

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

LEATHER, CANVAS AND SHEET PLASTIC FABRICATION AWARD

ORDER -

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

AMEND THE LEATHER, CANVAS AND SHEET PLASTIC FABRICATION 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 "Leather, Canvas and Sheet Plastic Fabrication Award".

2. SCOPE

This award is established in respect of the industry of processing or manufacturing articles from canvas and/or leather and/or substitutes therefore, and/or from sheet plastic, and/or from rope, cord or twine.

3. ARRANGEMENT

| <u>Subject Matter</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 | 5 |
| Allowances | 9 | 13 |
| Annual Leave | 10 | 13 |
| Bereavement Leave | 11 | 15 |
| Contract of Employment | 12 | 16 |
| Holidays with Pay | 13 | 17 |
| Hours | 14 | 17 |
| Meal Interval and Meal Allowance | 15 | 20 |
| Mixed Functions | 16 | 20 |
| Overtime | 17 | 20 |
| Parental Leave | 18 | 21 |
| Payment of Wages | 19 | 30 |
| Personal Leave | 20 | 30 |
| Right of Entry of Union Officials | 21 | 33 |
| Saturday Work | 22 | 33 |
| Shift Work | 23 | 33 |
| Shop Stewards | 24 | 34 |
| Sunday Work | 25 | 34 |
| Superannuation | 26 | 34 |

4. DATE OF OPERATION

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

PROVIDED that it is a term of this award (arising from the decision of the Tasmanian Industrial Commission in the State Wage Case of 30 October 1989) that the union(s) undertake(s), for the duration of the principles determined by that decision, not to pursue any extra claims, award or overaward, except where consistent with those principles.

5. SUPERSESSION AND SAVINGS

This award incorporates and supersedes the Leather, Canvas and Sheet Plastic Fabrication 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 engaged in the industry specified in Clause 2 - Scope;
- (c) the following organisations of employees in respect of whom award interest has been determined:
 - (i) the Liquor, Hospitality and Miscellaneous Union - Tasmanian Branch and the Officers of that organisation and their members employed in the industry specified in Clause 2 - Scope;
 - (ii) The Australian Workers' Union, Tasmania Branch and the Officers of that organisation and their members employed in the industry specified in Clause 2 - Scope;
- (d) the following organisation of employers of whom award interest has been determined:

the Tasmanian Chamber of Commerce and Industry Limited.

7. DEFINITIONS

'Show Day' means not more than one local Show Day observed on an employee's ordinary working day, other than a Saturday or 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.

8. WAGE RATES

1. WAGE RATES

The following shall be the wage rate for each classification:

| | Base Rate Relativity % | Base Rate \$ | Safety Net Adjustment \$ | Weekly Wage Rate \$ |
|------------------------------------|------------------------------|--------------------|--------------------------------|---------------------------|
| Level 1 | | | | |
| First 6 months' experience | 92 | 385.50 | 232.70 | 618.20 |
| 6 to 12 months' experience | 92 | 385.50 | 232.70 | 618.20 |
| More than 12 months' experience | 92 | 385.50 | 232.70 | 618.20 |
| Level 2 | 100 | 417.20 | 234.70 | 651.90 |
| Level 3 | 110 | 438.10 | 234.70 | 672.80 |

2. CLASSIFICATIONS

Level 1

Employees at this level:

- (a) (i) will exercise discretion, initiative and judgement on the job in their own work, either individually or in a team environment; and
- (ii) will exercise skills to:
- perform intermediate and/or complex task/s, or
 - perform a series of different operations on a machine/s, or
 - use a variety of machine types three of which require the exercise of Level 1 skills; and
- (iii) will be responsible for quality assurance in their own work and assembly of component parts including having an understanding of how this work relates to subsequent production processes and its contribution to the final appearance of the finished item.
- (b) In addition, according to the needs and operational requirements of the enterprise, employees at this level:
- (i) may be required to investigate causes of quality deviations to specified standards and recommend preventative action.

- (ii) may be required to exercise the skills necessary to assist in providing on-the-job instruction to employees in skills required at skill level 1 by way of demonstration and explanation.
- (iii) may be required to record detailed information on, and recommend improvements to, production and/or quality.
- (iv) may be required to take a co-ordinating role for a group of workers or in a team environment (which includes contributing to the identification and resolution of the problems of others and assisting in defining work group procedures and methods), where the members of the group or team are at this skill level.
- (v) may be required to exercise advanced equipment maintenance and problem solving skills (including identification of major equipment faults).
- (vi) may commence training in additional skills required to advance to a higher skill level.

