

**IN THE TASMANIAN INDUSTRIAL COMMISSION**

Industrial Relations Act 1984

**T.435 of 1986**

**IN THE MATTER OF AN APPLICATION  
BY THE TASMANIAN TRADES AND LABOR  
COUNCIL TO VARY ALL PUBLIC AND  
PRIVATE SECTOR AWARDS AND  
AGREEMENTS RESPECTIVELY**

**RE: NATIONAL WAGE 2.3% INCREASE  
IN SALARIES, WAGES AND ALLOWANCES**

**incorporating**

**T.300 of 1986**

**IN THE MATTER OF AN APPLICATION  
BY THE TASMANIAN CHAMBER OF  
INDUSTRIES RE VARIATION OF  
PRIVATE SECTOR AWARDS**

**RE: CONVERSION OF BASIC WAGE AND  
MARGIN TO TOTAL WAGE**

**ORDER -**

**No. 2 of 1986  
(Consolidated)**

**AMEND THE WIREWORKING AWARD BY DELETING ALL CLAUSES CONTAINED IN PARTS I  
AND II AND INSERT IN LIEU THEREOF THE FOLLOWING:**

### 1. TITLE

This award shall be known as the 'Wireworking Award'.

### 2. SCOPE

This award is established in respect of:

- (a) making nails;
- (b) weaving wire netting and barbed wire;
- (c) galvanising
- (d) drawing wire (other than from brass, copper or other non-ferrous metals);
- (e) making wire gates; or
- (f) making chainwire mesh.

### 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. SUPERSESSSION AND SAVINGS**

This award incorporates and supersedes No. 1 of 1979 (Conditions), No. 1 of 1980 (Conditions), No. 1 of 1981 (Conditions), No. 1 of 1984 (Conditions), No. 2 of 1984 (Conditions), No. 1 of 1985 (Wage Wages and Conditions), No. 3 of 1985 (Conditions) and No. 1 of 1986 (Wage Rates and Conditions).

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 Metal Industries Association, Tasmania and the officers of that organisation and their members engaged in the industry specified in Clause 2 - Scope;
- (d) the Federated Ironworkers' Association of Australia, Tasmanian Branch and the officers of that organisation and their members employed in the industry specified in Clause 2 - Scope;
- (e) the Transport Workers' Union of Australia, Tasmanian Branch and the officers of that organisation and their members employed in the industry specified in Clause 2 - Scope;
- (f) the Tasmanian Chamber of Industries; and
- (g) the Tasmanian Trades and Labor Council.

## 7. DEFINITIONS

In this award:

**Confined space** means a compartment or space access to which is through a man-hole or similar opening, or a place the dimensions of which necessitate an employee working in a stooped or otherwise cramped position or without proper ventilation.

**Employee directly assisting a tradesman** means an employee engaged solely on the duties of assisting a tradesman by fetching and carrying, waiting on a tradesman's needs in the performance of his work and supporting material and fittings whilst the tradesman is working on same.

**Erector** means an adult employee engaged in erecting hand rails, fencing, and enclosures of any description and who is required to set out and properly align the work.

**Framemaker** means an adult employee manufacturing frames for grates, guards, fences, etc. from materials other than wire.

**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.

## 8. WAGE RATES

### 1. WAGES

An adult employee of a classification specified herein shall be paid the amount assigned to that classification

Classification	Amount Per Week \$
1. Wire Worker 'A' (as defined)	238.20
2. Wire Worker 'B' (as defined)	226.60
3. Framemaker	228.60
4. Erector	228.60
5. (a) Storeman Grade 1	
A storeman and/or packer during the first 2 months of service	242.50
(b) Storeman Grade 2	
A storeman and/or packer after 2 months of service	249.10



	Amount Per Week \$
6. Fitter	304.80
7. Employee not elsewhere classified	209.70
8. Employee directly assisting a tradesman	222.60
9. Employee driving motor vehicle having maker's capacity of -	
1.2 tonnes or less	274.80
Over 1.2 tonnes but not over 3 tonnes	278.40
Over 3 tonnes but under 6 tonnes	282.80
Over 6 tonnes but under 7 tonnes	283.50
Over 7 tonnes but under 8 tonnes	284.30
Over 8 tonnes but under 9 tonnes	285.00

## 2. MINIMUM WAGE

- (a) Notwithstanding the provisions of subclause 1 hereof, no adult employee shall be paid less than the rate of \$198.70 per week.
- (b) Provided that payments for overtime, special rates, holiday and weekend penalties and shift allowances 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.

