

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

s.23 application for award or variation of award

Tasmanian Trades and Labor Council

(T13471 of 2009)

Private and Public Sector Awards

FULL BENCH:

PRESIDENT P L LEARY

DEPUTY PRESIDENT P C SHELLEY

COMMISSIONER T J ABEY

Wage Rates – State Wage Case 2009 – application amended - application to vary private and public sector awards – award wage rates to be increased by \$12.00 per week - wage related allowances to be increased by 1.9% – meal allowance increased to \$15.40 - Supported wage increased to \$71.00 - State Minimum Wage rate determined at \$558.10 - s.35(1)(b) – operative date ffpp 1 August 2009 - Wage Fixing Principles set aside in part

MISCELLANEOUS WORKERS (PUBLIC SECTOR) AWARD

ORDER -

**No. 2 of 2009
(Consolidated)**

AMEND THE MISCELLANEOUS WORKERS (PUBLIC SECTOR) AWARD BY DELETING ALL CLAUSES CONTAINED THEREIN AND INSERTING IN LIEU THEREOF THE FOLLOWING; AND THE AWARD IS CONSOLIDATED:

1. TITLE

This award shall be known as the "Miscellaneous Workers (Public Sector) Award".

2. SCOPE

This award will apply to work performed by state employees employed in accordance with the provisions of the *State Service Act 1984*, and for whom classifications appear in Clause 8 of this Award, in the following Departments only:

Construction:

Education and the Arts:

Employment, Industrial Relations and Training:

Forestry: caretakers, cleaners;

Health (not including St John's Park): cleaners only;

Justice: cleaners;

Police and Emergency Services:

Primary Industry: cleaners, groundskeepers;

Roads and Transport: cleaners and crossing guards only.

3. ARRANGEMENT

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4. DATE OF OPERATION

This award shall come into operation as from the beginning of the first full pay period commencing on or after 1 August 2009.

5. SUPERSESION AND SAVINGS

This award incorporates and supersedes the Miscellaneous Workers (Public Sector) Award No.1 of 2008 (Consolidated) and No. 1 of 2009.

No right, obligation or liability incurred or accrued whether under any award, agreement or custom and practice shall be affected by the creation of this award.

Any employee who has at the date of this award a wage rate in excess of that herein prescribed shall not have that wage rate reduced as a result of the coming into force of this award.

6. PARTIES AND PERSONS BOUND

This award shall apply to, and be binding upon:-

- (a) all employees (whether members of a Registered Organisation or not) for whom classifications appear in this award.

- (b) the following organisation of employees in respect of whom award interest has been determined:
 - (i) the Liquor, Hospitality and Miscellaneous Union - Tasmanian Branch and the Officers of that organisation and their members for whom classifications appear in this award;
- (c) the Controlling Authority having an interest in this award is the Minister responsible for the administration of the *Tasmanian State Service Act 1984*, in relation to all employees (as defined).

7. DEFINITIONS

- (a) **'Casual Employee'** is one who is employed on a casual basis and includes any person who is employed for a period not exceeding 5 days at any one time, and shall not include an employee as defined in subclause (c) of this clause.
- (b) **'Cleaner'** means an employee who is engaged for the greater part of his or her working time in cleaning work of any description, on premises or in bringing into or maintaining premises in a clean condition, whatever may be the nature of his or her other duties .
- (c) **'Part-time Employee'** is one engaged to regularly work for less hours per day per week than those prescribed for full-time employees.
- (d) **'Show Day'** means not more than one local show day observed on an employee's ordinary working day, other than a Saturday or a Sunday, in the city, town or district in which the employee is employed; or such other day which, in the absence of such local show day, is agreed on by the employee and the employer, therefore making a total of 11 paid public holidays per year.
- (e) **'Steam Cleaner'**:
 - (i) **Buildings** - means an employee required to clean stone, brick, marble or any other such like material with a mechanical machine emitting steam under pressure;
 - (ii) **Carpets** - means an employee required to clean carpets, upholstery, furnishings and similar articles, by means of a hot water extraction machine or shampooing machine.
- (f) **'Union'** means the Australian Liquor, Hospitality and Miscellaneous Workers Union, Tasmanian Branch.
- (g) **'Storeman/Cleaner'** means an employee engaged in a store, who maintains its cleanliness.

- (h) **'Kitchen Assistant (Schools)'** means an employee required to assist a teacher of Domestic science classes in the purchase and preparation of cooking ingredients and materials and in the maintenance and cleanliness of kitchen environment and implements.
- (i) **'Kitchen Assistant'** means an employee assisting a cook and performing general duties in a kitchen.
- (j) **'Employee'** means a person employed under the provisions of the *Tasmanian State Service Act 1984*, who occupies a position classified in accordance with Clause 2, Scope.
- (k) **'Employer'** means the Minister responsible for the administration of the *Tasmanian State Service Act 1984*.
- (l) **'Caretaker'** means an employee whose presence is required on premises for the protection, good order or convenient use thereof and who may also have other duties in respect of the cleanliness or upkeep thereof.
- (m) **'Groundskeeper'** means an employee responsible for the maintenance and overall appearance of the premises, grounds and/or general surroundings.
- (n) **'Utility Officer'** means an employee whose work includes a substantial time on general maintenance and handyman duties, and may include delivering messages and maintaining the cleanliness and appearance of the building and grounds.
- (o) **'Domestic'** means an employee who performs general household duties which (without limiting such duties) may include cleaning, laundering, ironing, cooking and other kitchen duties.
- (p) **'Crossing Guard'** means an employee who in accordance with instructions issued by the Department of Roads and Transport is responsible for the safe conduct of school children across roads at preselected crossing points.

Nothing in these definitions shall be taken to imply that an employee cannot be engaged to carry out work covered by more than one classification.

8. WAGE RATES

- (a) The minimum weekly rate of pay for employees of a classification hereunder mentioned shall be the amount assigned to that classification.

	Weekly Rate \$
(a) Assistant Matron	574.50
(b) Caretaker - (Resident)	569.90
(c) Caretaker - (Non-Resident)	578.70
(d) Cleaner	568.70
(e) Cook Other (including meals on duty)	560.20
(f) Crossing Guard	487.10
(g) Domestic	493.80
(h) Groundskeeper	568.70
(i) Kitchen Assistant	545.50
(j) Kitchen Assistant - (School)	566.70
(k) Matron	593.40
(l) Matron (with General Nursing Certificate)	601.20
(m) School Farm Hand	568.70
(n) Storeman/Cleaner	573.90
(o) Utility Officer	572.90

Leading Hands

In addition to the rates of pay prescribed above leading hands shall be paid the following additional amounts:

- (i) where the leading hand is in charge of not more than five employees \$17.60 extra per week;
 - (ii) where the leading hand is in charge of six to ten employees \$23.00 extra per week;
 - (iii) where the leading hand is in charge of more than ten employees \$30.70 extra per week.
- (b) Service Incremental Payments Scheme
- (i) Subject to the conditions set out elsewhere in this subclause, employees shall be entitled to the following payments upon satisfactory completion of continuous service (as defined) in conformity with the periods set out hereunder: -

	Per Week \$
0 to 6 months service	Nil
6 months to 18 months service	79.50
18 months to 30 months service	86.60
30 months service and thereafter	92.90

(ii) The following conditions of service shall be applied to payments prescribed in this subclause: -

(1) This subclause is applicable to adult service only, subject to the provisions prescribed for apprentices and junior employees as detailed hereunder.