Level 2 - Trade Rate

- (a) Employees at this level exercise the skills required to be graded at skill level 1 and have a comprehensive knowledge of product construction. Employees at this level will also:
 - (i) apply skills and knowledge, equivalent to that of a qualified tradesperson, that have been acquired as a result of training or experience; or
 - (ii) hold a relevant trade certificate, and
 - will work largely independently (including developing and carrying out of a work plan to specifications), and
 - will exercise a range of skills involving planning, investigation and resolution of problems, and/or training, and/or supervision, and/or specialised technical tasks, or
 - will make a whole item to specifications, or exercise equivalent skills.
- (b) In addition, according to the needs and operational requirements of the enterprise, employees at this level:
 - (i) may be required to apply quality control/assurance techniques to their work group or team.
 - (ii) may have designated responsibility for the training of other employees (and if so shall be trained trainers).

- (iii) may be responsible for quality and production records relating to their own work group or team.
- (iv) may be required to take a co-ordinating role for a group of workers or in a team environment (which includes contributing to the identification and resolution of the problems of others and assisting in defining work group procedure and methods), where the members of the group or team are at skill level 2 and below.
- (v) may be required to exercise advanced equipment maintenance and problem solving skills (including identification of major equipment faults and organisation or performance of necessary repair).
- (vi) may commence training in additional skills required to advance to a higher skill level.

Level 3 - Sail Maker

'Sail maker' means a person who is engaged to and is capable of designing and making sails. The employee must be capable of performing all of the following functions:

- Laying out and cutting of the sails.
- Supervise the joining and assembling of the sail, including the positioning of the pattern pockets and cuts the flow to luff and leech of sail.
- Supervise and/or perform the work of 'ticking' ropes to surround the sail.
- Supervise the 'hand finishing' of the sail and be responsible for the final cut of the sail and will modify the sail if necessary.

An employee at this level performs functions above and beyond the duties of a Level 2 employee.

Indicative of the tasks which an employee at this level may perform are the following:

- (a) Exercise the skills attained through satisfactory completion of the training prescribed for this classification.
- (b) Exercises discretion within the scope of this level.
- (c) Understands and implements quality control techniques.
- (d) Provides trade guidance and assistance as part of a team.
- (e) Applies intermediate computer numerical control techniques in machining.
- (f) Exercises basic skills in CAD/CAM operations.

- (g) Exercises trade skills relevant to the specific requirements of the enterprise at a level higher than that of a Level 2 employee.

3. APPRENTICES

The minimum ordinary rates of payment to be paid by employers to apprentices shall be the undermentioned percentages of the appropriate tradesman's rate of wages appearing in this clause:

| | % of Tradesman's Rate (Level 2) |
|-------------|------------------------------------|
| First year | 38% |
| Second year | 55% |
| Third year | 72% |
| Fourth year | 88% |

4. JUNIORS

The minimum rates of wages that may be paid by employers to junior workers shall be the undermentioned percentages of the appropriate classification.

| | Percentage |
|-----------------------------|------------|
| Under 17 years of age | 65% |
| 17 years to 18 years of age | 75% |
| 18 years to 19 years of age | 85% |
| 19 years to 20 years of age | 100% |

5. LEADING HANDS

A leading hand shall, in addition to their classification rate, be paid the following amount:

- | | |
|--|------------------------|
| (a) In charge of 1 to 3 employees | \$11.20 per week extra |
| (b) In charge of 4 to 6 employees | \$14.50 per week extra |
| (c) In charge of 7 to 9 employees | \$17.30 per week extra |
| (d) In charge of more than 9 employees | \$20.10 per week extra |

6. SUPPORTED WAGE SYSTEM

- (a) Eligibility Criteria

Subject to this subclause an employer may engage employees at a supported wage rate (as set out in paragraph (c) 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 Section 10 or under Section 12A of the above Act, or if a part only has received recognition, that part.

(b) For the purposes of this subclause:

'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.

'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.

'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.

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

(c) 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 (d)) | % 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.

(d) 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:

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

(e) Lodgment of Assessment Instrument

- (i) 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.
- (ii) 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.

(f) 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.

(g) 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.

(h) 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.