## 3. LEADING HANDS

Leading hands in charge of not less than 3 and not more than 10 employees - \$16.00 per week extra; more than 10 and not more than 20 employees - \$23.80 per week extra; more than 20 employees - \$30.30 per week extra.

## 4. APPRENTICES

- (a) Contract of Apprenticeship

The contract of apprenticeship shall be in accordance with the regulations made under the Apprentices Act 1942.

(b) Probationary Period

Minors may be taken on probation for three months and if apprenticed such three months shall count as part of their period of apprenticeship.

(c) Wages

The minimum rates of wages that may be paid to apprentices shall be the undermentioned percentages of the wage for classification 6, subclause 1 hereof.

1st year	42%
2nd year	55%
3rd year	75%
4th year	88%

The wages shall be calculated to the nearest 10 cents, any fraction of 10 cents not exceeding 5 cents to be disregarded.

An employee who is under 21 years of age on the expiration of his apprenticeship and thereafter works as a minor in the occupation to which he has been apprenticed shall be paid at not less than the adult rate prescribed for the classification.

(d) Hours

The ordinary hours of employment of apprentices shall not in each workshop exceed those of the journeyman.

(e) Overtime and Shift Work

An apprentice under the age of 18 years shall not be required to work overtime or shift work unless he so desires.

(f) Payment by Results

An apprentice shall not work under any system of payment by results.

(g) Lost Time

The apprentice at the end of the calendar period of any year in which he has actually given service to the master upon less than the ordinary working days prescribed in the award for the trade, or on which he has unlawfully absented himself without the master's consent shall for every day short of the said number of working days, and for every day of such absence serve one day, and the calendar period of the succeeding year of his service shall not be deemed to begin until the said additional day or days shall have been served.

Provided that in calculating the extra time to be served the apprentice shall be credited with the time which he has worked during the relevant year in excess of his ordinary hours.

(h) Prohibition of Premiums

An employer shall not, either directly or indirectly, or by any pretence or device receive from any person or require or permit any person to pay or give any consideration in the nature of a premium or bonus for the taking or binding of any probationer or apprentice.

(i) Attendance at Technical Schools

Apprentice attending technical colleges or schools and presenting reports of satisfactory conduct shall be reimbursed all fees paid by them.

(j) Annual and Sick Leave

Apprentices shall be entitled to the same sick and annual leave as is provided herein for adult employees in this award.

## 5. JUNIORS

The minimum rates of wages for unapprenticed juniors in occupations for which apprenticeship is not provided by this award shall be the undermentioned percentages of the wage prescribed for classification 2, subclause 1 hereof.

Under 16 years of age	35%
16 years of age	45%
17 years of age	55%
18 years of age	65%
19 years of age	78.5%
20 years of age	93%

Wage rates in this clause shall be calculated to the nearest 10 cents, any fraction of 10 cents not exceeding 5 cents to be disregarded.

## 6. 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 \$7.80 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.



**9. ANNUAL LEAVE**

**(a) Period of Leave**

**(i) Day Workers**

From the beginning of the first full pay period commencing on or after 21 August 1985, a period of 152 hours shall be allowed annually to an employee after 12 months' continuous service (less the period of annual leave).

**(ii) Shift Workers**

In addition to the leave hereinbefore prescribed, seven day shift workers who are rostered to work regularly on Sundays and holidays shall from the beginning of the first full pay period commencing on or after 21 August 1985 be allowed a period of 38 hours additional leave.

Where an employee with 12 months' continuous service is engaged for part of the 12 monthly period as a 7-day shift worker he shall be entitled to have the period of annual leave prescribed in paragraph (i) increased by 1/2 a day for each month he is continuously engaged.

**(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 15 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 the period of annual leave 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) Broken Leave**

The annual leave shall be given and taken in a continuous period, or if the employee and the employer so agree, in 2 separate periods, and not otherwise.



(d) Calculation of Continuous Service and Special Leave

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

- (i) any interruption or determination of the employment by the employer if such interruption or determination has been made merely with the intention of avoiding obligations hereunder in respect of leave of absence;
- (ii) any absence from work on account of personal sickness, accident, holidays or duties of a public nature.

For the purpose of this clause duties of a public nature include service on jury, witness in Court of Law (but not as accused if convicted), Municipal Councillor, appearing either in the capacity of advocate or witness before the Tasmanian Industrial Commission in proceedings relating to matters affecting this award. Employees who are absent by reason of sickness or accident, and who fail to notify their foreman in reasonable time of the reason for such absence, will be liable to penalties for same.