(A) Apprentices shall not be entitled to receive increments until they commence the final year of their apprenticeship or on attaining the age of 20 years, whichever is the earlier then they shall receive the first prescribed incremental payment, provided that in either circumstances the apprentice shall have completed a minimum of six months continuous service.

(B) Unapprenticed juniors (not being paid adult rates) shall be eligible for the first prescribed incremental payment on attaining the age of 20 years, provided that the unapprenticed junior has completed a minimum of six months continuous service.

Where a junior employee is paid the appropriate adult rate of pay he shall be eligible to receive the full adult payment provided by the award and all time during which the junior employee has received the full adult rate of pay shall be counted to assess the appropriate incremental leave.

(2) Employees otherwise entitled to the benefits of this subclause shall not lose the payments prescribed whilst on paid leave of absence.

(3) Part-time employees who by virtue of continuous service attain eligibility for payments prescribed by this subclause shall receive proportionate payments at the rate of one thirty-eighth of the weekly rate for each hour worked per week.

(4) Payments prescribed under this subclause do not apply to employees who are engaged on a casual basis, but shall apply to seasonal workers (as defined).

(5) Payments prescribed under this subclause are all purpose payments.

(6) Employees who qualify for payments prescribed by this subclause shall, subject to the qualifications provided in these conditions, be entitled to

the incremental payment from the first full pay period which commences on or after the completion of the qualifying period of service.

- (7) Service of an employee who transfers in employment between Agencies shall be deemed to be continuous.
- (8) Service of an employee who leaves his or her employment and is subsequently re-engaged by the immediate past employing Agency or another Agency shall be deemed to be continuous, provided that the break in service does not exceed 2 months.

(iii) For the purpose of this subclause the following definitions shall apply: -

"Continuous Service" shall mean service unbroken except as follows: -

- (1) **PROVIDED** that there shall be included as part of any period of continuous service:
 - (A) Any period of leave with pay.
 - (B) Any period served prior to termination of the employment on account of slackness of work or retirement on account of ill-health provided that the employee is re-engaged within a period of 6 months or, in the case of seasonal workers; twelve months.
- (2) That when calculating the duration of a period of continuous employment there shall be deducted: -
 - (A) Any period or periods of leave without pay (other than sick leave) which exceed in the aggregate two weeks in any one year.
 - (B) Any continuous period of absence on sick leave to the extent to which such period exceeds 6 months.
 - (C) Any period of service prior to termination of employment for disciplinary reasons or voluntary termination of employment for any reason other than ill health.

"Seasonal Worker" means an employee whose employment is regularly due to seasons or a particular recurring annual work situation and whose employment is normally restricted to one period within a calendar year but does not include one who is intermittently employed under fortuitous or casual circumstances.

(c) Supported Wage System

(i) Eligibility criteria

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

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

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

(ii) For the purposes of this subclause:

- (1) **'Supported Wage System'** means the Commonwealth Government System to promote employment for people who cannot work at full award wages because of a disability.
- (2) **'Accredited Assessor'** means a person accredited by the management unit established by the Commonwealth under the Supported Wage System to perform assessments of an individual's productive capacity within the Supported Wage System.
- (3) **'Disability Support Pension'** means the pension available under the Commonwealth pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991*, as amended from time to time, or any successor to that scheme.
- (4) **'Assessment instrument'** means the form provided for under the Supported Wage System that records the assessment of the productive capacity of the person to be employed under the Supported Wage System.

(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 \$71 per week.)

(iv) Assessment of capacity

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

- (1) the employer and a union party to the award, in consultation with the employee or, if desired by any of these;
- (2) the employer and an accredited Assessor from a panel agreed by the parties to the award and the employee.

(v) Lodgment of assessment instrument

- (1) All assessment instruments under the conditions of this subclause, including the appropriate percentage of the award wage to be paid to the employee, shall be lodged by the employer with the Registrar of the Tasmanian Industrial Commission.
- (2) All assessment instruments shall be agreed and signed by the parties to the assessment, provided that where a union which is party to the award, is not a party to the assessment, it shall be referred by the Registrar of the Tasmanian Industrial Commission to the union by certified mail and shall take effect unless an objection is notified to the Registrar of the Tasmanian Industrial Commission within 10 working days.

(vi) Review of assessment

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

(vii) Other terms and conditions of employment

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

(viii) Workplace adjustment

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

(ix) Trial Period

- (1) In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this subclause for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding 4 weeks) may be needed.
- (2) During that trial period the assessment of capacity shall be undertaken and the proposed wage rate for a continuing employment relationship shall be determined in accordance with paragraphs (iv) and (v).
- (3) The minimum amount payable to the employee during the trial period shall be no less than \$71 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.

9. ALLOWANCES

Employees engaged in steam cleaning buildings (as defined) or in steam cleaning carpets (as defined) shall be paid an allowance of \$0.45 cents for each hour or part of an hour engaged.

10. ANNUAL LEAVE

(a) Period of Leave

A period of 28 consecutive days leave, exclusive of days prescribed as holidays in Clause 16 - Holidays with Pay, of this award, shall be allowed annually to an employee other than a casual after 12 months continuous service (less the period of annual leave).

(b) Calculation of Continuous Service

(i) 12 months' continuous service, for the purposes of this award shall mean 12 months from the commencement of employment. Such 12 months shall not be affected by the number of hours worked each week.

(ii) Continuous service shall not be deemed to have been broken because of:

(1) absences of up to 91 days resulting from accidents, or illnesses which are covered by medical certificates, in accordance with Clause 28 - Sick Leave of this award;

(2) absences of up to one month for any cause for which leave has been granted by the employer.

(c) Time of Taking Leave

Annual leave shall be taken at a time mutually agreed upon by the employer and the employee and in the absence of agreement at a time fixed by the employer after at least one month's notice to the employee.

Annual leave shall be taken within 12 months from the date when the right to annual leave accrued.

