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**IN THE TASMANIAN INDUSTRIAL COMMISSION**

Industrial Relations Act 1984  
s.29 application for hearing of an industrial dispute

**Goliath Portland Cement Company Limited**  
(T.2664 of 1990)

and

**The Australian Workers' Union,  
Tasmanian Branch** and others

s.23 application to vary an award

**The Australian Workers' Union,  
Tasmanian Branch**  
(T.2671 of 1990)

**Federated Clerks Union of Australia,  
Tasmanian Branch**  
(T.2535 of 1990),

**CEMENT MAKERS AWARD**

COMMISSIONER P A IMLACH

4 OCTOBER 1990

**Industrial dispute - structural efficiency principle**

**ORDER - No. 2 of 1990  
(Consolidated)**

AMEND THE **CEMENT MAKERS AWARD** BY DELETING ALL CLAUSES CONTAINED THEREIN AND INSERTING IN LIEU THEREOF THE FOLLOWING:

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### **1. TITLE**

This award shall be known as the "Cement Makers Award"

### **2. SCOPE**

This award is established in respect of:

- (a) manufacturer of cement; and
- (b) processor of asbestos cement sheets and products

### **3. ARRANGEMENT**

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

This award shall come into operation from 28 August 1990.

**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. SUPERSESION AND SAVINGS**

This award incorporates and supersedes No. 3 of 1989 (Consolidated) and No. 1 of 1990.

**PROVIDED FURTHER**, 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;

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

- (i) the Amalgamated Metal Workers' Union and the officers of that organisation and their members who are employed in the industry specified in Clause 2 - Scope;
- (ii) the Amalgamated Society of Carpenters and Joiners of Australia, Tasmania Branch and the officers of that organisation and their members employed in the industry specified in Clause 2 - Scope;
- (iii) the Australian Workers' Union, Tasmanian Branch and the officers of that organisation and their members who are employed in the industry specified in Clause 2 - Scope;
- (iv) the Building Workers' Industrial Union of Australia, (Tasmanian Branch) and the officers of that organisation and their members who are employed in the industry specified in Clause 2 - Scope; and
- (v) the Electrical Trades Union of Australia, Tasmanian Branch and the officers of that organisation and their members who are employed in the industry specified in Clause 2 - Scope;
- (vi) Federated Clerks Union of Australia, Tasmanian Branch and the officers of that organisation and their members who are employed in the industry specified in Clause 2 - Scope;
- (vii) the Federated Engine Drivers' and Firemen's Association of Australasia, Tasmanian Branch and the officers of that organisation and their members who are employed in :the industry specified in Clause 2 - Scope; and
- (viii) the Transport Workers' Union of Australia, 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 Confederation of Industries.

## **7. DEFINITIONS**

(a) **Electrician, Special class**, i.e. an electrical fitter or electrical mechanic who is mainly engaged on complex or intricate circuitry or both, the performance of which work requires the use of 'additional knowledge' as herein defined.

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For the purpose of this definition, 'additional knowledge' means knowledge in excess of that gained by the satisfactory completion of the appropriate technical college trade course which has been acquired by the tradesman by virtue of his -

- (i) having had not less than two years on-the-job experience as a tradesman working mainly on such complex or intricate circuitry work as will enable the tradesman to perform such work necessary and practicable; and
- (ii) having, by virtue of either the satisfactory completion of a prescribed post-trade course in industrial electronics or the achievement of a comparable standard of knowledge by other means including the on-the-job experience referred to in paragraph (i) hereof, gained a sufficient comprehension of such complex or intricate circuitry work as will enable the tradesman to examine, diagnose and modify systems comprising inter-connected circuits.

For the purpose of this definition the following course is deemed to be the prescribed post-trade course in industrial electronics:

The Industrial Electronics Course of the Technical Education Department of Tasmania, or such other approved course conducted by Educational institutions in other States of Australia.

- (b) **'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; 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**

**DIVISION A - EMPLOYEES OTHER THAN LABORATORY WORKERS AND CLERKS**

1. WAGE RATES

The amounts set out hereunder shall be the minimum rates payable to classifications of employees named herein:

Section I - Persons Employed in Limestone Quarries

	Amount Per Week 38 Hours \$
1. Halco or Gardner Denver Driller	325.70
2. Tamrock DHA 800 Drill Operator	372.40
3. Powder Monkey	331.50
4. Assistant powder monkey	316.10
5. Jackhammer or popper machinist	316.10

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6.	Quarryman	308.50
7.	Crusher attendant	317.70

#### Section II - Plant Operatives (Regular Shift Workers)

1.	Cement Burner No. 4 Kiln	387.30
2.	Millers (when operating 3 mills or less)	322.40
3.	Millers (operating more than 3 mills)	326.30
4.	Miller (No. 4 Raw Mill and No. 4 Cement Mill)	333.50
5.	Utility man	309.30
6.	Pre-heater attendant	308.50
7.	Shift tester	328.10
8.	Shift labourer	308.50
9.	Assistant (No. 4 Raw Mill)	315.30

Employees in this Section shall be paid a shift allowance of 9.9 per cent of the ordinary rate (excluding all allowances) of classification 4, Miller No. 4 Raw and Cement Mill, per week of 38 hours. This allowance shall be taken into consideration in the computation of overtime.

#### Section III - Day Workers

1.	Electric Overhead crane driver	334.00
2.	Employees driving other motor vehicles having maker's capacity of -	
	1.2 tonnes or less	346.50
	Over 1.2 tonnes but not over 3 tonnes	350.40
	Over 3 tonnes but under 6 tonnes	355.10
	6 tonnes and over, but under 7 tonnes	355.80
	7 tonnes and over, but under 8 tonnes	356.70
	8 tonnes and over, but under 9 tonnes	357.40
	9 tonnes and over, but under 10 tonnes	358.20
	10 tonnes and over, but under 11 tonnes	359.10
	11 tonnes and over, but under 12 tonnes	360.00
	12 tonnes and over, but under 13 tonnes	360.60
	13 tonnes and over, but under 14 tonnes	361.80
	14 tonnes and over, but under 15 tonnes	362.60
	15 tonnes and over, but under 16 tonnes	363.40
	16 tonnes and over, but under 17 tonnes	364.30
	17 tonnes and over, but under 18 tonnes	364.70
	18 tonnes and over, but under 19 tonnes	365.90
	19 tonnes and over, but under 20 tonnes	366.90
	20 tonnes and over, but under 21 tonnes	367.40
	21 tonnes and over, but under 22 tonnes	367.80
	22 tonnes and over, but under 23 tonnes	368.30
	23 tonnes and over	369.50

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Motor (not being a tractor) drawing trailer for a loaded single-axle trailer \$1.30 per day extra, or for any empty single-axle trailer 72.5 cents per day extra.

For any other loaded trailer \$1.69 per day extra or for any other empty trailer 95 cents per day extra. Provided that not more than one trailer shall be drawn at any one time.