- (iii) Any absence by an employee for a greater period than 91 days owing to sickness or accident not originating in the course of his employment in which case he shall be entitled to holidays proportionate to the time worked.

No penalty will operate where the period of absence through sickness or accident is less than 91 days.

Any employee who desires to have time off owing to serious illness in his family is permitted to make application to the foreman of his department for leave of not less than 3 days or more than 28 days duration. This leave will be treated as a non-penalty absence provided the application is bona fide and is supported by the head of the department concerned.

Provided that -

- (a) Employees desiring time off must apply to their foreman for leave of absence.
- (b) Employees who are absent without leave for a period in excess of 3 working days shall be deemed to have terminated their employment with the employer. Should such employees return and be engaged their annual holidays will begin to accrue as from the date of re-engagement.

- (c) Where overtime is worked, the employee will be credited with the same against absences, the total number of hours to be converted into shift or days by dividing the total by 8.

A notification given by an employee pursuant to Clause 25 - Sick Leave hereof, shall be accepted as a notification under this subclause.

Any absence from work by reason of any cause not being a cause specified in this subclause shall not be deemed to break the service for the purposes 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 service.

In cases of individual absenteeism such notices 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 plant in the manner in which general notifications to employees are usually made in that plant and by posting to each union whose members have participated in such concerted or collective absenteeism a copy of same not later than the day it is posted up in the plant.

A notice to an individual employee may be given by delivering same to him personally or by posting it to his last recorded address, in which cases it shall be deemed to have reached him in due course by post.

(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 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 be no such day in such subsequent month shall be reckoned as ending at the end of such subsequent month.

(f) Leave to be Taken

The annual leave provided for by this clause shall be allowed and shall be taken and except as provided in subclauses (j) and (k) 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 and after not less than 2 weeks' notice to the employee.

(h) Leave Allowed Before Due Date

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

Where leave has been granted to an employee pursuant to this subclause before the right thereto has accrued due and the employee subsequently leaves or is discharged from the service of the employer before completing the 12 months' continuous service in respect of which the leave was granted, the employer may, for each completed month 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-twelfth 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 15 hereof.

(i) Payment for Period of Leave

All employees, before going on annual leave, shall be paid the amount of wages they would have received in respect of the ordinary time they would have worked had they not been on leave during the relevant period. In addition thereto, all employees, other than casual or part-time employees, shall be paid an amount equivalent to the 'Minimum Wage' as prescribed in subclause 2 of Clause 8.

(j) Proportionate Leave on Dismissal

If after one month's service in any qualifying 12 monthly period an employee lawfully leaves his employment or his employment is terminated by the employer through no fault of the employee, the employee shall be paid pro rata at his ordinary rate of wage in respect of each completed month of service, being service in respect of which leave has not been granted hereunder.

(k) Annual Close Down

Where an employer closes down his plant, or a section or sections thereof for the purposes 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) He may, by giving not less than 1 month's notice of his 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 are not then qualified for 4 full weeks' leave, paid leave on a proportionate basis of 11.692 hours for each completed month of continuous service.
- (ii) An employee who has then qualified for 4 full weeks' leave and has also completed a further month or more of service shall be allowed his leave, and also be paid 11.692 hours in respect of each completed month of service performed since the close of his last 12 monthly qualifying period.
- (iii) The next 12 monthly qualifying period of each employee affected by such close down shall commence from the day on which the plant, or section or sections concerned is re-opened for work. Provided that all time during which an employee is stood off without pay for the purpose of this subclause shall be deemed to be time of service in the next 12 monthly qualifying period.
- (iv) If in the first year of his service with an employer an employee is allowed proportionate annual leave under paragraph (i) hereof 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 (j) of this clause subject to adjustment for any proportionate leave which he may have been allowed as aforesaid.
- (v) Transition Period:

In the case of an employee whose employment is terminated after the beginning of the first full pay period to commence on or after 21 August 1985, and who has accrued an entitlement to proportionate leave in accordance with paragraph (i) of this clause in respect of a period up to the beginning of the first full pay period commencing on or after 21 August 1985, he shall be paid for that period on the following basis:

Number of accrued	x	<u>Appropriate weekly rate</u>
hours up to the beginning		40
of the first full pay period		
commencing on or after 21		
August 1985		

#### **10. 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, step-mother, step-father, grand-father, grand-mother, 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.

