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TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T.300 of 1985

IN THE MATTER OF AN APPLICATION BY THE TASMANIAN CHAMBER OF INDUSTRIES TO CONVERT BASIC WAGE AND MARGIN TO TOTAL WAGE IN PRIVATE SECTOR AWARDS

AND

T.435 of 1986

IN THE MATTER OF AN APPLICATION BY THE TASMANIAN TRADES AND LABOR COUNCIL TO VARY WAGE RATES AND ALLOWANCES IN AWARDS IN ACCORDANCE WITH THE NATIONAL WAGE CASE DECISION OF 26 JUNE 1986

ORDER -

No. 1 of 1986
(Consolidated)

AMEND THE **LICENSED CLUBS AWARD** (PART I - WAGE RATES, AND PART II - CONDITIONS) 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 "Licensed Clubs Award".

2. SCOPE

This award is established in respect of Clubs licensed under the Licensing Act 1932.

3. ARRANGEMENT

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4. DATE OF OPERATION

This award shall come into operation from the first full pay period commencing on or after 1 July 1986.

Provided that, it is a term of this award that the unions undertake that, for a period of six months, they will not pursue any extra claims, award or overaward, except where consistent with the Principles of Wage Fixation of the Tasmanian Industrial Commission.

5. SUPERSESSION AND SAVINGS

This award incorporates and supersedes No. 3 of 1984 (Wage Rates), No. 4 of 1984 (Wage Rates), No. 1 of 1985 (Conditions), No. 2 of 1985 (Wage Rates), and No. 3 of 1985 (Wage Rates).

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;

(c) the Federated Liquor and Allied Industries Employees Union of Australasia (Tasmanian Branch) and the officers of that organisation and their members employed in the industry specified in Clause 2 - Scope;

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(d) the Licensed Clubs' Association of Tasmania and the officers of that organisation who are engaged in the industry specified in Clause 2 - Scope;

(e) the Tasmanian Chamber of Industries;

(f) the Tasmanian Trades and Labor Council.

7. DEFINITIONS

'Chief Steward' means the person in charge of the club in the absence of the secretary and who is responsible for the locking away of the cash and closing of the club premises, the observance of all licensing laws, and the general conduct of the club.

'Second Steward' means the person who acts in the absence of the Chief Steward.

A **'casual employee'** means a person who is employed on a casual basis and includes any person who is employed for a period not exceeding 5 days at any one time.

A **'part-time employee'** is one engaged to regularly work as outlined in Clause 29.

'Head Greenkeeper/Curator/Superintendent in Charge', shall mean a person appointed who in addition to his normal duties is required to supervise the work of one or more other employees.

'Qualified Greenkeeper' shall mean a greenkeeper who has successfully completed and can produce appropriate documentary evidence to his or her employer to the effect that he or she has successfully completed an apprenticeship in greenkeeping at any approved or recognised school or college or who has by other means, including not less than four years experience, achieved a standard knowledge and competence deemed by the employer as comparable thereto and who has been appointed as such by the employer.

'Greenkeeper' means a person who is employed to care for the alignment, maintenance and satisfactory conditions of all grounds, gardens, playing area or playing areas outside the building or buildings of the Club. He may also be required to operate machinery or equipment and carry out minor repairs and maintenance of such equipment in connection with such duties.

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8. WAGE RATES

1. ADULTS

Adult employees of a classification specified herein shall be paid the amount assigned opposite that classification.

		Amount Per Week $
1.	Chief Steward and/or Bar Manager	271.00
2.	Second Steward	266.50
3.	Other Stewards	258.50
4.	Cook	259.60
5.	Food Waiter/Waitress	252.20
6.	Qualified Greenkeeper	305.00
7.	Qualified Greenkeeper working alone	308.00
8.	Greenkeeper working alone -	
	(a) first six months	273.60
	(b) thereafter	281.30
9.	Other Greenkeeper	266.30
10.	Cleaners, Housemaids, Kitchenmaids and/or Pantrymaids	249.40
11.	Adults not elsewhere provided for	249.40
12.	Head Greenkeeper -	

Head Greenkeeper/Curator/Superintendent in charge, shall receive the below listed percentage in addition to the amount prescribed for of a Qualified Greenkeeper. Such additional percentage shall be for all purposes. An employee shall include an apprentice or apprentices:

(a)	1 employee	2%
(b)	2 to 5 employees	5%
(c)	6 employees or more	7%

A "Greenkeeper working alone" who is responsible for an apprentice shall receive the "Qualified Greenkeeper" rate.

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2. APPRENTICES

The minimum rate of wages to be paid to apprentice greenkeepers shall be the undermentioned percentages of the total wage payable to classification 6. Qualified Greenkeeper:

	Percentage of $305.00	Amount per week $
1st year	42%	128.10
2nd year	55%	167.80
3rd year	75%	228.80
4th year	90%	274.50

Any apprentice, on completion of his apprenticeship, who is under the age of 20 shall be paid adult rates.

