TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984
s23 application for award or variation of award

Australian Liquor, Hospitality and Miscellaneous Workers Union - Tasmanian Branch
(T11032 of 2003)

FULL BENCH:
PRESIDENT P L LEARY
DEPUTY PRESIDENT R J WATLING
COMMISSIONER T J ABEY

Award variation - reasonable hours provision – application approved – operative date 14 November 2003

BAKING INDUSTRY AWARD

ORDER BY CONSENT

No. 2 of 2003

THE **BAKING INDUSTRY AWARD** IS VARIED IN THE FOLLOWING MANNER:

1. By deleting Clause 22 - OVERTIME, and inserting in lieu thereof the following:

"22. OVERTIME

(a) All work performed in excess of ordinary hours shall be deemed to be overtime and shall be paid in accordance with this clause.

An employee may be required to work reasonable overtime in accordance with the employer's requirements.

(b) Monday to Saturday

The rate of pay for overtime performed on any day Monday to Saturday inclusive shall be at time and one half for the first two hours, and double time thereafter.

(c) Sunday

The rate of pay for overtime worked on a Sunday shall be double time for all hours so worked.

(d) Holidays with Pay

The rate of pay for overtime worked on any of the holidays with pay specified in Clause 19 - Holidays with Pay shall be double time and one half for all hours so worked.

(e) Meal Money

An employee required to work overtime for at least 2 hours beyond the employee's normal finishing time shall either be supplied with an adequate meal or be paid a meal allowance of $12.30.

PROVIDED that this provision shall not apply in circumstances where the employer has provided a minimum of 8 hours notice of the requirement to work overtime.

(f) Rest Period

(i) An employee (other than a casual employee) who works so much overtime between the termination of the ordinary work on one day and the commencement of their ordinary work on the next day that the employee did not have at least 10 consecutive hours off duty between those times shall be released after completion of such overtime until the employee has had 10 consecutive hours off duty without loss of pay for ordinary time work occurring during such absence.

PROVIDED that in exceptional circumstances such as the breakdown of machinery the rest break shall be of 8 hours in lieu of 10 hours

(ii) An employee required to commence work without having had such 10 or 8 hour break as specified in subclause (d)(i) shall be paid at overtime rates until the break is allowed.

(g) Call Back

An employee recalled to work overtime after leaving the employer's business premises (whether notified before or after leaving the premises) shall be paid for a minimum of 4 hours' work at the appropriate rate for each time the employee is so recalled.

PROVIDED that except in the case of unforeseen circumstances arising, the employee shall not be required to work the full 4 hours if the job the employee was recalled to perform is completed within a shorter period.

This subclause shall not apply in cases where it is customary for an employee to return to the employer's premises to perform a specific job outside ordinary working hours, or where the overtime is continuous (subject to a reasonable meal break) with the completion or commencement of ordinary working time.

Overtime worked in the circumstances specified in this subclause shall not be regarded as overtime for the purposes of subclause (b) of this clause where the actual time worked is less than 2 hours on such recall or on each of such recalls.

(h) Time Off in Lieu of Payment

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

(i) An employee may elect, with the consent of the employer, to take time off in lieu of payment for overtime at a time or times agreed with the employer.

(ii) Overtime taken as time off during ordinary time hours shall be taken at the ordinary time rate, that is an hour for each hour worked (unless otherwise provided elsewhere in the award).

(iii) An employer shall, if requested by an employee, provide payment at the rate provided for the payment of overtime as prescribed in this clause, for any overtime worked under this subclause where such time has not been taken within four weeks of accrual.

(iv) An employee or the employees may choose to request a union party to this award, to represent their interests in negotiations referred to in paragraph (i) of this subclause.

(v) Once a decision has been taken to introduce an enterprise system of time off in lieu, in accordance with this clause, its terms must be set out in the time and wages records kept pursuant to Regulation 25 of the Industrial Relations Regulations 1993.

(vi) An employer shall record these time off in lieu arrangements in the time and wages book as prescribed in Clause 29 - Time and Wages Book of this award.

(i) Requirement to work reasonable overtime

(i) Subject to paragraph (ii) of this subclause and subclause (h) of this clause, an employer may require an employee to work reasonable overtime at overtime rates.

(ii) An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable having regard to:

(1) any risk to employee health and safety;

(2) the employee's personal circumstances including any family responsibilities;

(3) the needs of the workplace or enterprise;

(4) the notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and

(5) any other relevant matter."

This variation shall come into operation on and from 14 November 2003.

RJ Watling
DEPUTY PRESIDENT

18 November 2003