#### **11. COMPULSORY OVERTIME**

- (a) An employer may require any employee to work reasonable overtime at overtime rates and such employee shall work overtime in accordance with such requirement.
- (b) 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 Tasmanian Industrial Commission for hearing and adjudication and its decision on the matter shall be final and binding on both employer and employees.

#### **12. CONTRACT OF EMPLOYMENT**

- (a) Weekly Employment
  - (i) 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.



(ii) 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, except where an employee has less than 2 weeks of continuous service, in which case one day's notice shall be sufficient and the employment shall be deemed to be from day to day. This shall not affect the right of the employer to dismiss any employee without notice for 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.

(iii) An employee not attending for duty shall, except as provided by Clause 25 - Sick Leave hereof lose his pay for the actual time of such non-attendance.

(b) Casual Employment

(i) A casual employee for working ordinary time shall be paid 15% above the equivalent hourly rate of the weekly rate prescribed by this award for the work which he performs.

(ii) A casual employee is one engaged and paid as such. He shall not be entitled to payment for public holidays not worked.

(c) Late Comers

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 times.

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

(d) Part-time Employment

(i) Part-time employees engaged to work 20 or more hours per week shall be entitled to annual leave, holidays and sick leave as prescribed in Clauses 9, 15 and 25 hereof, provided that payment therefor shall be made at the rate normally paid to such employees for a similar period of time worked.



The wage rates payable per hour shall be one-fortieth of the relevant rate above set out.

- (ii) Part-time employees engaged to work less than 20 hours per week shall be paid per hour one-fortieth of the relevant rate set out, plus an additional 15%, such payment being in lieu of public holidays, annual leave and sick leave.

### **13. DAMAGE TO CLOTHING AND TOOLS**

Compensation to the extent of the damage sustained shall be made where in the course of the work clothing or tools are damaged or destroyed by fire or molten metal or through the use of corrosive substances. Provided that the employer's liability in respect of tools shall be limited to such tools of trade as are ordinarily required for the performance of the employee's duties.

### **14. EXTRA RATES NOT CUMULATIVE**

Extra rates in this award except rates prescribed in Clause 26 - Special Rates hereof, are not cumulative so as to exceed the maximum of double the ordinary rates.

### **15. HOLIDAYS WITH PAY**

- (a) All employees (other than casuals or part-time employees mentioned in subclause (f)(ii), Clause 12 hereof) 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 holiday he had been at work.

#### **Exceptions**

- (c) An employee shall be paid at the rate of double time for work done on Sundays and double time and a half for work done on public holidays, such rates to continue until he is relieved from duty.

- (d) An employee (other than a casual employee) who works on a Sunday or a 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 8 consecutive hours off duty without deduction of pay for ordinary time of duty occurring during such absence.
- (e) Employees, other than on shift or engaged in maintaining the continuity of electric light and power, required to work on Sunday or public holidays shall be paid for a minimum of 3 hours work.
- (f) When shifts commence between 11.00p.m. and midnight on a Sunday or holiday the time so worked before midnight shall not entitle the employee to the Sunday or holiday rate. Provided that the time worked by an employee on a shift commencing before midnight on the day preceding a Sunday or holiday and extending into a Sunday or holiday shall be regarded as time worked on such Sunday or holiday.

#### **16. HOURS OF EMPLOYMENT**

- (a) As from the beginning of the first full pay period commencing on or after 21 August 1985 the ordinary hours of employment shall be an average of 38 per week to be arranged in a work cycle not exceeding 152 hours within a period of 28 consecutive days.
- (b) The ordinary hours prescribed herein shall be continuous, except for meal breaks at the discretion of the employer, Monday to Friday inclusive between the hours of 7.00a.m. and 5.30p.m.

#### **17. 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) 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.

(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.

(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.



- (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.

#### **18. MIXED FUNCTIONS**

An employee engaged for more than 2 hours during normal 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 2 hours or less during normal hours on any day or shift he shall be paid the higher rate for the time so worked.

#### **19. NOTICE BOARDS**

The employer shall permit a notice board of reasonable dimensions to be erected in a prominent position in his establishment, upon which accredited union representatives shall be permitted to post formal union notices, signed or countersigned by the representative posting same.

Any notice posted on such board not so signed or countersigned may be removed by an accredited union representative or by the employer.

#### **20. OVERTIME**

- (a) For all work done outside ordinary hours the rates of pay shall be time and a half for the first 2 hours and double time thereafter, such double time to continue until the completion of the overtime worked.

