

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

LAUNDRY AND DRY CLEANING AWARD

ORDER -

**No. 1 of 2009
(Consolidated)**

AMEND THE **LAUNDRY AND DRY CLEANING 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 "Laundry and Dry Cleaning Award".

2. SCOPE

This award is established in respect of the industry of laundering and dry cleaning.

3. ARRANGEMENT

<u>Subject</u>	<u>Clause No.</u>	<u>Page No.</u>
Title	1	2
Scope	2	2
Arrangement	3	2
Date of Operation	4	3
Supersession and Savings	5	3
Parties and Persons Bound	6	3
Definitions	7	4
Wage Rates	8	8
Annual Leave	9	14
Bereavement Leave	10	17
Blood Donors	11	18
Casual Employees	12	19
Consultative Procedures	13	19
Contract of Employment	14	19
Enterprise Flexibility	15	20
Existing Wage Rates	16	21
Holidays with Pay	17	21
Hours	18	21
Minimum Engagement For Part-Time and Casual Employees	19	24
Overtime	20	25
Parental Leave	21	26
Part-Time Employees	22	35
Payment of Wages	23	35
Personal Leave	24	35
Preference of Employment	25	38
Protective Clothing	26	39
Right of Entry	27	39
Settlement of Disputes	28	40
Shift Workers	29	40
Steward	30	41
Sunday, Saturday and Holiday Work	31	41
Time and Wages Book	32	41
Appendix To Laundry and Dry Cleaning Award - Superannuation		42

4. DATE OF OPERATION

This award shall come into operation from the first full pay period to commence on or after 1 August 2009.

5. SUPERSESSION AND SAVINGS

This award incorporates and supersedes the Laundry and Dry Cleaning Award No. 1 of 2008 (Consolidated).

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

6. PARTIES AND PERSONS BOUND

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

- (a) all employers (whether members of a Registered Organisation or not) who are engaged in the industry specified in Clause 2 - Scope;
- (b) all employees (whether members of a Registered Organisation or not) for whom classifications appear in this award and who are employed in the industry specified in Clause 2 - Scope;
- (c) the following organisations of employees in respect of whom award interest has been determined:
 - (i) The Liquor, Hospitality and Miscellaneous Union - Tasmanian Branch and the officers of that organisation and their members who are employed in the industry specified in Clause 2 - Scope;
 - (ii) The Construction Forestry Mining and Energy Union, Tasmanian Branch and the officers of that organisation and their members who are employed in the industry specified in Clause 2 - Scope;
 - (iii) the Transport Workers' Union of Australia (Victorian/Tasmanian Branch) and the officers of that organisation and their members who are employed in the industry specified in Clause 2 - Scope;
- (d) the following organisation of employers in respect of whom award interest has been determined:

the Tasmanian Chamber of Commerce and Industry Limited.

7. DEFINITIONS

'Casual employee' is one who is employed on a casual basis for a period not exceeding 5 days at any time, and shall not include an employee as defined in subclause (b) hereof.

PROVIDED that where a casual employee is required to relieve another employee who is either on annual leave or long service leave, the period of 5 days may be exceeded.

'Grade I employee' means an employee in the first 6 months of employment with no previous experience in the industry.

MUST POSSESS THE FOLLOWING SKILLS AND ABILITIES:

1. Be responsible for their own work subject to detailed instructions.
2. Work under routine supervision.
3. Carry out duties in a safe, responsible and efficient manner.
4. Possess basic communication and interpersonal skills.
5. Must be able to perform basic tasks as a result of skill that should have been gained from basic education or gained in the course of everyday living or readily learn such basic tasks including, but not limited to, the following:
 - (a) be able to identify and classify items of linen/garments and associated simple tasks;
 - (b) be able to load and unload drying machines;
 - (c) be capable of basic keyboard operations and record keeping;
 - (d) hand and group clean garments and check for stains;
 - (e) be able to perform basic and incidental housekeeping duties.

AND WILL BE TRAINED in one of the following brackets:

BRACKET 1:

Perform all ironing machine functions either manually or with the aid of semiautomatic or automatic feeding, folding and preparing equipment.

Perform all manual or machine folding/hanging operations on linen/garments.

Operation of a tunnel finisher.

Use a Heatseal or Heat Marking Machine or mark linen with any other type of machine or manually.

BRACKET 2:

Operation of any washing, drying and extracting equipment. Operation of towel unwinding equipment.

BRACKET 3:

Operation of any textile pressing machine.

BRACKET 4:

Manual or machine repairing of garments or linen.

PROVIDED that an employee with experience in the bracket he/she was employed for will advance to Grade 2 within 6 months upon demonstrating that he/she has attained and can perform at the desired level of efficiency in that bracket.

'**Grade 2 employee**' means an employee who has completed the required period at classification Grade 1 and who can competently perform the tasks required of them in the appropriate bracket as well as meeting the general requirements of the Grade 1 classification, even though they may not have completed training in all the tasks in their bracket.

Notwithstanding, in such case, the employee will be required to qualify in the tasks missed whilst in Grade 1.

IN ADDITION:

Must be able to operate with a minimum of supervision;

Must recognise and report obvious faults in the equipment they use;

Must be responsible for the maintenance of the quality and quantity of their own output; OR

A repairer who must at the point of entry be competent to repair linen and garments either manually or by machine or a combination of both and must meet the general requirements of a Grade 1 employee.

Tasks performed by a repairer at this level would include but not be limited to the following:

patching

stud and button replacement

hemming

darning

seaming

OR

In addition to meeting the general requirements of a Grade 1 employee competently performs tasks within or indicative of the following:

Receiving and despatching and/or assembling of orders and packaging.

Assisting with basic record keeping.

Examining to ensure customers requirements are met and inspections.

Manual operation of finishing equipment.

Wet cleaning, spotting and pre-spotting.

Dry cleaning machine operator.

'Grade 3 employee' means:

1. Any employee who meets the requirements of a classification Grade 2.

AND IN ADDITION

2. Can efficiently carry out two Grade 1 Brackets and has been designated as a stand-by worker in those Brackets.

OR

3. Operates washing and ancillary equipment and is responsible for work flow and control of all washing supplies for such equipment and can carry out these tasks with minimal supervision.