(i) Trial Period

- (i) In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this subclause for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.
- (ii) 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 (d) and (e).
- (iii) 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.
- (iv) Work trials should include induction or training as appropriate to the job being trialed.
- (v) 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 (c) hereof.

7. MINIMUM WAGE

(a) Minimum Wage

No employee shall be paid less than the minimum wage.

(b) Amount of Adult Minimum Wage

- (i) The minimum wage for full-time adult employees not covered by subclause 6 - Supported Wage System is \$558.10 per week.
- (ii) 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 paragraph (b)(i).
- (iii) 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 paragraph (b)(i) according to the number of hours worked.

(c) How the Minimum Wage Applies to Juniors

- (i) The wage rates provided for juniors by this award continue to apply unless the amount determined under paragraph (c)(ii) is greater.
- (ii) 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 paragraph (b)(i).

(d) 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.

(e) Application of Minimum Wage to Award Rates Calculation

The minimum wage:

- (i) applies to all work in ordinary hours;
- (ii) 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
- (iii) is inclusive of the arbitrated safety net adjustment provided by the July 2009 State Wage Case Decision (T13471 of 2009) and all previous safety net and state wage case adjustments.

9. ALLOWANCES

Tool Allowance

All employees engaged in classifications that are proclaimed as trades under the Industrial and *Commercial Training Act, 1985* shall either be supplied with all tools by the employer or be paid a tool allowance of not less than \$8.10 per week.

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

10. 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) in any one of the occupations to which this award applies.

(b) Annual Leave Exclusive of Public Holidays

Subject to this subclause, the annual leave prescribed by this clause shall be exclusive of any holidays prescribed by Clause 13 - 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 that period one day for each such holiday falling as aforesaid.

Where a holiday falls as aforesaid and the employee fails without reasonable cause, proof whereof shall be upon him, to attend for work at his ordinary starting time on the working day immediately following the last day of the period of his annual leave he shall not be entitled to be paid for any such holiday.

(c) Calculation of Continuous Service

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

- (i) any interruption or determination of the employment by the employer if such interruption or determination 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 and in calculating the period of 12 months continuous service absence on account of personal sickness or accident to the extent of 91 days in any 12 months shall be deemed to be paid of the period of continuous service; or

(iii) any absence with reasonable cause, proof whereof shall be upon the employer, or leave lawfully granted by the employer, but such absence shall not be taken into account in calculating the period of 12 months continuous service.

(d) Proportionate Leave on Termination of Service

If after 1 month's continuous service in any qualifying 12 monthly period an employee lawfully leaves his employment, or his employment is terminated by the employer through no fault of the employee the employee shall be paid at his ordinary rate of wage as follows:

12 1/2 hours for each completed month of continuous service.

(e) Leave to be Given and Taken

The annual leave provided for by this clause shall be allowed and shall be taken and except as provided for in subclause (d) of this clause payment shall not be made or accepted in lieu of annual leave.

(f) Broken Leave

The annual leave provided for by this clause shall be given and taken at a time fixed by the employer.

By agreement between the employer and employee the leave may be broken into shorter periods provided one period is of at least 14 consecutive days.

(g) Calculation of Service

Where the employer is a successor or assignee or transmittee of business if the employee was in the employment of the employer's predecessor at the time when he became such successor or assignee or transmittee the employee in respect of the period during which he was in the service of the predecessor shall for the purpose of this clause be deemed to be in the service of the employer.

(h) Payment for Period of Leave

(i) 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 or periods plus a loading equal to 17 1/2% of the amount paid in respect of annual leave.

(ii) The provisions of this subclause shall not apply to proportionate leave on termination of service.

- (iii) **PROVIDED** that when annual leave is granted in advance of an entitlement falling due, the leave loading is not payable until an employee has completed 12 months service.

11. BEREAVEMENT LEAVE

(a) Paid Leave Entitlement

An employee shall on the death of a wife, husband, father, mother, child, step-child, brother, sister, mother-in-law, father-in-law, step-mother, step-father, 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 FURTHER 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.

12. CONTRACT OF EMPLOYMENT

- (a) Except as hereinafter provided, employment shall be by the week.

Any employee employed by the week shall, provided he is ready, willing and available for work be paid the weekly wage prescribed for a full week's work and in addition thereto such overtime or other penalty rates if any that may have occurred during the relevant period.