Except as provided in this subclause or subclause (b) hereof in computing overtime, each day's work shall stand alone.



From the beginning of the first full pay period commencing on or after 21 August 1985 the hourly rates, when computing overtime, shall be determined by dividing the appropriate rate by 38 even in cases where the employee works more than 38 ordinary hours in a week.

(b) Rest Period After Overtime

When overtime work is necessary, it shall wherever reasonably practicable be so arranged that employees have at least a full shift off duty between work of successive days.

An employee (other than a casual 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 a full shift off duty between those times shall, subject to this subclause be released after completion of such overtime until he has had a full shift 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 a full shift 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 a full shift off duty without loss of pay for ordinary working time occurring during such absence.

(c) Call Back

An employee recalled to work overtime after leaving his 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 he 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 he 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 his employer's premises to perform a specific job outside his 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 purpose of subclause (b) of this clause where the actual time worked is less than 4 hours on such recall or on each of such recalls.

(d) Saturday Work

Employees required to work overtime on a Saturday shall be afforded at least 3 hours work or paid for 3 hours at the appropriate rate except where such overtime is continuous with overtime commenced on the day previous.

(e) Standing By

Subject to any custom now prevailing under which an employee is required regularly to hold himself in readiness for a call back, an employee required to hold himself in readiness to work after ordinary hours shall until released be paid standing by time in ordinary rates from the time from which he is so to hold himself in readiness.

(f) Meal Hours - General

For work done during meal hours and thereafter until a meal-hour break is allowed, time and a half rates shall be paid. Unless otherwise mutually arranged between the employer and the employee, an employee shall not work more than 5 hours without a break for a meal.

(g) Meal Hours - Maintenance Employees

Subject to the provisions of the second part of subclause (f) of this clause an employee employed as a regular maintenance man shall work during meal breaks at the ordinary rates herein prescribed 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 while such plant is idle.

(h) Crib Time

An employee working overtime shall be allowed a crib time of 20 minutes without deduction of pay after each 4 hours of overtime worked if the employee continues work after such crib time.

Provided that where an employee is required to work overtime on a Saturday the first prescribed crib time shall, if occurring between 10.00a.m. and 1.00p.m., be paid at ordinary rates.

Unless the period of overtime is less than 1 1/2 hours an employee before starting overtime after working ordinary hours shall be allowed a meal break of 20 minutes which shall be paid for at ordinary rates. 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 20 minutes.



(i) Meal Allowance

Any employee required to continue at work on overtime for more than 2 hours after his ordinary ceasing time without having been notified before leaving his work 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.

Providing 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 \$4.80 for the first and each subsequent meal.

If an employee pursuant to notice has provided a meal and is not required to work less than 2 hours he shall be paid \$4.80 for the meal which he has provided but which is surplus.

If an employee pursuant to notice has provided a meal or meals and is not required to work overtime or is required to work less than the amount advised he shall be paid as above prescribed for meals which he has provided but which are surplus.

(j) Transport of Employees

When an employee, after having worked overtime or a shift for which he has not been regularly rostered, finishes work at a time when reasonable means of transport are not available, the employer shall provide him with a conveyance to his home, or pay him his current wage for the time reasonably occupied in reaching his home.

**21. PAYMENT OF WAGES**

- (i) From the beginning of the first full pay period commencing on or after 21 August 1985, wages shall be paid weekly, according to the weekly average of ordinary hours worked even though more or less than 38 ordinary hours may be worked in any particular week of the work cycle.

Special Note - Explanation of Averaging System

If the 38-hour week is to be implemented so as to give an employee a day off in each work cycle, this would be achieved if, during a work cycle of 28 consecutive days (that is, over four consecutive weeks) the employee's ordinary hours were arranged on the basis that for three of the four weeks he worked 40 ordinary hours each week and in the fourth week he worked 32 ordinary hours. That is, he would work for eight ordinary hours each day.



Monday to Friday inclusive for three weeks and eight ordinary hours on four week days only in the fourth week - a total of 19 days during the work cycle.

In such a case the averaging system may apply and the weekly wage rates for ordinary hours of work applicable to the employee shall be the average weekly wage rates set out for the employee's classification in Clause 8 - Wage Rates, and shall be paid each week even though more or less than 38 ordinary hours are worked that week.

In effect, under the averaging system, the employee accrued a 'credit' each day he works actual ordinary hours in excess of the daily average which would otherwise be 7 hours 36 minutes. This 'credit' is carried forward so that in the week of the cycle that he works on only four days, his actual pay would be for an average of 38 ordinary hours even though, that week, he works a total of 32 ordinary hours.