(d) Broken Leave

Annual leave shall be taken in a continuous period provided that where the employee and the employer agree, leave may be taken in two (2) or more periods, one of which shall include holidays as prescribed in Clause 16 - Holidays with Pay of this award but shall not include Rostered Days Off as provided in Clause 17 - Hours of Work.

(e) Payment for Period of Leave

- (i) Subject to the provisions of paragraph (ii) of this subclause, an 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. In addition thereto, he/she shall be paid a loading of 17.5 per cent.
- (ii) In the event of an employee's weekly hours of work having varied in the period during which the annual leave has accrued the number of hours per week on which leave payments are calculated shall be the average number of hours per week worked during the said period of accrual.

(f) Leave Allowed Before Due Date

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

Where leave has been granted to an employee pursuant to this subclause before the right thereto has accrued due and the employee subsequently leaves or is discharged from the service of the employer before completing the 12 months continuous service in respect of which the leave was granted, the employer may, for each completed month of the qualifying period of 12 months not served by the employee, deduct from whatever remuneration is payable upon the termination of the employment 1/12 of the amount of wage paid on account of the annual leave which amount shall not include any sums paid for any of the holidays prescribed by Clause 17 - Holidays with Pay of this award.

(g) Payment in Lieu Prohibited

Payment in lieu of annual leave shall not be made by an employer nor accepted by an employee except in accordance with all the requirements of this clause.

(h) An employee shall not work for any other employer covered by this award during the period he/she is on paid annual leave.

(i) Annual Leave Record

Every employer shall keep or cause to be kept an annual leave record showing the date of commencement of employment, the date on which the last leave became due and the date on which the last leave was taken.

(j) Proportionate Leave on Termination of Service

Where an employee terminates his/her employment, or his/her employment is terminated by the employer before the expiration of any 12 monthly qualifying period, payment shall be made on the basis of:

4/52 of a week's wages for each completed week of continuous service.

In the case of an employee whose service is terminated by the employer other than under the provisions of Clause 13 - Contract of Employment, subclause (e) of this award, a loading of 17.5% on all pro rata annual leave due.

11. CALL BACK

Any employee required to attend the employer's premises for any reason other than carrying out his/her rostered duties after leaving his/her place of employment (whether notified before or after leaving his/her place of employment) shall be paid a minimum of 4 hours pay at the appropriate rate for each such attendance. Except in the case of unforeseen circumstances arising, the employee shall not be required to work the full 4 hours if the job the employee was recalled to perform is completed within a shorter period.

PROVIDED that this clause shall not apply where a period of duty is continuous (subject to a reasonable meal break) with the completion or commencement of ordinary working time.

PROVIDED FURTHER that such employee shall be given at least eight (8) hours off duty before he/she is required to resume his/her ordinary hours. If such employee is requested to resume duty before eight (8) hours rest is given he/she shall be paid double time until the employee has been relieved from duty for a period of eight (8) hours.

12. COMPASSIONATE 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 3 ordinary days, provided that no payment shall be made in respect of an employee's rostered days off.

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

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

13. CONTRACT OF EMPLOYMENT

- (a) Except in the case of casuals, employment under this award shall be by the week.
- (b) Except in the case of casuals, employment may be terminated only by the giving of one week's notice by either party or by the payment or forfeiture of one week's wages, as the case may be.
- (c) Nothing in this clause shall limit the right of the employer to instantly dismiss an employee for malingering, misconduct or neglect of duty provided that such malingering, misconduct or neglect of duty warrants instant dismissal.

14. FIRST AID

Where an employee is a qualified first aid attendant and is authorised to carry out the duties of a qualified first aid attendant, the employee shall be paid an additional amount, payable at the rate of \$9.10 per week.

15. GENERAL CONDITIONS

- (a) If an employee is required to clean windows and it is necessary to go wholly outside the window or climb around an outside column to do such cleaning, and if such cleaning or climbing is at a height of more than six (6) metres from the ground or verandah, the employee shall be paid \$0.25 cents extra for each window so cleaned - maximum \$7.30 per day.
- (b) Clean overalls or coveralls shall be supplied to full-time and part-time employees on the completion of one month's service. Such overalls or coveralls shall remain the property of the employer.

It is the responsibility of the employer to ensure that the overalls or coveralls are kept in good repair at all times.

- (c) (i) Where an employee is called upon to wash articles the following amounts shall be paid extra:
 - washing towels \$0.50 cents each
 - washing dusters \$0.26 cents each
- (ii) All materials for cleaning purposes shall be supplied by the employer.
- (d) Boiling Water

Hot water shall be provided by the employer where practicable.

(e) Rubber Boots

Where employees are required to work in water they shall be supplied with rubber boots which shall remain the property of the employer.

(f) Rubber Gloves

Where employees are required to clean toilets, or to use acids or other injurious substances they shall be supplied with rubber gloves, which shall remain the property of the employer.

(g) Protective Clothing

Where an employee is required to work in wet weather he shall be supplied by the employer with suitable wet weather clothing including a waterproof coat or cape, waterproof hat, trousers and boots; such clothing shall remain the property of the employer.

(h) (i) Employees engaged for 33 1/3 per cent or more of their time on incinerators or furnaces shall be paid an additional \$2.30 per day extra.

(ii) Employees engaged for 33 1/3 per cent or more of their time cleaning toilets shall be paid an additional \$1.15 per day extra.

16. HOLIDAYS WITH PAY

(a) (i) All employees (other than casuals) shall be allowed the following days as paid holidays:

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

(ii) Where any of the aforementioned holidays (with the exception of Anzac Day) fall on a Saturday, Sunday or Rostered Day Off and are observed on the Saturday, Sunday or Rostered Day Off respectively, then the following ordinary working day shall be regarded as a holiday for the purposes of this award.

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

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

17. HOURS OF WORK

Hours of Work

A. GENERAL

- (a) Subject to subclause B - Implementation of 38-Hour Week of this award and subject to the exemptions hereinafter provided the ordinary hours of work shall be an average of 38 per week to be worked on one of the following bases:
- (i) 38 hours within a work cycle not exceeding seven consecutive days; or
 - (ii) 76 hours within a work cycle not exceeding fourteen consecutive days; or
 - (iii) 114 hours within a work cycle not exceeding twenty-one consecutive days; or
 - (iv) 152 hours within a work cycle not exceeding twenty-eight days.
- (b) The ordinary hours of work shall be not more than 8 hours on any day, but may be worked in one or two periods.
- (c) In the case of student hostel employees, the ordinary hours of 38 per week shall be worked on 5 consecutive days, unless otherwise mutually agreed.
- (d) In the case of all other employees, the ordinary hours of 38 per week shall be worked Monday to Friday.
- (e) The daily spread of hours during which ordinary time may be worked, shall be 6.30am to 6.00pm, except for student hostels, for which the spread shall be 6.30am to 7.30pm.
- (f) An employee's constant number of hours per week shall be as determined between the employer and the employee pursuant to the contract of service.
- (g) With the exception of casual employees, once the hours of a part- time employee have been established, they shall not be varied other than:
- (i) by giving at least one week of notice by either the employer or the employee; or
 - (ii) by mutual consent.
- (h) Employees, other than those engaged as casuals, shall notwithstanding anything contained in Section 49 of the *Industrial Relations Act 1984*, be paid, in the case of full-time employees the wage prescribed for a week of 38 hours, and in the case of part- time employees the wage prescribed for the employee's constant number of hours, for each week that the employee is ready, willing and available for work during the hours determined, and, in addition thereto, such overtime or other penalty rates that may have accrued during the relevant period.