3. JUNIOR WORKERS

The minimum rates of wages that may be paid to junior workers shall be the undermentioned percentages of the wage rates prescribed in subclause 1 hereof

	%
Under 18 years of age	60
Under 19 years of age	75
Under 20 years of age	90
20 years of age and over	100

Junior male and female employees, on reaching the age of 18 years, may be employed in the bar or other places where liquor is sold, provided that, subject to a satisfactory training period not exceeding 4 weeks during which he or she receives the appropriate junior rate, such junior on the completion of this training period, is paid the adult rate for the work being performed.

However, such a junior, if required to work alone, or without supervision shall be paid the adult rate for the work being performed.

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4. CLERKS

Except as prescribed in subclause (iii) hereof, adult employees of a classification hereundermentioned shall be paid the amount assigned opposite that classification.

(i) Adults

	Classification	Amount Per Week $
1.	1st year's adult experience	233.20
	2nd year's adult experience	254.20
	3rd year's adult experience	281.60
2.	An accountant or chief clerk wholly responsible for the office work and who prepares the balance sheet and profit and lsoss account	392.00
3.	A clerk who is in charge of and responsible for the work of -	
	(a) 5 or more employees	340.20
	(b) 3 or 4 employees	324.20
	(c) 2 employees	316.40

'Employees' in this subclause shall mean any male or female clerk, typist or stenographer and shall include the clerk-in-charge.

(ii) Juniors

The minimum rates of wages that may be paid to juniors shall be the undermentioned percentages of the second year adult rate adjusted to the nearest 10 cents.

	Percentage of Second year Adult Rate ($254.20) %	Amount Per Week $
Under 16 years of age	40	101.70
16 to 17 years of age	45	114.40
17 to 18 years of age	55	139.80
18 to 19 years of age	70	177.90
19 to 20 years of age	80	203.40
20 to 21 years of age	90	228.80

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(iii) Proviso

When determining the margin payable to an employee attaining the age of 21 years who has been employed as a junior clerk in the trades or groups of trades in respect of which awards of the Tasmanian Industrial Commission are established applicable to private industry employees, experience obtained after reaching the age of 18 years shall be counted as experience.

(iv) Additional Payments

In addition to the weekly rates prescribed herein the following additional amounts per week shall be paid to stenographers, audio typists, teletypists, accounting machine, computer, data processing, tabulating machine, card punch and verifier operators.

	Amount
Under 16 years of age	1.00
16 to 17 years of age	1.20
17 to 18 years of age	1.30
18 to 19 years of age	1.40
19 to 20 years of age	1.70
20 to 21 years of age	1.80
21 years of age and over	2.50

(v) Estimating Service

In estimating the number of years service of an employee, the total clerical experience in the service of every employer in the trades or groups of trades in respect of which awards of the Tasmanian Industrial Commission are established applicable to private industry employees, shall be taken into account.

5. MINIMUM WAGE

(a) Notwithstanding the provisions of subclauses 1 and 4 hereof, no adult employee shall be paid less than the rate of $198.70 per week.

(b) Provided that payments for overtime, holiday and weekend penalties prescribed in this award shall not be taken into account in the calculation of such minimum weekly rate of wage.

Where a minimum rate of pay as aforesaid is applicable to an employee for work in ordinary hours, the same rate shall be applicable to the calculation of overtime and all other penalty rates, payments during sick leave and annual leave and for all other purposes of this award.

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9. AMENITIES

The employer shall provide adequate facilities for employees to change and hang their clothes and adequate washing and toilet facilities.

10. ANNUAL LEAVE

(a) Period of Leave

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

(b) Annual Leave Exclusive of Public Holidays

Subject to this subclause, the annual leave prescribed by this clause shall be exclusive of any of the holidays prescribed by Clause 21 hereof, and if any such holiday falls within an employee's period of annual leave and is observed on a day which, in the case of that employee, would have been an ordinary working day, there shall be added to that period one day for each such holiday falling as aforesaid.

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

(c) Calculation of Continuous Service

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

(i) Any interruption or determination of the employment by the employer if such interruption or determination has been made merely with the intention of avoiding obligations hereunder in respect of leave of absence.

(ii) Any absence from work on account of personal sickness or accident, and in calculating the period of 12 months' continuous service, absence on account of personal sickness or accident to the extent of 91 days in any 12 months shall be deemed to be part of the period of continuous service.

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

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(d) Proportionate Leave on Termination of Service

If after 3 months continuous service in respect of which leave has not been granted an employee lawfully leaves his employment, or his employment is terminated by the employer through no fault of the employee he shall be paid at his ordinary rate of wage as follows:

thirteen and one third hours for each completed month of continuous service.

(e) Leave to be Taken

The annual leave provided for by this clause shall be allowed and taken.