Consequently, for each day an employee works eight ordinary hours he accrues a 'credit' of 24 minutes (0.4 hours). The maximum 'credit' the employee may accrue under this system is 0.4 hours of 19 days; that is, a total of 7 hours 36 minutes.

An employee will not accrue a 'credit' for each day he is absent from duty other than on annual leave, long service leave, public holidays, paid sick leave, workers' compensation, compassionate leave, or other paid absence authorised by the employer. When an employee is absent from duty because of annual leave, long service leave, public holidays, paid sick leave, workers' compensation, compassionate leave, or other paid absence authorised by the employer, his entitlement is determined in accordance with the appropriate award provision dealing with such entitlements.

(ii) (a) Absences from Duty

An employee who is absent from duty (other than on annual leave, long service leave, public holidays, paid sick leave, workers' compensation, compassionate leave) shall, for each day he is so absent lose average pay for that day calculated by dividing his average weekly wage rate by five.

An employee who is so absent from duty for part of a day shall lose average pay for each hour or part thereof he is absent at an hourly rate calculated by dividing his average daily pay rate by eight, and for each hour or part thereof the credit will not accrue.

(b)

When such an employee is absent from duty he will not accrue a 'credit' of 3 minutes for each hour absent. Consequently, during the week of the work cycle he is to work less than 38 ordinary hours he will not be entitled to average pay for that week. In that week, the average pay will be reduced by the amount of the 'credit' he does not accrue for each hour during the work cycle he is absent.

The amount by which an employee's average weekly pay will be reduced when he is absent from duty (other than on annual leave, long service leave, public holidays, paid sick leave, workers' compensation, compassionate leave) is to be calculated as follows:

Total of 'credits' not accrued during cycle	x	<u>average weekly pay</u> 38
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Examples:

(An employee's ordinary hours are arranged so that he works eight ordinary hours on five days of each week for three weeks and eight ordinary hours on four days of the fourth week).

1. Employees takes one day off without authorisation in the first week of cycle.

Week of Cycle	Payment
1st week	= average weekly pay less one day's pay (i.e. less 1/5th)
2nd & 3rd weeks	= average weekly pay each week
4th week	= average pay less credit not accrued on day of absence  = average pay less 0.4 hours x <u>average weekly pay</u> 38

2. Employee takes each of the four days off without authorisation in the 4th week.

Week of Cycle	Payment
1st, 2nd & 3rd weeks	= average pay each week
4th week	= average pay less 4/5ths of average pay for the four days absent less total of credits not accrued that week = 1/5th average pay less 4 x 0.4 hours x <u>average weekly pay</u> 38  = 1/5th average pay less 1.6 hours x <u>average weekly pay</u> 38

(iii) Wages to be Paid during Working Hours

Subject to subclause (iv) hereof, wages shall be paid during ordinary working hours and if an employee is kept waiting for his wages on pay day after the usual time for ceasing work for more than a quarter of an hour he shall be paid at overtime rates for the period he is kept waiting, with a minimum payment for a quarter of an hour.

(iv) Day off Coinciding with Pay Day

In the event that an employee, by virtue of the arrangement of his ordinary working hours, is to take a day off on a day which coincides with pay day, such employee shall be paid no later than the working day immediately following pay day. Provided that, where the employer is able to make suitable arrangements, wages may be paid on the working day preceding pay day.

(v) Payment by Cheque

Where an employer and employee agree, the employee may be paid his wages by cheque. Notwithstanding this provision, if the employer and the majority of his employees agree, all employees may be paid their wages by cheque provided that the employer, shall on pay day, if it is required by an employee, have facilities available during ordinary hours for the encashment of the cheque.



(vi) Payment during First Week of Employment

On the first pay day occurring during his employment, an employee shall be paid whatever wages are due to him up to the completion of his work on the previous day; provided that this subclause shall not apply to employers who make a practice of allowing advances approximating wages due.

(vii) Determination of Employment

Upon determination of the employment wages due to an employee shall be paid to him on the day of such determination or forwarded to him by post on the next working day.

Where the employee has taken a day off during the work cycle in which he employment is determined the wages due to that employee shall be reduced by the total of credits which have not accrued during the work cycle.

(viii) Details of Payments to be Given

On or prior to his pay day, the employer shall state to each employee in writing the amount of wages to which he is entitled, the amount of each deduction made therefrom, and the net amount being paid to him.