B. IMPLEMENTATION OF 38-HOUR WEEK

- (a) Employees other than casuals may by agreement with the employer work the 38-hour week in one of the following work patterns:
 - (i) by working less than 8 ordinary hours each day; or
 - (ii) by working less than 8 ordinary hours on one or more days each week; or
 - (iii) by fixing one weekday on which all employees will be rostered off during a particular work cycle; or
 - (iv) by rostering employees off on various days of the week during a particular work cycle so that each employee has one weekday off during that cycle.
- (b) In each work place, an assessment should be made as to which method of implementation best suits the Agency and the proposal shall be discussed with the employees concerned, the objective being to reach agreement on the method of implementation.
- (c) In the absence of agreement at Agency level, the method provided in subclause B(a)(iv) of this clause shall be the method of implementation in that Agency.
- (d) Circumstances may arise where different methods of implementation of a 38-hour week apply to various groups of sections of employees in the Agency or establishment concerned.
- (e) Notice of Rostered Days Off

Except as provided in subclause (f) of this Clause, in cases where, by virtue of the arrangement of an employee's ordinary working hours, he or she, in accordance with subclause B(a)(iii) or (iv) of this Clause is entitled to a rostered day off during a work cycle, such employee shall be advised by the employer at least four weeks in advance of the weekday due to be taken off.

- (f) Substitute Days
 - (i) The employer, with the agreement of the majority of employees concerned, may substitute a rostered day off, in accordance with subclause B(a)(iii) or (iv) of this clause, for another day in the case of a breakdown of machinery, or a failure or shortage of electric power, or to meet the requirements of the Agency in the event of unforeseen demand, or some other emergency situation.
 - (ii) An individual employee, with the agreement of the employer may substitute the day to be taken as a rostered day off for another day.

(g) Accumulation of Rostered Days Off

Where the employer and employees in the workplace agree, rostered days off may accumulate to a maximum of 10 days which shall be taken at a mutually agreed time.

(h) Sickness on Rostered Day Off

Where an employee is sick or injured on a rostered day off there shall be no entitlement to paid sick leave nor shall the employee's sick leave entitlements be reduced in respect of sickness or injury on that day.

(i) Averaging of Payment

Where the method of implementation adopted is in accordance with subclause B(a)(iii) or (iv) of this clause the wages paid each week for ordinary hours shall be paid so that in each week when 40 hours is worked, 2 hours pay shall be kept in hand and paid to the employee on the pay week that the Rostered Day Off occurs to enable an averaging of payments for ordinary time to occur.

(j) Work on Rostered Day Off (Student Hostel Employees)

Where an employee works on a rostered day off arising from subclause B(a)(iii) or (iv) of this clause, not being a day the subject of an agreement pursuant to paragraph (g) of this subclause that day shall be deemed to be overtime and paid in accordance with Clause 21 - Overtime.

C. SHIFT PREMIUMS

(a) Other than Student Hostel Employees

- (i) Payment of a premium of 15 per cent shall be made for a shift that commences before 6.30am.
- (ii) Payment of a premium of 15 per cent shall be made for a shift that commences or finishes after 6.00pm.
- (iii) Payment of a premium of 20 per cent shall be made for a shift that commences or finishes after 10.00pm.
- (iv) Where in a day, a shift is worked in two periods, a premium of 20 per cent shall be paid. Providing that the period of a meal break shall be deemed a continuation of the shift.

PROVIDED FURTHER, that if one of these two periods extends beyond 5 hours, a paid crib break of 20 minutes shall be given in lieu of the meal interval entitlement of Clause 19 - Meal and Meal Allowance and the rest period entitlement of Clause 25 - Rest Period of this award.

- (v) It shall be prohibited for a shift worked in 2 periods to exceed a spread of 14 hours, or to commence before 6.00am, or finish after 10.00pm.

PROVIDED that the employer may, with the agreement of the union, vary this subclause.

(b) Student Hostel Employees

- (i) Where in a day, a shift is worked in 2 periods a premium of 15 per cent shall be paid, together with an excess fare allowance of \$1.38; providing that the period of a meal break as prescribed in Clause 19 shall be deemed to be a continuation of a shift.
- (ii) In no circumstances shall an employee be required to work a shift in more than 2 periods.

18. MATERNITY LEAVE

(a) Eligibility for Maternity Leave

An employee who becomes pregnant, shall upon production to her employer of a certificate from a duly qualified medical practitioner stating the presumed date of her confinement, be entitled to maternity leave provided that she has had not less than 12 months' continuous service with that employer immediately preceding the date upon which she proceeds upon such leave.

For the purpose of this clause:

- (i) An employee shall include a part-time employee,
- (ii) maternity leave shall mean unpaid maternity leave.

(b) Period of Leave and Commencement of Leave

- (i) Subject to subclause (c) and (f) of this clause the period of maternity leave shall be for an unbroken period of from 6 to 52 weeks and shall include a period of 6 weeks compulsory leave to be taken immediately following confinement.
- (ii) An employee shall, not less than 10 weeks prior to the presumed date of confinement, give notice in writing to her employer stating the presumed date of confinement.
- (iii) An employee shall give not less than 4 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.

- (iv) An employer by not less than 14 days' notice in writing to the employee may require her to commence maternity leave at any time within 6 weeks immediately prior to her presumed date of confinement.
- (v) 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 (iii) above, if such failure is occasioned by the confinement occurring earlier than the presumed date.

(c) Transfer to a Safe Job

Where in the opinion of a duly qualified 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 duly qualified medical practitioner. Such leave shall be treated as maternity leave for the purposes of subclauses (g), (h), (i) and (j) of this clause.

(d) Variation of Period of Maternity Leave

- (i) Provided the addition does not extend the maternity leave beyond 52 weeks, the period may be lengthened once only, save with the agreement of the employer, by the employee giving not less than 14 days' notice in writing stating the period by which the leave is to be lengthened.
- (ii) The period of leave may, with the consent of the employer, be shortened by the employee giving not less than 14 days' notice in writing stating the period by which the leave is to be shortened.