(f) Payment in Lieu Prohibited

Except as provided in subclause (d) 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 6 months from the date when the right to annual leave accrued. Where practicable, and unless otherwise mutually arranged between the employer and the employee, at least 2 weeks notice shall be given to the employee that his annual leave is to be taken.

(h) Payment for Period of Leave

All employees, before going on annual leave shall be paid 28 days at the ordinary rate of pay i.e. Monday to Friday wage rate prescribed in subclause 1 of Clause 8. Part-time employees shall receive pro rata payment of this amount including the 7 1/2 per cent loading.

In addition thereto all employees other than casual employees, shall be paid an amount equivalent to the minimum wage as prescribed in subclause 5 of Clause 8. Part-time employees shall receive pro rata payment.

For the purpose of calculation a part-time employees payment shall be determined by:

$$\frac{\text{average number of ordinary hours worked each week}}{38} \times 28 \text{ days}$$

The average number of ordinary hours worked each week exclusive of overtime shall be those worked since annual leave was last taken, or, if a new employee; since commencing employment.

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11. BOARD AND LODGING

(a) The amount that may be deducted from the wages prescribed for adult employees for board and lodging shall be $22.10 per week.

(b) Where an employee does not lodge on the premises but is provided with meals the employer may deduct 18 cents for each meal so provided.

(c) For the purpose of adjusting the rate for board and lodging as a result of a National Wage Case decision, calculation shall be in accordance with the following formula:

The notional amount of $110.70 will be varied in accordance with the National Wage Case decision.

The amount prescribed for board and lodging in subclause (a) hereof will be increased or decreased by 10 cents per week for every 50 cents alteration to the notional amount.

(d) The amount that may be deducted from the wage prescribed for junior employees for board and lodging shall be $3.30 per week.

(e) An employee who is required by the employer to remain on the premises of the employer during a meal period shall either be supplied with a meal free of charge or the time so spent shall be counted as part of the 38-hour week.

12. BREAKAGES

An employer shall not charge a sum against nor deduct any sum from the wages of an employee in respect of breakages of crockery or other utensils except in the case of wilful misconduct.

13. BROKEN WORK DAY ALLOWANCE

All employees who have a broken work day shall receive an additional allowance for a spread of hours as follows:

Hours		
More than 10 but not less than 10 1/2	-	$0.86 cents per day
More than 10 1/2 but less than 11 1/2	-	$1.72 per day
More than 11 1/2 but less than 12 1/2	-	$2.59 per day
More than 12 1/2	-	$3.46 per day

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14. CASUAL EMPLOYEE

A casual employee (as defined) shall be engaged for a minimum period of 2 hours and each engagement shall stand alone. Payment for casual work shall be on the basis of one thirty-ninth from 1 February 1985 (one thirty eight from 1 August 1985) of the appropriate weekly wage prescribed in sublauses 1 and 2 of Clause 8, and in addition a loading of 25 per cent.

A casual employee required to travel a total distance greater than 19.3 kilometres from his place of residence to his place of work and return shall be paid for all fares incurred in excess of such distance and in addition the sum of 72 cents. If the employee provides his own transport he shall be paid for such distance in excess of 19.3 kilometres at the rate of 6.3 cents per kilometre minus 72 cents.

15. COMPASSIONATE LEAVE

An employee shall on the death of a wife, husband, father, mother, child, stepchild, brother, sister, mother-in-law, father-in-law, stepmother, stepfather, grandfather, grandmother, be entitled upon application being made to, and approved by the employer, to leave up to and including the day of the funeral of such relative and such leave will be without deduction of pay not exceeding the number of ordinary hours worked by the employee in 3 ordinary days, provided that no payment shall be made in respect of an employee's rostered days off.

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

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

16. DAYS OFF COINCIDING WITH PUBLIC HOLIDAY

An employee shall not be required to take a rostered day off on any of the holidays prescribed by Clause 21 hereof unless one of the following provisions apply:

(i) one day with pay added to the annual leave;

(ii) payment of one day's pay shall be made to the employee on the next succeeding pay day;

(iii) such holiday may be allowed off with pay to the employee within 28 days after such holiday falls;

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(iv) one of the above methods must be mutually agreed upon by the employee and the employer, failing such agreement the provision prescribed in (i) herein shall apply.

(v) for the purposes of calculation one day for a part-time employee shall be;

$$\frac{\text{total number of hours worked in the 4 week period prior to the public holiday}}{\text{number of days worked}}$$

giving the average number of hours worked each day.

17. EXISTING WAGE RATES

Any employee who is at the date of this award in receipt of a wage rate in excess of that herein prescribed shall not have his wage rate reduced as a result of this award, including over-award payments and back payments.

18. FIRST AID KIT

A first aid kit to the satisfaction of the Secretary for Labour shall be provided and maintained by the employer for the use of the employees.