(ix) Calculation of Hourly Rate

Hourly rates shall be calculated by dividing the appropriate weekly rate by 38.

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

(a) For the purposes of interviewing employees on legitimate union business, an officer of an organisation of employees accredited as hereinafter provided, may enter the employer's premises during midday meal or crib time of employees on each day of the week except Saturdays, Sundays and holidays on the following conditions -

- (i) That he produces his authority to the gatekeeper or such other person as may be appointed by the employer for that purpose.
- (ii) That he interviews employees only at recognised places where they are taking their meal or crib.
- (iii) That no one representative of each of not more than 3 unions be on the premises at any one time.

- (iv) That no one representative visit the premises more than once in each week.
  - (v) That if the employer alleges that the representative is unduly interfering with his work or is offensive in his methods or is creating dissatisfaction amongst his employees or is committing a breach of the previous conditions, the employer may refuse the right of entry but the representative shall have the right to bring such refusal before the Secretary for Labour. Provided that where certain employees are working under a system of shift work on afternoon and/or night shifts, which precludes a representative from interviewing them during the midday meal break the representative may have the right to enter the employer's premises for the purpose of interviewing such employees at such time and under such conditions as to notice as may be mutually arranged by the representative and the employer.
- (b) An officer shall be a duly accredited representative of an organisation if he is the holder for the time being of a certificate which has not been cancelled or revoked, signed by the Secretary and bearing the seal of the organisation and bearing the signature of the holder.

### **23. SHIFT WORK**

(a) Definitions

For the purposes of this clause -

**`Afternoon shift`** means any shift finishing after 6.00p.m. and at or before midnight.

**`Continuous work`** means work carried on with consecutive shifts of men throughout the 24 hours of each of at least 6 consecutive days without interruption except during breakdowns or meal breaks or due to unavoidable causes beyond the control of the employer.

**`Night shift`** means any shift finishing subsequent to midnight and at or before 8.00a.m.

**`Rostered shift`** means a shift of which the employee concerned has had at least 48 hours notice.

(b) Hours - Continuous Work Shifts

This subclause shall apply to shift workers on continuous shift work as hereinbefore defined.



- (i) The ordinary hours of shift workers shall, from the beginning of the first full pay period commencing on or after 21 August 1985, average 38 per week inclusive of crib time and shall not exceed 152 hours in 28 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 which exceeds 28 consecutive days.
- (ii) Except at the regular changeover of shifts, an employee shall not be required to work more than one shift in each 24 hours.
- (iii) 20 minutes shall be allowed to shift workers each shift for crib which shall be counted as time worked.

(c) Hours - Other than Continuous Work

This subclause shall apply to shift workers not engaged upon continuous work as hereinbefore defined.

- (i) From the beginning of the first full pay period commencing on or after 21 August 1985 the ordinary hours of work shall be an average of 38 per week to be arranged in a work cycle not exceeding 152 hours in a period of 28 consecutive days.
- (ii) Such ordinary hours shall be worked continuously, except for meal breaks at the discretion of the employer. Unless otherwise mutually arranged between the employer and the employee, an employee shall not work more than 5 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 24 hours.

(d) Afternoon and Night Shift Allowances

Shift workers on continuous work whilst on afternoon or night shift shall be paid 15 per cent more than the ordinary rates for such shift.

Shift workers on other than continuous work whilst on afternoon or night shifts shall be paid 15 per cent more than the ordinary rates for such shifts.

Shift workers who work on any afternoon or night shift which does not continue for at least 5 successive afternoons or nights in a 5 day workshop or at least 6 successive afternoons or nights in a 6 day workshop shall be paid at the rate of time and a half for the first 2 hours thereof and double time for the remaining hours thereof.



An employee who:

- (i) during a period of engagement on shift, works night shift only; or
- (ii) remains on night shift for a longer period than 4 consecutive weeks; or
- (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 during such engagement, period or cycle, be paid 30% more than his ordinary rate for all time worked during ordinary working hours on such night shifts.

- (e) The minimum rates to be paid to any shift worker for work performed between midnight on Friday and midnight on Saturday shall be time and a half. Such extra rate shall be in substitution for and not cumulative upon shift premiums prescribed in the first and second paragraphs of subclause (d) hereof.

