

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

s.23 application for award or variation of award

Tasmanian Trades and Labor Council

(T13471 of 2009)

Private and Public Sector Awards

FULL BENCH:

PRESIDENT P L LEARY

DEPUTY PRESIDENT P C SHELLEY

COMMISSIONER T J ABEY

Wage Rates – State Wage Case 2009 – application amended - application to vary private and public sector awards – award wage rates to be increased by \$12.00 per week - wage related allowances to be increased by 1.9% – meal allowance increased to \$15.40 - Supported wage increased to \$71.00 - State Minimum Wage rate determined at \$558.10 - s.35(1)(b) – operative date ffpp 1 August 2009 - Wage Fixing Principles set aside in part

HOTELS, RESORTS, HOSPITALITY AND MOTELS AWARD

ORDER

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

AMEND THE **HOTELS, RESORTS, HOSPITALITY AND MOTELS AWARD** BY DELETING ALL CLAUSES CONTAINED THEREIN AND INSERTING IN LIEU THEREOF THE FOLLOWING; AND THE AWARD IS CONSOLIDATED:

1. TITLE

This award shall be known as the "Hotels, Resorts, Hospitality and Motels Award".

2. SCOPE

This award is established in the industry of:

- (a) an hotel or motel;
- (b) a tavern or wine saloon.

3. ARRANGEMENT

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4. DATE OF OPERATION

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

5. SUPERSESSION AND SAVINGS

This award incorporates and supersedes the Hotels, Resorts, Hospitality and Motels Award No. 1 of 2008 (Consolidated).

PROVIDED that no right, obligation or liability incurred or accrued under any of the abovementioned provisions shall be affected by the replacement and supersession.

6. PARTIES AND PERSONS BOUND

Unless otherwise specified, this award shall have application to and be binding upon:

- (a) all employers (whether members of a Registered Organisation or not) who are engaged in the industry specified in Clause 2 - Scope;
- (b) all employees (whether members of a Registered Organisation or not) for whom classifications appear in this award and who are employed in the industry specified in Clause 2 - Scope;
- (c) the following organisation of employees in respect of whom award interest has been determined:

the Liquor, Hospitality and Miscellaneous Union, Tasmanian Branch, and the officers of that organisation and their members who are employed in the industry specified in Clause 2 - Scope;
- (d) the following organisations of employers in respect of whom award interest has been determined:
 - (i) the Australian Hotels Association (Tasmanian Branch) and the officers of that organisation and their members who are engaged in the industry specified in Clause 2 - Scope;

- (ii) the Motor Inn and Motel Association of Tasmania, and the officers of that organisation and their members who are engaged in the industry specified in Clause 2 - Scope;
- (iii) the Tasmanian Chamber of Commerce and Industry Limited.

7. DEFINITIONS

DIVISION A

FOOD AND BEVERAGE

'Food and Beverage Attendant Grade 1' shall mean an employee with at least 494 hours experience carrying out a broad range of functions at this level.

- picking up glasses;
- emptying ashtrays;
- general assistance to Food and Beverage attendants of a higher grade not including service to customers;
- removing food plates;
- setting and/or wiping down tables;
- cleaning and tidying of associated areas.

PROVIDED that the following categories of employees, who would ordinarily be classified as Food and Beverage Attendant Grade 2, may perform the duties of Grade 2 under close supervision, and be paid as Food and Beverage Attendant Grade 1, to achieve the competency levels of Food and Beverage Attendant Grade 2:

An employee without previous experience in the relevant duties at Food and Beverage Attendant Grade 2 shall remain in this grade for a maximum of 60 hours actual service; or

An employee with at least one years experience performing the relevant duties in Grade 2 and who has not been employed performing such duties in the immediately preceding two years; or an employee with the appropriate level of training without previous industry experience performing the relevant duties in Grade 2 shall remain on this level for a maximum of 30 hours.

PROVIDED ALWAYS that this progression shall only apply to employees engaged to perform duties at Food and Beverage Service Grade 2.

'Food and Beverage Attendant Grade 2' shall mean an employee who has the appropriate level of training, undertaking functions at a level of complexity greater than

Grade 1 and as applicable, has completed the required service at Food and Beverage Attendant Grade 1:

- supplying, dispensing or mixing of liquor including the sale of liquor from the bottle department;
- assisting in the cellar or bottle department;
- undertaking general waiting duties of both food and/or beverage including cleaning of tables;
- receipt of monies;
- engaged on delivery duties.

'Food and Beverage Attendant Grade 3' shall mean an employee who has the appropriate level of training and is engaged in any of the following:

- undertaking general waiting duties of both food and liquor service including supplying, dispensing or mixing of liquor;
- as Food and Beverage Attendant Grade 2 who is involved in the operation of mechanical lifting device or attending TAB terminal;
- taking reservations, greeting and seating guests;
- full control of a cellar or liquor store (including the receipt, delivery and recording of goods within such an area);
- mixing a range of sophisticated drinks;
- may provide guidance, supervision and training to employees at this or lower grades.

'Food and Beverage Attendant Grade 4' (tradesperson) shall mean an employee who has completed an apprenticeship in waiting, or who has passed the appropriate trade test, and as such carries out specialised skilled duties in a fine dining room or restaurant.

'Food and Beverage Supervisor' shall mean an employee who has the appropriate level of training including a supervisory course and who has the responsibility for supervision, training and co-ordination of food and beverage staff, or stock control for a bar or series of bars.

KITCHEN

'Kitchen Attendant Grade 1' shall mean an employee engaged in any of the following:

- general cleaning duties within a kitchen or food preparation area and scullery, including the cleaning of cooking and general utensils used in a kitchen and restaurant;

- assisting employees who are cooking;
- assembly and preparation of ingredients for cooking;
- general pantry duties.

'Kitchen Attendant Grade 2' means an employee who has the appropriate level of training, and who is engaged in specialised non-cooking duties in a kitchen or food preparation area, or supervision of Kitchen Attendants.

'Kitchen Attendant Grade 3' shall mean an employee who has the appropriate level of training including a supervisory course, and has the responsibility for the supervision, training and co-ordination of kitchen attendants of a lower grade.

'Cook Grade 1' means an employee who carries out cooking of breakfasts and snacks, baking, pastry cooking, or butchering.

'Cook Grade 2' shall mean an employee who has the appropriate level of training and who performs cooking duties such as baking, pastry cooking, or butchering.

'Cook (Tradesperson) 3' shall mean a Commis Chef or equivalent, who has completed an apprenticeship or who has passed the appropriate trade test, and who is engaged in cooking, baking, pastry cooking or butchering duties.

'Cook (Tradesperson) 4' shall mean a Demi Chef or equivalent, who has completed an apprenticeship or has passed the appropriate trade test and who is engaged to perform general or specialised cooking, butchering, baking, or pastry cooking duties and/or supervises and trains other cooks and kitchen employees.

'Cook (Tradesperson) 5' shall mean a Chef de Partie or equivalent, who has completed an apprenticeship or has passed the appropriate trade test in cooking, butchering, or pastry cooking and has completed additional appropriate training who performs any of the following:

- general and specialised duties including supervision or training of other kitchen staff;
- ordering and stock control;
- solely responsible for other cooks and other kitchen employees in a single kitchen establishment.

GUEST SERVICE

'Guest Service Grade 1' shall mean an employee who performs any of the following:

- laundry and/or linen duties which may include minor repairs to linen or clothing such as buttons, zips, seams, and working with flat materials;

- the collection and delivery of guests' personal dry cleaning and laundry, linen and associated materials to and from accommodation areas;
- performs general cleaning duties;
- parking guest cars.

'Guest Service Grade 2' shall mean an employee who has not achieved the appropriate level of training and who is engaged in any of the following:

- servicing accommodation areas and cleaning thereof;
- receiving and assisting guests at the entrance to the establishment;
- driving a passenger vehicle or courtesy bus;
- transferring guests' baggage to and from rooms;
- providing butler services such as food, beverage and personalised guest service.

'Guest Service Grade 3' shall mean an employee who has the appropriate level of training and who is engaged in any of the following:

- supervising guest service employees of a lower grade;
- providing butler services, basic food or beverage service personalised guest service;
- major repair of linen and/or clothing including basic tailoring and major alterations and refitting;
- dry cleaning.

'Guest Service Grade 4' shall mean an employee who has completed an apprenticeship or who has passed the appropriate trade test or otherwise has the appropriate level of training to perform the work of a tradesperson in dry cleaning, tailoring, or as a butler.

'Guest Service Supervisor' shall mean an employee with the appropriate level of training including a supervisory course, who supervises, trains, and co-ordinates the work of employees engaged in a housekeeping department.

'Front Office Grade 1' shall mean an employee who is engaged as an assistant in front office duties including night auditing, telephonist, receptionist, cashier, or reservations.

'Front Office Grade 2' shall mean an employee who has the appropriate level of training and is in the front office engaged in duties including night auditing, telephonist, receptionist, cashier, or reservations.

'Front Office Grade 3' shall mean an employee who has the appropriate level of training and is engaged in duties including assisting in training and supervision of front office employees of a lower grade.

'Front Office Supervisor' shall mean an employee who has the appropriate level of training including a supervisory course and who supervises, trains and co-ordinates the work of front office employees.

ADMINISTRATION AND GENERAL

'Clerical Grade 1' shall mean an employee who is required to perform basic clerical and routine office duties such as collating, filing, photocopying, and delivering messages.