19. GRIEVANCE PROCEDURE

With respect to each of the employers covered by this award, disputes or grievances between it and its employees or any of them shall be settled in accordance with the procedures set out below:

(a) Any grievance, claim or dispute which arises shall, where possible, be settled by discussion on the job between the employee and the management.

(b) If the matter is not resolved at this level, the matter will be further discussed between the affected employee, the union delegate and the management.

(c) If no agreement is reached, the relevant union organizer and delegate will discuss the matter with representatives of the employer.

(d) Should the matter still not be resolved the following procedures may be followed:

(i) A joint discussion shall be held between representatives of the Licensed Clubs Association and/or Tasmanian Chamber of Industries and the Federated Liquor and Allied Industries Employees Union of Australia, Tasmanian Branch.

(ii) If the matters are not finalised they shall be referred to the Industrial Commission.

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(e) Whilst the foregoing procedure is being followed work shall continue normally without bans or limitations. Where it is agreed that there is an existing custom work shall continue in accordance with that custom, but in other cases, the work shall continue in accordance with the direction of the company. No party shall be prejudiced as to the final settlement by the continuance of work in accordance with this subclause.

20. HOLIDAY AND SUNDAY WORK

For all time of duty on Sunday payment shall be made at the rate of double time. For all time of duty on any of the holidays mentioned in Clause 21 hereof payment shall be made at the rate of double time and one half.

21. HOLIDAYS WITH PAY

(a) All employees (other than casual employees) shall be allowed the following days as paid holidays:- New Year's Day, Australia Day, Hobart Regatta Day (south of Oatlands), Labour Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Show Day (as defined), the first Monday in November where Hobart Regatta day is not observed), Christmas Day and Boxing Day.

(b) Payment for the holidays mentioned in subclause (a) which are taken and not worked, shall be at the normal rate of pay which would have applied to the employee concerned when, if it were not for such holidays, 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) **'Show Day'** means not more than one local show day observed on an employee's ordinary working day, other than a Saturday or a Sunday, in the city, town or district in which the employee is employed; or such other day which, in the absence of such a local show day, is agreed on by the employee and the employer, therefore making a total of 11 paid public holidays per year.

22. HOURS

(a) Subject to Clause 23-Implementation of 38-hour week the ordinary hours of work for all employees engaged on weekly hire (other than part-time employees) shall be an average of 38 hours per week, 8 hours per day, and within a spread of 10 hours from commencing time or 6 hours per day within a spread of 7 1/2 per day exclusive of meal breaks. The employee shall, if willing and available to work be paid for the full 8 hours per day: if the employee is not rostered to work for the full 8 hours or within the spread of hours he shall be paid for the 8 hours. Provided that in respect of Residential Clubs, the spread of hours for Cooks, Waitresses and/or Housemaids, Kitchenmaids and/or Pantrymaids shall be 10 each day.

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(b) The ordinary hours shall be worked in not more than 2 periods on any one day, provided that a break of duty for a meal shall not be regarded as breaking a period.

Each employee shall be entitled to 2 full days off each week.

23. IMPLEMENTATION OF 38-HOUR WEEK

(a) Ordinary hours of work shall be an average of thirty-eight (38) per week as provided in Clause 22 - Hours.

(b) The method of implementation of the 38-hour week may be any one of the following:-

(i) By rostering employees off on one day each 4 week cycle.

(ii) By employees working 4 days of eight hours and one day of six hours per week.

(iii) Banking employees who continue to work a 40 hour week will accumulate an extra day after each 4-week cycle up to a maximum of 5 days and these may be taken by employees at a time mutually acceptable to employer and employees. This shall be the preferred system.

(c) The method of implementation of the 38-hour week by one of any combination of the methods set out in subclause (b) of this clause will be determined by the following procedure:-

(i) At each establishment employers and a collective assembly of all weekly employees shall consult, the Union and the relevant employer organisation or other representative of the employer may join in such consultation.

(ii) Should the consultations between the employer and the collective weekly employees (whether the Union and the relevant employer organisation is involved or not) fail to result in agreement the matter may be referred to the Industrial Commission by the employer, the Union or the employer organisation under the provisions of Clause 32 of this Award to consider and determine the matter.

(iii) Should the consultation where the Union has been involved result in agreement being reached then the agreed arrangement will operate from 1 August 1985.

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(iv) In circumstances where the Union has not been involved in the consultation between employers and collective weekly employees and where agreement has been achieved the agreed arrangement will be implemented unless the Union takes the opportunity to have consultations with the employer and the relevant employer organisation. This consultation if undertaken by the Union will lead to either implementation of the agreed arrangement from 1 August 1985 or reference of the matter to the Industrial Commission by the employer, the Union or the employer organisation. If the matter is so referred, the Industrial Commission will consider and determine the method or methods of implementation.

(v) The arrangement to work one of or any combination of the methods set out in subclause (b) of this clause shall be notified by the employer, to the Registrar of the Industrial Commission.

