

After completion of a further one year's service the employee shall progress to Children's Services Worker Level 2 - 2<sup>nd</sup> year

**PROVIDED** that, in the opinion of the employer, the employee possesses sufficient knowledge and skills to perform the duties of a Children's Services Worker Level 2.

### **CHILDREN'S SERVICES WORKER LEVEL 1**

Qualifications and Experience

A person at this level shall be an unqualified person **OR** a person undertaking part-time study leading to relevant child care qualifications as specified in this clause.

Skills and Knowledge

A person at this level would be able to:

- understand and work according to the policy of the employing child care establishment;
- under supervision, implement the service's early childhood or recreational program;
- implement daily routines;
- work with other staff to ensure the health and safety of the children in care;
- give each child individual attention and comfort as required.

Advancement

Progression through the incremental levels of the Level 1 Children's Services Worker scale shall be automatic upon:

- (a) completion of one year's service at each level; and
- (b) completion of 15 hours of in-service training a year.

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

Advancement to Level 2 shall be on the basis of:

- (a) the worker possessing, in the opinion of the employer, sufficient knowledge or proven practical experience to perform the tasks defined for Children's Services Worker Level 2; or
- (b) successful completion of a recognised one year introductory child care course.

## **CHILDREN'S SERVICES WORKER LEVEL 2**

### Qualifications and Experience

A person at this level shall be a person who has successfully completed a one year full-time introductory child care course in an institution which provides accredited training, and who has passed the examinations prescribed for that course.

### **OR**

A person who is undertaking the Associate Diploma in Child Care on a part-time basis, who has successfully completed two years of part-time study.

### **OR**

A person who, in the opinion of the employer possesses sufficient knowledge or proven practical experience to work at this level.

### **OR**

An unqualified person with sufficient knowledge and proven practical experience who has the responsibility of being in charge of other staff in a back-up care situation (as defined).

### **OR**

A person with qualifications and experience deemed equivalent by the employer.

### Skills and knowledge

A Children's Services Worker Level 2 would be able to:

- understand and work according to the policy of the employing child care establishment;
- ensure the health and safety of the children in care;
- give each child individual attention and comfort as required;
- under supervision, implement the service's early childhood or recreation program;
- implement daily routines;

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

- assist in the development and implementation of programs suited to the needs of individual children and groups of children;
- report observations of individual children and groups of children;
- under direction, work with individual children with particular needs, for example:
  - children with physical or intellectual disabilities
  - children with development delays
  - children for whom English is their second language
  - children with behavioural problems.

#### Advancement

Progression through the incremental levels of the Level 2 Children's Services Worker shall be automatic upon:

- (a) completion of one year's service at each level; and
- (b) completion of 15 hours of in-service training a year.

A person shall automatically advance to Level 3 upon the successful completion of the courses defined for Children's Services Worker Level 3.

### **CHILDREN'S SERVICES WORKER LEVEL 3**

#### Qualifications and Experience

A person at this level shall be a person who holds the qualifications as defined for a Children's Services Worker Level 2 and who accepts the responsibility for being in charge of other staff in a part-time child care centre, back-up care situation, or play centre (as defined) **OR** a person who has successfully completed:

#### Group 1

- (a) The two year TAFE Child Care Certificate.
- (b) Mothercraft nursing training.
- (c) Nursery Nurses Examination Board Certificate.

Persons holding the qualifications defined for Group 1 shall commence at the first level of the incremental scale.

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

## Group 2

The two year TAFE Associate Diploma in Child Care.

Persons holding the qualifications specified for Group 2 shall commence at the second level of the incremental scale **OR** a person with qualifications and experience deemed equivalent by the employer.

### Skills and Knowledge

A person at this level would be able to:

- co-ordinate and direct the activities of unqualified workers engaged in the implementation of programs and activities in a group setting;
- in conjunction with senior staff, develop, plan, implement and evaluate a developmental early childhood program;
- liaise with parents of children in their care;
- maintain a safe environment for children;
- ensure that records regarding the children in their care are maintained, as required;
- develop, implement, evaluate and maintain daily routines;
- implement the policies of the employing child care establishment;
- work as the person in charge of a group of children;
- be responsible to the Director/Co-ordinator/Supervisor for the assessment of students on placement; and
- advise the Director/Co-ordinator/Supervisor of all relevant information concerning the children in their care.

**'In charge'** shall be a Children's Services Worker Level 3 who accepts responsibility for being in charge of other staff at a part-time child care centre, back-up care situation or play centre (as defined).

### Advancement

Progression through the incremental levels of Children's Services Worker Level 3 shall be automatic upon:

- (a) completion of one year's service; and
- (b) completion of 15 hours of in-service training a year.

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

Advancement to Children's Services Worker Level 4 shall be automatic after one year at the third incremental level of Children's Services Worker Level 3 and the completion of 15 hours of in-service training.

#### **CHILDREN'S SERVICES WORKER LEVEL 4**

##### Qualifications and Experience

A person at this level shall be a person who holds qualifications as specified for a Children's Services Worker Level 3 and who has completed one year at the third incremental stage of Children's Services Worker Level 3 and 15 hours of in-service training during that year **OR** a person with qualifications and experience deemed equivalent by the employer.

##### Skills and Knowledge

A person at this level would be able to:

- take responsibility, in consultation with the Director/Co-ordinator/Supervisor for the preparation, implementation and evaluation of a developmental program for individual children and groups of children in their care;
- assist with administrative tasks;
- co-ordinate and direct the activities of workers engaged in the implementation and evaluation of developmental programs and activities in a group setting;
- take responsibility for being in charge of a group of children;
- as required, contribute through the Director/Co-ordinator/Supervisor, to the development of the policies of the employing child care establishment; and
- ensure that the policies of the employing child care establishment are adhered to.

**'In-charge'** shall be a Children's Services Workers Level 4 who accepts the responsibility for being in charge of other staff in a part-time care centre or play centre, or back-up care situation (as defined).

##### Advancement

Progression through the incremental levels of Children's Services Worker Level 4 shall be automatic upon:

- (a) the completion of one year's service at each level; and
- (b) completion of a 21 hour competency-based training module per year. Such training module to be approved by a committee established for the purpose, comprising two employer representatives, two employee representatives and one TAFE representative



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

**PROVIDED** that a person who chooses not to progress through Children's Services Worker Level 4 shall be eligible for 15 hours in-service training in each year.

Advancement to Children's Services Worker Level 4A shall be automatic upon the successful completion of a recognised three or four year child care training course in an institution which provides accredited training.

#### **CHILDREN'S SERVICES WORKER LEVEL 4A**

##### Qualifications and Experience

A person at this level shall be a person who has completed a recognised three or four year training course in an institution which provides accredited training and who has passed the examinations prescribed for that course. Such a person shall be:

##### Group 1

- (a) a person holding a three year qualification in Early Childhood Development; or
- (b) a person holding a three year Child Care diploma or degree, or the equivalent; or
- (c) a person holding a three year qualification in Early Childhood Education; or
- (d) a person with qualifications and experience deemed equivalent by the employer.

Persons holding the qualifications specified for Group 1 shall commence at the first level of the incremental scale.