'Clerical Grade 2' shall mean an employee who is engaged in general clerical or office duties, such as typing, filing, basic data entry and calculating functions.

'Clerical Grade 3' shall mean an employee who has the appropriate level of training and who performs any of the following:

- operates adding machines, switchboard, paging system, telex machine, typewriter and calculator;
- uses knowledge of keyboard and function keys to enter and retrieve data through computer terminal;
- copy types at 25 words per minute with 98 percent accuracy;
- maintains mail register and records;
 - maintains established paper-based filing/records systems in accordance with set procedures including creating and indexing new files, distributing files within the organisation as requested, monitoring file locations;
 - transcribes information into records, completes forms, takes telephone messages;
- acquires and applies a working knowledge of office or sectional operating procedures and requirements;
 - acquires and applies a working knowledge of the organisation's structure and personnel in order to deal with inquiries at first instance, locates appropriate staff in different sections, relays internal information, responds to or redirects inquiries, greets visitors;
- keeps appropriate records;
 - sorts, processes and records original source financial documents (eg. invoices, cheques, correspondence) on a daily basis; maintains and records petty cash; prepares bank deposits and withdrawals and does banking;

- and who has the appropriate level of training and also performs any of the following:
 - operates computerised radio telephone equipment, micro/personal computer, printing devices attached to personal computer, dictaphone equipment, typewriters;
 - produces documents and correspondence using knowledge of standard formats, touch types at 40 wpm with 98 percent accuracy, audio types;
 - uses one or more software application package(s) developed for a micro/personal computer to operate and populate a database, spreadsheet/worksheet to achieve a desired result; graph previously prepared spreadsheet; use simple menu utilities of personal computer;
 - follows standard procedures or template for the preceding functions using existing models/fields of information. Creates, maintains and generates simple reports;
 - uses a central computer resource to an equivalent standard;
- uses one or more software package(s) to create, format, edit, proof read, spell check, correct, print and save text documents, eg. standard correspondence and business documents;
- takes shorthand notes at 70 words per minute and transcribed with 95 percent accuracy;
- arranges travel bookings and itineraries, makes appointments, screens telephone calls, follows visitor protocol procedures, establishes telephone contact on behalf of executive;
- applies a working knowledge of the organisation's products/services, functions, locations and clients;
 - responds to and acts upon most internal/external inquiries in own function area;
- uses and maintains a computer-based record management system to identify, access and extract information from internal sources;
 - maintains circulation, indexing and filing systems for publications, reviews files, closes files, archives files;
- maintains financial records and journals, collects and prepares time and wage records; prepares accounts queries from debtors; posts transactions to ledgers.

'Clerical Supervisor' shall mean an employee who has the appropriate level of training including a supervisory course and who co-ordinates other clerical staff.

'Storeperson Grade 1' shall mean an employee who receives and stores general and perishable goods and cleans the store area.

'Storeperson Grade 2' shall mean an employee who, in addition to the duties for a Storeperson Grade 1, may also operate mechanical lifting equipment such as forklift and/or who may perform duties of more complex nature.

'Storeperson Grade 3' shall mean an employee who has the appropriate level of training and who:

- implements quality control techniques and procedures; and
- understands and is responsible for a stores/warehouse area or a large section of such an area; and
- has a highly developed level of interpersonal and communication skills; and
- is able to supervise and provide direction and guidance to other employees including the ability to assist in the provision of on-the-job training and induction; and
- exercises discretion within the scope of this grade; and
- may exercise skills attained through the successful completion of an appropriate warehousing certificate; and
- may perform indicative tasks at this level such as:
 - liaising with management, suppliers and customers with respect to stores operations;
 - detailing and co-ordinating activities of other storepersons and acting in a leading hand capacity for in excess of ten storepersons;
 - maintaining control registers including inventory control and being responsible for preparation and reconciliation of regular reports of stock movements, despatches, etc;
 - supervises the receipt and delivery of goods, records outgoing goods, responsible for the contents of a store.

'Doorperson/Security Officer Grade 1' shall mean a person who assists in maintenance of dress standards and good order at an establishment.

'Doorperson/Security Officer Grade 2' shall mean a person who is responsible for timekeeping of staff, for the security of keys, for the checking in and out of delivery vehicles, and/or for the supervision of Doorperson/Security Officer Grade 1 personnel.

'Handyperson' shall mean a person who is not a tradesperson and whose duties include the performance of routine repair work and maintenance in and about the employer's premises.

'Forklift Driver' shall mean an employee who has a recognised forklift licence and who is engaged solely on the basis of driving a forklift vehicle. (For those employees who operate a forklift as only part of their duties, either Food and Beverage Grade 3 or Storeman Grade 2 are applicable.)

'Persons not otherwise provided for' shall mean any employee for which no specific classification exists in this award.

LEISURE ACTIVITIES

'Greenkeeper Grade 1' shall mean a person who:

- attends and maintains a garden;
- cares for the alignment, maintenance and satisfactory condition of all sporting and playing areas and may be required to operate machinery or equipment and carry out minor repairs and maintenance thereto.

'Greenkeeper Grade 2' shall mean a person who has the appropriate level of training and who carries out gardening and greenkeeping duties.

'Greenkeeper (Tradesperson) Grade 3' shall mean a Gardener or Greenkeeper who performs duties and who is a qualified tradesperson or has passed a trade test.

'Head Greenkeeper Tradesperson' shall mean a tradesperson who is responsible for the operation of an area and in charge of the greenkeeping or gardening area where more than one tradesperson is employed. An advanced skill and/or supervisory course will have been completed.

'Leisure Attendant Grade 1' shall mean a person who acts as an assistant instructor, pool attendant, and/or can be responsible for the setting up, distribution and care of equipment, and taking of bookings.

'Leisure Attendant Grade 2' shall mean a person who has the appropriate level of training and takes classes and/or directs leisure activities such as sporting areas, health clubs and swimming pools.

'Leisure Attendant Grade 3' shall mean a person who has the appropriate level of training, and who plans and co-ordinates leisure activities for guests and may supervise other leisure attendants.

'Introductory Level' shall mean a worker who enters the industry and is unable to meet the competency requirements of Grade 1, will remain in this level for a maximum of 494 hours. Provided that an additional 494 hours may be served at this level by mutual agreement between the employer and the employee, and the union where such an employee is a union member. Further, if any disagreement arises from this provision it shall be determined in accordance with the disputes settling clause of this award.

'Appropriate level of training' shall mean:

- completion of a training course deemed suitable according to guidelines issued through Tourism Training Australia for that particular classification. After 1 June 1991 such course to be accredited by the Australian Hospitality Review Panel;
- that the Employee's skills have been assessed to be at least the equivalent of those attained through the suitable course described in the above paragraph, such assessment to be undertaken by a qualified skills assessor; or
- that for a transitional period until 1 January 1992, the employees can be deemed to have the appropriate level of training.

'Spread of hours' means the period of time elapsing from the time an employee commences duty to the time the employee ceases duty within any period of 24 hours.

'Double time' shall mean double the ordinary hourly rate prescribed for the permanent employee.

'Union' for the purposes of this award shall mean the Liquor, Hospitality and Miscellaneous Union, Tasmanian Branch.

'Liquor service employees' for the purposes of this award, refers to those persons employed in this capacity of the selling or dispensing of liquor in bars and/or bottle departments or shops, and cellar employees.

'Rostered day off' for the purposes of this award, a rostered day off (RDO) shall be considered to be any continuous 24 hour period between the completion of the last ordinary shift and the commencement of the next ordinary shift on which an employee is rostered on for duty.

'Hotel, tavern or wine saloon' for the purposes of this award, is an establishment conducted under the provisions of the *Licensing Act* holding a "General License" or an "On License". In the case of an "On License" this shall be limited to an establishment where at least a part of that establishment retails liquor to the public for consumption on the premises, without the sale of a meal.

DIVISION B

FOOD BEVERAGE - HOUSEKEEPING

'Hospitality Services Grade 1' shall mean an employee who is primarily engaged in one or more of the following:

- cleaning, tidying and general assistant of kitchen, food preparation, customer service areas, including the cleaning of equipment, crockery and general utensils;
- assembly and preparation of ingredients for cooking;
- handling, storing and distributing goods, including pantry items and linen;
- setting and/or wiping down tables, removing food plates, emptying ashtrays and picking up glasses;
- assisting employees who are cooking;
- general cleaning duties;
- providing general assistance to employees of a higher grade not including cooking or direct service to customers;
- laundry and/or linen duties which may include minor repairs to linen or clothing such as buttons, zips, seams, and working with flat materials;
- the collection and/or delivery of guests personal dry cleaning and laundry, linen and associated materials to and from accommodation areas;
- parking guest cars;

PROVIDED that the following categories of employees, who would ordinarily be classified as Hospitality Services Grade 2, may perform the duties of Grade 2 under close supervision, and be paid as Hospitality Services Grade 1, to achieve the competency levels of Hospitality Services Grade 2:

- An employee without previous experience in the relevant duties at Hospitality Services Grade 2 shall remain in this grade for a maximum of 60 hours actual service; or
- An employee with at least one years experience performing the relevant duties in Grade 2 and who has not been employed performing such duties in the immediately preceding two years or an employee with the appropriate level of training without previous industry experience performing the relevant duties in Grade 2 shall remain on this level for a maximum of 30 hours.