(d) In circumstances where no consultation between the employer and the existing employees at each establishment (as provided for in paragraph (c) (i) of this clause) has taken place by 1 August 1985, the banking as provided by paragraph (b) (iii) of this clause will apply.

(e) Special Provisions for 19-day Month

(i) Where the method of implementation of the 38-hour week is that set out in paragraph (b) (i) above, days off shall be by rostering, where practicable, so this rostered day off in each 4-week cycle is continuous with normal rostered day or days off.

(ii) Where such rostered day off falls on a public holiday the following day may be taken where practicable in lieu thereof.

(iii) Employees shall be entitled to a weeks wages in accordance with subclauses 1 and 2 of Clause 8 - Wage Rates of this Award for each week of the cycle.

(iv) The entitlement to a rostered day off on full pay is subject to the following:

(aa) each day of paid leave taken (not including annual leave and long service leave) and any public holiday occurring during any cycle of 4 weeks shall be regarded as a day worked for accrual purposes.

(bb) an employee who has not worked a complete 4 week cycle in order to accrue a rostered day off shall be paid a pro rata amount for credits accrued for each day worked in such cycle payable for the rostered day off (i.e. an amount of 24 minutes for each 8 hour day worked or 2 hours for each 40 hours worked).

For the purposes of this sub-paragraph "worked" includes paid leave referred to in sub-paragraph (aa).

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(v) Sickness on a rostered day off which has resulted from the 19-day month work cycle -

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

(vi) Payment of wages

In the event that an employee by virtue of the arrangement of his ordinary working hours is rostered off duty on a day which coincides with pay day such employee shall be paid no later than the working day immediately following such payday.

(vii) Notwithstanding the provisions of subclause 2 of Clause 8, an employer may, subject to agreement with the State Branch of the Union, pay wages fortnightly according to the actual hours worked in that fortnightly pay period.

(f) First Five Months

(i) From 1 February 1985 to 31 July 1985, employees shall continue to work forty (40) hours per week and will accrue an entitlement of one days leave for each 4 week period worked.

(ii) During this period the method of implementing the 38 hour week is to be settled for all establishments.

(iii) In respect of establishments where a decision of the Industrial Commission is pending the banking of one day for each 4-week period will continue.

(g) Procedures to apply from 1 August, 1985

(i) The pattern of hours applying at each establishment is to remain unaltered except by agreement between the employer, the relevant employer organisation and the Union. This procedure will operate for a period of 12 months and then it will be subject to review.

(ii) More than one pattern of hours may apply at establishments where it is agreed.

(iii) The pattern of hours to operate at new establishments will be settled in accordance with agreed procedures.

(iv) Disputes arising over these or other issues are to be settled in accordance with Clause 32 of this award.

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24. INDUSTRY ALLOWANCE

(a) Employees engaged in Classifications 6, 7, 8 and 9 of subclause 1, Clause 8 hereof, shall be paid an Industry Allowance of $13.50 per week.

(b) The payment of the allowance prescribed shall be in recognition of and compensation for the disabilities generally existing where work associated with golf links, bowling greens, tennis courts and of all gardens, lawns and greens in connection therewith.

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

25. 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.

(b) Period of Leave and Commencement of Leave

(i) Subject to subclauses (c) and (f) of this clause, the period of maternity leave shall be for an unbroken period of from 6 to 52 weeks and shall include a period of 6 weeks compulsory leave to be taken immediately following confinement.

(ii) An employee shall, not less than 10 weeks prior to the presumed date of confinement, give notice in writing to her employer stating the presumed date of confinement.

(iii) An employee shall give not less than 4 weeks' notice in writing to her employer of the date upon which she proposes to commence maternity leave stating the period of leave to be taken.

(iv) An employer by not less than 14 days' notice in writing to the employee may require her to commence maternity leave at any time within 6 weeks immediately prior to her presumed date of confinement.

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(v) An employee shall not be in breach of this clause as a consequence of failure to give the stipulated period of notice in accordance with paragraph (iii) above, if such failure is occasioned by the confinement occurring earlier than the presumed date.

(c) Transfer to a Safe Job

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

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

(d) Variation of Period of Maternity Leave

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

(ii) The period of leave may, with the consent of the employer, be shortened by the employee giving not less than 14 days' notice in writing stating the period by which the leave is to be shortened.

(e) Cancellation of Maternity Leave

(i) Maternity leave, applied for but not commenced, shall be cancelled when the pregnancy of an employee terminates other than by the birth of a living child.

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

(f) Special Maternity Leave and Sick Leave

(i) Where the pregnancy of an employee not then on maternity leave terminates after 28 weeks other than by the birth of a living child then

(a) she shall be entitled to such period of unpaid leave (to be known as special maternity leave) as a duly qualified medical practitioner certifies as necessary before her return to work; or

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(b) for illness other than the normal consequences of confinement she shall be entitled, either in lieu of or in addition to special maternity leave, to such paid sick leave as to which she is then entitled and which a duly qualified medical practitioner certifies as necessary before her return to work.