##### Group 2

- (a) a person holding a four year qualification in Early Childhood Development; or
- (b) a person holding a four year Child Care diploma or degree, or the equivalent; or
- (c) a person holding a four year qualification in Early Childhood Education; or
- (d) a person with qualifications and experience deemed equivalent by the employer.

Persons holding the qualifications specified for Group 2 shall commence at the second level of the incremental scale.

#### **OR**

A person appointed to the position of Family Day Care Field Worker. A Family Day Care Field Worker shall hold as a minimum the qualifications specified for Children's Services Worker Level 4. Such a person shall commence at the first level of the incremental scale.

#### **OR**

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

A person appointed to the position of Supervisor of an Out of School Hours Care program. A Supervisor of an Out of School Hours Care Service shall hold as a minimum the qualifications specified for Children's Services Worker Level 4. Such a person shall commence at the first level of the incremental scale.

#### Skills and Knowledge

A person at this level would be able to perform the same tasks as a Children's Services Worker Level 4.

A Family Day Care Field Worker would be able to:

- assist with the provision of programs such as playgroups, excursions and training sessions;
- monitor standards of care provided by home-based child care providers;
- assist, when required, with the placement of children with home-based child care providers; and
- assist, when required, with the administration of fee subsidies.

A Supervisor of an Out of School Hours Care program would be able to:

- supervise qualified and unqualified staff;
- assume full responsibility for the centre under the direction of the Management Committee/Sponsor;
- plan and implement an ongoing program;
- as required, liaise with the Management Committee/Sponsor;
- delegate duties to other staff members;
- be responsible for equipment, monies collected and attendance records; and
- ensure that information is available to assist in the preparation of Government reports and submissions.

**'In-charge'** shall be a Children's Services Worker Level 4A who accepts the responsibility for being in charge of other staff in a part-time child care centre or play centre or back-up care situation, as defined.

#### Advancement

Progression through the incremental levels of the Children's Services Worker Level 4A shall be automatic upon:

- (a) completion of one year's service at each level; and

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

- (b) completion of 15 hours of competency-based training a year, such training to be approved by a committee as specified for Children's Services Worker Level 4.

Advancement to Level 5 shall be by appointment.

## **CHILDREN'S SERVICES WORKER LEVEL 5**

### Qualifications and Experience

A person appointed to this level shall be a person who holds as a minimum the qualification specified for Level 4 Children's Services Worker and:

- (a) has progressed through all the incremental levels of the Children's Services Worker Level 4 classification and has completed 200 hours of in-service training which shall include 63 hours of competency-based training as specified for Level 4 Children's Services Worker; **OR**
- (b) has progressed through all the incremental levels of Children's Services Worker Level 4 and has been appointed to an in-charge position in a Long Day-Care Centre or Occasional Care Centre and who is not the Director or Assistant Director, as defined; **OR**
- (c) holds early childhood teaching qualifications and who duties are to educate pre-school age children in an educational setting within a children's services establishment, for example, the provision of kindergarten sessions within a child care centre; **OR**
- (d) a person who has qualifications and experience deemed equivalent by the employer.

### Skills and Knowledge

A person at this level would be able to perform the same tasks as a Children's Services Worker Level 4, and in addition would be able to:

- supervise qualified and unqualified workers;
- ensure appropriate written programs are prepared, as required;
- plan and co-ordinate in-service training for the service; and
- plan and implement special programs such as integrating children with disabilities or children from a non-English speaking background.

### Advancement

Progression through the incremental levels of the Children's Services Worker Level 5 scale shall be automatic upon:

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

- (a) completion of one year's service at each level; and
- (b) completion of 15 hours of competency-based training a year, such training to be approved by a committee as specified for Children's Services Worker Level 4.

Advancement to Children's Services Worker Level 5A shall be by appointment.

**PROVIDED** that the person who is appointed second-in-charge of a Long Day-Care Centre or Occasional Care Centre shall be appointed to the appropriate level within the Assistant Director level.

### **CHILDREN'S SERVICES WORKER LEVEL 5A ASSISTANT DIRECTOR**

#### Qualifications and Experience

A person at this level shall be a person who holds as a minimum the qualifications as defined for a Level 4 Children's Services Worker and who has progressed through all the levels of the Level 4 Children's Services Worker classification.

This person shall be a person who has been appointed to the position of Assistant Co-ordinator of a Family Day Care Scheme.

#### **OR**

A person who has been appointed to the position of Assistant Director of a Long Day-Care Centre **PROVIDED** that the person who is appointed second-in-charge of a Long Day-Care Centre or Occasional Care Centre shall be appointed to this level.

#### **Assistant Director Level 1** shall be:

- (a) a person who is second-in-charge of a Long Day-Care Centre licensed for less than 30 child care places; or
- (b) a person who is second-in-charge of an Occasional Care Centre licensed for less than 20 child care places.

#### **Assistant Director Level 2** shall be:

- (a) a person who is second-in-charge of a Long Day-Care Centre licensed for between 30 and 49 child care places; or
- (b) a person who is second-in-charge of an Occasional Care Centre licensed for between 20 and 39 child care places.

#### **Assistant Director Level 3** shall be:

- (a) a person who is second-in-charge of a Long Day-Care Centre licensed for 50 or more child care places; or

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

- (b) a person who is second-in-charge of an Occasional Care Centre licensed for 40 or more child care places; or
- (c) a person who is the Assistant Co-ordinator of a Family Day Care Scheme.

#### Skills and Knowledge

A person at this level would be able to:

- assist the Director in his or her duties;
- take charge of the service in the Director's absence;
- co-ordinate and direct the activities of staff, students and volunteers, as required;
- undertake counselling of parents, when required;
- take responsibility for administrative tasks, as directed;
- participate in policy development, as required;
- assist with the development and establishment of the service's program;
- assist with the development of the service's resources;
- co-ordinate in-service training and staff development programs; and
- liaise with other agencies and with the public.

The Assistant Co-ordinator of a Family Day Care Scheme would be able to:

- assist the Co-ordinator in his or her duties relating to:
  - ◆ the recruitment, selection, supervision and training of child care providers,
  - ◆ the placement of children with licensed, registered or authorised child care providers,
  - ◆ financial management, book-keeping, budgeting and financial planning, and
  - ◆ interviewing parents;
- assist with the administration of fee subsidies;
- assist with the development of the service's program;
- assist with the development of the service's resources; and
- act in the position of the Co-ordinator in his or her absence.

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

Advancement

Progression through the incremental levels of the Level 5A incremental scale shall be automatic upon:

- (a) completion of one year's service at each level; and
- (b) completion of 15 hours of competency-based training a year, such training to be approved by a committee as specified for Children's Services Worker Level 4.

Advancement to the positions of Director and Family Day Care Co-ordinator shall be by appointment.

### **CHILDREN'S SERVICES DIRECTOR LEVEL 1**

Qualifications and Experience

A person at this level shall be a person who holds as a minimum the qualifications as defined for a Children's Services Worker Level 4A, and who meets the requirements of the State Licensing Authority, and who is responsible for the overall administration of:

- (a) a Long Day-Care Centre licensed for less than 30 child care places; **OR**
- (b) an Occasional Care Centre licensed for less than 20 child care places; **OR**
- (c) a person who has been appointed to the position of Co-ordinator of two or more Out of School Hours Care Services.