3. Employees driving articulated vehicle having maker's capacity of -

9 tonnes or less	362.00
9 tonnes and over, but under 10 tonnes	363.00
10 tonnes and over, but under 11 tonnes	363.50
11 tonnes and over, but under 12 tonnes	364.40
12 tonnes and over, but under 13 tonnes	365.50
13 tonnes and over, but under 14 tonnes	366.10
14 tonnes and over, but under 15 tonnes	367.20
15 tonnes and over, but under 16 tonnes	367.60
16 tonnes and over, but under 17 tonnes	368.10
17 tonnes and over, but under 18 tonnes	369.60
18 tonnes and over, but under 19 tonnes	370.10
19 tonnes and over, but under 20 tonnes	371.00
20 tonnes and over, but under 21 tonnes	371.60
21 tonnes and over, but under 22 tonnes	372.30
22 tonnes and over, but under 23 tonnes	373.40
23 tonnes and over, but under 24 tonnes	374.00
24 tonnes and over, but under 25 tonnes	374.50
25 tonnes and over, but under 26 tonnes	375.30
26 tonnes and over, but under 27 tonnes	376.50
27 tonnes and over, but under 28 tonnes	377.30
28 tonnes and over, but under 29 tonnes	377.60
29 tonnes and over, but under 30 tonnes	378.20
30 tonnes and over, but under 31 tonnes	384.80
31 tonnes and over, but under 32 tonnes	385.40
32 tonnes and over, but under 33 tonnes	386.00
33 tonnes and over	387.00

4. Winchdriver 316.90

5. Driver of tractor without power operated attachments or with power operated attachments not in use -

(a) 35kW brake power and under	317.70
(b) Over 35kW brake power and up to 70kW brake power	323.20

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6.	Driver of tractor using power operated attachments	
	(a) Up to 35kW brake power	323.20
	(b) Over 35kW brake power and up to 70kW brake power	330.20
	(c) Over 70kW brake power and up to 110kW brake power	335.30
	(d) Over 110kW brake power	339.30
7.	Driver of loader -	
	(a) Up to and including .75 cubic metres	330.20
	(b) Over 2.25 cubic metres and up to 4.5 cubic metres	339.30
	(c) Terex Loader - 5.74 cubic metres	358.50
8.	Driver of mobile crane with lifting capacity of -	
	Up to 5 tonnes	326.90
	In excess of 5 tonnes not exceeding 10 tonnes	332.20
9.	Driver of Terex or similar rear dump truck with capacity of 35 tonnes	371.50
10.	Mill room traversing crane driver	321.60
11.	Bagging machine-man and/or loader and/or trucker	315.30
12.	Attendant, Devonport Silos	331.40
13.	Rigger's Assistant	311.10
14.	Fettler	308.50
15.	Transporter attendant	315.30
16.	Employee engaged in shovelling cement from silo floor during cleaning of silo	308.50
17.	Employee engaged in shovelling cement at mill transporter plant	308.50
18.	Storeman	333.50
19.	General Labourer and any other adult employee not elsewhere included	308.50

#### Section IV - Asbestos Cement Workers

1.	Wet Machine Operator	325.70
2.	Sieveman	325.70
3.	Paint Machine Operator	322.40
4.	Moulder more than 12 months experience	318.30
5.	Moulder 3 months to 12 months experience	315.10
6.	Autoclave Operator	315.10



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7.	Sanding and Trimming Machine Operator	315.10
8.	Tide Mill Operator	315.10
9.	Cutter off	313.80
10.	Guillotine Operator (wet)	313.80
11.	Guillotine Operator (dry)	313.80
12.	Corrugated docker	313.80
13.	Pad Machine Operator	313.80
14.	Senior Plateman	310.60
15.	Moulder - first 3 months experience	310.60
16.	Stripper and Stacker	308.90
17.	Pendant Crane Operator	308.90
18.	Plateman	308.90
19.	Boiler Attendant	314.10

#### Section V - Auxiliary Services

1.	Fitter and/or turner and/or machinist	386.30
2.	Blacksmith	388.60
3.	Welder (special class)	403.30
4.	Welder (other)	386.30
5.	Carpenter	386.30
6.	Painter	386.30
7.	Electrical mechanic	386.30

Provided that an employee who is a holder of an A Grade licence shall be paid an additional allowance of \$9.60 per week.

8.	Electrician Special Class (as defined)	448.20
9.	Machinist - Second Class	327.50
10.	Machinist - Third Class	315.60
11.	Tradesman's Assistant	306.50
12.	Patrolman	320.00
13.	Rigger	341.00

#### 2. DISABILITY ALLOWANCE

In addition to the wage rates prescribed in this Division all employees classified herein shall be paid a disability allowance of \$13.80 per week in recognition of and compensation for the disabilities generally associated with the industry for which this award is established.

This allowance shall be paid for all purposes of the award.

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3. SPECIAL ALLOWANCE

Employees engaged on maintenance work on board bulk cargo ships shall be paid the following amounts per week:

Tradesman	\$8.00
Trades Assistants	6.50
Apprentices	7.60

4. LEADING HANDS

- (a) If in charge of not less than 3 and not more than 10 employees - \$14.50
- (b) If in charge of more than 10 and not more than 20 employees - \$21.50
- (c) If in charge of more than 20 employees - \$27.70

The above rates shall be paid over and above the highest classification rate which applies to employees under Leading Hands charge, or over and above the Leading Hands normal classification, whichever is the highest.

5. JUNIOR WORKERS

The minimum rates of wages that may be paid to workers not elsewhere provided for in this award shall be the undermentioned percentages of the appropriate adult rate for the class of work performed:

Under 17 years of age	70%
17 to 18 years of age	80
At 18 years of age	Adult Rate

Adjustment to be made to the nearest 10 cents.

6. APPRENTICES

The minimum rates of wages that may be paid to apprentices shall be the undermentioned percentages of the total wage for classification 1, Section V, subclause 1 of this Clause, adjusted to the nearest 10 cents.

		Amount per Week
		\$
First year	42%	162.20
Second year	55	212.50
Third year	75	289.70
Fourth year	92	355.40

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In addition to the wage rates prescribed in this subclause, apprentices shall be paid a disability allowance of \$13.30 per week.

#### 7. RAILTON MAINTENANCE TRADESMAN'S ALLOWANCE

In addition to the wage rates and allowances prescribed elsewhere in this award, employees classified as tradesmen in the trades specified hereunder shall be paid the following all-purpose allowance:

	Allowance Per Week
	\$
Fitter	4.80
Blacksmith	4.80
Welder (Special)	4.80
Welder (Other)	4.80
Carpenter	3.80
Painter	2.20
Electrical Mechanic	4.80
Electrician Special Class	4.80

This allowance is in recognition of the special skill and diversity required to be exercised by Railton tradesmen in the performance of their work.

### **DIVISION B - LABORATORY WORKERS**

#### 1. WAGE RATES

The minimum rates of wages that may be paid to employees specified in this Division shall be as follows:

	Amount Per Week
	38 Hours
	\$
1. Sampler and tester	308.50

#### 2. JUNIOR WORKERS

The minimum rates of wages that may be paid to workers not elsewhere provided for in this award shall be the undermentioned percentages of the appropriate adult rate for the class of work performed:

Under 17 years of age	70%
17 to 18 years of age	80
At 18 years of age	Adult Rate

Adjustment to be made to the nearest 10 cents.

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### 3. DISABILITY ALLOWANCE

In addition to the wage rates prescribed in this Division all employees classified herein shall be paid a disability allowance of \$13.80 per week in recognition of and compensation for the disabilities generally associated with the industry for which this award is established.

This allowance shall be paid for all purposes of the award.

## **DIVISION C - CLERKS**

### 1. WAGE RATES

The amounts set out hereunder shall be the minimum rates payable to adult employees -

	Amount Per Week 38 Hours \$
Grade I	
1st year's experience after age 21	326.90
2nd year's experience after age 21	342.40
3rd year's experience after age 21	357.10
4th year's experience after age 21	366.50
Grade II	
1 <sup>st</sup> year of appointment	375.10
2 <sup>nd</sup> year of appointment	390.00
3 <sup>rd</sup> year of appointment	399.90
4 <sup>th</sup> year of appointment	408.90
Grade III	
1 <sup>st</sup> year of appointment	416.60
2 <sup>nd</sup> year of appointment	426.90
3 <sup>rd</sup> year of appointment	437.20
4 <sup>th</sup> year of appointment	445.90
Grade IV	
1st year of appointment	457.70
2nd year of appointment and thereafter	468.50

Appointment to the second, third and fourth grades is at the discretion of the employer.

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**PROVIDED THAT** employees classified herein who have passed examinations in an approved course of study, mutually agreed to be of value to the Company shall, when such learning is applied in the normal duties of the employee concerned, be paid the following additional allowances:

\$1.15 per week for each Certificate of Business Studies subject.

\$1.15 per week for each Diploma Course semester unit.

Provided further that this provision shall likewise apply to employees mentioned in subclause 1 (Wage Rates) hereof.

## 2. JUNIOR EMPLOYEES

The minimum rates of wages that shall be paid to junior employees shall be the undermentioned percentages of the total wage for the first year adult, Grade I, subclause 1 (Wage Rates) adjusted to the nearest ten cents.