OR

4. Holds a Boiler Ticket and is ready and willing to use that ticket in the performance of his/her duties.

OR

5. A repairer who is competent to perform all facets of repair functions and either performs work at this level or is designated as a stand-by worker.

Tasks performed by a repairer at this level would include but not be limited to the following:

zip replacement

pocket replacement

alterations

making of monograms

AND/OR

6. Maintains necessary records and performs related tasks.

Mechanical distribution or collection.

Capable of training others engaged in lower Grades.

'Grade 4 employee' means an employee who holds a Boiler Ticket and is ready and available to use that ticket and meets the requirements of 1 and any of 2, 3, 5 and/or 6 of the requirements for Grade 3.

OR

Any Grade 2 or 3 employee who is appointed for the purpose of directing and controlling a section of the production operation.

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

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

'Union' means the Liquor, Hospitality and Miscellaneous Union - Tasmanian Branch.

8. WAGE RATES

DIVISION A - LAUNDRY & DRY CLEANING EMPLOYEES

1. WAGE RATES

- (a) Adult employees of a classification hereinafter mentioned shall be paid the weekly wage rates assigned to that classification.

	Base Rate \$	Safety Net Adjustment \$	Weekly Wage Rate \$
Grade 1	333.80	232.70	566.50
Grade 2	354.60	232.70	587.30
Grade 3	379.70	232.70	612.40
Grade 4	396.30	232.70	629.00

- (b) Leading Hands

- (i) If in charge of not less than 3 and not more than 10 employees \$23.70 per week extra
- (ii) If in charge of more than 10 and not more than 20 employees \$35.40 per week extra
- (iii) If in charge of more than 20 employees \$45.50 per week extra

- (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.

(d) 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 (c) - Supported Wage System is \$558.10 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.

(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 2009 State Wage Case Decision (T.13471 of 2009) and all previous safety net and state wage case adjustments.

DIVISION B - CARTERS AND DRIVERS

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

	Base Rate	Safety Net Adjustment	Weekly Wage Rate
Employee driving a motor vehicle having maker's capacity of - 1.2 tonnes or less	\$ 355.20	\$ 232.70	\$ 587.90
Over 1.2 tonnes but under 3 tonnes	359.20	232.70	591.90
Over 3 tonnes but under 6 tonnes	364.00	232.70	596.70

- (b) An additional amount for an employee driver collecting money per week:

	\$
For any amount handled up to \$20	0.60
Over \$20 but not exceeding \$200	1.10
Over \$200 but not exceeding \$600	3.40
Over \$600 but not exceeding \$1000	4.70
Over \$1000	6.30

- (c) Supported Wage System

As provided for in Division A, subdivision 1, subclause (c) of this clause.

- (d) Minimum Wage

As provided for in Division A, subdivision 1, subclause (d) of this clause.

DIVISION C - JUNIORS

- (a) Juniors - Division A - Laundry & Dry Cleaning Employees

- (i) The minimum weekly wage rates that shall be paid to juniors shall be the undermentioned percentages of the weekly wage rate prescribed in Division A subclause (a) for the classification Laundry and Dry Cleaning Employee Grade 2:

	%
Under 17 years of age	50
17 years and under 18 years	65
18 years and under 19	75
19 years and under 20	90
20 years of age	100

(ii) The percentage of wages herein set out shall be calculated in multiples of 10 cents, amounts less than 5 cents being taken to the lower multiple and amounts of 5 cents or more being taken to the higher multiple.

(iii) Juniors Employed in a Receiving Depot

Notwithstanding anything hereinbefore contained, any junior working on his/her own and responsible for cash transactions and/or in charge of a depot shall be paid not less than the weekly wage rate prescribed for 19 years and under 20 years plus an amount per week of \$10.80.

(b) Juniors - Division B - Carters and Drivers

The minimum weekly wage rate which shall be paid to junior drivers shall be the undermentioned percentages of the appropriate adult rate:

	%
18 years of age and under 19 years	70
19 years of age and under 20 years	80
20 years of age and thereafter	Adult Rate

(c) Supported Wage System

As provided for in Division A, subdivision 1, subclause (c) of this clause.

(d) Minimum Wage

As provided for in Division A, subdivision 1, subclause (d) of this clause.

9. ANNUAL LEAVE

(a) Period of Leave

A period of 28 consecutive days' leave shall be allowed annually to an employee after 12 months' continuous service (less the period of annual leave).

(b) Annual Leave Exclusive of Public Holidays

(i) Subject to this subclause, the annual leave prescribed by this clause shall be exclusive of any of the holidays prescribed by Clause 17 - Holidays with Pay of this award, and if any such holiday 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 the period of annual leave, time equivalent to the ordinary time which the employee would have worked if such day had not been a holiday.

(ii) Where an employee without reasonable excuse, proof whereof shall lie upon him, is absent from his employment on the working day or part of the working day prior to the commencement of his annual leave, or fails to resume work at his ordinary starting time on the working day immediately following the last day of the period of his annual leave, the employee shall not be entitled to payment for the public holidays which fall within his period of annual leave. In the event of a dispute as to a 'reasonable excuse' the matter shall be determined by the Tasmanian Industrial Commission.

(c) Broken Leave

Annual leave shall be given and taken in a continuous period, or if the employee and employer so agree, in any combination of periods, provided one period shall be not less than 14 consecutive days, ie. ten working days.

(d) Calculation of Continuous Service

For the purpose of this clause, service shall be deemed to be continuous notwithstanding:

- (i) any interruption or termination of the employment by the employer if such interruption or termination has been made merely with the intention of avoiding obligations hereunder in respect of leave of absence;
- (ii) any absence from work on account of personal sickness or accident or on account of leave granted by the employer; or
- (iii) any absence with reasonable cause, proof whereof shall be upon the employee.

In cases of personal sickness or accident or absence with reasonable cause, the employee to become entitled to the benefit of this subclause shall inform the employer, in writing if practicable, within 48 hours of the commencement of such absence of his inability to attend for duty and as far as practicable state the nature of the illness, injury, or cause, and the estimated duration of his absence.