Skills and Knowledge

A person at this level would be able to:

- be responsible for the administration and supervision of the service;
- ensure that a consistently high quality of child care is maintained, through the planning, organisation and implementation of a program that will adequately meet the intellectual, physical, emotional and social needs of children catered for through the service;
- supervise staff;
- select and train staff, as required;
- develop and promote the aims and policies of the service, in conjunction with the service sponsors/management committees;
- keep accounts and handle clerical matters, as required;
- assist the service sponsors with financial management, budgeting and planning, as required;

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

- ensure that the service adheres to all relevant regulations and meets all accountability requirements;
- provide reports to the management committee/sponsor, as required;
- provide parents with information relating to the service's operations;
- ensure that adequate enrolment procedures are established;
- provide opportunities for staff development;
- liaise with other associated organisations, agencies and Government departments; and
- co-ordinate and supervise the placement of students within the service.

#### Advancement

Progression through the incremental levels of the Director Level 1 scale should be automatic upon:

- (a) completion of one year's service at each level; and
- (b) completion of 15 hours of competency-based training a year, such training to be approved by a committee, as specified for Children's Services Worker Level 4.

### **CHILDREN'S SERVICES DIRECTOR LEVEL 2**

#### Qualifications and Experience

A person at this level shall be a person who holds as a minimum the qualifications as defined for Children's Services Worker Level 4A, and who meets the requirements of the State Licensing Authority, and who is responsible for the overall administration of:

- (a) a Long Day-Care Centre licensed for between 30 and 49 child care places; or
- (b) an Occasional Care Centre licensed for between 20 and 39 child care places.

#### Skills and Knowledge

A Children's Services Director Level 2 would be able to perform the same tasks as those for a Children's Services Director Level 1.

#### Advancement

Progression through the incremental levels of the Director Level 2 scale shall be automatic upon:

- (a) completion of one year's service at each level; and

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

- (b) completion of 15 hours of competency-based training a year, such training to be approved by a committee, as specified for Children's Services Worker Level 4.

### **CHILDREN'S SERVICES DIRECTOR LEVEL 3**

#### Qualifications and Experience

A person at this level shall be a person who holds as a minimum the qualifications as defined for Children's Services Worker Level 4A and who meets the requirements of the State Licensing Authority, and who is responsible for the overall administration of:

- (a) a Long Day-Care Centre licensed for 50 or more child care places; **OR**
- (b) an Occasion Care Centre licensed for 40 or more child care places; **OR**
- (c) the co-ordination of a Family Day Care Scheme.

#### Skills and Knowledge

A person at this level would be able to perform the same tasks as those for a Children's Services Director Level 1.

A Family Day Care Co-ordinator would be able to:

- be responsible for the administration and supervision of a family day care scheme;
- plan, organise and implement a program that will adequately meet the intellectual, physical, social and emotional needs of children catered for through the service;
- supervise other staff;
- set policy in conjunction with the management committee/sponsor;
- budget and manage finances in conjunction with the management committee/sponsor;
- recruit, select, supervise and train child care providers;
- liaise with other associated organisations, agencies and Government departments;
- implement Federal, State and Local Government regulations and requirements; and
- supervise the placement of children with licensed, registered or authorised child care providers, however described.

#### Advancement

Progression through the incremental levels of the Director Level 3 scale shall be automatic upon:



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

- (a) completion of one year's service at each level; and
- (b) completion of 15 hours of competency-based training, such training to be approved by a committee, as specified for Children's Services Worker Level 4.

#### **CHILD CARE SUPPORT WORKER LEVEL 1**

A person at this level shall be an untrained worker employed to perform cleaning, driving, handyman or kitchen-hand duties.

#### **CHILD CARE SUPPORT WORKER LEVEL 2**

A person at this level shall be an untrained worker employed to perform gardening or clerical duties; **OR**

a worker employed to perform cleaning, driving, handyman or kitchenhand duties or a combination thereof who has successfully completed a relevant one year training course.

#### **CHILD CARE SUPPORT WORKER LEVEL 3**

A person at this level shall be an untrained worker employed to perform cooking duties; **OR**

a worker employed to perform gardening or clerical duties who has successfully completed a relevant one year training course or equivalent; **OR**

a worker employed to perform cleaning, driving, handyman or kitchenhand duties or a combination thereof who has successfully completed a relevant two year training course; **OR**

an Office Assistant in Charge.

**'In-charge'** shall be a person who accepts the responsibility of being in charge of other staff.

#### **CHILD CARE SUPPORT WORKER LEVEL 4**

A person at this level shall be a person employed to perform cooking duties who holds cooking trade qualifications; **OR**

a worker employed to perform gardening or clerical duties who has successfully completed a relevant two year training course or equivalent.

### **3. PAYMENT OF WAGES**

- (a) Wages shall be paid at intervals of not more than two weeks and not later than Thursday of the week of payment.

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

**PROVIDED** that:

- (i) By agreement with the majority of employees the interval of payment may be in excess of two weeks.
- (ii) Any employer currently paying employees by the week, wishing to pay wages at the two week intervals may, in the absence of agreement with the majority of employees, introduce such payment by the giving of three months' notice.

On pay day, the employer shall state in writing to the employee, the amount of wages to which he/she is entitled, the amount of tax deductions made therefrom, the amount of any other deduction made therefrom and the net amount being paid to him/her.

An employee kept waiting for his/her wages on a normal pay day for more than a quarter of an hour after the usual time for ceasing work shall be paid at overtime rates after that quarter of an hour, with a minimum of a quarter of an hour, however, such payment shall not be made where the employer cannot be held responsible for the delays in payment of wages caused by events outside his/her control.

- (b) (i) Employee Who Actually Works 38 Ordinary Hours Each Week

In the case of an employee whose ordinary hours of work are arranged in accordance with Part IV - Hours of Work, Penalty Payments, Shift Work and Overtime, Clause 1 - Hours of Work, subparagraphs (b)(ii)(1) or (2), so that the employee works 38 ordinary hours each week, wages shall be paid fortnightly according to the actual ordinary hours worked each fortnight.

- (ii) Employee Who Works an Average of 38 Ordinary Hours Each Week

Subject to paragraphs (iii) and (iv) hereof, in the case of an employee whose ordinary hours of work are arranged in accordance with Part IV - Hours of Work, Penalty Payments, Shift Work and Overtime, Clause 1 - Hours of Work, subparagraphs (b)(ii)(3), (4) and (5), so that the employee works an average of 38 ordinary hours each week during a particular work cycle, wages shall be paid fortnightly according to a weekly average of ordinary hours worked even though more or less than 38 ordinary hours may be worked in any particular week of the work cycle.