PROVIDED FURTHER that this progression shall only apply to employees engaged to perform duties at Hospitality Services Grade 2.

'Hospitality Services Grade 2' shall mean an employee who has achieved the appropriate level of training and who is primarily engaged in one or more of the following:

- receiving, storing and distributing goods;
- servicing accommodation areas and cleaning thereof;
- tray service to guests rooms;
- transferring guests baggage and/or property;
- driving a passenger vehicle or courtesy bus;
- providing butler service, basic food and beverage services with personalised guest services;
- assisting in dry-cleaning process;
- cleaning duties using specialised equipment and chemicals;
- preparing and/or cooking a limited range of basic food items such as breakfasts, grills and snacks
- a cook employed alone;
- undertaking general waiting duties in a restaurant food and/or beverages, including cleaning of restaurant equipment, preparing tables and sideboards, taking customer orders, serving food and/or beverages and clearing tables;
- supplying, dispensing or mixing of liquor, including cleaning of bar area and equipment, preparing the bar for service, taking orders and serving drinks;
- taking reservations, greeting and seating guests, taking telephone orders;
- assisting in the cellar;
- receipt of monies;
- attending a snack bar, buffet or meal counter.
- attending in a coffee shop or espresso bar
- attending in a shop

'Hospitality Services Grade 3' shall mean an employee who has the appropriate level of training and who is primarily engaged in one or more of the following:

- undertaking general cooking duties, including a La carte cooking, baking, pastry cooking;
- undertaking general waiting duties of both food and liquor service including supplying dispensing or mixing of liquor;
- taking reservations, greeting and seating guests and taking telephone orders;
- major repair of linen and or clothing including basic tailoring and major alterations and refitting
- dry cleaning;
- providing butler services, basic food and beverage services with personalised guest services.
- full control of a cellar, including stock control and ordering, including the receipt, delivery and re-ordering of goods within such an area;
- designing and mixing a range of sophisticated cocktails and other drinks. May include stocktake and ordering of stock;
- supervising, training and co-ordination to employees of lower grades.

'Hospitality Services Grade 4' shall mean an employee who has completed an apprenticeship or who has passed the appropriate trade test and who is engaged in any of the following:

- undertaking general cooking duties including a la carte, baking, pastry cooking duties, butcher, waiting, butler.

'Hospitality Services Grade 5' shall mean an employee who has the appropriate level of training and who is primarily engaged in one or more of the following:

- solely responsible for other cooks and other kitchen employees in a single kitchen establishment where no other trade qualified cooks are employed;
- supervising, training and co-ordinating food and beverage staff including maintenance of service and operational reports and staff rostering;
- general or specialised cooking duties including the training and supervision of other cooks and kitchen staff and relieving Hospitality Services Grade 7 employees on their rostered days off or when on annual or other leave;
- supervising, training and co-ordinating the work of employees engaged in the housekeeping area.

'Hospitality Services Grade 6' shall mean a chef de Partie or equivalent who has completed an apprenticeship or has passed the appropriate trade test in cooking,

butchery, baking or pastry cooking and has completed additional appropriate training who performs any of the following:

- general and specialised duties including supervision or training of other trade qualified cooks, ordering and stock control;
- solely responsible for other cooks and other kitchen employees in a single kitchen establishment where other trade qualified cooks are employed.

ADMINISTRATION-FRONT OFFICE

'Hospitality Administration and Front Office Grade 1' shall mean an employee who has not achieved the appropriate level of training and who is primarily engaged in one or more of the following:

- front office duties such as receptionist, telephonist, cashier or reservations;
- performs basic clerical and routine office duties such as collating, filing, photocopying and delivering messages;
- general clerical duties such as typing, basic data entry and calculation functions;
- accounts;
- night auditing - in addition to any of the above duties such employee may also be required to perform any of the duties of Hospitality Service Grade 2 or below;
- guest relations officer.

'Hospitality Administration and Front Office Grade 2' shall mean an employee who has the appropriate level of training and who is primarily engaged in one or more of the following:

- front office duties such as receptionist, telephonist, cashier or reservations;
- performs clerical and other office duties;
- general clerical duties such as typing, basic data entry and calculation functions;
- accounts;
- night auditing - in addition to any of the above duties such an employee may also be required to perform any of the duties of Hospitality Services Grade 2 or below;
- assistant in sales, and/or marketing;
- guest relations officer.

'Hospitality and Front Office Grade 3' shall mean an employee appointed as such who has the appropriate level of training and who carries out general secretarial or stenographic, clerical duties of an advanced nature and who has recognised experience in complex duties, and may be responsible for guidance of other office personnel including

juniors and may check and allocate their work, or who is responsible for sales and marketing and/or is in the front office engaged in duties including assisting in training and supervision of front office employees of a lower grade/s.

'Hospitality Administration and Front Office Supervisor' shall mean an employee appointed as such and who has the appropriate level of training including a supervisors course and trains and co-ordinates the work of front office and/or other clerical staff.

LEISURE ACTIVITIES

'Leisure Attendant Grade 1' shall mean a person who is primarily engaged in one or more of the following:

- acts as an assistant instructor;
- does basic testing;
- is responsible for setting up, distribution and care of equipment;
- takes bookings and works at the front desk of a leisure facility;
- provides information to guests on leisure activities and facilities;
- is a pool attendant;
- tests pools and spa waters for optimal levels;
- is a power boat observer;
- child minding attendant.

'Leisure Attendant Grade 2' shall mean a person who has the appropriate level of training and who is engaged in any of the following:

- takes classes;
- directs leisure activities such as in sporting areas, health clubs and swimming pools;
- leads tours, and/or group activities;
- develops or implements activities for individuals or groups of guests;
- child-minding attendant;

'Leisure Attendant Grade 3' shall mean a person who has the appropriate level of training, who plans and co-ordinates leisure activities and/or organises activity programs and may supervise other leisure attendants.

MISCELLANEOUS

Appropriate level of training shall mean:

- Completion of a training course deemed suitable according to guidelines issued through Tourism Training Australia for that particular classification. Such course to be accredited by the Australian Hospitality Review Panel;
- That the Employee's skills have been assessed to be at least the equivalent of those attained through the suitable course described herein, such assessment to be undertaken by a qualified skills assessor; or
- That for a transitional period until two years, after 10 April 1991 the employee is appointed in a position that the classification relates to.

'Association' shall mean the Motor Inn and Motels Association of Australia.

'Day' means the period of time elapsing from the time an employee commences duty to the time the employee ceases duty within any period of 24 hours.

'Handyperson' shall mean a person who is not a tradesperson and whose duties include the performance of routine repair work and maintenance in and about the employer's premises and other general duties such as pool, garden, etc.

'Introductory Level' shall mean a worker who enters the industry and is unable to meet the competency requirements of Grade 1 will remain in this level for a maximum of 494 hours.

PROVIDED that an additional 494 hours may be served at this level by mutual agreement between the employer and employee, and the union, where such an employee is a union member.

PROVIDED FURTHER if any disagreement arises from this provision it shall be determined in accordance with the disputes settling clause of this award.

'Motor inn and motel' means and includes an accommodation establishment (not being a licensed hotel as defined in Division A) where accommodation is made available to paying guests which may also include the service of food and/or liquor and without limiting the generality of the foregoing includes an establishment where food and/or liquor is made available to members of the public seated at tables in dining rooms or restaurants, such dining operations being in association therewith. An accommodation establishment shall not include any establishment covered by the jurisdiction of the Restaurant Keepers or Licensed Clubs Awards. It shall also, subject to the foregoing include the following:

Unlicensed private hotels, serviced apartments, resorts, time share facilities, health or recreation farms, guest houses, ski lodges, holiday flats/units, holiday ranches or farms condominiums and establishment of a like nature together with restaurants, function areas, convention centres or like facilities, ancillary to or part of any of the

above whether such establishments are licensed to serve alcoholic drinks or not and in or in connection with preparing and serving food, cleaning and attending to the premises and all other services associated therewith.

'Ordinary earnings' for the purpose of this award shall mean the ordinary wages for each classification for ordinary hours Monday to Friday.

'Persons not otherwise provided for' shall mean an employee for which no specific classification exists in this award and who has had more than three months service with an employer.

'Rostered day off (RDO)' for the purpose of this award, shall be considered to be any continuous 24 hour period between the completion of the last ordinary shift and the commencement of the next ordinary shift on which an employee is rostered on for duty.

'Union' for the purpose of this award shall mean the Liquor, Hospitality and Miscellaneous Union, Tasmanian Branch .

8. WAGE RATES

DIVISION A - HOTELS, TAVERNS OR WINE SALOONS

1. MINIMUM WAGE

(a) Minimum Wage

No employee shall be paid less than the minimum wage.

(b) Amount of Adult Minimum Wage

- (i) The minimum wage for full-time adult employees not covered by subclause 5, Supported Wage System is \$558.10 per week.
- (ii) Adults employed under a supported wage system clause shall continue to be entitled to receive the wage rate determined under that clause. Provided that such employees shall not be paid less than the amount determined by applying the percentage in the supported wage system clause applicable to the employee concerned to the amount of the minimum wage specified in subclause (b)(i).
- (iii) Adults employed as part-time or casual employees shall continue to be entitled to receive the wage rate determined under the casual and part-time clauses of the award. Provided that such employees shall not be paid less than pro rata the minimum wage specified in subclause (b)(i) according to the number of hours worked.