	% of 1st Year Adult Grade I	Amount per Week \$
16 to 17 years of age	45%	147.10
17 to 18 years of age	55	179.80
18 to 19 years of age	70	228.80
19 to 20 years of age	80	261.50
20 to 21 years of age	90	294.20

## CONDITIONS FOR EMPLOYEES IN DIVISIONS A AND B

### **9. ACCOMMODATION AND CONVENIENCES**

- (a) The employer, for the use of his employees shall:-
- (i) supply boiling water at meal times;
  - (ii) supply in convenient locations wholesome cool drinking water;
  - (iii) in locations where employees are regularly employed; provide and continuously maintain at a place or places reasonably accessible to all employees, an efficient first aid outfit;
  - (iv) provide at some reasonably convenient place on his premises a suitable locker for each employee or hanging facilities which afford reasonable protection of employees clothes;
  - (v) provide proper and sufficient washing facilities;
  - (vi) provide proper and sufficient sanitary conveniences.

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- (b) subclause (a)(iii) hereof shall not apply where the law of the State of Tasmania would but for this clause require the employer to provide first aid facilities for use by any of its employees.

## **10. ANNUAL LEAVE**

- (a) Quantum of leave

- (i) Day and non continuous shift workers

A period of twenty eight consecutive days leave, including non working days, shall be allowed annually to an employee after twelve months continuous service (less the period of annual leave) as an employee on weekly hiring in any one or more of the classifications to which the award applies.

An employee on weekly hiring shall accrue annual leave at the rate of 2.923 hours for each 38 ordinary working hours worked.

- (ii) Shift workers

In addition to the leave prescribed in paragraph (i) of this subclause, seven day shift workers, who are rostered to work regularly on Sundays and Holidays, shall be allowed 7 days leave including non working days.

Where an employee with twelve months continuous service is engaged for part of the 12 monthly period as a continuous shift worker, he shall be entitled to have the period of annual leave prescribed in paragraph (i) of this subclause increased by one half a day for each month he is continuously engaged as a continuous shift worker.

- (b) Annual leave exclusive of public holidays

- (i) Subject to this subclause the annual leave prescribed shall be exclusive of any of the holidays prescribed by Clause 18 (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 a 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 or he shall be paid one day's pay at the ordinary rate of wage in lieu thereof.
- (ii) Where a holiday falls as aforesaid and an employee fails, without reasonable cause (proof whereof shall lie 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.

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(c) Calculation of continuous service

- (i) For the purpose of this clause, service shall be deemed to be continuous notwithstanding:
  - 1. any interruption or termination of the employment by the employer if such interruption or termination has been made merely with the intention of avoiding annual leave obligations; or
  - 2. any absence from work on account of personal sickness or accident or on account of leave lawfully granted by the employer; or
  - 3. any absence with reasonable cause, proof whereof shall lie upon the employee.
- (ii) In the cases of personal sickness or accident or absence with reasonable cause, an employee to become entitled to the benefit of this clause shall inform the employer, in writing if practicable, within 24 hours of the commencement of such absence of his inability to attend for duty and as far as practicable the nature of the illness, injury or cause and the estimated duration of his absence. A notification given by an employee pursuant to Clause 29 (Sick Leave) shall be accepted as a notification under this subsection.
- (iii) 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 purpose of this clause unless the employer during the absence or within 14 days of the termination of the absence notified the employee in writing that such absence will be regarded as having broken the continuity of service.
- (iv) In case 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 manner in which general notification to employees is usually made and by posting to each union whose members have participated in such concerted or collective absenteeism a copy of such notice not later than the day it is so posted.
- (v) A notice to an individual employee may be given by delivering it to him personally or by posting it to his last recorded address, in which case it shall be deemed to have reached him in due course of post.
- (vi) 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 any 12 monthly period, be taken into account in calculating the period of 12 months continuous service.

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(d) Calculation of Service

Service before the date of operation of the award shall be taken into consideration for the purpose of calculating annual leave but an employee shall not be entitled to leave or payment in lieu thereof for any period in respect of which leave or payment in lieu thereof has been allowed. The period of annual leave to be allowed under this clause shall be calculated to the nearest day, any broken part of a day in the result not exceeding half a day to be disregarded.

(e) Calculation of month

For the purpose of this clause a month shall be reckoned as commencing with the beginning of the first day of the employment or period of employment in question and as ending at the beginning of the day which in the latest month in question has the same date number as that which the commencing day had in its month and if there is no such day in such subsequent month, shall be reckoned as ending at the end of such subsequent month.

(f) Leave to be Taken

Annual leave provided for by this clause shall be allowed and shall be taken and except as provided by subclauses (k) and (1) hereof, payment shall not be made or accepted in lieu of annual leave.

(g) Time of taking leave

Annual leave shall be given at a time fixed by the employer within a period not exceeding 12 months from the date when the right to annual leave accrued and after not less than four weeks notice to an employee.

(h) Broken leave

- (i) Annual leave shall be given and taken in a continuous period or, if an employee and the employer so agree, in two separate periods.
- (ii) An employee and the employer may mutually agree on annual leave being taken in a manner other than that set out in paragraph (i) of this subclause so as to meet some special need of the employee and employer concerned. This provision shall not be used so as to defeat the true purpose of annual leave.

(i) Leave allowed before due date

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



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- (ii) Where leave has been granted to an employee before the right thereto has accrued due and the employee subsequently leaves or is discharged from the service of the employer before completing 12 months continuous service in respect of which the leave was granted, the employer may, for each one complete week of the qualifying period of 12 months not served by the employee, deduct from whatever remuneration is payable upon the termination of the employment one fifty-second of the amount of wage paid on account of the annual leave, which amount shall not include any sums paid for any of the holidays prescribed by Clause 18 (Holidays with Pay) of this Award.

(j) Payment for period of annual leave

- (i) Employees other than continuous shift workers

Each employee before going on leave shall be paid the amount of wages 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 1/2% of the amount paid in respect of annual leave.

- (ii) Continuous shift workers

Each employee before going on leave shall be paid the amount of wages 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 1/2% of the amount paid in respect of annual leave.

However, where, an employee has been regularly working throughout the year, twenty days in each complete shift rotation, he shall be paid the amount of wages he would have received in respect of the ordinary time he would have worked together with the wages he would have received for working the twentieth overtime shift or shifts had he not been on leave during the relevant period plus a loading equal to 17 1/2% of the amount paid in respect of annual leave.

Where an employee on continuous shift work would have received shift penalties and shift allowances had he not been on leave during the relevant period and those penalties and allowances would have entitled him to a loading in excess of the 17 1/2% calculation then the rostered earnings calculation shall apply in lieu of the 17 1/2% loading.

- (iii) The loadings prescribed in this subclause shall not apply to proportionate leave on termination.

(k) Proportionate leave on termination

If after one completed month of service in any qualifying twelve 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 pro

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rata allowance in lieu of leave for each completed month of service, the service being in respect of which leave has not been granted.

(l) Annual close down

Where the employer closes down his plant or a section or sections thereof for the purpose of allowing annual leave to all or the bulk of the employees in the plant or section or sections concerned, the following provisions shall apply:

- (i) The employer may, after giving not less than one month's notice of its intention so to do, stand off for the duration of the close down all employees in the plant or section or sections concerned and allow to those who have not then qualified for the full amount of annual leave paid leave on a proportionate basis for each completed week of continuous service.
- (ii) An employee who has then qualified for the full amount of annual leave and has also completed a further month of more continuous leave, shall be allowed his leave and shall, subject to subclause (b) hereof also be paid further wages on a proportionate basis for each such further completed week of continuous service.
- (iii) The next 12 monthly qualifying period for each employee affected by such close down shall commence from the day on which the plant or section or sections concerned is reopened for work.

**PROVIDED THAT** all time during which an employee is stood off without pay for the purposes of this subclause shall be deemed to be of service in the next 12 monthly period.