#### SPECIAL NOTE - EXPLANATION OF AVERAGING SYSTEM

As provided in this paragraph an employee whose ordinary hours may be more or less than 38 in any particular week of work cycle, is to be paid his/her wages on the basis of an average of 38 ordinary hours so as to avoid fluctuating wage payments each week. An explanation of the averaging system of paying wages is set out below:

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

- (1) Part IV – Hours of work, Penalty Payments, Shift Work and Overtime, Clause 1 - Hours of Work, subparagraphs (b)(ii)(3) and (4) provide that in implementing a 38-hour week the ordinary hours of an employee may be arranged so that he/she is entitled to a day off, on a fixed or rostered day basis, during each work cycle. It is in these circumstances that the averaging system would apply.
- (2) If the 38-hour week is to be implemented so as to give an employee a day off in each work cycle this would be achieved if, during a work cycle of 28 consecutive days (that is, over four consecutive weeks) the employee's ordinary hours were arranged on the basis that for three of the four weeks he/she worked 40 ordinary hours each week and in the fourth week he/she worked 32 ordinary hours.

In such a case the averaging system may apply and the weekly wage rates for ordinary hours of work applicable to the employee shall be the average weekly wage rates set out for the employee's classification in Part III – Wage Rates And Related Matters, Clause 1 - Wage Rates, and shall be paid each week even though more or less than 38 hours are worked in that week. In effect, under the averaging system, the employee accrues a 'credit' each day he/she works actual ordinary hours in excess of the daily average of which would otherwise be 7 hours 36 minutes. This 'credit' is carried forward so that in the week of the cycle that he/she works on only four days, his/her actual pay would be for an average of 38 ordinary hours even though, that week, he/she works only a total of 32 ordinary hours. Consequently, for each day an employee works eight ordinary hours he/she accrues a 'credit' of 24 minutes (0.4 hours). The maximum 'credit' the employee may accrue under this system is 0.4 hours on 19 days, that is a total of 7 hours 36 minutes.

- (3) In implementing a 38-hour week an employee may accrue his/her rostered days off to a maximum of seven days in accordance with Part IV – Hours of Work, Penalty Payments, Shift Work and Overtime, Clause 1 - Hours of Work, subparagraph (b)(ii)(5). In such cases the averaging system as detailed in subparagraph (2) herein applies and the employee accrues a credit which is carried forward for a period of up to 12 months.
- (4) As provided in paragraph (iii) of this subclause, an employee will not accrue a credit for each day he/she is absent from duty other than on annual leave, Holidays with Pay, paid sick leave, or compassionate leave. When an employee is absent from duty because of annual leave, Holidays with Pay, paid sick leave, or compassionate leave, his/her entitlement is determined in accordance with the appropriate award provision dealing with such entitlements.

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

(iii) Absences from Duty

- (1) An employee whose ordinary hours are arranged in accordance with Part IV – Hours of Work, Penalty Payments, Shift Work and Overtime, Clause 1 - Hours of Work, subparagraphs (b)(ii)(3), (4) and (5), and who is paid wages in accordance with paragraph (ii) hereof and is absent from duty (other than on annual leave, Holidays with Pay, paid sick leave, compassionate leave and workers’ compensation leave) shall, for each day he/she is so absent, lose average pay for that day calculated by dividing his/her average weekly wage rate by five. An employee who is so absent from duty for part of a day shall lose average pay for each hour or part thereof he/she is absent at an hourly rate calculated by dividing his/her average pay rate by eight.
- (2) **PROVIDED** that, when such an employee is absent from duty for a whole day without pay he/she will not accrue a ‘credit’ because he/she would not have worked ordinary hours that day in excess of 7 hours 36 minutes for which he/she would otherwise have been paid. Consequently, during the week of the cycle he/she is to work less than 38 ordinary hours he/she will not be entitled to average pay for that week. In that week, the average pay will be reduced by the amount of the ‘credit’ he/she does not accrue for each whole day during the work cycle he/she is absent.

The amount by which an employee’s average weekly pay will be reduced when he/she is absent from duty (other than on annual leave, Holidays with Pay, paid sick leave, compassionate leave, or workers’ compensation), is to be calculated as follows:

$$\begin{aligned} & \text{Total of credits not accrued during cycle} \\ & \quad \times \frac{\text{average weekly pay}}{38} \end{aligned}$$

Examples:

(An employee’s ordinary hours are arranged so that he/she works eight ordinary hours on five days of each week for three weeks, and eight ordinary hours on four days of the fourth week).

- 1. Employee takes one day off with authorisation in first week of cycle.

<u>Week of Cycle</u>	<u>Payment</u>
1st week	= average weekly pay <u>less</u> one day’s pay (i.e. less 1/5th)
2nd and 3rd weeks	= average weekly pay each week

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

4th week = average weekly pay less credit not accrued on day of absence

= average weekly pay less 0.4 hours x  $\frac{\text{average weekly pay}}{38}$

2. Employee takes each of the 4 days off without authorisation in the 4th week.

<u>Week of Cycle</u>	<u>Payment</u>
1st, 2nd and 3rd weeks	= average weekly pay each week
4th week	= average weekly pay for the four days absent <u>less</u> total of credits not accrued that week
	= 1/5 average weekly pay <u>less</u> 4 x 0.4 hours x $\frac{\text{average weekly pay}}{38}$
	= 1/5 average weekly pay <u>less</u> 1.6 hours x $\frac{\text{average weekly pay}}{38}$

(iv) Alternative Methods of Payment

- (1) An employee who was working less than 40 hours per week prior to the introduction of the 38-hour working week, and who was paid by a different method from that provided for in paragraphs (ii) and (iii) hereof, such method may be continued.
- (2) **PROVIDED** that, where the employer and the majority of employees concerned agree on an alternative method of paying wages to that provided for in paragraphs (ii) and (iii) hereof, such method may be introduced.

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

- (v) Where the services of an employee are dispensed with, his/her wages shall be paid on the day of dismissal or forwarded by post on the day following, provided that in the case of an employee whose ordinary hours are arranged in accordance with Part IV – Hours of Work, Penalty Payments, Shift Work and Overtime, Clause 1 - Hours of Work, subparagraphs (b)(ii)(3), (4) and (5), and is paid average pay and who has not taken the day or days off due to him/her during the work cycle in which his/her employment is terminated, the wages due to the employee shall include the total of credits accrued during the work cycle as detailed in the Special Note set out in this clause, provided further that where the employee has taken a day or days off during the work cycle in which his/her employment is terminated the wages due to that employee shall be reduced by the total of credits which have not accrued during the cycle.
- (vi) Payment of wages may be in cash or where the employer and employee agree may be by cheque or direct payment into the employee's bank account without the requirement for the employer to provide encashment facilities.
- (vii) Wages shall be paid fortnightly no later than the second Thursday of the pay period.

An employee shall be given written details of all monies due to him/her not later than Thursday in each pay period including advice as to the nature and amount of deduction to pay.

#### **4. SUPERANNUATION**

Superannuation contributions shall be made in accordance with the *Superannuation Guarantee (Administration) Act 1992*, the *Superannuation Guarantee Charge Act 1992*, the *Superannuation Industry (Supervision) Act 1993* and the *Superannuation (Resolution and Complaints) Act 1993*.

This legislation, as varied from time to time, shall govern the superannuation, rights and obligations of the parties.

#### **Fund**

- (a) For the purposes of this award, contribution by employers shall be paid to the Treasurer of Tasplan or HESTA or any fund agreed between
- (b) All employers bound by this award shall become party to Tasplan or HESTA upon the acceptance of the Trustees of that scheme of an application to Become a Participating Employer of Tasplan, duly signed and executed by that employer. The fund adopted by each establishment shall be determined by agreement between the employer and employees. Where necessary the parties will abide by the award Disputes and Grievances procedure to finalise an agreement.
- (c) **PROVIDED** that employers shall make contributions on behalf of all eligible employees into only one of the above Funds.