(c) How the Minimum Wage Applies to Juniors

- (i) The wage rates provided for juniors by this award continue to apply unless the amount determined under subclause (c)(ii) is greater.
- (ii) The minimum wage for an employee to whom a junior rate of pay applies is determined by applying the percentage in the junior wage rates clause applicable to the employee concerned to the relevant amount in subclause (b)(i).

(d) Application of Minimum Wage to Certain Employees

Due to existing applicable award wage rates being greater than the relevant proportionate minimum wage, this clause will not apply to employees falling within the scope of the National Training Wage (Tasmanian Private Sector) Award and Trainees undertaking an apprenticeship.

(e) Application of Minimum Wage to Award Rates Calculation

The minimum wage:

- (i) applies to all work in ordinary hours;
- (ii) applies to the calculation of overtime and all other penalty rates, superannuation, payments during personal leave, long service leave and annual leave, and for all other purposes of this award; and
- (iii) is inclusive of the arbitrated safety net adjustment provided by the July 2009 State Wage Case Decision (T13471 of 2009) and all previous safety net and state wage case adjustments.

2. WAGE RATES - ADULTS

	Base Rate Relativity %	Base Rate \$	Safety Net Adjustment \$	Weekly Wage Rate \$
SECTION I - FOOD & BEVERAGE				
Grade 1	82.00	342.10	232.70	574.80
Grade 2	88.00	367.20	232.70	599.90
Grade 3	92.40	385.50	232.70	618.20
Grade 4	100.00	417.20	234.70	651.90
Grade 5 Food & Beverage Supervisor	110.00	458.90	234.70	693.60
SECTION II - KITCHEN				
Kitchen Attendant Grade 1	82.00	342.10	232.70	574.80
Kitchen Attendant Grade 2	88.00	367.20	232.70	599.90
Cook Grade 1	88.00	367.20	232.70	599.90
Kitchen Attendant Grade 3	92.40	385.50	232.70	618.20

Cook Grade 2	92.40	385.50	232.70	618.20
Cook Grade 3	100.00	417.20	234.70	651.90
Cook Grade 4	110.00	458.90	234.70	693.60
Cook Grade 5	115.00	479.80	232.70	712.50

SECTION III - GUEST SERVICE

Grade 1	82.00	342.10	232.70	574.80
Grade 2	88.00	367.20	232.70	599.90
Grade 3	92.40	385.50	232.70	618.20
Grade 4	100.00	417.20	234.70	651.90
Supervisor	110.00	458.90	234.70	693.60

SECTION IV - ADMINISTRATION GENERAL

Storeperson Grade 1	88.00	367.20	232.70	599.90
Storeperson Grade 2	92.40	385.50	232.70	618.20
Storeperson Grade 3	100.00	417.20	234.70	651.90
Handyperson	92.40	385.50	232.70	618.20
Doorperson/Security Officer Grade 1	88.00	367.20	232.70	599.90
Timekeeper/Security Officer Grade 2	92.40	385.50	232.70	618.20

SECTION V - LEISURE

Greenkeeper Grade 1	88.00	367.20	232.70	599.90
Greenkeeper Grade 2	92.40	385.50	232.70	618.20
Greenkeeper (Tradesperson) Grade 3	100.00	417.20	234.70	651.90
Head Greenkeeper (Tradesperson)	110.00	458.90	234.70	693.60
Leisure Attendant Grade 1	88.00	367.20	232.70	599.90
Leisure Attendant Grade 2	92.40	385.50	232.70	618.20
Leisure Attendant Grade 3	100.00	417.20	234.70	651.90

SECTION VI - MISCELLANEOUS

Persons not otherwise provided for	82.00	342.10	232.70	574.80
Introductory Level	78.00	325.40	232.70	558.10
Forklift Driver	92.40	385.50	232.70	618.20

Notwithstanding the recognition of five career path streams, such streaming does not prevent employees undertaking duties across different streams.

PROVIDED that where work is undertaken at a higher grade and/or at a higher rate than Clause 20 - Higher and Lower Grade Work, applies.

SECTION VII - FRONT OFFICE AND CLERICAL

An adult employee of a front office or clerical classification specified in the table hereunder shall be paid not less than the weekly wage rate assigned to that classification for the area in which such employee is working.

	Base Rate Relativity %	Base Rate \$	Safety Net Adjustment \$	Weekly Wage Rate \$
Front Office Grade 1	88.00	367.20	232.70	599.90
Front Office Grade 2	92.40	385.50	232.70	618.20
Front Office Grade 3	100.00	417.20	234.70	651.90
Front Office Supervisor	110.00	458.90	234.70	693.60
Clerical Grade 1	88.00	367.20	232.70	599.90
Clerical Grade 2	92.40	385.50	232.70	618.20
Clerical Grade 3	100.00	417.20	234.70	651.90
Clerical Supervisor	110.00	458.90	234.70	693.60

3. JUNIORS

(a) Junior Employees (other than Junior Office Employee)

The minimum weekly wage rate for junior employees shall be the undermentioned percentages of the weekly wage rate prescribed for the appropriate adult classification for the work performed for the area in which such junior is working.

Age	%
17 years of age and under	70
18 years of age	80
19 years of age	90
20 years of age	100

(b) Junior Office Employee

The minimum weekly wage rate for junior office employees shall be the undermentioned percentages of rates prescribed for the Front Office Employee Grade 1.

Age	%
At 15 years of age and under	50
At 16 years of age	60
At 17 years of age	70
At 18 years of age	80
At 19 years of age	90
At 20 years of age	100

(c) The weekly wage rate prescribed in paragraphs (a) and (b) of this subclause shall be calculated as follows:

The weekly wage rate shall be calculated to the nearest 10 cents, any broken part of 10 cents in the result being less than five cents shall be disregarded - five cents and over shall go to the next 10 cents.

- (d) Junior male or female employees, on reaching the age of 18 years, may be employed in the bar or other places where liquor is sold.

PROVIDED that where such junior is employed in the front of the house, the appropriate adult weekly wage rate for work being performed shall be paid.

- (e) Junior employees being paid junior rates may be employed in the proportion not exceeding one junior to every three or fraction of three adults employed.

Notwithstanding anything elsewhere contained in this award where such junior employees are employed in excess of one to every three or fraction of three adults each such additional junior shall be paid the adult award rate for the work being performed. In deciding which junior or juniors shall be paid the adult rate, the length of service in the establishment shall apply.

- (f) An employer may at any time demand the production of a birth certificate or other satisfactory proof for the purpose of ascertaining the correct age of a junior employee. If a birth certificate is required, the cost of it shall be borne by the employer.
- (g) No employee under the age of 18 years shall be required to work more than 10 hours in a shift.

4. APPRENTICES

- (a) Where an employee is apprenticed in the cooking trade in accordance with the provision of any State law and/or regulation made by the Tasmanian State Training Authority such employee shall be paid the percentage of the weekly wage rate prescribed for a Cook (Tradesperson) Grade 3 in subclause 2 - Wage Rates - Adults, hereof as follows:

	Percentage of Cook Grade 3
	%
First year	50
Second year	65
Third year	80
Fourth year	90

- (b) Where an employee is apprenticed in waiting in accordance with the provision of any State law and/or regulation made by the Tasmanian State Training Authority such employee shall be paid the percentage of the weekly wage rate prescribed for a Food and Beverage Attendant Grade 4 in subclause 2 - Wage Rates - Adults, of this clause as follows:

Percentage of F&B Grade 4
%

First six months	62
Second six months	76
Third six months	76
Fourth six months	90
Fifth six months	90

- (c) Any person completing a full apprenticeship as a qualified tradesperson or as defined in Clause 7 - Definitions, shall be paid not less than the weekly wage rate prescribed for a Cook (Tradesperson) Grade 3 of subclause 2 - Wage Rates - Adults, of this clause. The provisions of subclause 3 - Juniors, of this clause shall not apply to an employee provided for in this subclause.

The weekly wage rates in (b) hereof shall be calculated to the nearest 10 cents, any broken part of 10 cents in the result being less than 5 cents shall be disregarded – 5 cents and over shall go to the next 10 cents.

5. SUPPORTED WAGE SYSTEM

- (a) Eligibility Criteria

Subject to this subclause an employer may engage employees at a supported wage rate (as set out in paragraph (c) of this subclause) who meet the impairment criteria for receipt of a Disability Support Pension and who, because of their disability, are unable to perform the range of duties to the competence level normally required for the class of work for which they are engaged.

PROVIDED that this subclause does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers' compensation legislation or any provision of this award relating to the rehabilitation of employees who are injured in the course of their current employment.

PROVIDED FURTHER that this subclause does not apply to employers in respect of their facility, program, undertaking, service or the like which receives funding under the *Disability Services Act 1992* and fulfils the dual role of service provider and sheltered employer to people with disabilities who are in receipt of or are eligible for a disability support pension, except with respect to an organisation which has received recognition under Section 10 or under Section 12A of the above Act, or if a part only has received recognition, that part.

- (b) For the purposes of this subclause:

'Accredited Assessor' means a person accredited by the management unit established by the Commonwealth under the Supported Wage System to perform assessments of an individual's productive capacity within the Supported Wage System.

'Assessment instrument' means the form provided for under the Supported Wage System that records the assessment of the productive capacity of the person to be employed under the Supported Wage System.