(e) Cancellation of Maternity Leave

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

(f) 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 duly qualified medical practitioner certifies as necessary before her return to work; or
 - (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 duly qualified 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 duly qualified 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 52 weeks.
 - (iii) For the purposes of subclauses (g), (h) and (i) of this clause, 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 (c) of this clause 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 salary or wage to that of her former position.

(g) Maternity Leave and Other Leave Entitlements

Provided the aggregate of leave including leave taken pursuant to subclauses (c) and (f) of this clause does not exceed 52 weeks:

- (i) an employee may, in lieu of or in conjunction with maternity leave, take any annual leave or any part thereof to which she is then entitled;
- (ii) paid sick leave or other paid authorised award absences (excluding annual leave), shall not be available to an employee during her absence on maternity leave.

(h) Effect of Maternity Leave on Employment

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 an award.

(i) Termination of Employment

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

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

(j) Return to Work After Maternity Leave

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

(ii) An employee, upon expiration of the notice required by paragraph (i) above, 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 (c) of this clause to the position which 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 salary or wage to that of her former position.

(k) 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 under this subclause, 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 clause, 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) **PROVIDED** that nothing in this subclause shall be construed as requiring an employer to engage a replacement employee.
- (v) A replacement employee shall not be entitled to any of the rights conferred by this clause except where her employment continues beyond the 12 months' qualifying period.

19. MEAL AND MEAL ALLOWANCE

- (a) A meal interval of not less than 30 minutes or more than one hour shall be allowed to an employee after each 5 hours worked.
- (b) An employee who is required to work overtime for more than ninety minutes after the usual time of ceasing work shall be paid a meal allowance of \$15.40 for each such meal.

20. MINIMUM START FOR PART-TIME AND CASUAL EMPLOYEES

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 the minimum period of engagement for crossing guards shall be one hour per morning or afternoon period of duty.

PROVIDED FURTHER that in exceptional circumstances the employer may, with the agreement in writing of the Australian Liquor, Hospitality and Miscellaneous Workers Union, Tasmanian Branch engage an employee for a lesser number of hours than prescribed herein.

21. OVERTIME

For all time of duty in excess of, or outside of, ordinary hours the rates of pay shall be time and one-half for the first 2 hours and double time thereafter. In computing overtime each day's work shall stand alone.

For the purposes of computing overtime the ordinary rate of pay shall be determined by dividing the weekly rate of pay by 38.

22. PART-TIME AND CASUAL EMPLOYEES

- (a) Part-time employees shall be paid per hour 1/38 of the weekly rates prescribed for their work plus 10 per cent; such hourly rates to be taken to the nearest whole cent with fractions less than 0.5 cents being disregarded.

- (b) Casual employees shall be paid per hour $\frac{1}{38}$ of the weekly rates prescribed for the work performed plus $33\frac{1}{3}$ per cent; such hourly rates to be taken to the nearest whole cent with fractions of less than 0.5 cents being disregarded.
- (c) Part-time employees may agree with their employer that their weekly hours be reduced in proportion to the reduction in ordinary hours which occurred for full-time employees from 19 August 1988. Where such agreement is made the provisions of Clause 17B - Implementation of 38-Hour Week, shall apply.

23. PAYMENT OF WAGES

The employer shall specify a time and place at which wages and other moneys are to be paid to the employees other than employees engaged for less than one week. The time so specified shall not be more than 48 hours from the time when such wages become due and shall not be later than Thursday in the week. Any employee who is not paid at the time so specified shall be deemed to be working during the time he/she is kept waiting. Casual employees shall be paid within one hour of the termination of the employment.

Payment may be made weekly or fortnightly as agreed between the employer and the employee and shall be in cash, or by cheque or by direct bank deposit into an account nominated by the employee. The method of payment shall be at the discretion of the employer.

Where payment is to be made by cheque or direct bank deposit and such cheque is not met on presentation such bank deposit is not made at the time specified, otherwise than in circumstances beyond the control of the employer waiting time shall be paid.

24. REFERENCE OF DISPUTES

Any dispute concerning this award shall be settled in the following manner:

- (a) negotiation between the employer and the Union Shop Steward;
- (b) where there is no shop steward available or where the dispute is not settled within the provisions of subclause (a) of this clause, by negotiation between the union and employer representatives;
- (c) failing agreement being reached within the provisions of subclause (b) of this clause, the union or the employer may refer the matter to the Tasmanian Industrial Commission for decision;
- (d) where appropriate in specific agencies different procedures which have been agreed by the union and employer may be followed.

25. REST PERIOD

Employees shall be allowed a rest period of 10 minutes without loss of pay after each 3 hours of consecutive work.

26. RIGHT OF ENTRY OF UNION OFFICIALS

- (a) For the purpose of interviewing persons covered by this award, an officer of the Australian Liquor, Hospitality and Miscellaneous Workers Union, Tasmanian Branch may enter the premises where such persons are employed on each day of the week subject to the following conditions:
- (i) that when requested he produce for the gatekeeper (or such other person as may be appointed by either the employer or the organisation responsible for the place in which persons covered by this award are working) some form of authority identifying him as an officer of the union;
 - (ii) that he interviews employees in such a manner as to avoid interference with their work;
 - (iii) that unless prior arrangements with the employer have been made, not more than 2 representatives shall be on the premises at the one time;
 - (iv) that if the employer alleges that a representative is interfering unduly with his work or is offensive in his methods, or is creating dissatisfaction amongst his employees, or is committing a breach of the previous conditions, the employer may refuse the right of entry, but the representative shall have the right to bring such refusal before the Tasmanian Industrial Commission.
- (b) An officer shall be a duly accredited representative of the union if he/she is the holder of a certificate or letter which has not been cancelled or revoked, is signed by the Union Secretary and bears the signature of the holder.

27. SHOP STEWARD

Employees appointed steward or delegate in the Agency, office, or department in which they are employed shall, upon notification thereof to the employer, be recognised as the accredited representative of the union and shall be allowed the necessary time during working hours to interview the employer or the employer's representative on matters affecting employees they represent, provided that if the steward so requests it, a union official may accompany the steward at such interview.