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

- (d) “**Eligible employee**” means a full time, part time/intermittent or casual employee who is engaged under the award.

**PROVIDED** that an employer shall not be required to make a contribution on behalf of an eligible casual employee in a fund billing statement month if the employee has not worked at least 22 ordinary hours per month.

**PROVIDED FURTHER** that this proviso shall not serve to reduce the rate of contribution, or the method for determining the rate of contribution, being made by an employer on behalf of its existing eligible casual employees as at 15 April 2004.

### **Contributions**

- (a) Contributions shall be paid by employers on the basis of 9% of ordinary time earnings for all eligible employees (as defined).
- (b) Subject to subclause (a) herein an eligible employee shall have a minimum contribution per week paid into the fund of \$1.40.
- (c) Contributions shall not be payable in respect of any unauthorised absences of at least one day’s duration, periods of unpaid leave or annual leave paid out on termination.
- (d) 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.

### **Exemption**

The following businesses are exempt from the requirement to necessarily use the nominated funds referred to above, but may in the alternative use either the nominated funds or the funds hereinafter specified

Employer/Centre	Fund and who apply to
Centacare	Catholic Superannuation Fund
Exeter Child Care Centre	Hostplus Hospitality Super – for the one employee having contributions made to this fund as at 25 November 2002  SMF-Spectrum Plan – for other employees”

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

**PART IV – HOURS OF WORK, PENALTY PAYMENTS,  
SHIFT WORK AND OVERTIME**

**1. HOURS OF WORK**

- (a) (i) Subject to paragraph (ii) hereof, the ordinary hours of work per week in respect of employees for which rates of wages are fixed by this award, shall not exceed 38 in any week to be worked in not more than eight hours per day between 6.00am and 7.00pm Monday to Friday inclusive.
  - (ii) Subject to subclause (b) - Implementation of 38-Hour Week and subclause (c) - Procedures for In-House Discussions, hereof, the ordinary hours of work shall be an average of 38 per week to be worked on one of the following bases:
    - (1) 38 hours within a work cycle not exceeding seven consecutive days, or
    - (2) 76 hours within a work cycle not exceeding 14 consecutive days, or
    - (3) 114 hours within a work cycle not exceeding 21 consecutive days, or
    - (4) 152 hours within a work cycle exceeding 28 consecutive days, or
    - (5) 152 hours within a work cycle exceeding 28 consecutive days in establishments where the method of banking of rostered days off is implemented.
  - (iii) The hours of work prescribed by this clause shall be continuous on each day, excepting for a meal break in accordance with Part IV – Hours of Work, Penalty Payments, Shift Work and Overtime, Clause 3 - Meal Break.
- (b) Implementation of 38-Hour Week
- (i) As provided in subclause (a) hereof, the ordinary hours of work per week shall be an average of 38 per week.
  - (ii) Except as provided for in paragraphs (v) and (vi) hereof, the method of implementation of the 38-hour week may be one of the following:
    - (1) by employees working less than eight ordinary hours each day, or
    - (2) by employees working less than eight ordinary hours on one or more days each week, or
    - (3) by fixing one day in which all employees will be off during a particular work cycle, or
    - (4) by rostering employees off on various days of the week during a particular work cycle so that each employee has one day off during that cycle, or



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

- (5) by accruing an entitlement to rostered days off to a maximum of 12 days and thereby averaging 38 hours over a period not exceeding 12 months.
- (iii) In each establishment, an assessment should be made as to which method of implementation best suits the business and the proposal shall be discussed with the employees concerned, the objective being to reach agreement on the method of implementation. Subsequently such method of implementation may be altered by mutual agreement.
- (iv) In the absence of agreement, the procedure for resolving grievances shall be applied in accordance with Part VI – Consultation and Dispute Resolution, Clause 1 - Disputes and Grievances. This procedure shall be applied without delay.
- (v) Circumstances may arise where different methods of implementation of a 38-hour week apply to various groups or sections of employees in the establishment concerned.
- (vi) Notice of Days Off
  - (1) Except as provided in paragraph (vii) hereof, in cases where by virtue of the arrangement of the employee's ordinary working hours, an employee in accordance with subparagraphs (ii)(3), (4) and (5) hereof, is entitled to a day or days off during the employee's work cycle, then such days off may be taken as mutually agreed between the employer and the employee.
  - (2) Where a system of working is adopted to allow one rostered day off in each four week cycle or the banking of rostered days off, an employee shall not be entitled to more than 12 such rostered days off in any 12 month period.
- (vii) Substitute Days

The day or days scheduled to be the day or days off in accordance with subparagraphs (ii)(3), (4) and (5) hereof, may be worked as an ordinary working day or days without penalty when substituted by another day or days by agreement between the employer and the employee concerned, or where a number of employees are concerned by agreement between the employer and the majority of the employees.
- (c) Procedures for In-House Discussions
  - (i) Procedures shall be established for in-house discussions, the objective being to agree on the method of implementing a 38-hour week in accordance with subclause (a) hereof, and entailing an objective review of current work practices to establish where improvements can be made and implemented.

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

- (ii) The procedures should make suggestions as to the recording of understandings reached and the methods of communicating agreements and understandings to all employees.
- (iii) The procedures should allow for the monitoring of agreements and understandings reached in each establishment.
- (iv) In cases where agreement cannot be reached in the first instance or where problems arise after initial agreements or understandings have been achieved in the establishment, a formal monitoring procedure shall apply. The basic steps in this procedure shall be in accordance with Part VI – Consultation and Dispute Resolution, Clause 1 - Disputes and Grievances.
- (v) There shall be ongoing, regular reviews of work practices to establish where improvements can be made and implemented.

## **2. 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:

- (a) An employee may elect, with the consent of the employer, to work 'make up time' under which the employee takes time off during ordinary working hours, and works those hours at a later time, during the spread of ordinary hours provided in the award.
- (b) 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.
- (c) 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.
- (d) 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 record kept pursuant to Regulation 25 of the Industrial Relations Regulations 1993.
- (e) An employer shall record these make up time arrangements in the time and wages records kept pursuant to Regulation 25 of the Industrial Relations Regulations 1993.

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

### **3. MEAL BREAK**

An unpaid meal break of not less than 30 minutes and not more than 60 minutes duration shall be taken between the hours of 11.30am and 2.30pm within the hours of work prescribed by Part IV – Hours of Work, Penalty Payments, Shift Work and Overtime, Clause 1 - Hours of Work provided that no employee shall be required to work more than five hours without a meal break.

### **4. MINIMUM START**

A part-time or casual employee shall be engaged for a minimum period of two hours for each separate engagement at the appropriate rate of pay, provided that in exceptional circumstances the employer may, with the agreement of the Liquor, Hospitality and Miscellaneous Union - Tasmanian Branch, engage an employee for a lesser number of hours than two hours as prescribed in this clause.