'Disability Support Pension' means the pension available under the Commonwealth pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991*, as amended from time to time, or any successor to that scheme.

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

(c) Supported Wage Rates

Employees to whom this subclause applies shall be paid the applicable percentage of the minimum rate of pay prescribed by this award for the class of work which the person is performing according to the following schedule:

Assessed capacity (paragraph (d))	Percentage of prescribed award rate
10%	10
20%	20
30%	30
40%	40
50%	50
60%	60
70%	70
80%	80
90%	90

PROVIDED that the minimum amount payable shall be not less than \$71 per week.

(d) Assessment of Capacity

For the purpose of establishing the percentage of the award rate to be paid to a supported wage employee under this award, the productive capacity of the employee will be assessed in accordance with the Supported Wage System and documented in an assessment instrument by either:

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

(e) Lodgment of Assessment Instrument

- (i) All assessment instruments under the conditions of this subclause, including the appropriate percentage of the award wage to be paid to the employee, shall be lodged by the employer with the Registrar of the Tasmanian Industrial Commission.
- (ii) All assessment instruments shall be agreed and signed by the parties to the assessment, provided that where a union which is party to the award, is not a party to the assessment, it shall be referred by the Registrar of the Tasmanian Industrial Commission to the union by certified mail and shall take effect unless an objection is notified to the Registrar of the Tasmanian Industrial Commission within 10 working days.

(f) Review of Assessment

The assessment of the applicable percentage shall be subject to annual review or earlier on the basis of a reasonable request for such a review. The process of review shall be in accordance with the procedures for assessing capacity under the Supported Wage System.

(g) Other Terms and Conditions of Employment

Where an assessment has been made, the applicable percentage shall apply to the wage rate only. Employees covered by the supported wage provisions of this subclause shall be entitled to the same terms and conditions of employment as all other workers covered by this award who are paid on a pro rata basis.

(h) Workplace Adjustment

An employer wishing to employ a person under the provisions of this subclause shall take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve re-design of job duties, working time arrangements and work organisation in consultation with other workers in the area.

(i) Trial Period

- (i) In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this subclause for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.
- (ii) During that trial period the assessment of capacity shall be undertaken and the proposed wage rate for a continuing employment relationship shall be determined in accordance with paragraphs (d) and (e).

- (iii) The minimum amount payable to the employee during the trial period shall be no less than \$71 per week or such greater amount as is agreed from time to time between the parties.
- (iv) Work trials should include induction or training as appropriate to the job being trialed.
- (v) Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment shall be entered into based on the outcome of assessment under paragraph (c) hereof.

DIVISION B - MOTELS

1. MINIMUM WAGE

(a) Minimum Wage

No employee shall be paid less than the minimum wage.

(b) Amount of Adult Minimum Wage

- (i) The minimum wage for full-time adult employees not covered by subclause 5, Supported Wage System, is \$558.10 per week.
- (ii) Adults employed under a supported wage system clause shall continue to be entitled to receive the wage rate determined under that clause. Provided that such employees shall not be paid less than the amount determined by applying the percentage in the supported wage system clause applicable to the employee concerned to the amount of the minimum wage specified in subclause (b)(i).
- (iii) Adults employed as part-time or casual employees shall continue to be entitled to receive the wage rate determined under the casual and part-time clauses of the award. Provided that such employees shall not be paid less than pro rata the minimum wage specified in subclause (b)(i) according to the number of hours worked.

(c) How the Minimum Wage Applies to Juniors

- (i) The wage rates provided for juniors by this award continue to apply unless the amount determined under subclause (c)(ii) is greater.
- (ii) The minimum wage for an employee to whom a junior rate of pay applies is determined by applying the percentage in the junior wage rates clause applicable to the employee concerned to the relevant amount in subclause (b)(i).

(d) Application of Minimum Wage to Certain Employees

Due to existing applicable award wage rates being greater than the relevant proportionate minimum wage, this clause will not apply to employees falling within the scope of the National Training Wage (Tasmanian Private Sector) Award and Trainees undertaking an apprenticeship.

(e) Application of Minimum Wage to Award Rates Calculation

The minimum wage:

- (i) applies to all work in ordinary hours;
- (ii) applies to the calculation of overtime and all other penalty rates, superannuation, payments during personal leave, long service leave and annual leave, and for all other purposes of this award; and
- (iii) is inclusive of the arbitrated safety net adjustment provided by the July 2009 State Wage Case Decision (T13471 of 2009) and all previous safety net and state wage case adjustments.

2. WAGE RATES - ADULTS

An adult employee of a classification specified in the table hereunder (other than an apprentice or an employee in respect of whom a certificate under Section 79 of the *Industrial Relations Act 1984* is in force) shall be paid not less than the weekly wage rate assigned to that classification for the area in which such employee is working.

Any employee who is, at the date of this award, in receipt of a weekly wage rate in excess of that herein prescribed shall not have his or her weekly wage rate reduced as a result of this award.

	Base Rate Relativity %	Base Rate \$	Safety Net Adjustment \$	Weekly Wage Rate \$
FOOD-BEVERAGE-HOUSEKEEPING				
Introductory Level	78	325.40	232.70	558.10
Hospitality Services Grade 1	82	342.10	232.70	574.80
Hospitality Services Grade 2	88	367.20	232.70	599.90
Hospitality Services Grade 3	92.4	385.50	232.70	618.20
Hospitality Services Grade 4	100	417.20	234.70	651.90
Hospitality Services Grade 5	110	458.90	234.70	693.60
Hospitality Services Grade 6	115	479.80	232.70	712.50
ADMINISTRATION/FRONT OFFICE				
Hospitality Administration and Front Office Grade 1	88	367.20	232.70	599.90

Hospitality Administration and Front Office Grade 2	92.4	385.50	232.70	618.20
Hospitality Administration and Front Office Grade 3	100	417.20	234.70	651.90
Hospitality Administration and Front Office Supervisor	110	458.90	234.70	693.60
LEISURE ACTIVITIES				
Leisure Attendant Grade 1	88	367.20	232.70	599.90
Leisure Attendant Grade 2	92.4	385.50	232.70	618.20
Leisure Attendant Grade 3	100	417.20	234.70	651.90
MISCELLANEOUS				
Handyperson	92.4	385.50	232.70	618.20
Persons not otherwise provided for	82	342.10	232.70	574.80

3. APPRENTICES - COOKING TRADE

Notwithstanding where an employee is apprenticed in accordance with the provisions of any State law and/or regulations made by the Tasmanian State Training Authority, such employees shall be paid the percentage of the weekly wage rate prescribed for a qualified cook (Hospitality Services Grade 4) in Division B, subclause 2 - Wage Rates - Adults, of this clause as follows:

	Percentage of Hospitality Services Grade 4 %
First year	55
Second year	65
Third year	80
Fourth year	95

The total weekly wage rate shall be calculated to the nearest 10 cents, any broken part of 10 cents in the result being less than five cents shall be disregarded - five cents and over shall go to the higher 10 cents.

4. JUNIOR EMPLOYEES

(a) Junior - per week of 40 hours (other than Office Juniors)

The minimum weekly wage rate for junior employees shall be the undermentioned percentages of the weekly wage rate prescribed for the adult classification appropriate to the work performed for the area in which the work is performed.

Age	%
17 years of age and under	60
18 years of age	70
19 years of age	85
20 years of age	100

(b) Junior Office Employees

The minimum weekly wage rate for junior office employees shall be the undermentioned percentages based on the adult weekly wage rate for the Hospitality Administration and Front Office Grade 1 classification:

Age	%
At 15 years of age and under	37
At 16 years of age	44
At 17 years of age	58
At 18 years of age	72
At 19 years of age	82.5
At 20 years of age	94

(c) The percentages prescribed in subclauses (a) and (b) of this clause shall be calculated as follows:

The total weekly wage rate shall be calculated to the nearest 10 cents, any broken part of 10 cents in the result being less than five cents shall be disregarded - five cents and over shall go to the higher 10 cents.

(d) Junior employees on reaching the age of 18 years, may be employed in the sale of liquor.

PROVIDED that the maximum number shall be one to every three adults or fraction of three adults similarly employed receiving a minimum weekly wage rate prescribed in this Division.

PROVIDED FURTHER that where such junior is employed, the adult weekly wage rate for the work being performed shall be paid.

(e) Junior employees may be employed elsewhere in the proportion not exceeding one junior to every three or fraction of three adults employed therein and paid the junior weekly wage rates prescribed in this Division. Notwithstanding anything elsewhere contained in this award where junior employees are employed in excess of one to every three or fraction of three adults, each such additional junior shall be paid the adult weekly wage rate for the work being performed. In deciding which junior or juniors shall be paid the adult rate, the length of service in the establishment shall apply.

- (f) An employer may at any time demand the production of a birth certificate or other satisfactory proof for the purpose of ascertaining the correct age of a junior employee. If a birth certificate is required, the cost of it shall be borne by the employer.

5. SUPPORTED WAGE SYSTEM

As provided for in Division A - Hotels, Taverns or Wine Saloons, subclause 5 of this Clause.