28. SICK LEAVE

- (a) An employee, other than one engaged as a casual, who is absent from work on account of personal illness or on account of injury by accident shall be entitled to leave of absence without deduction of pay, after one month's employment, subject to the following conditions and limitations:
- (i) the employee shall be entitled to such leave of absence for any period in respect of which the employee is entitled to workers' compensation;
 - (ii) the employee shall, if practicable, within 48 hours of the commencement of such absence, inform the employer of the inability to attend for work, and as far as may be practicable, state the nature of the illness or injury and the estimated duration of 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, provided that 2 single day absences in each 6 monthly period shall be allowed (providing that this day is not taken immediately before or after any statutory holiday) without production of such proof;
 - (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 2 weeks of ordinary working time;
 - (v) for the purposes of administering paragraph (iv) above an employer may within one month of this award coming into operation or within 2 weeks of the employee entering his/her employment require an employee to make a sworn declaration or other written statement as to what paid leave of absence he/she has had from any employer during the then current year, and upon such statement the employer shall be entitled to rely and act.
- (b) Sick leave shall accumulate from year to year so that any balance of the period specified in subclause (a) (iv) of this clause which has in any year not been allowed to an employee by an employer as paid sick leave shall be credited to the employee and, subject to the conditions hereinbefore prescribed shall be allowed by that employer in a subsequent year without diminution of the sick leave prescribed in respect of that year.
- (c) An employer shall not be required to make any payment in respect of accumulated sick leave credits to an employee who is discharged or leaves the employment, or for any time an employee is absent from work without producing satisfactory evidence of personal illness.

29. STATE SERVICE ACCUMULATED LEAVE SCHEME

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

30. SUNDAY AND HOLIDAY WORK

- (a) Payment shall be at the rate of double time for work performed on a Sunday.
- (b) Payment shall be at the rate of double time and a half for work performed on a holiday as prescribed in Clause 16 - Holidays with Pay of this award.
- (c) Full-time employees required to work on a Sunday or a holiday as prescribed in Clause 16 - Holidays with Pay of this award, shall receive a minimum of 4 hours pay at the appropriate rate.

31. TECHNOLOGICAL CHANGE

Notwithstanding the provisions of Clause 13 - Contract of Employment, where on account of the introduction or proposed introduction by an employer of mechanisation or technological changes, the employer terminates the employment of an employee who has been employed by the employer for the preceding twelve months, the employer shall give the employee three months' notice of the termination of the employment: provided that, if the employer fails to give such notice in full:

- (a) the employer shall pay the employee at the rate specified for the employee's classification in Clause 8 - Wage Rates, of this award, for a period equal to the difference between three months and the period of the notice given; and
- (b) the period of notice required by this subclause to be given shall be deemed to be service with the employer for the purposes of long service leave and annual leave, provided that the right of the employer to dismiss an employee for the reasons specified in subclause (e) of Clause 13 - Contract of Employment, shall not be prejudiced by the fact that the employee has been given notice pursuant to this subclause of the termination of the employment.

When an employer gives an employee notice of the termination of the employment on account of the introduction or proposed introduction of mechanisation or technological changes, within fourteen days thereafter the employer shall give notification in writing to the Tasmanian Industrial Commission and the Secretary of the Australian Liquor, Hospitality and Miscellaneous Workers Union, Tasmanian Branch of that fact, stating the employee's name, address and usual occupation and the date when the employment terminated or will terminate in accordance with the notice given.

32. TRAVELLING TIME AND EXPENSES

- (a) Where an employee is sent to work from an employer's recognised place of business the employer shall pay all travelling time from such place of business to the job and if the employee is required to return the same day to the employer's place of business the employer shall pay travelling time to the place of business. An employee sent for duty to a place other than the regular place of duty or required by the employer to attend a court of any inquiry in connection with the employment shall be paid travelling time.
- (b) Where an employee is required to cease or to commence duty at a time when the usual means of conveyance are not available the employee shall, at the employer's expense, be conveyed to a point nearest his/her home or place of duty to which he/she ordinarily would proceed during ordinary hours by public conveyance.
- (c) An employee shall be reimbursed by the employer for all expenses incurred by the employee in using his/her private vehicle for the employer's purpose.
- (d) Where an employee is required to work a shift in 2 periods as prescribed in Clause 17 - Hours of Work, subclause (e) of this award, he shall be paid an excess fares allowance of \$1.40 per day.

33. SPECIAL PROVISIONS RELATING TO STUDENT HOSTEL EMPLOYEES

The conditions of employment of employees engaged at student hostels shall to the extent that there is a conflict between the provisions of this clause and other clauses of this (award/agreement) be regulated by the provisions of this clause in lieu of conditions otherwise provided in this (award/agreement).

- (a) Board and Lodging
 - (i) The amount that may be deducted from the wages herein prescribed for board and/or lodging shall be \$25.00 per week and the amount that may be deducted where meals are provided shall be \$3.00 per week.
 - (ii) Employees classified as matron, assistant matron or housekeeper shall be provided with free board and lodging if required by the employer to live on the premises during each weekly rostered period.

- (b) Breakages

An employer shall not charge a sum of money against or deduct from the wage of an employee in respect of breakages of crockery or other utensils except in the case of misconduct.

- (c) Exemptions

The provisions of the award, relating to Hours of Work, Overtime and Saturday, Sunday and Holiday Work shall not apply to matrons, assistant matrons or housekeepers who receive their full rate of pay during term vacation.

(d) Mixed Functions

An employee engaged for more than 3 hours in any one day on duties carrying a higher rate than the employees' ordinary classification shall be paid the higher rate for the whole of such day.

(e) Rostered Days Off

Each employee shall have at least 2 consecutive days off in each week other than rostered days off arising out of Clause 17 - Hours of Work. The days off shall operate from the finishing time of work on the day immediately preceding the days off and until starting time on the day when work is to be resumed.

The days off shall be rostered and shall not be altered except by mutual agreement between the employer and the employee.

(f) Saturday Work

Employees working ordinary hours on Saturday shall be paid at the rate of time and one half.

(g) Stand-down During School Holidays

The provisions of Clause 10 - Annual Leave shall not apply to the employer who elects to allow employees school or term holidays each year, provided that the employer:

- (i) provides such employees with not less than 10 full weeks annual leave per calendar year;
- (ii) pays them for such leave at a rate not less than 2/3 their normal rate of pay;
- (iii) pays them an additional amount at the appropriate rate for any day during such leave period on which they come in and work;
- (iv) where an employee is dismissed prior to receiving the full annual leave provided under this subclause, he/she shall not receive less than an amount of pro rata annual leave payments equal to the proportion of the school year during which he/she has worked.

**34. SPECIAL PROVISIONS RELATING TO THE DEPARTMENT OF EDUCATION
AND THE ARTS**

Special provisions relating to the Department of Education and the Arts are contained in Appendix A to this Award and shall apply to employees employed in the Division of Education within the Department of Education and the Arts only during the period 1 October 1991 to 30 September 1997.

P C Shelley
DEPUTY PRESIDENT

4 August 2009

APPENDIX A

PREAMBLE

This Appendix shall apply to employees employed in the Division of Education within the Department of Education and the Arts.