(ii) Where an employee not then on maternity leave suffers illness related to her pregnancy, she may take such paid sick leave as to which she is then entitled and such further unpaid leave (to be known as special maternity leave) as a duly qualified medical practitioner certifies as necessary before her return to work, provided that the aggregate of paid sick leave, special maternity leave and maternity leave shall not exceed 52 weeks.

(iii) For the purposes of subclauses (g), (h) and (i) of this clause maternity leave shall include special maternity leave.

(iv) An employee returning to work after the completion of a period of leave taken pursuant to this subclause shall be entitled to the position which she held immediately before proceeding on such leave or, in the case of an employee who was transferred to a safe job pursuant to subclause (c) of this clause to the position she held immediately before such transfer.

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

(g) Maternity Leave and Other Leave Entitlements

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

(i) an employee may, in lieu of or in conjunction with maternity leave, take any annual leave or any part thereof to which she is then entitled.

(ii) paid sick leave or other paid authorised award absences (excluding annual leave), shall not be available to an employee during her absence on maternity leave.

(h) Effect of Maternity Leave on Employment

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

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(i) Termination of Employment

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

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

(j) Return to Work After Maternity Leave

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

(ii) An employee, upon expiration of the notice required by paragraph (i) above, shall be entitled to the position which she held immediately before proceeding on maternity leave or, in the case of an employee who was transferred to a safe job pursuant to subclause (c) of this clause, to the position which she held immediately before such transfer. Where such position no longer exists but there are other positions available for which the employee is qualified and the duties of which she is capable of performing, she shall be entitled to a position as nearly comparable in status and salary or wage to that of her former position.

(k) Replacement Employees

(i) A replacement employee is an employee specifically engaged as a result of an employee proceeding on maternity leave.

(ii) Before an employer engages a replacement employee under this subclause, the employer shall inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.

(iii) Before an employer engages a person to replace an employee temporarily promoted or transferred in order to replace an employee exercising her rights under this clause, the employer shall inform that person of the temporary nature of the promotion or transfer and of the rights of the employee who is being replaced.

(iv) Provided that nothing in this subclause shall be construed as requiring an employer to engage a replacement employee.

(v) A replacement employee shall not be entitled to any of the rights conferred by this clause except where her employment continues beyond the 12 months' qualifying period.

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26. MEAL PERIODS

(a) Each employee shall be granted a meal interval of not less than 30 minutes to be commenced after completing one hour 30 minutes and not later than upon completion of 5 hours of duty. Provided that where it is not possible to grant the meal interval on any day, the said meal interval shall be treated as time worked and paid at the rate for the day plus half time additional at the ordinary weekly rate until released for a meal. Provided further that where an employee is required to exceed 5 hours work after the first meal interval, he shall be granted a further meal interval of 20 minutes to be treated as time worked.

(b) Notwithstanding the provision of subclause (a) of this clause where an employee is rostered to work 6 hours in any one day under the provisions of Clause 23 - Implementation of 38 Hour Week, then such employee shall be granted a meal interval of at least 30 minutes to be commenced after completing one and a half hours and not later than 5 hours of duty.

Provided that where it is not possible to grant the meal interval on one day the said meal interval shall be treated as time worked and paid at the rate of the day plus half time additional at the ordinary weekly rate until released for a meal.

27. MIXED FUNCTIONS

Employees, including casual employees, performing more than one class of work in any one day, shall be paid the rates applicable to the various classes of work performed. The minimum payment for the higher rate shall be 2 hours in any one day.

Provided that the provisions of this clause shall not have the effect of reducing an employee's wage rate below his normal rate of pay.

28. OVERTIME

(a) For all time of duty in excess of the ordinary hours of duty per day and/or outside the spread of hours or outside the rostered hours prescribed in Clause 22 hereof, payment shall be made at the rate of time and a half for the first 2 hours and double time thereafter. In computing over-time each day's work shall stand alone.

(b) For all time of duty on an employee's rostered days off, payment shall be made at the rate of double time with a minimum as for 4 hours.

Rostered day off shall include the rostered day off as provided in Clause 23 of this award.

(c) For overtime and work outside the spread of hours and performed on a Saturday payment shall be made at the rate of time and three quarters for the first 2 hours and double time thereafter.

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29. PART-TIME EMPLOYEES

Adults may be employed as part-time employees (as defined) in any classification in the award on the following basis:

(a) not less than 4 hours and not longer than 7 hours per day,
not less than 3 days a week and not more than 5 days a week,
not less than 12 hours a week and not more than 35 hours a week.

All time worked in excess of 7 hours per day, 5 days per week and/or 35 hours per week shall be overtime and paid for at the rates prescribed for other weekly employees in Clause 28 - Overtime hereof.