CONDITIONS FOR EMPLOYEES IN DIVISION A HOTELS, TAVERNS OR WINE SALOONS

9. ANNUAL LEAVE

- (a) Employees on weekly hiring who have been in the continuous service of an employer for at least 12 months shall be granted four working weeks' annual leave to be paid at the current rates prescribed in Clause 8 - Wage Rates, of this award plus 17.5 percent of such current rates. The period of annual leave itself shall be regarded as service in the second and subsequent years of employment. The 17.5 percent shall apply on each completed year of service.
- (b) The said annual leave shall be exclusive of the holidays prescribed in this Division 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 time equivalent to the ordinary working time which the employee would have worked if such day had not been a holiday, or payment for such day may be made in lieu thereof.
- (c) Where a holiday falls as aforesaid and the employee fails, without reasonable cause, proof thereof 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 such holiday.
- (d) Annual leave shall be taken within a period of four months after the date on which it becomes due.

PROVIDED that this period may be extended to six months by agreement between employer and employee.

- (e) At least 14 days' notice of the date annual leave shall commence shall be given to each employee by the employer.
- (f) The annual leave provided for by this subclause shall be allowed and shall be taken and except in the case of pro rata leave and except as provided for in subclause (b) hereof, payment shall not be made or accepted in lieu thereof.

(g) Pro Rata Leave

If after one month's continuous service in any qualifying 12 monthly period an employee leaves his employment or his employment is terminated by his employer, the employee shall be paid pro rata leave at the rate of one-twelfth of four weeks at award rates of pay for each completed month of continuous service with the employer, the service being service in respect of which leave has not been granted in accordance with this clause.

(h) Successor, Assignee or Transmitttee

Where the employer is a successor or assignee or transmitttee of a business and an employee was in the employment of the employer's predecessor at the time when he became such successor or assignee or transmitttee, the employee in respect of the period during which he was in the service of the predecessor shall for the purpose of this clause be deemed to be in the service of the employer, and such successor, assignee or transmitttee shall be liable to the said employee for all annual leave and proportionate annual leave liability of the employer's predecessor.

- (i) 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 the leave of absence; or
 - (ii) any absence from work on account of personal sickness or accident or on account of leave lawfully granted by the employer; or
 - (iii) any absence with reasonable cause, proof whereof shall be upon the employee.

Any absence from the work by reason of any cause not being a cause specified in this subclause shall not be deemed to break the continuity of service for the purposes of this clause unless the employer during the absence or within 14 days of the termination of the absence notifies the employee in writing that such absence will be regarded as having broken the continuity of service.

In cases of the individual absenteeism such notice shall be given in writing to the employees concerned, but in cases of concerted or collective absenteeism notice may be given to employees by the posting up of a notification in the establishment, in the manner in which general notifications to employees are usually made in that establishment and by posting to the union a copy of it not later than the day it is posted up in the establishment.

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

In calculating the period of twelve months continuous service the following absences shall be taken into account and counted as time worked:

- up to 152 ordinary working hours in a twelve monthly period in the case of sickness or accident;
- long service leave taken by an employee in accordance with the State long service leave legislation.

Other absences from work shall not be taken into account and shall not count as time worked in calculating the period of twelve months continuous service.

PROVIDED that for the purposes of this clause in calculating continuous service for periods of less than 12 months such absences due to sickness or accident shall be taken into account and counted as time worked on a pro rata basis of 152 ordinary working hours for 12 months service.

- (j) Notwithstanding provisions elsewhere in the award, the employer and the majority of employees at an enterprise may agree to establish a system of single day annual leave absences provided that:
- (i) An employee may elect, with the consent of the employer, to take annual leave in single day periods or part of a single day not exceeding a total of five days in any calendar year at a time or times agreed between them.
 - (ii) Access to annual leave, as prescribed in paragraph (i) above, shall be exclusive of any shutdown period provided for elsewhere under this award.
 - (iii) An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken.
 - (iv) An employee or the employees may choose to request a union party to this award, to represent their interests in negotiations referred to in paragraph (i) of this subclause.
 - (v) Once a decision has been taken to introduce an enterprise system of single day annual leave, in accordance with this clause, its terms must be set out in the time and wages records kept pursuant to Regulation 25 of the *Industrial Relations Regulations 1993*.
 - (vi) An employer shall record these short term annual leave arrangements in the time and wages book, as prescribed in Clause 43 - Time and Wages Book or Sheet of Division A of this award.

10. BEREAVEMENT LEAVE

(a) A permanent employee shall be entitled to a maximum of two days leave without loss of pay on each occasion and on production of satisfactory evidence of the death of the Employee's husband, wife, father, mother, brother, sister, child, common-law husband or wife.

(b) Unpaid Bereavement Leave

An employee may take unpaid bereavement leave by agreement with the employer.

(c) Casual Employees and Employees in Receipt of a Loading in lieu of Paid Leave

(i) Subject to the evidentiary requirements in subclause (a), casual employees and employees in receipt of a loading in lieu of paid leave are entitled to not be available to attend work, or to leave work upon the death in Australia of an immediate family or household member.

(ii) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. Casual employees and employees in receipt of a loading in lieu of paid leave are not entitled to any payment for the period of non-attendance.

(iii) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

11. BOARD AND LODGING

(a) Where board and residence is made available to adult employees the employer shall have the right to deduct from the pay of the employee residing on the premises an amount of \$116.30 per week.

PROVIDED that where an adult employee is required to share a room for lodging, the amount to be deducted from the pay of such employee for board and lodging shall be \$115.70 per week.

(b) Where lodgings only are made available to adult employees, the employer shall have the right to deduct from the pay of the employee residing on the premises the sum of \$111.00 per week.

PROVIDED that where an adult employee is required to share a room for lodging, the amount to be deducted from the pay of such employee for lodging shall be \$110.60 per week.

- (c) (i) In the case of employees who do not reside on the employer's premises a deduction at the rate of \$4.16 for each meal supplied and consumed during the employee's spread of working hours may be deducted by the employer.
- (ii) The rates for each meal supplied shall be increased or decreased by one cent for every 50 cents per week alteration at the rate of classification - Persons Not Otherwise Provided For, in Clause 8 - Wage Rates, Division A, subclause 2 - Wage Rates - Adults.
- (d) Where necessary, lodging rooms shall be fitted with adequate heating and cooling appliances.
- (e) The rates for board and lodging for adults shall be increased or decreased by 20 cents for every 50 cents per week alteration in the rate for the classification - Persons Not Otherwise Provided For.
- (f) Junior employees receiving adult rates of pay as prescribed in this Division shall be subject to the deductions applicable to adults prescribed in Division A, Clause 8 - Wage Rates.
- (g) Junior employees receiving junior rates of pay shall be subject to a deduction at the rate of \$1.79 for each meal supplied and consumed during the employee's spread of working hours.
- (h) Junior employees receiving junior rates of pay shall be subject to a deduction for board and lodging on a percentage basis of the amount prescribed in subclauses (a) and (b) of this clause, the percentages to apply as follows:

	%
At 15 years of age and under	45
At 16 years of age	55
At 17 years of age	70
At 18 years of age	80
At 19 years of age	90

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. CASUAL WORK

(a) **'Casual employee'** in this industry shall mean and be deemed to be any employee engaged as such to work for a lesser period than a working week of 38 hours on the class of employment for which the casual is employed.

(b) A casual employee shall be engaged for a minimum period of two hours; each engagement shall stand alone and shall be paid at the rate of 1/38 of the appropriate weekly wage prescribed in Clause 8 - Wage Rates, plus:

(i) 25 percent for work Monday to Friday inclusive;

PROVIDED that for work performed between the hours of 7.00 pm and midnight an additional \$1.60 per hour or any part of an hour shall be paid with a minimum daily payment of \$2.25 and a maximum daily payment of three hours.

PROVIDED FURTHER that for work performed between midnight and 7.00 am an additional \$2.42 per hour or any part of an hour shall be paid with a minimum daily payment of \$2.45 and a maximum daily payment of three hours. For the purposes of this paragraph midnight shall include midnight Sunday.

(ii) 50 percent for all work performed on Saturday;

(iii) 75 percent for all work performed on Sundays;

(iv) 150 percent for all work performed on public holidays.

(c) Casual work may, by mutual consent, be paid for weekly or fortnightly by agreement between the employers and employees or at the termination of each engagement.

(d) **'Engagement'** for the purposes of this clause shall be deemed to mean the period or periods for which the employer notifies the employee that he or she is so required to attend on any one day.

PROVIDED that each period of engagement shall stand alone and shall be treated as an engagement of not less than two hours and paid for as such.

(e) Casual employees who have been regularly employed as such in an establishment shall not be re-employed as weekly employees in that same establishment for a lesser period than one month.

14. DAY OFF COINCIDING WITH PUBLIC HOLIDAY

Where an employee's rostered day or days off coincide with a holiday prescribed in this Division, the holiday shall not be a holiday for such employee and the holiday shall be substituted in one of the methods following:

- (a) one day with pay added to the annual leave;
- (b) payment of one day's pay shall be made to the employee on the next succeeding pay day;
- (c) such holiday may be allowed off with pay to the employee within 28 days after such holiday falls;
- (d) one of the above methods must be mutually agreed upon by the employee and the employer, failing such agreement the provision prescribed in (a) herein shall apply.

15. DRESSING ROOMS, SHOWERS, ETC.

The provisions of the *Workplace Health and Safety Act 1995* shall apply.