Any absence from work by reason of any cause not being a cause specified in this subclause shall not be deemed to break the continuity of service for the purposes of this clause unless the employer, during the absence or within 14 days of the termination of the absence, notifies the employee in writing that such absence will be regarded as having broken the continuity of service.

In cases of individual absenteeism, such notice shall be given in writing to the employee concerned but in cases of concerted or collective absenteeism, notice may be given to employees by the posting up of a notification in the factory in the manner in which general notifications to employees are usually made in that factory and by posting to each union whose members have participated in such concerted or collective absenteeism a copy thereof not later than the day it is posted up in the factory.

A notice to an individual employee may be given by delivering it to him personally or by posting it by registered or certified mail to his last recorded address, in which case it will be deemed to have reached him in due course of post.

In calculating the period of 12 months' continuous service, any such absence as aforesaid shall not, except to the extent of not more than 91 days in a 12 monthly period in the case of sickness or accident, be taken into account in calculating the period of 12 months' continuous service.

(e) Payment in Lieu Prohibited

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

(f) Time of Taking Leave

(i) Annual leave shall be taken at a time mutually agreed on by the employer and the employee. In the absence of such agreement, it shall be taken within 6 months of the date it became due, at a time fixed by the employer, and after at least one month's notice to the employee.

(ii) No entitlement shall be permitted to accrue beyond 12 months after becoming due.

(g) Leave Allowed Before Due Date

(i) 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.

(ii) 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 deduct from whatever remuneration is payable upon the termination of the employment any excess amount already paid to the employee on account of continuous service not given to the employer.

(h) Payment for Period of Leave

Each employee before going on leave shall be paid the amount of wage he would have received in respect of the ordinary time which he would have worked had he not been on leave during the relevant period, plus a loading equal to 17.5 per cent on all annual leave, provided that such annual leave loading shall not be paid on termination of employment.

(i) Proportionate Leave on Termination of Service

Should an employee not complete 12 months' service in any qualifying 12 monthly period, he or she shall on termination of employment, provided he or she has been employed continuously for one month or more, be entitled to be paid at his or her ordinary rate of wages on a pro rata basis for each completed month of continuous service, as follows:

12 2/3 hours for each completed month of continuous service.

(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.
- (ii) Access to annual leave, as prescribed in paragraph (i) above, shall be exclusive of any shutdown period provided for elsewhere under this award.
- (iii) An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken.
- (iv) An employee or the employees may choose to request a union party to this award, to represent their interests in negotiations referred to in paragraph (i) of this subclause.
- (v) Once a decision has been taken to introduce an enterprise system of single day annual leave, in accordance with this clause, its terms must be set out in the time and wages records kept pursuant to Regulation 25 of the Industrial Relations Regulations 1993.
- (vi) An employer shall record these short term annual leave arrangements in the time and wages book, as prescribed in Clause 33 - Time and Wages Book of this award.

10. BEREAVEMENT LEAVE

- (a) 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.

(b) Unpaid Bereavement Leave

An employee may take unpaid bereavement leave by agreement with the employer.

(c) Casual Employees

(i) Subject to the evidentiary requirements in subclause (a), casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of an immediate family or household member.

(ii) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. Casual Employees are not entitled to any payment for the period of non-attendance.

(iii) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

11. BLOOD DONORS

A weekly employee who is absent during ordinary working hours for the purpose of donating blood shall not suffer any deduction of pay up to a maximum of 2 hours on each occasion, and subject to a maximum of 4 separate absences for the purposes of donating blood each calendar year.

PROVIDED that such employee shall arrange for his absence to be on a day suitable to the employer and be as close as possible to the beginning or ending of his ordinary working hours. Proof of the attendance of the employee at a recognised place for the purpose of donating blood and the duration of such attendance shall first be furnished to the satisfaction of the employer.

Further, the employee shall notify his employer as soon as possible of the time and date upon which he is requested by the blood bank to be absent for the purpose of donating blood.

12. CASUAL EMPLOYEES

A casual employee shall be paid per hour pro rata the rate of one-thirty-eighth the rates prescribed in Clause 8 - Wage Rates, plus 20 per cent.

13. CONSULTATIVE PROCEDURES

- (a) The parties to this award are committed to co-operating positively to increase the efficiency, productivity and competitiveness of the industries and those establishments covered by Clause 2 - Scope, and to enhance the career opportunities and job security of employees in these industries and establishments.
- (b) At each enterprise or establishment, the employer, the employees and the relevant union or unions, shall establish a consultative mechanism and procedures appropriate to the size, structure and needs of that enterprise or establishment. Measures raised by the employer, employees or union or unions for consideration consistent with the objectives of subclause (a) herein shall be processed through that consultative mechanism and procedures.

14. CONTRACT OF EMPLOYMENT

- (a) Casual employees shall be engaged by the hour and employment may be terminated by the giving of one hour's notice by either party or by the payment or forfeiture of one hour's pay as the case may be.
- (b) All other employees shall be engaged by the week and 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.

PROVIDED that during the first two weeks of employment the employment may be terminated by the giving of one hour's notice by either party or by the payment or forfeiture of one hour's pay as the case may be.

- (c) Nothing in this clause shall limit the right of the employer to instantly dismiss an employee for wilful misconduct or gross neglect of duty, provided that such misconduct or neglect warrants instant dismissal, in which case wages shall be paid up to the time of dismissal only.
- (d)
 - (i) An employer may direct an employee to carry out such duties as are within the limit 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 de-skilling.
 - (ii) An employer may direct an employee to carry out such duties and use tools and equipment as may be required provided that the employee has been properly trained in the use of such tools and equipment.
 - (iii) Any direction issued by an employer pursuant to paragraphs (i) and (ii) shall be consistent with the employer's responsibilities to provide a safe and healthy working environment.

15. ENTERPRISE FLEXIBILITY

- (a) Notwithstanding anything contained in this award, but subject to the provisions of this clause, an agreement may be negotiated between the parties.
- (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 his or her intention to commence discussions with employees on an agreement under this clause.
 - (iv) The relevant union or unions must be a party to the 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) An agreement shall be referred to the Tasmanian Industrial Commission.