- (iv) If in the first year of his service with the employer an employee is allowed proportionate annual leave under paragraph (i) of this subclause and subsequently within such year lawfully leaves his employment or his employment is terminated by the employer through no fault of the employee, he shall be entitled to the benefit of subclause (k) hereof subject to adjustment for any proportionate leave which he may have been allowed as aforesaid.

(m) Sickness when on annual leave

- (i) Subject to satisfactory evidence of hospitalisation being provided in a certificate of a qualified medical practitioner obtained during the period of hospitalisation and furnished to the employer by the employee on his return to work any period of illness of five or more consecutive days occurring during a period of annual leave shall for all purposes be regarded as sick leave.
- (ii) In any case where this subclause applies the employer shall make payment for the next period of annual leave taken or payment made in lieu thereof

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without the addition of the loading specified in subclause (j) but only as to the extent of the relevant period of illness.

- (n) Accrued Leave entitlements at the date of implementation of the 38 hour week

Employees with accrued leave entitlements will have their entitlements adjusted in the relationship 38/40.

## **11. APPRENTICESHIP CONDITIONS**

- (a) The proportion of apprentices to journeymen shall be as prescribed by the regulation made under the Apprentices Act 1942.

- (b) Indentures of apprenticeship shall be on the form prescribed by the Apprenticeship Commission of Tasmania.

NOTE: Forms of Indentures and other information relating to the entry of Apprentices into apprenticeship trades may be obtained from the Apprenticeship Commission, 24 Murray Street, Hobart.

## **12. CASUAL WORK**

A Casual worker (i.e. a person who is employed for any period not exceeding five days at any one time, and whose employment is of a casual nature) shall be paid 20 per cent extra.

## **13. CLOTHING, EQUIPMENT AND TOOLS**

- (a) Gloves

Suitable gloves shall be provided by the employer for such work as reasonably requires the use of gloves.

- (b) Safety Spectacles, Goggles

(i) Safety spectacles or goggles shall be provided by the employer for such work as reasonably requires the use of spectacles or goggles. Where used by more than one employee, such goggles shall be sterilised before being used by another employee.

(ii) Goggles containing celluloid shall not be considered suitable for the purposes of this subclause.

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(c) Masks

- (i) Where necessary, a suitable mask shall be provided by the employer for an employee required to use compressed air for blowing dust from electrical machinery.
- (ii) Masks containing celluloid shall not be considered suitable for the purposes of this subclause.

(d) Safety Helmets

Each employee shall be provided as required with an approved safety helmet.

(e) Waterproof Clothing

If an employee is required to work in a wet place or in heavy rain he shall be provided with gum boots or over boots, oil skins and suitable headwear so as to protect him from getting wet.

A place shall be deemed to be wet when water, other than rain, is continually dropping from overhead so as to saturate the clothing of the employee if unprotected and/or when water in the place where the employee is standing is over two inches deep.

Rain shall be deemed to be heavy when, if the employee works therein as required, his clothing will become saturated.

(f) Wearing or Using of Protective Equipment

An employee who is, pursuant to this clause, supplied with any of the equipment specified, shall wear or use, as the case may be such equipment in such a way as to achieve the purpose for which it is supplied.

(g) Negligent Loss of Clothing or tools

An employee supplied with protective clothing, equipment and/or tools in accordance with this clause shall replace or pay for any such clothing, equipment and/or tools so supplied if lost or damaged through his negligence.

#### **14. COMPASSIONATE LEAVE**

An employee shall on the death of a wife, husband, father, mother, child, step-child, brother, sister, mother-in-law, father-in-law, stepmother, stepfather, grandfather, grandmother, grand children, 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.

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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.

## **15. CONTRACT OF EMPLOYMENT**

- (a) Except as hereinafter provided, employment shall be by the week. Any employee not specifically engaged as a casual employee shall be deemed to be employed 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 breakdown 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 29 (Sick Leave) of this Award, lose his pay for the actual time of such non-attendance.
- (d) Notwithstanding anything elsewhere contained in this award an employer may select and utilise for timekeeping purposes, any fractional or decimal proportion of an hour (not exceeding a quarter of an hour) and may apply such proportion in the calculation of the working time of employees who, without reasonable cause promptly communicated to the employer, report for duty after their appointed starting times or cease duty before their appointed finishing times.

An employer who adopts a proportion for the aforesaid purpose shall apply the same proportion for the calculation of overtime.

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## **16. DEDUCTIONS**

In accordance with Section 51 of the Industrial Relations Act 1984, deductions may be made for medical fund; also for any purpose for the benefit of the employees for which the consent of the employees concerned has been obtained in writing.

## **17. DISPUTE SETTLEMENT PROCEDURE**

- (a) In the event of a dispute the matter should be initially discussed at plant level between the foreman and the shop steward/section representative concerned.
- (b) If the foreman is unable to resolve the dispute, the department head or his deputy shall discuss the problem with the shop steward/section representative.
- (c) If the dispute is still not resolved, the problem shall be referred to the personnel officer or his assistant who will notify the shop steward of an acceptable meeting date which shall be arranged for the purpose of resolving the dispute.

The shop steward or employer may elect whilst the above procedures are taking place to advise state officials of the union involved or industrial advisers in an endeavour to assist in the resolution of the dispute.

- (d) Whilst discussions are taking place in accordance with subclauses (a), (b) and (c), the accepted custom or practice (status quo) that existed prior to the change of custom or practice which gave rise to the dispute will prevail and any meeting required by employees shall be held during meal breaks or outside normal hours of work, when practicable.

However should a stop work meeting of all sections of A.W.U. employees be required, it is recognised that such a meeting will be held at the change of shifts, to allow a maximum number of employees to attend.

In general, in order to keep the plant operating, the kiln burner will be exempt from attending stop work meetings.

Should the meeting be of such vital importance as to require the burner to attend, then prior arrangements shall be made for foremen or other staff to operate the plant for the duration of the meeting.

All parties to the Award and their representatives shall assist with applying the 'status quo' work procedure until such time as the disputed issue is resolved between the parties.

- (e) Discussions having taken place and position indicated by both parties, either party can call a 'lay day' of twenty-four hours to reconsider the position without prejudice to either party.

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- (f) Failing agreement after following these procedures, the dispute may be referred to the Tasmanian Industrial Commission for resolution.
- (g) Where the question of safety arises the Works Manager or his delegate shall ensure that all reasonable precautions are taken and work shall not proceed in the defined area until the Works Manager or his delegate and the Shop Steward are satisfied with the arrangement.

In the event that agreement cannot be reached, the matter shall be immediately referred to the appropriate Mines Department Inspector, the written decision of whom shall be accepted as final.

## **18. HOLIDAYS WITH PAY**

- (a) All employees (other than casuals) shall be allowed the following days as paid holidays:- New Year's Day, Australia Day, Labour Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Show Day (as defined), the first Monday in November, Christmas Day and Boxing Day.
- (b) Payment for the holidays mentioned in subclause (a) which are taken and worked, shall be at the normal rate of pay which would have applied to the employee concerned, when if it were not for such holiday, he had been at work.
- (c) Payment to an employee for work performed on holidays mentioned in subclause (a) shall be at the rates prescribed elsewhere in this award.
- (d) If any of the holidays mentioned in subclause (a) hereof fall on a day other than a usual working day, another day shall be allowed in lieu thereof.
- (e) If the day on which a public holiday is observed falls on the rostered day off of a shift worker, such employee shall be paid his ordinary rate for the time he would have worked if the holiday were not on his day off.
- (f) Payment at the rate of double time and one half shall be made to any employee for work performed on any of the public holidays prescribed in subclause (a) hereof or on any of the substituted days observed in lieu thereof. The provisions of this subclause shall not apply to continuous shift workers to whom the penalty rate of double time shall apply.
- (g) Any employee who is absent without leave on the working day before or the working day after any such holiday shall be liable to forfeit his wages for the holiday as well as for the day of absence except when the employer is satisfied that the employee's absence was due to illness or other reasonable cause in which case wages shall not be forfeited for such holiday. Any dispute as to whether an employee was absent because of illness or other reasonable cause shall be referred to the Tasmanian Industrial Commission whose decision shall be final.