### **5. OVERTIME**

- (a) All time worked in excess of ordinary hours shall be paid for at the rate of time and a half for the first three hours and double time thereafter.
- (b) Overtime shall not be payable unless the period of time worked in excess of the ordinary hours exceeds 15 minutes on any day or shift and the overtime is worked under orders from the Director, or other person in charge.
- (c) In computing overtime, each day's work shall stand alone.
- (d) The hourly rate of pay for overtime shall be calculated by dividing the weekly rate by 40.
- (e) (i) Where the employee and employer agree, 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.

- (ii) Time off in lieu of overtime shall be taken at a time mutually agreed within the next two weeks after the date of the overtime being worked, unless by mutual agreement.
- (iii) 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.

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

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

## **6. ROSTERED DAYS OFF**

- (a) 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 provided 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 drawn upon by the employee at times mutually agreed by the employer, or subject to the reasonable notice by the employee or the employer.
  - (iv) An employee or the employees may choose to request a union party to this award to represent their interests in negotiations 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 out in the time and wages records kept pursuant to Regulation 25 of the Industrial Relations Regulations 1993.

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

- (vi) An employer shall record these Rostered Days Off arrangements in the time and wages records kept pursuant to Regulation 25 of the Industrial Regulations 1993.

## **PART V – LEAVE AND HOLIDAYS WITH PAY**

### **1. DEFINITIONS**

**'Show day'** means not more than one local show day observed on an employee's ordinary working day, other than a Saturday or a Sunday, in the city, town or district in which the employee is employed; or such other day which, in the absence of such a local show day, is agreed on by the employee and the employer, therefore making a total of 11½ Holidays with pay per year.

### **2. ANNUAL LEAVE**

- (a) Period of Leave

A period of 28 consecutive days' leave shall be allowed annually to an employee after each 12 months of employment on fortnightly hiring.

- (b) Broken Leave

Leave allowed under the provisions of this subclause shall be given and taken in one consecutive period, or if the employer and the employee so agree, in two separate periods, the lesser of which shall be not less than seven consecutive days. No entitlement shall be permitted to accrue beyond 12 months after the date of accrual.

- (c) Annual Leave Exclusive of Public Holidays

If any of the holidays prescribed by Part V - Leave and Holidays With Pay, Clause 5 – Holidays with Pay, 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) 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 six months from the date when the right to annual leave accrued, and after not less than two weeks' notice to the employee.

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

(f) Payment for Period of Leave

Each employee before going on leave shall be paid the amount of wages he/she would have received in respect of the ordinary time which he/she would have worked had he/she not been on leave during the relevant period.

Payment shall be made not later than 12 noon on the last day of work prior to going on leave.

(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 the expiration of the 12 months in respect of which annual leave had been taken before it accrued.

Where leave has been granted to an employee pursuant to this subclause before the right thereto has accrued due and the employee subsequently leaves or is discharged from the service of the employer before completing the 12 months' continuous service in respect of which the leave was granted the employer may, for each complete month of the qualifying period of 12 months not served by the employee deduct from whatever remuneration is payable to the employee upon the termination of the employment, one-twelfth of the amount of wages paid on account of annual leave, which amount shall not include any sums paid for any of the holidays prescribed by Part V - Leave and Holidays With Pay , Clause 5 - Holidays with Pay.

(h) Proportionate Leave on Termination of Service

If after one completed month of service in any qualifying 12 monthly period an employee lawfully leaves his/her employment, or his/her employment is terminated by the employer through no fault of the employee the employee shall be paid at his/her ordinary rate of wage as follows: 12.2/3 hours for each completed month of continuous service. This service shall be in respect of which leave has not been granted.

(i) Leave Loading

All employees (as prescribed in subclause (a) hereof) before proceeding on leave shall be paid a loading of 17 1/2% in addition to their annual leave payment, such loading shall not be payable on proportionate leave on termination.

(j) 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.

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

- (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, 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, pursuant to Regulation 25 of the Industrial Relations Regulations 1993.

### **3. BEREAVEMENT LEAVE**

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

Proof of such death, in the form of a death notice or other written evidence, shall be furnished by the employee to the satisfaction of the employer, provided 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.

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

#### **4. 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 Part V - Leave and Holidays With Pay, Clause 7 - Sick Leave of the award for absences to provide care and support for either members or 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 Part II - Employment Relationship and Associated Matters, Clause 3 conditions of Employment, subclause (c) of this award shall be entitled to use up to a maximum of one week of any current or accrued sick leave entitlements per annum.

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

- (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 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.



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

- (iv) Where practicable the employee must give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and the person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.
  - (v) In normal circumstances an employee must not take carer's leave under this clause where another person has taken leave to care for the same person.
- (b) Unpaid Carer's Leave
- (i) An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care to a family or household member who is ill.
  - (ii) A part-time employee in receipt of a loading in lieu of entitlements as specified in Part II Employment Relationship and Associated Matters Clause 3 – Employment Categories, subclause (b) of this award shall be entitled to take a maximum of one week's unpaid carer's leave per annum.

(c) Grievance Process

Part VI – Consultation & Dispute Resolution Clause 1 – Disputes and Grievances of this award also applies to a dispute about the operation or effect of this clause.

## **5. HOLIDAYS WITH PAY**

- (a) All employees, other than casual employees, who receive a loading of 20% paid in lieu of annual leave, sick leave and Holidays with Pay in accordance with Part II – Employment Relationship and Associated Matters, Clause 3 – Employment Categories, subclause (b) - Part-time and Intermittent Employees, shall be entitled to the following holidays without deduction from their weekly wages:
- Christmas Day, Boxing Day, New Year's Day, Australia Day, Cup Day (half day), Hobart Regatta Day (south of Oatlands), Eight-Hour Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Show Day (as defined) and Recreation Day (where Hobart Regatta Day is not observed), or such other day as may be observed in the locality in lieu of any of the aforementioned holidays.
- (b) Payment for the holidays mentioned in subclause (a) hereof 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/she had been at work.

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

- (c) Where an employee who is entitled to holidays in accordance with subclause (a) hereof is required to work on any of the holidays mentioned in that subclause, either for part or the whole of such day he/she shall be allowed in addition to his/her ordinary pay one additional day in his/her credit for annual leave entitlements. The provisions of this subclause may be varied by mutual agreement (in writing) between the employer and employee on the terms of that payment at the rate of double time is made in lieu of additional annual leave credits.
- (d) For the purposes of determining payment for the Cup Day (half day) referred to in subclause (a) hereof this holiday shall be taken as half of the hours normally worked on that day.

## **6. 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:
  - (i) **'Employee'** includes a part-time employee but does not include an employee engaged upon casual or seasonal work.
  - (ii) **'Paternity Leave'** means leave of the type provided for in part (B) - Paternity Leave .
  - (iii) **'Child'** means a child of the employee under the age of one year.
  - (iv) **"Spouse"** includes a de facto or a former spouse.
  - (v) **'Continuous service'** means service under an unbroken contract of employment and includes:
    - (A) any period of leave taken in accordance with this clause,
    - (B) any period of part-time employment worked in accordance with this clause, or
    - (C) any period of leave or absence authorised by the employer or by the award.