16. EXISTING WAGE RATES

Nothing in this award shall be taken as entitling an employer to reduce the wages of any employee at present in receipt of a wage rate in excess of that herein prescribed.

17. HOLIDAYS WITH PAY

- (a) All employees shall be allowed the following days as paid holidays:
- New Year's Day, Australia Day, Hobart Regatta Day (south of Oatlands), Labour Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Show Day (as defined), Recreation Day (where Hobart Regatta Day is not observed), Christmas Day and Boxing Day.
- (b) Payment for the holidays mentioned in subclause (a) above 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) above shall be at the rates prescribed elsewhere in this award.
- (d) Subject to agreement being reached between the employer and the employee/s concerned, any of the holidays mentioned in subclause (a) hereof may be worked at ordinary time and another working day substituted for the holiday concerned.
- (e) Subject to agreement being reached between the employer and the employee/s concerned, time off may be allowed in lieu of payment of penalties. The amount of time off shall be calculated on the basis of the appropriate penalty rate.

18. HOURS

- (a) The ordinary hours of work shall be a maximum of 38 per week to be worked in not more than 8 hours in any one day Monday to Friday inclusive. Subject to Clause 29 - Shift Workers, the spread of such ordinary hours shall extend from 6.30 am to 6.00 pm.
- (b) A meal interval of not less than 30 minutes or more than one hour shall be allowed within five hours of the commencement of the shift.

- (c) Except as provided in subclause (f), (g) and (h) of this clause the method of implementation of the 38 hour week may be agreed to be any of the following:
 - (i) by employees working less than 8 ordinary hours each day; or
 - (ii) by employees working less than 8 ordinary hours on one or more days each week; or
 - (iii) by fixing one week day on which all employees will be 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 week day off during that cycle.
- (d) On each site, 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.
- (e) The employer and the majority of employees in the plant, business, section or sections concerned, may agree that the ordinary working hours are to exceed 8 hours on any day within the spread of ordinary hours as prescribed by this clause, thus enabling a week day off to be taken more frequently than would otherwise apply.
- (f) Circumstances may arise where different methods of implementation of a 38-hour week apply to various groups or sections of employees in the plant or establishment concerned.
- (g) Agreements reached on the method of implementation of the 38-hour working week shall be recorded in writing and shall be signed by the employer and the employees concerned. The agreement document shall be kept as part of the employment records and available for inspection in accordance with the provisions of the *Industrial Relations Act 1984*.
- (h) In the absence of agreement on the implementation of the 38-hour week the procedure in Clause 28 - Settlement of Disputes shall apply.
- (i) Substitute Days
 - (i) An employer, with the agreement of the majority of employees concerned, may substitute a day an employee is to take off in accordance with subclause (c)(iii) and (iv) of this clause, for another day in the case of a breakdown in machinery or a failure or shortage of electric power or to meet the requirements of the business in the event of rush orders or some other emergency situation.

(ii) Any individual employee, with the agreement of his employer, may substitute the day the employee is to take off for another day.

(j) Accumulation of Rostered Days Off

Where an employer and employees agree rostered days off may accumulate to a maximum of seven days which shall be taken at a mutually agreed time.

(k) Sickness on Day Off

Where an employee is sick or injured on the week day he is to take off in accordance with subclause (c)(iii) or (iv) of this clause, the employee shall not be entitled to sick pay nor will the sick pay entitlement be reduced as a result of the employee's sickness or injury that day.

(l) Averaging of Payment

Where the method of implementation adopted is in accordance with subclause (c)(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 in the pay week that the rostered day off occurs to enable an averaging of payments for ordinary time to occur.

(m) Work on RDO

Where an employee works on a day off arising under subclause (c) (iii) or (iv) of this clause not being a day the subject of agreement pursuant to subclause (l) of this clause, that day shall be deemed to be overtime and paid in accordance with Clause 20 - Overtime.

(n) Make Up Time

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

- (i) An employee may elect, with the consent of the employer, to work 'make up time' under which the employee takes time off during ordinary working hours, and works those hours at a later time, during the spread of ordinary hours provided in the award.
- (ii) An employee on shift work may elect, with the consent of their employer, to work 'make up time' under which the employee takes time off ordinary hours and works those hours at a later time, at the shift work rate which would have been applicable to the hours taken off.
- (iii) An employee or the employees may choose to request a union party to this award, to represent their interests in negotiations referred to in paragraph (i) of this subclause.

- (iv) Once a decision has been taken to introduce an enterprise system of make up time, in accordance with this clause, its terms must be set out in the time and wages record kept pursuant to Regulation 25 of the Industrial Relations Regulations 1993.
- (v) An employer shall record these make up time arrangements in the time and wages records kept as prescribed in Clause 33 - Time and Wages Book of this award.

(o) Rostered Days Off

Notwithstanding provisions elsewhere in the award, the employer and the majority of employees at an enterprise may agree to establish a system of Rostered Days Off 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 be drawn upon by the employee at times mutually agreed by the employer, or subject to the reasonable notice by the employee or the employer.
- (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 RDO 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.
- (vi) An employer shall record these RDO arrangements in the time and wages book, as prescribed in Clause 33 - Time and Wages Book of this award.

19. MINIMUM ENGAGEMENT FOR PART-TIME AND CASUAL EMPLOYEES

Part-time or casual employees shall be engaged for a minimum of 3 hours per day. Provided that where agreed in writing between the union, the employer and the employee a lesser minimum engagement may occur.

20. OVERTIME

- (a) For all time worked in excess of the hours prescribed in Clause 18 - Hours of this award, payment shall be made at the rate of time and a half for the first 2 hours and double time thereafter.
- (b) Where overtime exceeds two hours on any day, employees shall be paid a meal allowance of \$15.40 in addition to the overtime rate prescribed.
- (c) The method by which the hourly rate shall be calculated for the purpose of this clause shall be by division of the weekly rate of pay for the employee concerned by 38.
- (d)
 - (i) Subject to agreement being reached between the employee and the employer, time off may be allowed in lieu of payment for overtime worked. The amount of time off shall be calculated on the basis of the appropriate overtime rate.
 - (ii) An employer shall, if requested by an employee, provide payment at the rate provided for the payment of overtime as prescribed in this clause of this award, for any overtime worked under this subclause where such time has not been taken within four weeks of accrual.
- (e) Requirement to work reasonable overtime
 - (i) Subject to paragraph (ii) of this subclause and subclause (d) 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.