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- (h) An employee not engaged on continuous shift work who works on a Sunday or public holiday and (except for meal breaks) immediately thereafter continues such work shall on being relieved from duty be entitled to be absent until he has had ten consecutive hours off duty, without deduction of pay for ordinary time of duty occurring during such absence.
- (i) Where consequent upon any visit to Australia by Her Majesty the Queen or any other member of the Royal Family a Public Holiday is proclaimed by the Governor in Council or otherwise gazetted by the Tasmanian Government under State Act throughout the State or part thereof and under the Tasmanian Industrial Commission, such day shall within the defined locality be deemed to be a holiday for the purpose of this award.
- (j) An employee who refuses to work, when required on any of the aforementioned holidays, may forfeit his right to payment for such day or days; provided that, except in cases of breakdown in machinery or other pressing emergency, at least 48 hours' notice has been given to the employee by the employer that he will be so required to work.

## **19. HOURS OF WORK**

### (a) Ordinary hours - day workers

- (i) The ordinary hours of work for day workers shall be 38 per week. These hours are to be worked as an average of 38 per week within a twenty eight day cycle.

**PROVIDED THAT**, where the employer and the majority of employees concerned agree, a roster system may operate on the basis that the weekly average of 38 ordinary hours is achieved over a period exceeding 28 consecutive days.

- (ii) The ordinary hours of work prescribed herein may be worked on any day or all of the days of the week, Monday to Friday inclusive.
- (iii) The ordinary hours of work prescribed herein shall be worked continuously, except for meal breaks, at the discretion of the employer between 7.30 a.m. and 5.00 p.m.

**PROVIDED THAT** the spread of hours may be altered as to some or all employees by agreement between the employer, employees, a representative of the Union in the shop and where possible an officer of the Union concerned.

**PROVIDED FURTHER** 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 purpose of this subclause to be part of the ordinary hours of work.



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- (iv) Meal breaks shall be for a period of not less than 30 minutes and not more than 60 minutes. Day workers, except in the case of maintenance workers working in accordance with subclause (i) Clause 22 (Overtime) of this Award shall not be required to work for more than five hours without a meal break.
- (v) The ordinary hours of work prescribed herein shall not exceed 10 hours on any day. Provided that in any arrangement of ordinary working hours where the ordinary working hours are to exceed 8 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.

(b) Ordinary hours - non continuous shift workers

This subclause shall apply to shift workers not on continuous work as defined in paragraph (ii) subclause (c).

- (i) The ordinary hours of work shall be an average of 38 per week, inclusive of crib time, to be worked on the basis of 152 hours within a period not exceeding twenty-eight consecutive days.

**PROVIDED THAT**, where the employer and the majority of employees concerned agree, a roster system may operate on the basis that the weekly average of 38 ordinary hours is achieved over a period exceeding 28 consecutive days.

- (ii) The ordinary hours shall be worked continuously except for meal breaks at the discretion of the employer. An employee shall not be required to work for more than five hours without a break for a meal. Except at regular changeover of shifts an employee shall not be required to work more than one shift in each twenty four hours.
- (iii) The ordinary hours of work prescribed herein shall not exceed 10 hours on any day. Provided that in any arrangement of ordinary working hours where the ordinary hours are to exceed 8 on any day, the arrangement of hours shall be subject to the agreement of the employer and the majority of employees concerned.
- (iv) Shift rosters shall specify the commencing and finishing times of ordinary working hours of the respective shifts.
- (v) The method of working shifts may be varied by agreement between the employer and the majority of employees concerned. The time of commencing and finishing shifts once having been determined may be varied by agreement between the employer and the majority of employees concerned to suit the circumstances of the establishment or in the absence of agreement, by seven days notice of alteration given by the employer to the employees.

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(c) Ordinary hours - continuous shift workers.

This subclause shall apply to shift workers on continuous work, as defined in paragraph (ii).

- (i) The ordinary hours of work, for shift workers shall average 38 per week inclusive of crib time and shall not exceed 152 hours in twenty-eight consecutive days.

**PROVIDED THAT**, where the employer and the majority of employees concerned agree, an alternative roster system may operate on the basis that the weekly average of 38 ordinary hours is achieved over the period of the roster.

- (ii) 'Continuous work' means, in relation to shift work, work carried on with consecutive shifts of men throughout the 24 hours of each of at least six consecutive days without interruption except those due to breakdown or unavoidable causes beyond the employer's control.
- (iii) Subject to paragraphs (iv) and (vii) of this subclause shift work shall be worked by such method and at such times as the employer requires.
- (iv) The method of working shifts may be varied by agreement between the employer and the majority of employees concerned. The time of commencing and finishing shifts once having been determined may be varied by agreement between the employer and the majority of employees concerned to suit the circumstances of the establishment or in the absence of agreement, by seven days notice of alteration given by the employer to the employees.
- (v) 'Rostered shift' means a shift in which the employee concerned has had at least 48 hours notice.
- (vi) Rostered shift rosters shall specify the commencing and finishing times or ordinary working hours of each shift.
- (vii) A shift shall consist of not more than 10 hours inclusive of crib time. Provided that in any arrangement of ordinary working hours where the ordinary working hours are to exceed 8 on any shift the arrangement of hours shall be subject to the agreement of the employer and the majority of employees concerned.
- (viii) A shift worker subject to operational needs shall not be required to work more than five hours without a 30 minute crib which shall be counted as time worked.
- (ix) Except at regular changeover of shifts an employee shall not be required to work more than one shift in each 24 hours.

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(d) Special provision (all employees)

(i) It is agreed by the employer and all Unions party to this Award that different methods of implementation of the 38 hour week may apply to different sections or at different periods of the year, depending on production requirements. Such different methods of implementation may be introduced by written agreement with the relevant Union(s).

(ii) In the event of an employee being reclassified down-wards, such an employee shall be given at least four weeks notice of reclassification, where such transfer is occasioned by a kiln shut down and is of a non permanent nature.

(iii) Substitute days -

An employer, with the agreement of the majority of employees concerned may substitute the day an employee is to take off 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.

An individual employee, with the agreement of his employer, may substitute the day he is to take off for another day.

The agreement of the employee and the employer as the case may be, shall not be unreasonably withheld.

(iv) By agreement between the employee and the employer, day workers and non continuous shift workers may accrue up to a maximum of 5 rostered days off. Continuous shift workers may accrue up to seven rostered days off, unless the parties agree otherwise.

## **20. MATERNITY LEAVE**

(a) Eligibility for Maternity Leave

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

For the purposes of this clause:

(i) An employee shall include a part-time employee but shall not include an employee engaged upon casual or seasonal work.

(ii) Maternity leave shall mean unpaid maternity leave.

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(b) Period of leave and commencement of leave

- (i) Subject to subclauses (c) and (f) hereof, the period of maternity leave shall be for an unbroken period of from 6 to 52 weeks and shall include a period of 6 weeks compulsory leave to be taken immediately following confinement.
- (ii) An employee shall, not less than 10 weeks prior to the presumed date of confinement, give notice in writing to her employer stating the presumed date of confinement.
- (iii) An employee shall give not less than 4 weeks' notice in writing to her employer of the date upon which she proposes to commence maternity leave stating the period of leave to be taken.
- (iv) An employer by not less than 14 days' notice in writing to the employee may require her to commence maternity leave at any time within 6 weeks immediately prior to her presumed date of confinement.
- (v) An employee shall not be in breach of this clause as a consequence of failure to give the stipulated period of notice in accordance with paragraph (iii) hereof, if such failure is occasioned by the confinement occurring earlier than the presumed date.