- (f) Overtime

Shift workers, for all time worked in excess of or outside the ordinary working hours prescribed by this award or on shift other than a rostered shift shall:

- (i) if employed on continuous work; or
- (ii) if employed on other shift work, be paid at the rate of double time except in each case when the time is worked:
  - (a) by arrangement between the employees themselves;
  - (b) for the purposes of effecting the customary rotation of shifts; or
  - (c) is due to the fact that the relief man does not come on duty at the proper time; or
  - (d) on a shift to which an employee is transferred on short notice as an alternative to standing the employee off in circumstances which would entitle the employer to deduct payment for a day in accordance with subclause (b) of Clause 12 - Contract of Employment hereof.

Provided that when not less than a full shift's notice has been given to the employer by the relief man that he will be absent from work and the employee whom he should relieve is not relieved, the unrelieved employee shall be paid at the rate of time and a half for the first 2 hours on duty after he has finished his ordinary shift and at the rate of double time thereafter except where the employee is required to continue to work on his rostered day off when he shall be paid double time.

(g) Sundays and Holidays

Shift workers for work done on a rostered shift, the major portion of which is performed on a Sunday or holiday shall be paid at the rate of double time.

Shift workers on other than continuous work for all time worked on a Sunday or holiday shall be paid at the rates prescribed by Clause 15 - Holidays with Pay hereof.

Where shifts commence between 11.00p.m. and midnight on a Sunday or holiday the time so worked before midnight shall not entitle the employee to the Sunday or holiday rates provided that the time worked by an employee on a shift commencing before midnight on the day preceding a Sunday or holiday and extending into a Sunday or holiday shall be regarded as time worked on such Sunday or holiday.

(h) Junior Employees

Apprentices or juniors whilst on afternoon or night shifts shall be paid not less than the rates hereinbefore prescribed, or 22.5 cents per shift, whichever is the higher.

**24. SHOP STEWARDS**

An employee appointed shop steward in the shop or department in which he is employed shall, upon notification thereof to his 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 or his representative on matters affecting employees who he represents.

## 25. SICK LEAVE

- (a) An employee, other than one engaged as a casual, or a part-time employee mentioned in paragraph (d)(ii) of Clause 12 hereof, 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 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 from the beginning of the first full pay period commencing or or after 21 August 1985, in excess of 76 hours ordinary working time.
  - (v) For the purpose of administering paragraph (iv) of this subclause an employer may within 1 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 from such statement the employer shall be entitled to reply and act.
  - (vi) Sick day entitlements for part day absences shall be calculated on a proportionate basis as follows:  
$$\frac{\text{duration of sick leave absence}}{\text{ordinary hours normally worked on that day}} \times \frac{\text{appropriate weekly rate}}{5}$$
  - (vii) From the beginning of the first full pay period commencing on or after 21 August 1985, where an employee is sick or injured on the week day he is entitled to take off, he shall not be entitled to sick pay nor will his sick pay entitlement be reduced.



- (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.

#### Transition Period

The days of accumulated sick leave standing to the credit of each employee as at the beginning of the first full pay period commencing on or after 21 August 1985, shall be converted to hours of accumulated sick leave by multiplying the total days of sick leave accumulated as at the beginning of the first full pay period commencing on or after 21 August 1985 by eight.

- (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.

#### 26. SPECIAL RATES

In addition to the wages prescribed in subclauses 1 - Wages, 2 - Minimum Wage, 3 - Leading Hands, 4 - Apprentices and 5 - Juniors of Clause 8 the following special rates and allowances shall be paid to employees -

- (a) Confined Spaces

Working in confined space (as defined), 38 cents per hour extra.

- (b) Dirty Work

Work which a foreman and workman shall agree is of an unusually dirty and offensive nature, 27.5 cents per hour extra.

In the case of disagreement between the foreman and workman the workman or a shop steward on his behalf, shall be entitled, within 24 hours, to ask for a decision on the workman's claim by the employer's industrial officer (if there be one), or otherwise by the employer or the executive officer responsible for the management or superintendence of the plant concerned. In such case a decision shall be given on the workman's claim within 48 hours of its being asked for (unless that time expires on a non-working day, in which case it shall be given during the next working day), or else the said allowance shall be paid.

In any case where an organisation alleges that an employer or his representative is persistently unreasonable or capricious in relation to such claims, it may bring such case before the Tasmanian Industrial Commission.

(c) Special Rates Not Cumulative

Where more than one of the disabilities entitling a workman to extra rates exist on the same job, the employer shall be bound to pay only one rate, namely the highest rate for the disabilities so prevailing.

(d) Rates not Subject to Penalty Additions

The special rates herein prescribed shall be paid irrespective of the times at which the work is performed and shall not be subject to any premium or penalty additions.