(b) Payment for part-time work shall be on the basis of one thirty-eighth of the appropriate weekly wage prescribed in Clauses 1 and 2, Part 1 and in addition a loading of 7 1/2 per cent. The additional 7 1/2 per cent shall also be regarded as part of Monday to Friday wages for the payment of annual leave, sick leave, compassionate leave and work not performed on a holiday prescribed in Clause 21.

(c) All other provisions of this award shall apply to part-time employees including the provisions of Annual leave, Sick leave, Holidays with Pay and Compassionate leave on a pro-rata basis, as outlined in the appropriate clause.

(d) The hours of duty each day shall be worked continuously provided that an employee who is required to work longer than 5 hours shall be granted a meal break of not less than 30 minutes. The meal break shall not be counted as time worked.

Where such a meal break is not granted in a period of not longer than 5 hours of duty on any day, the said meal break shall be treated as time worked and paid at the rate for the day plus half time additional at the ordinary weekly rate.

This penalty shall also apply where other penalties are paid.

30. PAYMENT OF WAGES

(a) Except upon the termination of employment, all wages including overtime shall be paid on any day other than Friday, Saturday and Sunday in each week.

(b) By agreement between the employer and the employee wages may be paid either weekly or fortnightly by one of the following means:-

(i) Cash;

(ii) Cheque; and

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(iii) Payment into a financial institution of the employees choice,

without cost to the employee.

In the event of a disagreement, the Union and the relevant employer organisation or other representative of the employer may be informed.

Notwithstanding the provisions of this subclause, an employer may pay an employee weekly cash without consultation.

(c) Employees who are paid their wages at any time other than during their working time shall, if kept waiting more than 15 minutes, be paid overtime rates for all such waiting time.

(d) Employees whose rostered day off falls on pay day shall be paid their wages, if they so desire, before going off duty on the working day prior to their day off.

(e) When notice of termination of employment has been given by an employee, or an employee's services have been terminated by an employer, payment of all wages and other moneys due shall be made at the employee's normal place of employment prior to the employee leaving such place of employment. If any employee is kept waiting more than 15 minutes after termination of employment such employee shall be paid overtime rates for waiting time.

Provided that where an employee is dismissed for misconduct, such employee shall be paid within 24 hours from the time of dismissal.

For the purpose of this subclause, waiting time shall mean all time an employee is kept waiting on the premises of the employer on the day of termination of employment in excess of the waiting time specified herein. In the event of an employee not being paid on the day of termination of employment, such employee shall be paid at the rate of time and a half until payment is effected, with a minimum payment of 2 hours and a maximum of 7.6 hours per day. The 7.6 hours shall refer to the period or shift normally worked by the employee.

Provided that in the case of an employee whose ordinary hours are arranged in accordance with Clause 23 (b) (i) and (b) (iii) of this award and who is paid average pay and who has not taken the day off or days due to him during the work cycle in which is employment is terminated, the wages due to that employee shall include the total of credits accrued during the work cycle as mentioned in Clause 23 of this award.

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

(f) At the time of payment of wages, each employee not in receipt of taxation deduction stamps shall be issued with a statement showing gross wage, taxation deductions, net wage, and date to which payment is made.

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(g) For the purpose of this award including overtime, weekend and public holiday penalties the hourly rates of wages shall be calculated by dividing the appropriate weekly rates provided in subclause 1 of Clause 8 – Wage Rates, of this award by 38 subject to the provisions of Clause 14.

31. PREFERENCE OF EMPLOYMENT

Preference shall be given to all members of the union who apply for employment under this award, and retention in employment under this award in the event of retrenchment. Such preference shall be given in the following manner:

(a) Where a member of the union applies for employment and is willing and able to perform work under this award in respect of which work the employer intends to engage a new employee, the employer shall engage such member of the union.

(b) Where the employer is aware that a member of the union is willing and able to continue to perform work under this award in respect of which work the employer intends to reduce the number of his existing employees by retrenchment, the employer shall retain in employment such member of the union in preference to persons who are not members of the union. Such preference shall be given subject to the following conditions:-

    (i) Nothing in this clause shall require an employer to engage or retain in employment any particular person who is, in the opinion of the employer, not able to perform the work efficiently.

    (ii) Nothing in this clause shall affect the right which an employer may have to dismiss summarily for misconduct or neglect of duty.

32. REFERENCE OF DISPUTES

In the matter of reduced hours the Industrial Commission shall determine the following matters, if referred to it:

(i) disagreements about the implementation of weekly hours arrangements.

(ii) changes to patterns of shorter hours.

(iii) other matters the parties agree to refer.

In addition to the above any dispute arising in respect of any matter to which this award relates shall be referred to the Industrial Commission whose decision shall be final.

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33. RIGHT OF ENTRY OF UNION OFFICIALS

For the purposes of interviewing employees on legitimate union business or on matters arising out of this award, a duly accredited representative of the appropriate union shall have the right to enter the employer's premises on the following conditions:

(i) That he produces his authority to such persons as may be appointed by the employer.