(c) Transfer to a safe job

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

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

(d) Variation of period of maternity leave

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

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(e) Cancellation of maternity leave

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

(f) Special maternity leave and sick leave

- (i) Where the pregnancy of an employee not then on maternity leave terminates after 28 weeks other than by the birth of a living child then
  - (a) she shall be entitled to such period of unpaid leave (to be known as special maternity leave) as a duly qualified medical practitioner certifies as necessary before her return to work, or
  - (b) for illness other than the normal consequences of confinement she shall be entitled, either in lieu of or in addition to special maternity leave, to such paid sick leave as to which she is then entitled and which a duly qualified medical practitioner certifies as necessary before her return to work.
- (ii) Where an employee not then on maternity leave suffers illness related to her pregnancy, she may take such paid sick leave as to which she is then entitled and such further unpaid leave (to be known as special maternity leave) as a duly qualified medical practitioner certifies as necessary before her return to work, provided that the aggregate of paid sick leave, special maternity leave and maternity leave shall not exceed 52 weeks.
- (iii) For the purposes of subclauses (g), (h) and (i) hereof, maternity leave shall include special maternity leave.
- (iv) An employee returning to work after the completion of a period of leave taken pursuant to this subclause shall be entitled to the position which she held immediately before proceeding on such leave or, in the case of an employee who was transferred to a safe job pursuant to subclause (c), to the position she held immediately before such transfer.

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

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(g) Maternity leave and other entitlements

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

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

(h) Effect of maternity leave on employment

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

(i) Termination of employment

- (i) An employee on maternity leave may terminate her employment at any time during the period of leave by notice given in accordance with this award.
- (ii) An employer shall not terminate the employment of an employee on the ground of her pregnancy or of her absence on maternity leave, but otherwise the rights of an employer in relation to termination of employment are not hereby affected.

(j) Return to work after maternity leave

- (i) An employee shall confirm her intention of returning to her work by notice in writing to the employer given not less than 4 weeks prior to the expiration of her period of maternity leave.
- (ii) An employee, upon expiration of the notice required by paragraph (i) hereof, shall be entitled to the position which she held immediately before proceeding on maternity leave or, in the case of an employee who was transferred to a safe job pursuant to subclause (c) to the position which she held immediately before such transfer. Where such position no longer exists but there are other positions available for which the employee is qualified and the duties of which she is capable of performing, she shall be entitled to a position as nearly comparable in status and salary or wage to that of her former position.

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(k) Replacement employees

- (i) A replacement employee is an employee specifically engaged as a result of an employee proceeding on maternity leave.
- (ii) Before an employer engages a replacement employee under this subclause, the employer shall inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.
- (iii) Before an employer engages a person to replace an employee temporarily promoted or transferred in order to replace an employee exercising her rights under this clause, the employer shall inform that person of the temporary nature of the promotion or transfer and of the rights of the employee who is being replaced.
- (iv) Provided that nothing in this subclause shall be construed as requiring an employer to engage a replacement employee.
- (v) A replacement employee shall not be entitled to any of the rights conferred by this clause except where her employment continues beyond the 12 months' qualifying period.

## **21. MIXED FUNCTIONS**

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

## **22. OVERTIME**

(a) Day Workers

Subject to subclause (c) hereof all work done by day workers in excess of or outside the ordinary hours prescribed shall be paid for at the rate of one and one half times the appropriate rate of wage for the first two hours on any one day at the rate of double such appropriate rate of wage thereafter, such double rate of wage to continue until the completion of the overtime work.

(b) Shift Workers

All work done by shift workers in excess of or outside the ordinary working hours prescribed or on a shift other than a rostered shift shall be paid at double the appropriate rate of wage, except when the time is worked:

- (i) by arrangement between the employees themselves, or

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- (ii) for the purpose of effecting the customary rotation of shifts, or
  - (iii) on a shift to which an employee is transferred on short notice as an alternative to standing down the employee in circumstances which would entitle the employer to deduct payment for a day in accordance with Clause 15 (Contract of Employment) hereof.
  - (iv) A shift worker required to work overtime immediately after working ordinary hours shall be paid a minimum of one hour's work at the appropriate rates, provided that except in the case of unforeseen circumstances arising the employee shall not be required to work the full hour if the job which he is held back to perform is completed within a shorter period.
- (c) Rest period before re-commencing work
- (i) An employee who works so much overtime between the termination of his ordinary work on one day and the commencement of his ordinary work on the next day that he has not had at least ten consecutive hours off duty between those times shall, subject to this subclause be released after completion of such overtime until he has had ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

If on the instructions of his employer such an employee resumes or continues work without having had such ten consecutive hours off duty he shall be paid at double rates until he is released from duty for such period and he shall then be entitled to be absent until he has had ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

**PROVIDED THAT** time off duty without loss of pay shall not be regarded as time worked for the computation of overtime or other penalty rates.

In the case of day workers,, such rest period shall be exclusive of meal breaks.

- (ii) The provisions of paragraph (i) of this subclause shall apply in the case of shift workers as if 8 hours were substituted for ten hours when overtime is worked:
  - (a) for the purpose of changing shift rosters; or
  - (b) where a shift worker does not report for duty and a day worker or shift worker is required to replace such shift worker; or
  - (c) where a shift is worked by arrangement between the employees themselves.



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- (iii) When a day worker is required to change from day to shift work commencing on the same day he shall be allowed to cease work at such time as to allow a rest period of 8 hours without loss of pay for ordinary hours of employment on that day. Provided that the time off duty without loss of pay shall not be regarded as time worked for the purpose of computation of overtime or other penalty rates.
  - (iv) Where an employee continues to work on the instructions of his employer after working for four hours or more at overtime rates before his ordinary starting time, he shall be paid at double time for his work until he shall have been relieved for at least ten hours. Provided that he shall not be entitled to payment for any such rest period.
- (d) Recalls
- (i) An employee recalled to work overtime after leaving the employer's premises shall be paid for a minimum of four hours work at the appropriate overtime rate for each time he is so recalled; provided that, except in the case of unforeseen circumstances arising the employee shall not be required to work the full four hours if the job he was recalled to perform is completed within a shorter period.
  - (ii) Paragraph (i) hereof shall not apply:-
    1. In cases where it is customary for an employee to return to the employer's premises for periods not, exceeding 30 minutes each to perform a specific job outside his ordinary working hours in which case he shall be paid for a minimum of one hour's work at the appropriate rate for each time he is so recalled; or
    2. Where the overtime is continuous (subject to a reasonable meal break) with the commencement of ordinary working time.
  - (iii) Where the actual time worked is less than four hours on such recall or in each of such recalls, overtime worked in the circumstances specified in this subclause shall not be regarded as overtime for the purpose of subclause (c) hereof.
- (e) Overtime on Saturday
- (i) A day worker required to work overtime on a Saturday shall be afforded at least four hours or paid for four hours at the appropriate rate except when such overtime is continuous with overtime or work commenced on the previous day or completed on the following day. Provided that where work continues over two days the minimum payment shall be for four hours at the appropriate rate.
  - (ii) This subclause shall not apply to any employee performing work on recall in accordance with subclause (d) hereof.

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(f) Weekend penalty rates

The minimum rate to be paid to shift workers for work performed during ordinary hours shall be as follows:

- (i) Between midnight on Friday and midnight on Saturday, time and a half.
- (ii) Between midnight on Saturday and midnight on Sunday, double time.

The extra rates provided by this subclause shall be in substitution for, and not cumulative on, premium prescribed for shift workers.

(g) Standing by

An employee required to hold himself in readiness for work outside his ordinary working hours shall, until released be paid standing by time at the ordinary rate of wage from the time he so holds himself in readiness.

(h) Working during meal breaks

All work performed by day workers during meal breaks and thereafter until a meal break is allowed shall be paid for at the rate on one and one-half times the ordinary rate of wage.

(i) Meal breaks - maintenance employees

An employee employed on regular maintenance shall work during meal breaks at the appropriate rate of wage whenever instructed to do so for the purpose of making good breakdowns of plant or upon routine maintenance of plant which can only be done whilst such plant is idle.

(j) Crib time

An employee working overtime shall be allowed a crib time of twenty minutes without deduction of pay after each four hours of overtime worked if the employee continues work after such crib time.

**PROVIDED THAT** where a day worker on a five day week. is required to work overtime on a Saturday, the first prescribed crib time shall, if occurring between 10 a.m. and 1 p.m. be paid at ordinary rates.