21. 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.

(a) Definitions

For the purposes of this clause:

- (i) **'Child'** means a child of the employee under the age of one year except for adoption of a child where '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 parent of the employee or a child who has previously lived continuously with the employee for a period of six months or more.
- (ii) **'Continuous service'** means service under an unbroken contract of employment and includes:
 - (1) any period of leave taken in accordance with this clause;
 - (2) any period of part-time employment worked in accordance with this clause; or
 - (3) any period of leave or absence authorised by the employer or by the award.
- (iii) **'Employee'** includes a part-time employee but does not include an employee engaged upon casual work, unless that work has been under a continuous contract of employment of at least 12 months.
- (iv) **'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.
- (v) **'Male employee'** means an employed male who is caring for a child borne of his spouse or a child placed with the employee for adoption purposes.
- (vi) **'Primary care-giver'** means a person who assumes the principal role of providing care and attention to a child.
- (vii) **'Spouse'** includes a de facto or a former spouse.

(b) Entitlement

- (i) After twelve months continuous service, parents are entitled to a combined total of 52 weeks unpaid parental leave on a shared basis in relation to the birth or adoption of their child. For mothers, maternity leave provisions apply and for male employees, paternity leave provisions apply. Adoption leave provisions apply in the case of adoption.
- (ii) Subject to subclause (c)(vi), parental leave is to be available to only one parent at a time, in a single unbroken period, except that both parents may simultaneously take:
 - (1) for maternity and paternity leave, an unbroken period of up to one week at the time of the birth of the child;
 - (2) for adoption leave, an unbroken period of up to three weeks at the time of placement of the child.
- (iii) Unless otherwise agreed between the employee and the employer, parental leave shall be granted and taken in accordance with the notice given by the employee as specified below.

(c) Maternity Leave

- (i) An employee must provide notice to the employer in advance of the expected date of commencement of parental leave. The notice requirements are:
 - (1) of the expected date of confinement (included in a certificate from a registered medical practitioner stating that the employee is pregnant) – at least 10 weeks;
 - (2) of the date on which the employee proposes to commence maternity leave and the period of leave to be taken – at least 4 weeks.
- (ii) Where the employee gives notice under (d) (i) the employee must also provide 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.
- (iii) An employee will not be in breach of this clause if failure to give the stipulated notice is occasioned by confinement occurring earlier than the presumed date or other compelling circumstances.
- (iv) An employee may commence maternity leave at any time within six weeks immediately prior to the expected date of birth.

- (v) Where an employee continues to work within the six week period immediately prior to the expected date of birth, or where the employee elects to return to work within six weeks after the birth of the child, an employer may require the employee to provide a medical certificate stating that she is fit to work on her normal duties.
- (vi) Special Maternity Leave
 - (1) 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 the employee may take unpaid special maternity leave of such periods as a registered medical practitioner certifies as necessary.
 - (2) Where an employee is suffering from an illness not related to the direct consequences of the confinement, an employee may take any paid personal leave to which she is entitled in lieu of, or in addition to, special maternity leave.
 - (3) Where an employee not then on maternity leave suffers illness related to her pregnancy, she may take any paid personal leave to which she is then entitled and such further unpaid special maternity leave as a registered medical, practitioner certifies as necessary before her return to work. The aggregate of paid personal leave, special maternity leave and parental leave, including paternity leave taken by her spouse, may not exceed 52 weeks.
- (vii) Transfer to a safe job
 - (1) Where an employee is pregnant and, 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 will, 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.
 - (2) If the transfer to a safe job is not practicable, the employee may elect, or the employer may require the employee to commence parental leave for such period as is certified necessary by a registered medical practitioner.
- (d) Paternity Leave
 - (i) A male employee will provide to the employer at least 10 weeks prior to each proposed period of paternity leave:
 - (1) that 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, and

- (2) written notification of the proposed dates on which the period of paternity leave will start and finish and
- (3) a statutory declaration stating:
 - (A) that period of paternity leave will be taken to become the primary care-giver of a child;
 - (B) particulars of any period of maternity leave sought or taken by the mother, and
 - (C) that for the period of paternity leave, the employee will not engage in any conduct inconsistent with their contract of employment.
- (4) The employee will not be in breach of this subclause if the failure to give the required period of notice is because of the birth occurring earlier than expected, the death of the mother of the child, or other compelling circumstances.

(e) Adoption leave

- (i) The employee will notify the employer at least ten weeks in advance of the date of commencement of adoption leave and the period of leave to be taken. An employee may commence adoption leave prior to providing such notice, where through circumstances beyond the control of the employee, the adoption of a child takes place earlier.
- (ii) Before commencing adoption leave, an employee will provide the employer with a statutory declaration stating:
 - (1) the employee is seeking adoption leave to become the primary care-giver of the child;
 - (2) particulars of any period of adoption leave sought or taken by any other person in respect of that child, and
 - (3) that for the period of adoption leave the employee will not engage in any conduct inconsistent with their contract of employment.
- (iii) An employer may require an employee to provide confirmation from the appropriate government authority of the placement.
- (iv) Where the placement of a child for adoption with an employee does not proceed or continue, the employee will notify the employer immediately and the employer will nominate a time not exceeding four weeks from receipt of notification for the employee's return to work.

- (v) An employee will not be in breach of this subclause as a consequence of failure to give the stipulated periods of notice if such failure results from a requirement of an adoption agency to accept earlier or later placement of a child, the death of an adoptive parent or other compelling circumstances.
- (vi) An employee seeking to adopt a child is entitled to unpaid leave for the purpose of attending any compulsory interviews or examinations as are necessary as part of the adoption procedure. The employee and the employer should agree on the length of the unpaid leave. Where agreement cannot be reached, the employee is entitled to take up to two days unpaid leave. Where paid leave is available to the employee, the employer may require the employee to take such leave instead.