- (b) Employment shall be terminated by a week's notice on either side given at any time during the week or by the payment or forfeiture of a week's wages, as the case may be. This shall not affect the right of the employer to dismiss any employee without notice for malingering, inefficiency, neglect of duty or misconduct, and in such cases the wages shall be paid up to the time of dismissal only or to deduct payment for any day the employee cannot be usefully employed because of any strike, or through any break-down in machinery or any stoppage of work by any cause for which the employer cannot be reasonably held responsible.
- (c) Any employee not attending for duty shall, except as provided by Clause 20 – Personal Leave of this award, lose his pay for the actual time of such non-attendance.

- (d) Casual Employees

An employee may be engaged on a casual basis provided:

- (i) the engagement is to fill a temporary vacancy occasioned by the absence of another employee; or
- (ii) the engagement does not exceed one month's duration;
- (iii) a casual employee for ordinary time shall be paid an hourly rate of one thirty-eighth of the weekly rate expressed in Clause 8 - Wage Rates plus a loading of 20%.

Such loading shall be in lieu of annual leave, sick leave and public holiday payments.

- (e) Part-time Employees

- (i) The employer may engage part-time employees to regularly work for less hours per day or per week than a full-time employee. A part-time employee shall be paid per hour one thirty-eighth of the appropriate rate in Clause 8 - Wage Rates.

A part-time employee shall be entitled to annual leave, sick leave and public holidays and all other award provisions in the same proportion as their hours bear to thirty-eight.

- (ii) A part-time employee shall work in accordance with a pre- established roster and shall be paid at overtime rates for work outside of such rostered hours.

PROVIDED that the roster may be altered by mutual agreement without notice or by the employer giving not less than 7 clear days notice.

- (iii) Should full-time employment within the classification of work being performed by a part-time employee become available the part-time employee shall be offered the opportunity to apply for such full-time position.
- (iv) No full-time employee will be reduced to part-time status without their written consent.
- (v) No more than 10% of the employees in any one establishment shall be engaged on a part-time basis provided that any establishment will be permitted to employ at least one part- time employee.
- (vi) The minimum engagement per day or shift for a part-time employee shall be three hours.

13. HOLIDAYS WITH PAY

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

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 holidays, he had been at work.
- (c) Payment to an employee (including a casual employee) for work performed on holidays mentioned in subclause (a) above, shall be at the rate of double time and one half for all time worked on that holiday.

14. HOURS

- (a) The ordinary hours of work subject to the exceptions herein provided, shall be an average of 38 hours per week, to be worked on one of the following bases:
 - (i) 38 hours within a work cycle not exceeding seven (7) consecutive days; or

- (ii) 76 hours within a work cycle not exceeding fourteen (14) consecutive days; or
- (iii) 114 hours within a work cycle not exceeding twenty-one (21) consecutive days; or
- (iv) 152 hours within a work cycle not exceeding twenty-eight (28) consecutive days.

The method of working may be one of the following:

- (v) by employees working less than eight (8) ordinary hours each day; or
- (vi) by employees working less than eight (8) ordinary hours on one or more days each week; or
- (vii) by fixing one week day on which all employees will be off during a particular work cycle; or
- (viii) by rostering employees off on various days of the week during a particular work cycle so that each employee has one day off during that cycle.

The ordinary hours of work prescribed herein may be worked on any day or all of the days of the week, Monday to Friday.

- (ix) Where the 38 hour week is organised in accordance with subclauses (a)(vii) or (a)(viii) the employer may require the employee to accumulate the rostered days off up to a maximum accumulation of 5 days.
- (b) The ordinary hours of work prescribed herein shall be worked continuously, except for meal breaks, at the discretion of the employers between 7.30am and 5.30pm, provided that the spread of hours may be altered by mutual agreement between the employer and the majority of employees in the plant or section or sections concerned.

PROVIDED that, work done prior to the spread of hours fixed in accordance with this subclause for which overtime rates are payable, shall be deemed for the purposes of this subclause to be part of the ordinary hours of work.

- (c) The conditions upon which the 38 hour week is operated is that an objective review of current practices can be conducted to establish where improvements can be made and implemented.
- (d) Where an agreement cannot be reached in-plant and where problems arise after agreement or understandings have been achieved, a formal monitoring procedure will apply. The procedures to be applied with respect to special, anomalous or extraordinary problems, where unable to be resolved by the parties, will be referred

in the final analysis to the Tasmanian Industrial Commission, or its legal successor, before any industrial action is taken on the matter.