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

(c) Eligibility for Maternity Leave

- (i) An employee who becomes pregnant, upon production to her employer of the certificate required by subclause (d) hereof, shall be entitled to a period of up to 52 weeks maternity leave provided that such leave shall not extend beyond the child's first birthday. This entitlement shall be reduced by any period of paternity leave taken by the employee's spouse in relation to the same child and apart from paternity leave of up to one week at the time of confinement shall not be taken concurrently with paternity leave.
- (ii) Subject to subclauses (f) and (i) hereof the period of maternity leave shall be unbroken and shall, immediately following confinement, include a period of six weeks compulsory leave.
- (iii) The employee must have had at least twelve 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 than ten weeks prior to the presumed date of confinement, produce to her employer the certificate referred to in paragraph (d)(i).
- (ii) An employee shall give not less than four weeks notice in writing to her employer of the date upon which she proposes to commence maternity leave stating the period of leave to be taken and shall, at the same time, produce to her employer the statutory declaration referred to in paragraph (d)(ii).
- (iii) An employer by not less than fourteen 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.

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

(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.

(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:

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

(B) 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 fourteen 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 employee which shall not exceed four 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:

(A) 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

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

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

(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.

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

- (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
- (i) An employee shall confirm her intention of returning to work by notice in writing to the employer given not less than four 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.

## **PART -B PATERNITY LEAVE**

- (a) Nature of Leave

Paternity leave is unpaid leave.

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

(b) Definitions

For the purpose of this part:

- (i) **'Employee'** includes a part-time employee but does not include an employee engaged upon casual or seasonal work.
- (ii) **'Maternity Leave'** means leave of the type provided for in part (A) - Maternity Leave (and includes special maternity leave).
- (iii) **'Child'** means a child of the employee or the employee's spouse under the age of one year.
- (iv) **'Spouse'** includes a de facto or a former spouse.
- (v) **'Primary care-giver'** means a person who assumes the principal role of providing care and attention to a child.
- (vi) **'Continuous Service'** means service under an unbroken contract of employment and includes:
  - (A) any period of leave taken in accordance with this clause,
  - (B) any period of part-time employment worked in accordance with this clause, or
  - (C) any period of leave or absence authorised by the employer or by the award.

(c) Eligibility for Paternity Leave

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

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

The employee must have had at least twelve 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:

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

- (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 on which the birth took place;
  - (ii) in relation to any period to be taken under paragraph (c)(ii) hereof, a statutory declaration stating:
    - (A) he will take that period of paternity leave to become the primary care-giver of the child;
    - (B) particulars of any period of maternity leave sought or taken by his spouse; and
    - (C) 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:
    - (A) the birth occurring earlier than the expected date; or
    - (B) the death of the mother or the child; or
    - (C) 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:
    - (A) the period of paternity leave provided by paragraph (c)(ii) may be lengthened once only by the employee giving not less than fourteen days notice in writing stating the period by which the leave is to be lengthened;
    - (B) the period may be further lengthened by agreement between the employer and the employee.



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

- (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 fourteen 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

- (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.

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

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:

- (i) **'Employee'** includes a part-time employee but does not include an employee upon casual or seasonal work.
- (ii) **'Child'** means a person under the age of five years who is placed with the employee for the purposes of adoption, other than a child or step-child of the employee or of the spouse of the employee or a child who has previously lived continuously with the employee for a period of six months or more.
- (iii) **'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).
- (iv) **'Primary care-giver'** means a person who assumes the principal role of providing care and attention to a child.
- (v) **'Spouse'** includes a de facto spouse.

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

- (vi) **'Continuous service'** means service under an unbroken contract of employment and includes:
  - (A) any period of leave taken in accordance with this clause,
  - (B) any period of part-time employment worked in accordance with this clause, or
  - (C) 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:
  - (A) any period of leave taken pursuant to paragraph (i) hereof; and
  - (B) 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 twelve months continuous service with that employer immediately preceding the date upon which he or she proceeds upon such leave in either case.

(d) Certification

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

- (i)
  - (A) 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
  - (B) 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:

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

- (A) the employee is seeking adoption leave to become the primary care-giver of the child;
- (B) particulars of any period of adoption leave sought or taken by the employee's spouse; and
- (C) 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 twelve 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 fourteen days before such placement, give notice in writing to the employer of such date, and of the date of the commencement of any period of leave to be taken under paragraph (c)(i) hereof.
- (iv) An employee shall, ten weeks before the proposed date of commencing any leave to be taken under paragraph (c)(ii) hereof give notice in writing to the employer of the date of commencing leave and the period of leave to be taken.
- (v) An employee shall not be in breach of this part as a consequence of failure to give the stipulated period of notice in accordance with paragraphs (iii) and (iv) hereof if such failure is occasioned by the requirement of an adoption agency to accept earlier or later placement of a child, the death of the spouse or other compelling circumstances.

(f) Variation of Period of Adoption Leave

- (i) Provided the maximum period of adoption leave does not exceed the period to which the employee is entitled under subclause (c) hereof:
  - (A) the period of leave taken under paragraph (c)(ii) hereof may be lengthened once only by the employee giving not less than fourteen days notice in writing stating the period by which the leave is to be lengthened;

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

- (B) 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 fourteen days notice in writing stating the period by which the leave is to be shortened.
- (g) Cancellation of Adoption Leave
  - (i) Adoption leave, applied for but not commenced, shall be cancelled should the placement of the child not proceed.
  - (ii) Where the placement of a child for adoption purposes with an employee then on adoption leave does not proceed or continue, the employee shall notify the employer forthwith and the employer shall nominate a time not exceeding four weeks from receipt of notification for the employee's resumption of work.
- (h) Special Leave

The employer shall grant to any employee who is seeking to adopt a child, such unpaid leave not exceeding two days, as is required by the employee to attend any compulsory interviews or examinations as are necessary as part of the adoption procedure. Where paid leave is available to the employee the employer may require the employee to take such leave in lieu of special leave.
- (i) Adoption Leave and Other Entitlements
  - (i) Provided the aggregate of any leave, including leave taken under this part, does not exceed the period to which the employee is entitled under subclause (c) hereof, an employee may, in lieu of or in conjunction with adoption leave, take any annual leave or long service leave or any part thereof to which he or she is entitled.
  - (ii) Paid sick leave or other paid authorised award absences (excluding annual leave or long service leave), shall not be available to an employee during the employee's absence on adoption leave.
- (j) Effect of Adoption Leave on Employment

Subject to this part, notwithstanding any award or other provision to the contrary, absence on adoption leave shall not break the continuity of service of an employee but shall not be taken into account in calculating the period of service for any purpose of any relevant award or agreement.
- (k) Termination of Employment
  - (i) An employee on adoption leave may terminate the employment at any time during the period of leave by notice given in accordance with this award.

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

- (ii) An employer shall not terminate the employment of an employee on the ground of the employee's application to adopt a child or absence on adoption leave, but otherwise the rights of an employer in relation to termination of employment are not hereby affected.
- (l) Return to Work After Adoption Leave
    - (i) An employee shall confirm the intention of returning to work by notice in writing to the employer given not less than four weeks prior to the expiration of the period of adoption leave provided by paragraph (c)(ii) hereof.
    - (ii) An employee, upon returning to work after adoption leave, shall be entitled to the position held immediately before proceeding on such leave or in relation to an employee who has worked part-time under this clause the position held immediately before commencing such part-time work.