It is agreed that neither party shall make any claim to alter the terms of this appendix during its life nor base any future claim in relation to wages and/or conditions arising out of any matter contained in this agreement. Provided that nothing in this preamble shall be interpreted so as to prevent either party from seeking to review the agreement from 1 March 1997.

1. ARRANGEMENT

<u>SUBJECT MATTER</u>	<u>CLAUSE NO</u>
Arrangement	1
Utilisation of Resources	2
Annual Leave	3
Hours of Work	4
Implementation	5
Materials and Equipment	6
Protective Clothing	7
Training and Induction	8
Attachment A	
Attachment B	

2. UTILISATION OF RESOURCES

Resources shall be allocated to premises for the purpose of cleaning, groundskeeping and kitchen assistant duties - which shall be generally identified as duties of a school attendant - in accordance with Attachment A. The aggregate labour entitlement of each school shall be expressed as full-time equivalent (FTE) employees.

During the absence of employees, relief will be engaged in accordance with Attachment A, Paragraph 4.

Such resources shall be directly employed by the employer and shall not be employed by any contractor, sub-contractor, franchisor or other indirect employer. Nor shall the resources be provided directly by any contractor, sub-contractor, franchisor or any other indirect source of labour.

PROVIDED that schools and colleges currently cleaned on a contract basis are excluded from this appendix in respect of cleaning functions. The use of contract cleaning at these sites will, however, be reviewed by the parties on a case-by-case basis, having regard to the ability of employees employed by the Department under this award to undertake the same task at a comparable cost, before existing contracts are renewed.

3. ANNUAL LEAVE

Annual leave for employees will be taken during the period between the end of the third term and the commencement of the first term in the following year.

PROVIDED that this period may be varied in accordance with the operational requirements of the school or college for employees engaged in caretaking and groundskeeping duties.

4. HOURS OF WORK

Rostered days off will be accumulated and be taken during the first, second and third term holidays on a 3-3-6 basis. Employees who are not required to take annual leave at the end of the third term shall use accumulated rostered days off in place of annual leave between Christmas and New Year.

The preferred hours of work for future employment will be one period, of not more than eight hours on any one day, worked between either 6.30 am and 6.00 pm or 1.30 pm and 10.00 pm.

5. IMPLEMENTATION

Staffing adjustments necessary as a result of this agreement shall be implemented as follows:

- (a) Excess allocations shall be reduced by either natural attrition or the transfer of employees in accordance with Section 42 of the *Tasmanian State Service Act*.
- (b) Under allocations shall be adjusted by the transfer of employees in accordance with Section 42 of the *Tasmanian State Service Act* from a school with an excess allocation, increasing the hours of existing part-time employees at the school concerned, or recruitment.
- (c) The recruitment of new employees to correct an under allocation shall be dependent on an equivalent offset at an over allocation site.

A review will be undertaken in June 1992 of any adjustments that have not been completed by that date.

6. MATERIALS AND EQUIPMENT

The parties shall agree upon the types of materials and equipment to be used by employees in the performance of their duties. A joint committee representing the parties will prepare a Standards Catalogue for distribution to schools before the end of the 1991 school year.

Each establishment shall be encouraged to purchase the appropriate materials and equipment as soon as is reasonably possible in the context of the funds allocated by the Department. In this regard the Department shall endeavour to ensure that sufficient funds are allocated to each establishment to enable a program of purchasing agreed materials and equipment from the beginning of the 1992 school year.

PROVIDED that this clause shall apply only to new and replacement equipment.

7. PROTECTIVE CLOTHING

Each employee will be paid an annual allowance for the purchase of protective clothing in accordance with Attachment B. The employer requires that employees shall purchase and wear appropriate clothing and u/v protection specified in Attachment B and retains the right to direct an employee to wear the said clothing and u/v protection.

8. TRAINING AND INDUCTION

Relevant and suitable training will be provided to all existing and future employees. The availability, content and accreditation of such training will be agreed between the parties.

ATTACHMENT A: UTILISATION OF RESOURCES

1. CLEANING:

- (a) the utilisation of resources for cleaning shall be based on one hour for each 42.7 square metres to be cleaned. The priority of work will be determined by the Principal or Officer-in-Charge in consultation with cleaning staff;
- (b) The area to be cleaned shall be determined by an external measurement of the building, discounted by a factor 5 percent in respect of wall cavities etc. (the discount factor shall be reviewed within six months of the agreement coming into operation);
- (c) Internal uncovered courtyards shall be excluded from the measurement;
- (d) A measurement for each site shall be determined by a joint Department of Education and The Arts/ Union team. This team will have the discretion to consider special cases.

2. GROUNDSKEEPING

- (a) The utilisation of resources for groundskeeping shall be based on the area to be maintained and the school enrolment as set out in the chart hereunder.

Area Hectares	School Enrolment			
	(GRP 1) 451 & over FTE	(GRP 2) 251-450 FTE	(GRP 3) 101-250 FTE	(GRP 4) Up to 100 FTE
1	22.5	17.5	12.5	10
1.5	25	20	15	10
2	27.5	22.5	17.5	12.5
2.5	30	25	20	15
3	32	27.5	22.5	
3.5	40	30		
4	40	32		
4.5	40	40		

- (i) Hours expressed in 40 hour week terms.
- (ii) Base of formula is an area loading (first hectare 7.5 hours plus 2.5 hours for each additional half hectare) and an enrolment loading (Grp 1 - 15 hours; 2- 10 hours; 3-5 hours; 4-0 hours)

(iii) minimum allocations:

High Schools and Colleges 1 FTE

Other schools 10 hours

(iv) Upper allocation limits of: Grp 1 - 40 hours; 2 - 40 hours; 3 - 22.5 hours; 4 - 15 hours.

(b) Where special circumstances exist (such as a campus being located on more than one site) the resource requirement shall be considered on a case-by- case basis.

3. KITCHEN ASSISTANTS

(a) An allocation of 1130.5 hours shall be distributed between schools.

(i) High Schools

New Town 0.00 kitchen hours

Scottsdale 23.50 kitchen hours

Bridgewater; Brooks; Burnie; Claremont; Clarence; Cosgrove; Deloraine; Devonport; Exeter; Geilston Bay; George Town; Huonville; Kings Meadows; Kingston; Latrobe; Murray; New Norfolk; Parklands; Penguin; Prospect; Queechy; Ravenswood; Reece; Riverside; Rokeby; Rose Bay; Rosetta; Smithton; Taroon; Ulverstone; and Wynyard 26.50 kitchen hours

Ogilvie 53.00 kitchen hours.