(ii) That he interviews employees only at such times and places as will not interfere with their work.

(iii) That, without the consent of the employer, the representative shall not visit the premises more than once in each week.

(iv) That if any 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.

34. ROSTER

A roster for all employees engaged on weekly hire showing normal starting and finishing time and the surname and initials of each employee shall be prepared by the employer and shall be posted in a conspicuous place or places accessible to the employees concerned. The roster shall be alterable by mutual consent at any time or by amendment of the roster on 7 days notice. Where practicable 2 weeks notice of rostered day or days off shall be given provided that the days off may be changed by mutual consent or by absence through sickness, or other cause over which the employer has no control.

35. SATURDAY WORK

For all ordinary time of duty performed on Saturday payment shall be made at the rate of time and a half.

36. SHIFT ALLOWANCE

All employees who are required to commence ordinary hours of duty, before 7.00 a.m. or finish ordinary hours after 7.00 p.m. on any day Monday to Friday inclusive, shall be paid $1.06 per hour extra for time worked outside such hours with a minimum payment of $2.08 on any one day.

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37. SICK LEAVE

(a) An employee, other than one engaged as a casual employee, 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, within 48 hours of the commencement of such absence, inform the employer of his inability to attend for work, and as far as may be practicable, state the nature of the illness or injury and the estimated duration of the absence;

(iii) he shall prove to the satisfaction of the employer (or in the event of a dispute, the Secretary for Labour), that he was unable on account of such illness or injury to attend for work on the day or days for which the 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 76 hours of ordinary working time;

(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 2 weeks of the employee entering his employment require an employee to make a sworn declaration or other written statement as to what paid leave of absence he has had from any employer during the then current year, and upon such statement the employer shall be entitled to rely and act.

(b) Sick leave shall accumulate from year to year so that any balance of the period specified in subclause (a) (iv) of this clause which has in any year not been allowed to an employee by an employer as paid sick leave shall be credited to the employee and, subject to the conditions hereinbefore prescribed shall be allowed by that employer in a subsequent year without diminution of the sick leave prescribed in respect of that year.

(c) An employer shall not be required to make any payment in respect of accumulated sick leave credits to an employee who is discharged or leaves his employment, or for any time an employee is absent from work without producing satisfactory evidence of personal illness.

(d) An employer taking over a business shall be responsible for all accumulated sick leave covered by the period of employment of each employee who was employed by an immediate predecessor in the business. A business for the purposes of this subclause includes any trade, tender, contract, profession, process or occupation or any part thereof.

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(e) (i) An employee who works under the provisions of paragraph (b) (i) and/or (iii) of Clause 23 - Implementation of 38-Hour Week, shall have his or her sick leave entitlement for each hour of absence on sick leave reduced by that amount up to a maximum of 7 hours 36 minutes for each day.

(ii) An employee who works under the provisions of paragraphs (b) (ii) of Clause 23 - Implementation of 38-Hour Week shall have his or her sick leave entitlements for each hour of absence on sick leave reduced by that amount up to the number of hours the employee is rostered for work.

38. TERMINATION OF SERVICES

Employment may be terminated by the giving of one week's notice on either side, or by the payment or forfeiture of one week's wages as the case may be.

39. TIME AND WAGES

(a) A time and wages book or sheet shall be provided and kept by each employer. Each employee shall, on commencing work each day, enter his or her starting time and on finishing work each day enter his or her finishing time. An entry shall also be made therein by the employer of the time worked and the amount of wages and overtime paid each week, together with the date of payment. The employer shall keep such book or sheet available at all reasonable times and in a convenient place to which the employee shall have access for the purpose of making such entries. Such book or sheet may be inspected by the Officials of the Federated Liquor and Allied Industries Employees' Union of Australia at all reasonable hours. When broken shifts are worked, the employee shall enter therein the time he or she goes off for each meal and the time of re-starting work after each meal, and the finishing time.

(b) Time sheets or wage books must be kept at the place of employment for at least 12 months.

(c) Employers may provide electronic or mechanical time recording systems to be installed at convenient locations for employees to record their starting and finishing times each day.

40. TOOL ALLOWANCE

All employees engaged in classifications that are proclaimed as trades under the Apprentices Act 1942 shall either be supplied with all tools by the employer or be paid a tool allowance of not less than $8.10 per week.

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

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41. TRAVELLING TIME

Where an employee is detained at work until it is too late to travel by the last means of public transport to his or her usual place of residence, the employer shall either provide proper conveyance or provide accommodation for the night free of charge.

42. UNIFORMS

Where special uniforms, including white coats and/or other uniform type of dress are required to be worn, they shall be supplied and laundered at the employer's expense and shall remain the property of the employer.

L.A.Koerbin
PRESIDENT

5 September 1986