Unless the period of overtime is one and a half hours or less an employee before starting overtime after working ordinary hours shall be allowed a meal break of 20 minutes which shall be paid for at appropriate overtime rate. An employer and employee may agree to any variation of this provision to meet the circumstances of the work in hand provided that the employer shall not be required to make any payment in respect of any time allowed in excess of twenty minutes.

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(k) Meal Money

- (i) Any employee required to continue at work on overtime for more than one and a half hours after his ordinary time, without having been notified on the previous day that he would be required to work overtime, shall be provided, free of cost, with a suitable meal and, if the work extends into a second meal break, another meal. Provided that in the event of meals not being provided by the employer he shall pay to the employee a meal allowance at the rate of \$5.00 for the first and each subsequent meal.
- (ii) If an employee pursuant to notice has provided a meal and is not required to work overtime or is required to work less than one and a half hours he shall be paid \$5.00 for the meal which he has provided but which is surplus.

(l) Transport of employees

Where an employee after having worked overtime or a shift for which he has not been regularly rostered or in order to commence overtime work or a shift for which he has not been regularly rostered has to travel at a time when reasonable means of transport are not available the employer shall provide him with a conveyance to and/or from his home or pay him his appropriate rate of wage for the time reasonably occupied in travelling to and/or from his home.

(m) Night work for day workers

- (i) A day worker who in lieu of ordinary day work, works at night for a period of less than thirty-eight hours on consecutive nights, shall be paid at the rate of one and one-half-times the ordinary rate of wage, except on a Saturday, a Sunday or a holiday when he shall be paid at the appropriate overtime rate prescribed for day workers.
- (ii) In this subclause 'night' means any hours between 4 p.m. and 8 a.m.

(n) Overtime divisor

For the purpose of determining the appropriate hourly rate for overtime purposes, the appropriate weekly wage shall be divided by forty. Provided that the word 'forty' shall be replaced by 'thirty-eight' as at 4 January 1985.

(o) Requirement to work reasonable overtime

The employer may require that employees shall work a reasonable amount of overtime at overtime rates and employees shall work in accordance with such requirements.

Should any dispute arise as to what constitutes a reasonable amount of overtime in view of the circumstances then prevailing, such dispute shall be referred to the

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Tasmanian Industrial Commission, for hearing and adjudication and his decision on the matter shall be final and binding on both employer and employees.

### **23. PAYMENT OF WAGES**

- (a) All wages shall be paid fortnightly directly into a bank, building society or credit union account nominated by the employee.

Annual leave/long service leave payments will be paid in full into the employee's nominated account as for fortnightly wage payments, or at the request of an employee, they may be paid by cheque.

- (b) Upon termination of employment, all wages due to an employee shall be paid to him on the day of such termination or forwarded to him by post on the next working day.

Provided that in the case of an employee who is paid average pay and who has not taken the day or days off due to him during the work cycle in which his employment is determined, the wages due to the employee shall include the total of credits accrued during the work cycle.

Provided further that where the employee has taken a day or days off during the work cycle in which his employment is determined, the wages due to that employee shall be reduced by the total of credits which have not accrued during the cycle.

- (c) Method of payment

In the case of an employee whose ordinary hours of work are arranged so that he works an average of 38 ordinary hours each week during a particular work cycle, wages shall be paid fortnightly according to a weekly average for ordinary hours worked even though more or less than 38 ordinary hours may be worked in any particular week of the work cycle.

- (d) On or prior to pay day the employer shall state to each employee in writing the total amount of wages to which he is entitled, the amount of overtime included therein, details of any deductions made therefrom and the net amount paid to him.
- (e) The employer shall not keep more than three full days pay in hand for any employee.
- (f) The employer may deduct from wages due to any employee such amount as is authorised in writing by such employee.

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#### **24. PAYMENT FOR THE DAY**

If the employee leaves work at the end of a day and he attends the next day ready and willing to work, and he is not allowed so to do, he shall be paid the wages he would have been entitled to had he worked that day, unless he has been advised by the employer or his representative before leaving work on the previous day that he will not be required for the following day. Provided, however, that the employee shall not be entitled to payment for more than four hours if the employer is compelled by circumstances over which he has no control to request the employee to stand down for such day.

#### **25. PROTECTIVE CLOTHING AND SAFETY BOOTS**

(a) (i) Each employee (other than employees in Division B and C of Clause 8 (Wage Rates) shall be issued with a maximum of three sets of overalls or suitable alternative after completing one month's service and at the beginning of each subsequent twelve month period.

(ii) By arrangement between the employer and his employees at any particular plant and with the agreement of the union, an allowance of \$1.00 per week may be substituted in place of the supply of clothing.

OR

(iii) The employer may, if he so desires, provide each employee with overalls or suitable alternative which remain the property of the employer and which are laundered at least once each week.

(b) Up to three pairs of safety boots per annum shall be provided, the replacement issue to be made by the employer on production of satisfactory evidence that any boots issued previously are no longer serviceable.

(c) In the case of a new employee who leaves within a period of four weeks of entitlement he will be charged the cost of boots and overalls supplied but this charge will be reduced by 25 per cent for each completed month he has worked after entitlement.

#### **26. RIGHT OF ENTRY OF UNION OFFICIALS**

For the purpose of interviewing employees on legitimate union business, a duly accredited union representative shall have the right to enter employer's premises during the midday meal break on the following conditions:

(a) That he produces his authority to the gate-keeper or such other person as may be appointed by the employer.

(b) That he interviews employees only at places where they are taking their meal.

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- (c) That no one representative of each of not more than three unions to be on the premises at any one time.
- (d) That no one representative visits the premises more than once in each week.
- (e) That if an employer alleges that a representative is unduly interfering with his work or is creating dissatisfaction amongst his employees or is offensive in his methods or is committing a breach of any of the previous conditions, such employer may refuse the right of entry, but the representative shall have the right to bring such refusal before the Secretary for Labour.

## **27. SHIFT ALLOWANCE**

- (a) Employees who are required to work alternatively day and afternoon shift shall be paid a shift allowance of 15% for the afternoon shift.
- (b) Employees in Section IV, Division A, Clause 8 (Wage Rates) who are required to work an afternoon or night shift shall be paid a shift allowance of 15% for such shifts in addition to their ordinary rates of pay.
- (c) Continuous shift workers shall be paid the shift allowance prescribed in Section II - Plant Operatives (Regular Shift Workers), subclause 1, Division A, Clause 8 - Wage Rates.
- (d) An employee on shift work who:
  - (i) during a period of engagement on shift works afternoon shift only; or
  - (ii) remains on afternoon shift for a longer period than four consecutive weeks; or
  - (iii) works on an afternoon shift which does not rotate or alternate with another shift or with day work so as to give him at least one-third of his working time off afternoon shift in each cycle;

shall, for each such afternoon shift worked on other than a Saturday, Sunday or holiday during such engagement period or cycle, in addition to his appropriate rate of wage be paid 20% of the employees classification rate per shift.

- (e) An employee on shift work who:
  - (i) during a period of engagement on shift works nights shift only; or
  - (ii) remains on night shift for a longer period than four consecutive weeks; or

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- (iii) works on a night shift which does not rotate or alternate with another shift or with day work so as to give him at least one-third of his working time off night shift in each shift cycle;

shall, for each such night shift worked on other than a Saturday, Sunday or holiday during such engagement period of cycle in addition to his appropriate rate of wage be paid 25% of the employees classification rate per shift.

- (f) Employees in classification no. 9 (Driver of Terex or similar rear dump truck with capacity of 35 tonnes) Section III, Division A, Clause 8 (Wage Rates) who are required to work an afternoon or night shift shall be paid a shift allowance of 15% for such shifts in addition to their ordinary rates of pay.

## **28. SHOP STEWARD**

An employee appointed as official Stop Steward in the shop or department in which he is employed shall, upon notification thereof to the employer, be recognised 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's representative on matters affecting employees whom he represents.