- (e) In each plant, 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. In the absence of agreement at plant level the procedure for resolving special anomalous or extraordinary problems shall be applied in accordance with subclause (d) of this clause and shall be applied without delay.
- (f) The employer and the majority of employees in the plant or section concerned, may agree that the ordinary working hours are to exceed eight on any day, thus enabling a week day to be taken off more frequently than would otherwise apply. (Not to exceed 10 hours in any day).
- (g) 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.
- (h) Except as provided in subclause (i) of this clause, in cases where by virtue of the arrangement of his ordinary working hours, an employee in accordance with subclause (a)(vii) and (a)(viii) of this clause, is entitled to a day off during his work cycle, such employee shall be advised by the employer at least four (4) weeks in advance of the week day he is to take off.
- (i) **Substitute Days**
 - (i) An employer, with the agreement of the majority of employees concerned, may substitute the day an employee is to take off in accordance with subclauses (a) (vii) and (viii) 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 emergency situations.
 - (ii) An individual employee, with the agreement of his employer, may substitute the day he is to take off for another day.
- (j) The ordinary hours of work prescribed herein, shall not exceed ten (10) hours in any day, provided that in any arrangement of ordinary working hours where the ordinary working hours are to exceed eight on any day, the arrangement of hours shall be subject to the agreement of the employer and the majority of employees in the plant or section or sections concerned and the union or relevant branch thereof.
- (k) After the first three weeks of employment, the ordinary starting or finishing time of an employee shall not be changed during the currency of the working week unless overtime is paid, provided however that the starting or finishing times may be changed without payment of overtime in the case of sickness or accident or breakdown of plant or equipment.
- (l) The starting and finishing times fixed by this clause shall be strictly observed by employees. The start and finish times expressed shall mean the times at which an

employee is at the designated work station ready for work. An employee shall lose pay for late start or early finish.

15. MEAL INTERVAL AND MEAL ALLOWANCE

- (a) No employee shall be required to work more than 5 hours without an interval for a meal break for a minimum period of half an hour to a maximum period of one hour.
- (b) Any employee required to work overtime for more than one and a half hours immediately following his ordinary working hours, without being notified the previous day by the employer that he will be so required to work, shall be supplied with an adequate meal by the employer or be paid a meal allowance of \$15.40.
- (c) Any dispute as to what constitutes an adequate meal shall be referred to the Tasmanian Industrial Commission for determination.
- (d) The payment prescribed in subclause (b) of this clause shall be made on the day on which the overtime is worked.

16. MIXED FUNCTIONS

An employee engaged for more than two hours of one day on duties carrying a higher rate than his ordinary classification shall be paid the higher rate for such day. If for less than two hours of one day, he shall be paid the higher rate for the time so worked.

PROVIDED that where it is the practice of the employer to rotate employees between various jobs the two hour limitation shall be increased to 4 hours.

17. OVERTIME

- (a) For all work performed in excess of the hours prescribed in Clause 14 - Hours subclause (a) of this award or before or after the usual time of starting or finishing of work, an employee shall be paid at the rate of time and one half for the first three hours and double time thereafter.
- (b) Requirement to Work Reasonable Overtime
 - (i) Subject to paragraph (ii) of this subclause, 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.

18. 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 otherwise 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 subparagraph (l)(i)(1).

19. PAYMENT OF WAGES

The wages prescribed by this award shall be paid not later than Thursday of each week. By agreement between the employer and the majority of employees wages may be paid other than in cash.

PROVIDED that if agreement cannot be reached the employer may introduce payment by electronic funds transfer by giving not less than 3 months notice of his intention so to do.

If payment is effected by electronic funds transfer the employer shall meet the cost of one deposit and one withdrawal per pay period.

20. PERSONAL LEAVE

The provisions of this clause apply to an employee, other than one engaged as a casual employee. The entitlements of casual employees are set out in subclause (i) – Casual Employees – Caring Responsibilities.

(a) 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) 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.
- (iii) The employee shall not be entitled in any year to personal leave credit in excess of seventy-six hours of ordinary working time. Provided that during the first three months of employment, personal leave shall accrue on the basis of 6.33 hours for each completed calendar month of service with the employer.
- (iv) Personal 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 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.
- (v) An employer shall not be required to make any payments 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.

(c) 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.