16. EMPLOYEE'S DUTIES

- (a) Any bar attendant or cellarman shall not be required to scrub or wash floors or tables; such work shall be performed by the useful.
- (b) A female shall not be required to do any cleaning work in a public convenience for males during any period such convenience is open and/or accessible to the public on any premises covered by this Division.

17. ENTERPRISE AGREEMENTS

- (a) Notwithstanding anything contained in this award but subject to the provisions of this clause, an enterprise agreement may be entered into between an employer and all or some of the employees engaged by that employer.
- (b) At each plant or enterprise, an employer, the employees and their relevant union or unions shall establish a consultative mechanism, and procedures appropriate to the size, structure and needs of that plant or enterprise.
- (c) An agreement shall be subject to the following requirements:
 - (i) The majority of employees affected by the change must genuinely agree to the change.
 - (ii) The agreement taken as a whole shall not confer a lesser benefit to any employee than is available under the award.
 - (iii) The relevant union shall be advised by the employer of the intention to commence discussions with employees on an agreement under this clause.
 - (iv) The relevant union or unions must be a party to the agreement.
 - (v) The relevant union shall not unreasonably oppose any agreement.
- (d) An enterprise agreement shall be signed by the parties, being the employer and the union, and contain the following:
 - (i) The term of the agreement.
 - (ii) The parties covered by the agreement.
 - (iii) The classes of employees covered by the agreement.
 - (iv) The means by which a party may retire from the agreement.
 - (v) The means by which the agreement may be varied.
 - (vi) Where appropriate, the means by which any dispute arising in respect to the agreement may be resolved.
- (e) Any agreement which seeks to vary a provision of this award shall be referred to the Tasmanian Industrial Commission.

18. FIRST AID OUTFIT/ALLOWANCE

The provisions of the *Workplace Health and Safety Act 1995* shall apply.

An employee who has undertaken a first aid course and who is the holder of a current recognised first aid qualification such as a certificate from the St John's Ambulance or similar body shall be paid a weekly allowance of \$7.30 per week if he or she is appointed by the employer to perform first aid duty.

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 organiser 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) joint discussion shall be held between representatives of the Australian Hotels Association or other representative of the employer and the Liquor, Hospitality and Miscellaneous Union, Tasmanian Branch; or
 - (ii) a joint discussion between representatives of the Federal Executive of the Australian Hotels Association and the Federal Executive of the Liquor, Hospitality and Miscellaneous Union, Tasmanian Branch ;
 - (iii) if the matters are not finalised they shall be referred to the Industrial Commission.
- (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. HIGHER AND LOWER GRADE WORK

- (a) Except for Food and Beverage Attendant Grade 2 and 3, as defined in Clause 7 - Definitions hereof, an employee engaged for two or more hours of one day on duties carrying a higher rate than his ordinary classification shall be paid the higher rate for such day. If for less than two hours he shall be paid the higher rate for the time so worked.
- (b) A higher paid employee shall, when necessary, temporarily relieve a lower paid employee without loss of pay.

21. HOLIDAYS

- (a) Weekly employees shall be entitled to the following days without loss of pay:

New Year's Day, Australia Day, Hobart Regatta Day (south of Oatlands), Labour Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Recreation Day (where Hobart Regatta Day is not observed), Christmas Day and Boxing Day.

- (b) **PROVIDED** that when an employee is absent from his or her employment only on one working day or part of a day before or after a holiday, except on account of illness or other legitimate reason, he or she shall not suffer loss of payment for more than one day of the holidays.
- (c) Subject to Clause 14 - Day Off Coinciding with a Public Holiday hereof, all time worked by a weekly employee on a holiday herein prescribed shall be paid for at the rate of double-time-and-one-half for the hours worked, with a minimum of four hours additional pay. Alternatively, weekly employees who work on a prescribed holiday may, by agreement, perform such work at ordinary rates plus half-time additional in that week.

PROVIDED that equivalent paid time is added to the employee's annual leave or one day in lieu of such public holiday shall be allowed to the employee during the week in which such holiday falls.

PROVIDED FURTHER that such holiday may be allowed to the employees within 28 days of such holiday falling due.

- (d) Where in a State or Territory or locality within a State or Territory an additional public holiday (other than Easter Saturday) is proclaimed or gazetted by the authority of the Commonwealth Government or of a State or Territory Government and such proclaimed or gazetted holiday is to be observed generally by persons throughout the State or Territory or a locality thereof, other than by those covered by Federal Awards, or when such a proclaimed or gazetted day is, by any required judicial or administrative order, to be so observed, then such day shall be deemed to be a holiday for the purposes of this award, for employees covered by this award who are employed in the State, Territory or locality in respect of which the holiday has been proclaimed or ordered as required. (The insertion of this provision shall

not of itself prejudice the right of the union to make application for variation of this award in respect to Easter Saturday).

22. HOURS OF WORK - FULL-TIME EMPLOYEES

(a) The hours of all permanent full-time employees shall be an average of 38 hours per week in one of the following two ways:

- (i) At one establishment a combination of the following methods may be worked:
 - (1) a 19-day month, of eight hours each day;
 - (2) the banking of a day each month, up to a maximum of five days to be taken at a time mutually acceptable to the employer and employee;
 - (3) four days at eight hours and one of six hours;
 - (4) four days at nine and a half hours per day;
 - (5) five days, to be worked at a total of seven hours and 36 minutes per day;
 - (6) a combination of subclauses (1), (2) and (3) hereof under which employees may be worked, under paragraph (3) hereof for up to six months in any year with the balance of the period worked under paragraph (1) and or (2) hereof.

Such method of working prescribed hours shall be determined by agreement between employer and employee. If no agreement can be reached the matter may be referred to the Tasmanian Industrial Commission in accordance with Clause 34 - Reference of Disputes of this award. Whilst such hearing is pending the employer may roster employees within the above scope to suit the needs of his or her operation.

Notwithstanding the foregoing, arrangements for hours of work applying to employees engaged prior to 1 April 1988 shall not be changed without the agreement of the employee or employees in question.

- (ii) By agreement between the employer and the employee and/or the union, the arrangements of hours of work can be implemented within any one or combination of the following:
 - (1) 152 hours per each four week period; or
 - (2) 160 hours per each four week period, with a day banked per period up to a maximum of five.

PROVIDED that where the union has not been involved in the consultation process, they should be notified by the employer in writing no less than 28 days before implementation of any agreement reached under this paragraph.

(b) The hours of work arrangements agreed upon in paragraph (a)(ii) hereof shall be subject to the following conditions:

(i) Within a minimum of 6 hours and a maximum of 11.5 hours per day and shall be exclusive of meal break intervals, subject to Clause 24 - Meal Periods.

PROVIDED that where shifts of more than 10 hours per day are rostered for work, employees working such hours cannot be rostered for work on more than three consecutive days without a break of at least 48 hours.

PROVIDED FURTHER that no more than eight shifts of more than 10 hours can be worked in a four week period without consultation with the State Branch of the union.

(ii) In relation to subparagraph (a)(ii) hereof, an employee shall be entitled to nine full days off per four week period.

(iii) No employee shall work more than ten days in succession without a rostered day off.

(c) Spread of Hours

Where broken shifts are worked the spread of hours shall not exceed the ordinary hours by more than a total of two hours within the metropolitan area of Hobart and three hours in non-metropolitan areas, provided that no spread of hours shall be greater than 12 hours per day.

(d) Minimum Break between Shift

The roster for all employees on weekly hire shall provide for a minimum of 10 hours break between the finish of ordinary hours on one day and the commencement of ordinary hours on the following day. In the case of changeover of rosters, eight hours shall be substituted for 10 hours.

(e) Wage Entitlements

Employees shall be entitled to a week's wages in accordance with Clause 8 - Wage Rates of this award for each week of work. Notwithstanding the provision of this subclause, an employer may, subject to agreement with the union, pay wages fortnightly according to the actual hours worked in that fortnightly pay period.

(f) Sickness on Rostered Day Off

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

(g) Pay Day

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 pay day.

(h) Special Provisions for 38-hour Week

In relation to paragraph (a)(i) hereof, an employee shall be entitled to two full days off each week.

(i) Special Provisions for 19-Day Month

(i) Where the method of implementation of the 38-hour week is that set out in subparagraph (a)(i)(1) hereof, days off shall be by rostering, where practicable, so this rostered day off in each four 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) The entitlement to a rostered day off on full pay is subject to the following:

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

(2) An employee who has not worked a complete four 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 (ie. an amount of 24 minutes for each eight hour day worked or two hours for each 40 hours worked).

For the purposes of this subparagraph '**worked**' includes paid leave referred to in subparagraph (1) hereof.

(j) Special Provisions for Banking of Days

(i) Where a rostered day off which has resulted from the method of implementation of the 38-hour week is that set out in subclause (a)(i)(2) hereof, falls on a public holiday, the following day may be taken where practicable in lieu thereof.

- (ii) Each day of paid leave taken (not including annual leave, long service leave and periods of workers' compensation) and any public holiday occurring during any cycle of four weeks shall be regarded as a day worked for accrual purposes.