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

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

#### **PART D - PART-TIME WORK**

- (a) Definitions

For the purposes of this part:

- (i) **'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.

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

- (ii) **'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.
- (iii) **'Spouse'** includes a de facto spouse.
- (iv) **'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.
- (v) **'Continuous service'** means service under an unbroken contract of employment and includes:
  - (A) any period of leave taken in accordance with this clause;
  - (B) any period of part-time employment worked in accordance with this clause; or
  - (C) any period of leave or absence authorised by the employer or by the award.

(b) Entitlement

With the agreement of the employer:

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

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

(c) Return to Former Position

- (i) An employee who has had at least twelve 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) (A) 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.
- (B) Provided that, by agreement between the employer and the employee, the period over which the leave is taken may be shortened to the extent necessary for the employee to receive pay at the employee's current full-time rate.



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

(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:
  - (A) that the employee may work part-time;
  - (B) upon the hours to be worked by the employee, the days upon which they will be worked and commencing times for the work;
  - (C) upon the classification applying to the work to be performed; and
  - (D) upon the period of part-time employment.
- (ii) The terms of this agreement may be varied by consent.
- (iii) The terms of this agreement or any variation to it shall be reduced to writing and retained by the employer. A copy of the agreement and any variation to it shall be provided to the employee by the employer.
- (iv) The terms of this agreement shall apply to the part-time employment.

(i) Termination of Employment

- (i) The employment of a part-time employee under this clause, may be terminated in accordance with the provisions of this award but may not be terminated by the employer because the employee has exercised or proposes to exercise any rights arising under this clause or has enjoyed or proposes to enjoy any benefits arising under this clause.
- (ii) Any termination entitlements payable to an employee whose employment is terminated while working part-time under this clause, or while working full-time after transferring from part-time work under this clause, shall be calculated by reference to the full-time rate of pay at the time of termination and by regarding all service as a full-time employee as qualifying for a termination entitlement based on the period of full-time employment and all service as a part-time employee on a pro rata basis.

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

(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 provision 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 for the purposes of paragraph (a)(v) hereof.
- (v) Nothing in this part shall be construed as requiring an employer to engage a replacement employee.

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

## **7. SICK LEAVE**

- (a) An employee, other than one engaged as a casual or part-time employee, who receives a loading of 20% paid in lieu of annual leave, sick leave and Holidays with Pay in accordance with Part II - Employment Relationship and Associated Matters, Clause 3 - Employment Categories, subclause (a) - Casual Employees or subclause (b) - Part-time and Intermittent Employees, who is absent from work on account of personal illness or on account of injury by accident shall be entitled to leave of absence without deductions 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 he/she is entitled to workers' compensation;
  - (ii) an employee shall, wherever possible, notify the employer of the inability to attend for work prior to the usual commencement time of the first day of such absence. As far as practicable, the employee shall indicate the nature of the illness or injury and the estimated duration of the absence;
  - (iii) the employee shall prove to the satisfaction of the employer (or in the event of a dispute, the Tasmanian Industrial Commission) that he/she was unable on account of such illness or injury to attend for work on the day or days for which the sick leave is claimed; and
  - (iv) the employee shall not be entitled in any year (whether in the employment of one employer or of more) to sick leave credit in excess of two weeks of ordinary working time.
- (b) Sick leave shall accumulate from year to year so that any balance of the period specified in paragraph (a)(iv) hereof which has in any year not been allowed to an employee by an employer as paid sick leave shall be credited to the employee and, subject to the conditions herein before prescribed shall be allowed by that employer in a subsequent year without diminution of the sick leave prescribed in respect of that year.
- (c) An employer shall not be required to make any payment in respect of accumulated sick leave credits to an employee who is discharged or leaves his/her employment, or for any time an employee is absent from work without producing satisfactory evidence of personal illness.

**PROVIDED** that employees employed at the date of the commencement of this award shall be entitled to sick leave accrued prior to that date.

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

(d) Sickness on Day Off

Where an employee is sick or injured on the week day he/she is to take off in accordance with Part IV – Hours of Work, Penalty Payments, Shift Work and Overtime, Clause 1 - Hours of Work, subparagraphs (b)(ii)(3), (4) and (5), the employee shall not be entitled to sick pay nor will the employee's sick pay entitlements be reduced as a result of the employee's sickness or injury on that day.

## **PART VI – CONSULTATION AND DISPUTE RESOLUTION**

### **1. DISPUTES AND GRIEVANCES**

Subject to the provisions of the *Industrial Relations Act 1984*, any dispute or claim arising out of or relating to this award shall be dealt with in the following manner:

- (a) The matter shall first be discussed between the employee and his/her supervisor.
- (b) If not settled the matter shall be discussed between the employee's delegate and the Director/Co-ordinator of the service.
- (c) If not settled the matter shall be referred to the Branch Secretary of the union for discussion between the appropriate union representatives and management representatives.
- (d) If the matter is not settled it shall be submitted to the Tasmanian Industrial Commission for determination
- (e) While the above procedure is followed, industrial action will be avoided and the "status quo" in existence prior to the dispute shall be maintained.

### **2. ENTERPRISE FLEXIBILITY**

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

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

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

### **3. STRUCTURAL EFFICIENCY**

- (a) The parties to this award are committed to co-operating positively to increase the efficiency and productivity of work in children's services and to enhance the opportunities and job security of employees.
- (b) At each children's service a consultative mechanism appropriate to the size, structure and needs of the service shall be established to consider efficiency measures. The consultative mechanism shall involve management and employees of the centre.
- (c) Efficiency measures which may seek to vary a provision of this award shall be referred firstly to the union and then the Tasmanian Industrial Commission.

## **PART VII – OCCUPATIONAL HEALTH AND SAFETY, TOOLS AND AMENITIES**

### **1. TOOLS, EQUIPMENT AND PROTECTIVE CLOTHING**

- (a) The employer shall provide all tools and equipment required for the proper performance of the work, and the employee on leaving shall return all tools and equipment to the employer during working hours.

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

- (b) The employer shall provide, where necessary, suitable protective clothing for the employees. An employee who is pursuant to this subclause, supplied with protective clothing, shall wear such clothing in such a way as to achieve the purpose for which it is supplied.

## **PART VIII – AWARD COMPLIANCE AND UNION RELATED MATTERS**

### **1. LEAVE RESERVED**

The parties to this award agree that the following matters shall be reserved for further consideration.

- Junior rates
- Review of quantum of program planning time.

### **2. NOTICE BOARD**

The employer shall provide a notice board of reasonable dimensions to be erected in a prominent position in his/her establishment upon which accredited union representatives shall be permitted to post formal union notices, signed or countersigned by the representative posting same.

### **3. UNION STEWARDS**

An employee appointed as a job steward, upon notification by the union to the employer, shall be recognised as the accredited representative of the union to which he/she belongs and shall be allowed all necessary time during working hours to submit to the employer matters affecting the employees he/she represents and further shall be allowed reasonable time during working hours to attend to job matters affecting his/her union.

PC Shelley  
**DEPUTY PRESIDENT**

18 August 2004