(d) 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 (d)(i), beyond the limit set out in paragraph (d)(i). In such circumstances, the employer and the employee shall agree upon the additional amount that may be accessed.

(e) Employee Must Give Notice

- (i) The employee shall, where practicable before the normal start time inform the employer of his inability to attend for work and as far as may be practicable state the nature of the illness and the estimated duration of absence.

(f) Evidence Supporting Claim

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

(g) Personal Leave and Workers' Compensation

The employee shall prove to the satisfaction of the employer or in the event of a dispute, the Secretary for Labour, that he was unable on account of such illness or injury to attend for work on the day or days for which the personal leave is claimed.

(h) 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 (e) and (f) are met.

(i) Casual Employees – Caring Responsibilities

Subject to the evidentiary and notice requirements in subclauses (e) and (f), 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. Casual employees are 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.

21. RIGHT OF ENTRY OF UNION OFFICIALS

Right of entry shall be in accordance with Section 77 of the *Industrial Relations Act 1984*.

22. SATURDAY WORK

Employees required to work on a Saturday shall be paid at the rate of time and a half for the first 3 hours and double time thereafter.

23. SHIFT WORK

(a) Definitions

For the purposes of this clause the following definitions apply:

- (i) **'Afternoon Shift'** shall mean a shift finishing at or before midnight.
- (ii) **'Night Shift'** shall mean a shift commencing at 10pm or later.

(b) Shift Allowance

An employee engaged to work shift work shall be entitled to receive the following allowances:

- (i) Afternoon Shift - 15%;
- (ii) Permanent Night Shift (ie a shift which does not rotate or alternate with either day and/or afternoon shift) - 30%;
- (iii) Rotating Night Shift - 15%.

The above allowances shall be in addition to the wage rates prescribed in Clause 8 - Wage Rates and shall not be subject to premium or penalty addition. Neither shall they be payable at any time at which an employee is entitled to be paid penalty rates for overtime, weekend work, holiday work or any other purpose.

24. SHOP STEWARDS

An employee appointed shop steward in the factory or premises in which he is employed, upon notification thereof to his employer, be recognized as the accredited representative of the union to which he belongs, and he shall be allowed the necessary time during working hours to interview the employer or employees on union business.

25. SUNDAY WORK

Employees required to work on Sundays shall be paid at the rate of double time.

26. SUPERANNUATION

(a) Definitions

'Tasplan' means the Tasplan Fund established by Trust Deed and Articles on 24 March 1987.

'Approved Fund' means a superannuation fund which is established in accordance with the Operational Standards for Occupational Superannuation Funds and has received preliminary listing from the office of the Occupational Superannuation Commissioner - Interim Group.

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

'Eligible Employee' means a full-time, part-time or casual employee who is employed under a classification of the Leather, Canvas and Sheet Plastic Fabrication Award and who has completed one calendar month's service with the employer.

'Employer' means an employer bound by the terms of the Leather, Canvas and Sheet Plastic Fabrication Award.

'Ordinary Time Earnings' shall include an employee's classification rate, overaward, shift loading, casual loading and any permanent all purpose work related allowance but shall exclude overtime payments, annual leave loading, annual or long service leave payments on termination and allowances paid as a reimbursement of expenses.

(b) Fund

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

- (ii) An employer bound by this clause 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.

(c) Eligibility for Membership

- (i) An employee shall become eligible for membership of the approved Superannuation Fund on the first entry date which occurs after the employee has completed one calendar months continuous service with the employer. The employee having completed the one months waiting period shall be eligible to have contributions paid to the Fund subject to subclause (d) - Employer Contributions, from the date of engagement with the employer.
- (ii) 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 paragraph (i) herein.
- (iii) Notwithstanding the provisions contained in paragraph (i) and (ii) herein, an employee who is a member of an Approved Fund and was having contributions paid in accordance with this clause 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.

(d) Employer Contributions

- (i) Subject to the rules of the Fund, and paragraph (iii) 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.

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.

- (ii) Subject to paragraph (i) herein an eligible employee shall have a minimum contribution per week paid into the Fund of \$1.41.
- (iii) Contributions shall be made for each calendar month an employee is a member of the scheme.
- (iv) 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.

(v) Pro rata deduction shall be made from the weekly contribution payable for any unauthorised absence of at least one day's duration.

(e) 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 subclause (d) - 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.

(f) 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.

Tim Abey
COMMISSIONER

3 August 2009