## **29. SICK LEAVE**

- (a) An employee, other than one engaged as a casual, who is absent from work on account of personal illness or on account of injury by accident shall be entitled to leave of absence without deduction of pay, subject to the following conditions and limitations:
  - (i) he shall not be entitled to such leave of absence for any period in respect of which he is entitled to workers' compensation;
  - (ii) he shall, as soon as reasonably practicable and during the ordinary hours of the first day of shift of such absence inform the employer of his inability to attend for duty, and as far as practicable, state the nature of the injury or illness and the estimated duration of absence. If it is not reasonably practicable to inform the employer during the ordinary hours of the first day or shift of such absence the employee shall inform the employer within 24 hours of such absence;
  - (iii) he 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 sick leave is claimed;
  - (iv) he shall not be entitled in any year (whether in the employment of one employer or of more) to sick leave credit in excess of two weeks of ordinary working time of 38 hours per week.

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- (v) For the purpose of administering paragraph (iv) of this subclause, an employer may within one month of this award coming into operation or within two weeks of the employee entering into 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.
  - (vi) Notwithstanding the provisions of paragraph (ii) subclause (a) hereof, a shift worker shall as soon as reasonably practicable, preferably before the commencement of a rostered shift, and within eight hours of the commencement of such absence inform his employer of his inability to attend for duty, and as far as practicable, state the nature of the injury or illness and the estimated duration of the absence. In any event he shall advise his employer of his intention to return to work as soon as this is known.
- (b) Sick leave shall accumulate from year to year so that any balance of the period specified in paragraph (iv) subclause (a) hereof which has in any year not been allowed to an employee by an employer as paid sick leave shall be credited to the employee and subject to the conditions hereinbefore prescribed shall be allowed by that employer in a subsequent year without diminution of sick leave prescribed in respect of that year.

Employees credit of accumulated hours of sick leave as at the date of implementation of the 38 hour week shall be adjusted in the ratio 38/40.

- (c) An employee with at least 2 years service and who lawfully terminates his employment or his employment is terminated by the Company through no fault of his own shall be paid accumulated sick leave in accordance with the following scale:

After two	years service - 50% of accumulated sick leave
After three	years service - 55% of accumulated sick leave
After four	years service - 60% of accumulated sick leave
After five	years service - 65% of accumulated sick leave
After six	years service - 70% of accumulated sick leave
After seven	years service - 75% of accumulated sick leave
After eight	years service - 80% of accumulated sick leave
After nine	years service - 85% of accumulated sick leave
After ten	years service - 90% of accumulated sick leave
After eleven	years service - 95% of accumulated sick leave
After twelve	years service - 100% of accumulated sick leave

This provision shall apply only to sick leave accumulated after 23 October 1978.

**PROVIDED THAT** for the purpose of calculating sick leave payout on termination the maximum years of service of current employees at the 23 October 1978 is to



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be taken as 2 years. Employees with less than 2 years service at the 23 October 1978 will be credited with their actual service.

Employees absent on sick leave shall have the leave deducted from leave accumulated prior to 23 October 1978, until all such entitlements are used.

(d) Sickness on day off

Where an employee is sick or injured on a rostered day off he shall not be entitled to sick pay nor will his sick pay entitlement be reduced as a result of his sickness or injury that day.

From the date of implementation of the 38 hour week a continuous shift worker shall not be entitled to sick pay nor will his sick pay entitlement be reduced as a result of sickness or injury on any day other than a day or days that he is rostered to work in accordance with his shift roster except as provided by subclause (m) of Clause 10 (Annual Leave).

(e) An employee entitled to sick leave will be paid and debited for the number of ordinary hours he would have worked had he not been absent.

(f) Single day absences

A statutory declaration shall be required for each single day absence after an employee has taken a total of two days sick leave each year.

Nothing in this subclause shall limit the employer's rights under paragraph (iii) of subclause (a) hereof.

### **30. SUNDAY WORK**

For all work performed by employees on Sundays, payment shall be made at the rate of double time.

**PROVIDED THAT** prior to 12 months after the implementation of the 38 hour week the hourly rate for overtime worked on Sunday shall be determined by dividing the appropriate weekly rate by 40.

### **31. TOOLS OF TRADE**

All tools required by tradesmen and apprentices mentioned in Section V, Division A, Clause 8 (Wage Rates), in the performance of their duties, shall be supplied by the employer.

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## **32. TRAVELLING ALLOWANCE**

Where an employee is required by the employer to use his own vehicle during working time to travel from one location to another, he shall be paid a travelling allowance of 25 cents per kilometre.

### **CONDITIONS FOR EMPLOYEES IN DIVISION C**

## **33. CONTRACT OF EMPLOYMENT**

- (a) Except as hereinafter provided, employment shall be by the week. Any employee not specifically engaged as a casual employee shall be deemed to be employed 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 breakdown in machinery or any stoppage of work, by any cause for which the employer cannot be usefully employed because of any strike or through any breakdown 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 29 (Sick Leave) of this Award, lose his pay for the actual time of such non-attendance.
- (d) Notwithstanding anything elsewhere contained in this award an employer may select and utilise for timekeeping purposes, any fractional or decimal proportion of an hour (not exceeding a quarter of an hour) and may apply such proportion in the calculation of the working time of employees who, without reasonable cause promptly communicated to the employer, report for duty after their appointed starting time or cease duty before their appointed finishing time.

An employer who adopts a proportion for the aforesaid purpose shall apply the same for the calculation of overtime.

## **34. GENERAL CONDITIONS**

The provisions of the following clauses of Divisions A and B hereof shall also apply to employees in this section.

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- 9. Accommodation and Convenience
- 10. Annual Leave
- 12. Casual Work
- 14. Compassionate Leave
- 16. Deductions
- 17. Dispute Settlement Procedure
- 18. Holidays with Pay
- 20. Maternity Leave
- 23. Payment of Wages
- 24. Payment for the Day
- 26. Right of Entry of Union Officials
- 28. Shop Steward
- 29. Sick Leave

### **35. HIGHER DUTIES ALLOWANCE**

- (a) Where a clerk is designated to relieve a staff member not covered by the terms of this award, he shall be paid at the rate equal to \$16.90 per week above his normal weekly rate during the relief period.
- (b) While replacing another clerk who is a member of the Federated Clerks Union, his weekly rate shall be increased by 50% of the difference between the clerk's present classification and the classification of the clerk being relieved, where the relieved clerk is of a higher grade and not merely on a higher increment within the same grade.
- (c) The minimum period of replacement for which an alteration to the rate of pay shall apply, shall be one day.

### **36. HOURS OF WORK**

- (a) Except where otherwise agreed upon by the employer and the employee the ordinary hours of duty shall be an average of 38 per week to be worked on the basis of 152 hours within a work cycle not exceeding twenty-eight consecutive days.

**PROVIDED THAT**, where the employer and the majority of employees in the section concerned agree, a roster system may operate on the basis that the weekly average of 38 ordinary hours is achieved over a period exceeding 28 consecutive days.

- (b) The ordinary hours of work prescribed herein may be worked on any day or all of the days of the week, Monday to Friday inclusive.
- (c) The ordinary hours of work prescribed herein shall be worked between the hours of 7.30 a.m. and 5.30 p.m. and are exclusive of meal breaks. The arrangement of

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hours to be worked may be altered by agreement between the Company and the majority of employees in the section concerned.

- (d) Meal breaks shall be for a period of not less than 30 minutes and not more than 60 minutes at a time to be mutually arranged between the employee and the employer, between 11.45 a.m. and 2.00 p.m., subject to any special arrangements between the employer and the employee provided that an employee shall not be required to work for more than five hours without a break for a meal.

### **37. OVERTIME**

- (a) An employer may require an employee to work reasonable overtime and such employee shall work overtime in accordance with such requirements.
- (b) For all work performed outside of the hours prescribed in subclause (a), Clause 3 hereof, or for work performed in excess of eight hours per day or on Saturday or Sunday, overtime rates shall be paid.
- (c) Except as to the period of hours worked for qualifying for penalty rates, payment for which shall be at the rate of time and one half for the first two hours and double time thereafter, overtime rates and conditions shall be in accordance with those prescribed in Clause 22 (Overtime) and 30 (Sunday Work) of this Award.

P A Imlach  
**COMMISSIONER**

8 October 1990