(f) Parental Leave and Other Entitlements

An employee may in lieu of or in conjunction with parental leave, access any annual leave or long service leave entitlements which they have accrued subject to the total amount of leave not exceeding 52 weeks.

(g) Part time work

(i) Entitlement

With the agreement of the employer:

- (1) An 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.
- (2) 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.

(ii) 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.

(iii) Pro Rata Entitlements

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

(iv) Transitional Arrangements - Annual Leave

- (1) An employee working part-time under this subclause shall be entitled to any leave accrued in respect of a period of full-time employment, as if the employee was still working full-time, in the position held prior to taking leave.
- (2) (A) A full-time employee shall be entitled to annual leave accrued in respect of a period of part-time employment under this subclause, as if the employee was working part-time in the position held, 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.

(v) Transitional Arrangements - Personal Leave

An employee working part-time under this subclause shall have personal 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.

(vi) Part-time Work Agreement

- (1) Before commencing a period of part-time employment under this subclause 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.
- (2) The terms of this agreement may be varied by consent.
- (3) 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.
- (4) The terms of this agreement shall apply to the part-time employment.

(vii) Termination of Employment

- (1) 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.
- (2) 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.

(viii) 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 paragraph (vi).

(ix) 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.

(x) Inconsistent Award Provisions

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

- (1) limiting the number of employees who may work part-time;
- (2) establishing quotas as to the ratio of part-time to full-time employees;
- (3) prescribing a minimum or maximum number of hours a part-time employee may work; or
- (4) requiring consultation with, consent of or monitoring by a union;

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

(h) Replacement Employees

- (i) A replacement employee is an employee specifically engaged as a result of an employee proceeding on parental leave or working part time in accordance with this clause.
- (ii) A replacement employee may be employed part-time. The provisions of this subclause in relation to annual leave and personal leave apply to the part-time employment of replacement employees.
- (iii) Before an employer engages a replacement employee under this paragraph, the employer shall inform the person of the temporary nature of the employment and of the rights of the employee who is being replaced. Specifically, the employer must advise that the period of engagement is subject to variation or change in the event that the employee on leave exercises the right to vary the period of leave.
- (iv) Unbroken service as a replacement employee shall be treated as continuous service.
- (v) Nothing in this subclause shall be construed as requiring an employer to engage a replacement employee.

(i) Return to Former Position after a Period of Parental Leave or Part Time Work

Unless other wise agreed between employee and employer, and consistent with the provisions of this clause

- (i) An employee will give at least four weeks' notice prior of their intention to return to work after a period of parental leave or part time work in accordance with this clause.
- (ii) An employee will be entitled to the position which they held immediately before proceeding on parental leave or part time work. In the case of an employee transferred to a safe job pursuant to subclause (c)(vii) of this clause, the employee will be entitled to return to the position they held immediately before such transfer.
- (iii) During the period of parental leave an employee shall be entitled to return to work at any time, as agreed between the employer and the employee, provided that the employer may require notice of not more than four weeks.
- (iv) An employee shall be entitled to extend the period of parental leave on one occasion, provided that the employer may require notice of not more than four weeks.
By mutual agreement between the employee and the employer, the period of leave may be further extended.

(j) Redundancy

- (i) If a position held by an employee prior to taking parental leave is likely to be made redundant before the employee returns to work, the employer must advise the employee of the impending redundancy, provide an opportunity for consultation and shall not disadvantage the employee by virtue of the taking of parental leave.
- (ii) 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 will be entitled to a position as nearly comparable in status and pay to that of their former position.

(k) Right To Request Variation To Parental Leave Provision

- (i) An employee entitled to parental leave pursuant to the provisions of this clause may request the employer to allow the employee:
 - (1) to extend the period of simultaneous unpaid parental leave up to a maximum of eight weeks;
 - (2) to extend the period of unpaid parental leave by a further continuous period of leave not exceeding 12 months;
 - (3) to return from a period of parental leave on a part-time basis until the child reaches school age,to assist the employee in reconciling work and parental responsibilities.
- (ii) The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

(l) Communication During Parental Leave

- (i) Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:
 - (1) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
 - (2) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.

- (ii) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.
- (iii) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with (l)(i).

22. PART-TIME EMPLOYEES

Employees may be engaged to work regularly per week for less hours than those prescribed in Clause 18 - Hours of this award and shall be paid pro rata at a rate of 1/38th of the rates prescribed in Clause 8 - Wage Rates.

23. PAYMENT OF WAGES

- (a) 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 is kept waiting. Casual employees shall be paid within one hour of the termination of employment.
- (b) Payment may be made weekly or fortnightly and shall be in cash or by cheque or by direct bank deposit in an account nominated by the employee. The frequency of payment shall be the result of agreement being reached between the employer and majority of employees concerned. The method of payment shall be at the discretion of the employer.
- (c) Where a cheque is not met upon presentation or a 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. PERSONAL LEAVE

- (a) The provisions of this clause apply to full-time and regular part-time employees (on a pro rata basis) but do not apply to casual employees. The entitlements of casual employees are set out in subclause (j).

Definitions

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

- (i) spouse (including a former spouse, a de facto spouse and a former de facto spouse) of the employee. A de facto spouse means a person of the opposite sex to the employee who lives with the employee as his or her husband or wife on a bona fide domestic basis; and
 - (ii) child or an adult child (including an adopted child, a step child or an ex-nuptial child), parent, grandparent, grandchild or sibling of the employee or spouse of the employee.
- (b) Amount of Paid Personal Leave
- (i) Paid personal leave is available to an employee, when they are absent:
 - (1) due to personal illness or injury; or
 - (2) for the purposes of caring for an immediate family or household member who is sick and requires the employee's care and support or who requires care due to an unexpected emergency.
 - (ii) The employee shall not be entitled to such leave of absence for any period in respect of which he is entitled to workers' compensation;
 - (iii) The employee shall not be entitled in any year (whether in the employment of one employer or of more) to personal leave credit in excess of 2 weeks of ordinary working time;
 - (iv) For the purpose of administering paragraph (iii) above an employer may within 2 weeks of the employee entering his employment require an employee to make a sworn declaration or other written statement as to what paid leave of absence he has had from any employer during the then current year, and upon such statement the employer shall be entitled to rely and act.
- (c) Personal leave shall accumulate from year to year so that any balance of the period specified in subclause (b)(iii) of this clause which has in any year not been allowed to an employee by an employer as paid personal 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 personal leave prescribed in respect of that year.
- (d) An employer shall not be required to make any payment in respect of accumulated personal leave credits to an employee who is discharged or leaves his employment, or for any time an employee is absent from work without producing satisfactory evidence of personal illness.