High Schools sub total 898.00 hours

(ii) District High Schools

Bothwell; Bruny Island; Campania; Dover; Flinders Island; Geeveston; Ouse; Rosebery; Savage River; and Yolla 0.00 kitchen hours.

Lilydale; Winnaleah; and Woodbridge 8.50 kitchen hours.

Dunnalley 10.00 kitchen hours.

Tasman 11.50 kitchen hours.

Campbell Town; Glenora; Oatlands; and Triabunna 13.50 kitchen hours.

St Marys 18.50 kitchen hours.

Cressy; King Island; and St Helens 20.00 kitchen hours.

Sheffield and Sorell 26.50 kitchen hours.

District high School sub total 232.50 hours

Grand Total 1130.50 hours.

- (b) This allocation shall be subject to periodic review by the Department of Education and the Arts, having regard to the educational program of affected schools;
- (c) The allocation of hours for kitchen assistant duties does not include time for the general cleaning of domestic science areas. The utilisation of resources for this purpose shall be included in the allocation for cleaning in accordance with paragraph 1.

4. RELIEF

Relief will be engaged where there is an absence, or expected absence, of an employee of one working day or more. Relief will not be engaged in the following circumstances:

- (a) where the absence does not reduce the labour allocation below the level determined in accordance with this appendix;
- (b) during other periods of the school terms when facilities are not used due to students being absent from the school or college;
- (c) for groundskeeping positions or the groundskeeping component of positions, fifty per cent of the absence where that absence occurs between 1 May and 30 September in any year.

ATTACHMENT B: PROTECTIVE CLOTHING

(a) Cleaners, Groundskeepers, Kitchen Assistants and Utility Officers

An allowance for the purchase of 2 sets of protective clothing, one pair of safety footwear and one pair of gumboots (if required to work in water) shall be paid to each employee each year by February 28 in that year. The allowance shall be the sum of \$200.00.

(b) Groundskeepers Only

An allowance for the purchase of a wide brim hat, suitable polarised sunglasses or clip on lenses and u/v protection cream to 15+ standard shall be paid to each employee each year by February 28 in that year. The allowance shall be the sum of \$50.00.

(c) Initial Issue

For new employees, the allowance(s) will be paid one month after the date of commencement. Employees who commence work in the period between 1 March and 31 August of any year will receive their second payment by 28 February of the following year. Employees who commence work between 1 September of any year and 28 February of the following year will receive their second payment in the February that falls in their second year of service.

(d) Indexation

The above rates shall apply until 31 December 1992. Payments made in accordance with this attachment in subsequent years shall be adjusted in line with movements in the consumer price index for the 8 capital cities (clothing group) for the period of twelve months to the September preceding the year in question.

STATE SERVICE ACCUMULATED LEAVE SCHEME

1. TITLE

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

2. SUMMARY OF SCHEME

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

3. INTERPRETATION

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

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

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

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

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

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

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

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

4. PLANS

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

Work Period	Percentage of Normal Salary payable during the period of the Plan	Leave Period
Four Years	80% "The Four over Five Year Plan"	One Year
Three Years	75% "The Three over Four Year Plan"	One Year
Twenty Months	83.3% "The 20 over 24 Month Plan"	Four Months
Eighteen Months	75% "The 18 over 24 Month Plan"	Six Months
Forty Eight Weeks	92.3% "The 48 over 52 Week Plan"	Four Weeks
Forty Weeks	76.9% "The 40 over 52 Week Plan"	Twelve Weeks

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

5. APPLICATION OF SSALS

- 5.1 The Head of an Agency, after considering the operational requirements of the Agency, determines whether any Plan or Plans are to be available to employees in the Agency.
- 5.2 A Head of an Agency may make any Plan or Plans available to employees in that Agency or an employee or employees can request the Head of Agency that a Plan be made available to them.

5.3 A Plan may be made available to any permanent employee (full or part-time) including an employee who works shifts. A Plan may be made available to any temporary employee the term of whose contract of employment is sufficient to cover the period of the Plan.

5.4 The Head of Agency determines:

- whether one or more Plans will be made available to all or only some of the employees;
- whether particular Plans will be made available to particular categories of employees;
- whether quotas will apply to the number of employees who may participate in a Plan, and whether quotas will apply to any category of employees;
- the selection arrangements where quotas are imposed; and
- the commencement date of any Plan.

5.5 Where an employee participating in a Plan is promoted, transferred, seconded or otherwise moved either into another Agency or within their own Agency the Head of the Agency in which the employee is thereafter employed will, after consultation with the employee and taking into account the operational requirements of the Agency, determine whether or not the employee is able to continue on their Plan.

5.6 If the Head of Agency determines under clause 5.5 that the employee is not able to continue on their Plan, the Head of Agency may forthwith terminate the employee's Plan whereupon the employee becomes entitled to a period of accumulated leave which bears the same proportion to the total leave period of the Plan as the period worked under the Plan bears to the total work period, to be remunerated at the percentage of normal salary payable during the period of the Plan. The employee may apply to the Head of Agency at any time to take that leave, and it shall be granted as soon as can be, consistent with the operational requirements of the Agency.

6. HOW TO PARTICIPATE IN SSALS

6.1 Where the Head of an Agency offers a Plan to an employee the employee may elect to participate in the Plan by lodging an election in writing with the Head of Agency in any form which the Head of Agency may approve.

6.2 The Head of the Agency may accept or reject an election to participate made in accordance with Clause 6.1.

6.3 The Head of Agency will notify the employee in writing if the employee's election has been disapproved.

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

7. CONDITIONS AND ADMINISTRATIVE ARRANGEMENTS

7.1 Work Period to be completed prior to Period of Leave

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

7.2 Suspension of Plan

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

In deciding to suspend a Plan, either on application of the employee or otherwise, the Head of Agency will take into account the employee's circumstances and response to any proposal to suspend, and what is reasonably required to meet the operational requirements of the Agency. Suspension may occur either during the work period or the leave period of the Plan, and will be for such period as may be specified by the Head of Agency in the instrument by which the Plan is suspended.

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

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

7.3 Accumulated Leave

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

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

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

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

7.4 Payment during the Leave Period

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

7.5 Salary Increments

Salary increments will accrue throughout the period of a Plan.

7.6 Superannuation

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

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

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

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

7.7 Other Compulsory Deductions from Pay

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

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

7.8 **Voluntary Deductions from Pay**

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

7.9 **Administrative Records**

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

7.10 **Recreation Leave**

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

7.11 **Sick Leave**

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

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

7.12 **Maternity Leave and Adoption Leave**

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

7.13 **Other Leave**

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

7.14 **Long Service Leave**

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

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

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

7.15 State Service Holidays (Public Holidays)

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

7.16 Workers Compensation

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

7.17 Employment during Period of Leave

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

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

7.18 Cessation of Employment

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