(e) Personal Leave for Personal Injury or Sickness

An employee is entitled to use the full amount of their personal leave entitlement including accrued leave for the purposes of personal illness or injury, subject to the conditions set out in this clause.

(f) Personal Leave to Care for an Immediate Family or Household Member

- (i) An employee is entitled to use up to 10 days personal leave, including accrued leave, each year to care for members of their immediate family or household who are sick and require care and support or who require care due to an unexpected emergency, subject to the conditions set out in this clause.

Leave may be taken for part of a single day.

- (ii) By agreement between an employer and an individual employee, the employee may access an additional amount of their accrued personal leave for the purposes set out in paragraph (f)(i), beyond the limit set out in paragraph (f)(i). In such circumstances, the employer and the employee shall agree upon the additional amount that may be accessed.

(g) Employee Must Give Notice

The employee shall, prior to 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. Where such notification is not given, the employer shall be entitled to require as proof in accordance with subclause (h) of this clause a certificate of a medical practitioner.

PROVIDED that where the employee genuinely is unable to give notification prior to the commencement of the shift the requirements of subclause (h) of this shall apply.

(h) Evidence Supporting Claim

- (i) The employee shall provide proof that the employee was unable, on account of such illness or injury, to attend for work on the day for which the personal leave is claimed in the form of a sworn statutory declaration or a medical certificate provided by a qualified medical practitioner. In the case of absences of more than a single day an employer may request, prior to the employee's return to work, as proof a medical certificate.
- (ii) When taking leave to care for members of their immediate family or household who require care due to an unexpected emergency, the employee must, if required by the employer, establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

(i) Unpaid Personal Leave

Where an employee has exhausted all paid personal leave entitlements, they are entitled to take unpaid personal leave to care for members of their immediate family or household who are sick and require care and support or who require care due to an unexpected emergency. The employer and the employee shall agree on the period. In the absence of agreement, the employee is entitled to take up to two days (up to a maximum of 16 hours) per occasion, provided the requirements of subclauses (g) and (h) are met.

(j) Casual Employees – Caring Responsibilities

Subject to the evidentiary and notice requirements in subclauses (g) and (h) casual employees are entitled to not be available to attend work, or to leave work if they need to care for members of their immediate family or household who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.

The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.

An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

25. PREFERENCE OF EMPLOYMENT

(a) Preference in engagement and retention of employees shall be given equally to persons in the following categories who are available and suitable:

- (i) members of the Liquor, Hospitality and Miscellaneous Union - Tasmanian Branch;
- (ii) persons who are prepared to give forthwith a written undertaking to apply to join the Liquor, Hospitality and Miscellaneous Union - Tasmanian Branch within 14 days;
- (iii) conscientious objectors.

If there is more than one person applying for employment within any or all of these categories, the employer shall have freedom to select any one or more of such persons in his or its discretion.

(b) An employer shall dismiss an employee who fails to honour a written undertaking to apply to join the Liquor, Hospitality and Miscellaneous Union - Tasmanian Branch.

- (c) Conscientious objectors shall pay a sum equivalent to the subscription to the Liquor, Hospitality and Miscellaneous Union - Tasmanian Branch to a charity to be agreed upon between the person concerned and the union and in default of agreement to Consolidated Revenue. The payment shall be made at the same time and on the same conditions as apply to payment of subscriptions to the union.
- (d) This clause shall not apply in respect of engagement of employees in the following categories:
 - (i) employees sought for confidential or managerial positions;
 - (ii) owners of businesses or their spouses.

26. PROTECTIVE CLOTHING

- (a) Where an employee is required to work under wet or dirty conditions, suitable protective clothing including footwear, shall be supplied free of charge by the employer to the employees concerned and any such clothing shall be maintained by and remain the property of the employer.
- (b) Any dispute as to the necessity or suitability of such clothing shall be resolved by consultation between management, shop stewards and/or union representative. Where agreement cannot be achieved the matter shall be referred to the Secretary for Labour for adjudication whose decision shall be final.
- (c) An issue of 2 pairs of suitable overalls or coveralls shall be supplied by the employer to employees and any such clothing shall be maintained by and remain the property of the employer. Any dispute as to the suitability of such clothing shall be resolved in accordance with subclause (b) of this clause.

27. RIGHT OF ENTRY

For the purpose of interviewing employees on legitimate union business, an officer of the Liquor, Hospitality and Miscellaneous Union - Tasmanian Branch, shall be permitted to enter the employer's premises subject to the following:

- (a) that he produces his authority to the employer;
- (b) that if the employer alleges that the officer is unduly interfering with the employer's work operations, or that the officer is offensive, the employer may then refuse right of entry, subject to the union's right to bring such refusal before the Secretary for Labour for determination.

28. SETTLEMENT 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) above, by negotiation between the union and employer representatives;
- (c) failing agreement being reached within the provisions of subclause (b) above, the union or the employer may refer the matter to the Tasmanian Industrial Commission for decision;
- (d) whilst this disputes procedure is being followed the status quo prevailing before the dispute arose shall be maintained.

29. SHIFT WORKERS

- (a) Shifts may be worked by employees at such hours as may be agreed upon by the employer and employees concerned.
- (b) For working shift work on any day, Monday to Friday (excluding Public Holidays) an employee shall be paid an allowance in addition to the rate prescribed in Clause 8 - Wage Rates as follows:
 - (i) Early Morning Shift 15%
 - (ii) Afternoon Shift 15%
 - (iii) Night Shift 15%
 - (iv) Permanent Night Shift 30%
- (c) For the purpose of this clause:
 - (i) **'Afternoon Shift'** means a shift finishing after 6.00 pm.
 - (ii) **'Early Morning Shift'** means a shift commencing prior to 6.30 am.
 - (iii) **'Night Shift'** means a shift finishing after midnight and at or before 8.00 am.
 - (iv) **'Permanent Night Shift'** means a night shift which does not alternate with another shift so as to give the employee at least one third of his/her working time off night shift.

30. STEWARD

An employee appointed Union Steward upon notification to the employer that he or she is an accredited representative of the union shall be allowed reasonable time during working hours to attend to matters affecting the relationship between the employees, employer and the union.

31. SUNDAY, SATURDAY AND HOLIDAY WORK

- (a) An employee who is employed on a Saturday shall be paid at the rate of time and one half for the first 2 hours and double time thereafter.
- (b) An employee required to work on a Sunday shall be paid at the rate of double time.
- (c) An employee required to work on any of the holidays prescribed in Clause 17 - Holidays with Pay of this award shall be paid at the rate of double time and one half.
- (d) The method by which the hourly rate shall be calculated for the purpose of this clause shall be by division of the weekly rate of pay for the employee concerned by 38.
- (e) Subject to agreement being reached between the employee and the employer, time off may be allowed in lieu of payment of penalties. The amount of time off shall be calculated on the basis of the appropriate penalty rate.

32. TIME AND WAGES BOOK

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

The time and wages book shall be made available for inspection to a duly accredited representative of the Liquor, Hospitality and Miscellaneous Union - Tasmanian Branch.

James P McAlpine
COMMISSIONER

3 August 2009

APPENDIX TO LAUNDRY AND DRY CLEANING AWARD

SUPERANNUATION

1. ARRANGEMENT

	<u>Clause No.</u>
Arrangement	1
Definitions	2
Fund	3
Eligibility for Membership	4
Employer Contributions	5
Employee Contributions	6
Cessation of Contributions	7
Exemptions	8

2. DEFINITIONS

- (a) **'Approved Fund'** means a superannuation fund which is established in accordance with the Operational Standards for Occupational Superannuation Schemes and has received preliminary listing from the office of the Occupational Superannuation Commissioner - Interim Group.
- (b) **'Eligible Employee'** means a full-time, part-time or casual employee who is employed under a classification of the Laundrymen's Award and who has completed six calendar weeks service with the employer.
- (c) **'Employer'** means an employer bound by the terms of the Laundrymen's Award.
- (d) **'Ordinary Time Earnings'** means the award classification rate, overaward payments and shift loadings (where relevant).
- (e) **'Tasplan'** means the Tasplan Fund established by Trust Deed and Articles on 24 March 1987.
- (f) **'Union'** means the Liquor, Hospitality and Miscellaneous Union - Tasmanian Branch; the Federated Engine Driver's and Firemen's Association of Australasia, Tasmanian Branch; and the Transport Workers' Union of Australia, Tasmanian Branch.

3. FUND

- (a) For the purpose of this award contributions made by the employer in accordance with the provisions of Clause 5 - Employer Contributions, shall be paid to the Treasurer of Tasplan.

- (b) An employer bound by this Appendix shall become party to Tasplan 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.

4. ELIGIBILITY FOR MEMBERSHIP

- (a) An employee shall become eligible for membership of the approved Superannuation Fund on the first entry date which occurs after the employee has completed six calendar weeks continuous service with the employer. The employee having completed the six weeks waiting period shall be eligible to have contributions paid to the Fund subject to Clause 5 - Employer Contributions, from the date of engagement with the employer.
- (b) An employee shall be enrolled in the approved Superannuation Fund upon the acceptance of the Administrator of the Fund of a membership application form and shall be deemed to be a member of the scheme from his or her entry date as prescribed in subclause (a) herein.
- (c) Notwithstanding the provisions contained in subclause (a) and (b) herein, an employee who is a member of an Approved Fund and was having contributions paid in accordance with this Appendix at his or her previous place of employment shall continue to have contributions paid on his or her behalf from the date of commencing employment with the current employer.

5. EMPLOYER CONTRIBUTIONS

- (a) Subject to the rules of the Fund, and subclause (c) herein, an employer shall contribute to the Fund in respect of each employee who is a member of the Fund an amount at the rate of nine per cent of ordinary time earnings for each complete week employed. This calculation shall be based on the ordinary time worked by an employee in any week and shall exclude work performed and paid as overtime.
- (b) Subject to subclause (a) herein an eligible employee shall have a minimum contribution per week paid into the Fund of \$1.30.
- (c) 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.
- (d) An employer shall not be required to contribute during any periods of unpaid leave. Furthermore, an employer shall not be required to make additional contributions in respect of annual leave paid out on termination.
- (e) Pro rata deduction shall be made from the weekly contribution payable for any unauthorised absence of at least one day's duration.

6. EMPLOYEE CONTRIBUTIONS

Subject to the rules of the Fund, employees who may wish to make contributions to the Fund additional to those being paid pursuant to Clause 5 - Employer Contributions - herein, shall be so entitled. Such employees may either forward their own contribution directly to the Fund Administrators or, where it is practicable to do so, authorise the employer to pay into the Fund from the employees' wages, amounts specified by the employer subject to the amount of contribution being expressed in whole dollars and any adjustment to the level of contribution being subject to 3 months notice in writing from the employee to the employer or such lesser period as they may both otherwise agree.

7. CESSATION OF CONTRIBUTIONS

An employee's eligibility for contributions to the Fund will cease on the last day of employment with the employer and the employer shall not make any contributions to the Fund in respect of any period beyond that last day of employment.

8. EXEMPTIONS

For the purpose of this award the following companies have been determined to be exempted from the use of Tasplan and shall contribute to the "Approved Fund" so nominated:

<u>Company</u>	<u>Approved Fund</u>
Daisy Fresh Dry Cleaners	The Employee Retirement Plan
Lukes Coastal Laundry	Australian Retirement Fund