(k) Make Up Time

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

- (i) An employee may elect, with the consent of the employer, to work 'make up time' under which the employee takes time off during ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in the award.
- (ii) An employee on shift work may elect, with the consent of their employer, to work 'make up time' under which the employee takes time off ordinary hours and works those hours at a later time, at the shift work rate which would have been applicable to the hours taken off.
- (iii) An employee or the employees may choose to request a union party to this award, to represent their interests in negotiation referred to in paragraph (i) of this subclause.
- (iv) Once a decision has been taken to introduce an enterprise system of make up time, in accordance with this clause, its terms must be set out in the time and wages records kept pursuant to Regulation 25 of the *Industrial Relations Regulations 1993*.
- (v) An employer shall record make up time arrangements in the time and wages book, as prescribed in Clause 43 - Time and Wages Book or Sheet, of Division A of this award.

(l) Rostered Days Off

Notwithstanding provisions elsewhere in the award, the employer and the majority of employees at an enterprise may agree to establish a system of Rostered Days Off to provide that:

- (i) An employee may elect, with the consent of the employer, to take a rostered day off at any time.
- (ii) An employee may elect, with the consent of the employer, to take rostered days off in part day amounts.
- (iii) An employee may elect, with the consent of the employer, to accrue some or all rostered days off for the purpose of creating a bank to be drawn upon by

the employee at times mutually agreed by the employer, or subject to the reasonable notice by the employee or the employer.

- (iv) An employee or the employees may choose to request a union party to this award to represent their interests in negotiation referred to in paragraph (i) of this subclause.
- (v) Once a decision has been taken to introduce an enterprise system of Rostered Days Off flexibility, in accordance with this clause, its terms must be set on in the time and wages records kept pursuant to Regulation 25 of the *Industrial Relations Regulations 1993*.
- (vi) An employer shall record Rostered Days Off arrangements in the time and wages book, as prescribed in Clause 43 - Time and Wages Book or Sheet, of Division A of this award.

23. MEAL MONEY

An employee required to work overtime for more than two hours without being notified on the previous day or earlier that he or she will be so required to work shall either be supplied with a meal by the employer or paid \$15.40 meal money.

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

The rates of meal money as above prescribed shall be increased by one cent for every 50 cents per week alteration at the rate of classification - Persons Not Otherwise Provided For, subclause 2, Division A, Clause 8 - Wage Rates hereof.

24. MEAL PERIODS

- (a) Each employee shall be granted a meal interval of not less than 30 minutes to be commenced after completing not less than one hour and not later than six 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 of 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 work in excess of five hours after the first meal interval, he or she shall be granted a further meal interval of twenty minutes to be treated as time worked.

Where a rostered meal break requires an employee to work for more than five hours before such a meal break, then an employee shall be allowed a 20 minute

break without loss of pay during such work period at a time suitable to the employer between two and five hours worked.

- (b) Notwithstanding the provisions of subclause (a) hereof, employees rostered to work more than ten ordinary hours in a shift shall be entitled to two paid 20 minute rest breaks in addition to an unpaid meal break of at least half an hour. In rostering for these breaks the employer shall make all reasonable efforts to provide these breaks at a time which gives the employee an even mix of work time and breaks.
- (c) Where an employee is required to work overtime and such overtime follows the completion of the employee's normal hours of work a 20 minute paid meal break shall be allowed where such overtime exceeds two hours work.

25. NOTICE OF DISMISSAL

- (a) Except as hereinafter provided all employees (other than casual employees) shall be engaged by the week and shall be paid weekly or by agreement between employers and employees may be paid fortnightly. Two days' notice for which the employee concerned shall receive payment shall be given by the employer or the employee to terminate employment or in lieu of such notice two days' wages shall be paid by the employer or forfeited by the employee.
- (b) An employer may dismiss an employee without notice:
 - (i) for neglect of duty or misconduct; or
 - (ii) inefficiency within the first 7 days.

Wages must be paid to time of dismissal in each instance.

- (c) Subject to Clause 31 - Personal Leave, an employee who fails without sound reason to notify the employer within one hour of the rostered commencing time of his inability to attend for duty on any day may be dismissed without notice.
- (d) Notwithstanding anything hereinbefore contained, an employee shall not be given notice or dismissed, except for misconduct, whilst legitimately absent from duty on accrued personal leave or annual leave.

26. OVERTIME AND PENALTY RATES

- (a) (i) Requirement to Work Reasonable Overtime
 - (1) Subject to subparagraph (2) of this subclause and subclause (g) of this clause, an employer may require an employee to work reasonable overtime at overtime rates.
 - (2) An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable having regard to:
 - (A) any risk to employee health and safety;
 - (B) the employee's personal circumstances including any family responsibilities;
 - (C) the needs of the workplace or enterprise;
 - (D) the notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and
 - (E) any other relevant matter.
 - (ii) To ensure that permanent employees are not deprived of the opportunity to work reasonable overtime, an employer shall so far as is practicable offer such employee the opportunity to work any overtime that may be required to meet fluctuations in his or her trade or other special circumstances, in preference to engaging casuals to supplement his normal labour force.
- (b) All time worked in excess of the rostered hours of work or outside the spread of hours prescribed in Clause 22 - Hours of Work - Full-time Employees, shall be overtime and shall be paid for at the following rates:
- (i) Monday to Friday inclusive time-and-a-half for the first two hours and double-time for all work thereafter.
 - (ii) Between midnight Friday and midnight Sunday double-time for all time worked.
 - (iii) All work performed on an employee's rostered day off shall be paid for at the rate of double time with a minimum payment of four hours at that rate.

PROVIDED that such minimum does not apply to work which is part of the normal roster which began the day before the rostered day off.

The four hours minimum shall not apply when overtime is worked and is continuous from the previous days duty.

- (iv) Overtime on any day shall stand alone.
 - (v) If an employee is so long on overtime duty following his or her normal finishing time that he or she has not had 10 hours interval before his or her next regular starting time, such employee shall be allowed at least 10 consecutive hours' interval without deduction of pay or shall be paid at overtime rates for all time of duty until he has had at least 10 hours' interval.
- (c) Notwithstanding the rate prescribed in subclause (b) at the instigation of the employee there may be an agreement in writing between the employee and the employer to take time off with pay equivalent to the amount for which payment would otherwise have been made. Such accumulated time must be taken within four weeks from the time of accrual.
- (d) Weekend Penalty Rates
- (i) All permanent employees as at 1 December 1994 shall be entitled to the following weekend penalty rates:
 - (1) For all ordinary time worked between midnight Friday and midnight Saturday time and a half of the wages for the respective classification as at 1 December 1994 shall be paid until such amount is exceeded by time and a quarter as provided for in subparagraph (ii)(1) of this subclause when the provisions of subparagraph (ii)(1) shall apply.
 - (2) For all ordinary time worked between midnight Saturday and midnight Sunday time and three quarters shall be paid.
 - (3) For all ordinary time worked by liquor service employees on a Sunday double time of the wages for respective classifications as at 1 December 1994 shall be paid until such amount is exceeded by time and three quarters as provided for in subparagraph (ii)(2) of this subclause when the provisions of subparagraph (ii)(2) shall apply.
 - (ii) All permanent employees who commence to be employed after 1 December 1994 shall be entitled to the following weekend penalty rates:
 - (1) For all ordinary time worked between midnight Friday and midnight Saturday time and a quarter rate shall be paid.
 - (2) For all ordinary time worked between midnight Saturday and midnight Sunday time and three quarters shall be paid.
- (e) Other Penalty
- (i) A permanent employee who is required to work any of his/her ordinary hours between the hours of 7.00 pm and midnight Monday to Friday inclusive shall be paid an additional \$1.49 per hour or any part of an hour for such time

worked within the said hours with a minimum payment of \$2.25 for any one day.

- (ii) A permanent employee who is required to work any of his/her ordinary hours between midnight and 7.00 am Monday to Friday inclusive shall be paid \$2.36 per hour or any part of an hour shall be paid with a minimum daily payment of \$2.35 and a maximum daily payment of three hours. For the purposes of this paragraph midnight shall include midnight Sunday.

(f) Broken Periods of Work

Permanent employees who have a broken work day shall receive an additional allowance for a spread of hours as prescribed in Clause 22 - Hours of Work - Full-time Employees, of this award as follows:

- (i) Two hours over the hours worked in a day and up to three hours - \$1.60
- (ii) Three hours over the hours worked - \$2.45.

(g) Time Off in Lieu of Payment

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

- (i) An employee may elect, with the consent of the employer, to take time off in lieu of payment for overtime at a time or times agreed with the employer.
- (ii) Overtime taken as time off during ordinary time hours shall be taken at the ordinary time rate, that is an hour for each hour worked (unless otherwise provided elsewhere in the award).
- (iii) An employer shall, if requested by an employee, provide payment at the rate provided for the payment of overtime as prescribed in this clause, for any overtime worked under this subclause where such time has not been taken within four weeks of accrual.
- (iv) An employee or the employees may choose to request a union party to this award, to represent their interests in negotiation referred to in paragraph (i) of this subclause.
- (v) Once a decision has been taken to introduce an enterprise system of time off in lieu, in accordance with this clause, its terms must be set out in the time and wages records kept pursuant to Regulation 25 of the *Industrial Relations Regulations 1993*.
- (vi) An employer shall record these time off in lieu arrangements in the time and wages book, as prescribed in Clause 43 - Time and Wages Book or Sheet of Division A of this award.

27. PARENTAL LEAVE

Subject to the terms of this clause employees are entitled to maternity, paternity and adoption leave and to work part-time in connection with the birth or adoption of a child.

(a) Definitions

For the purposes of this clause:

- (i) **'Child'** means a child of the employee under the age of one year except for adoption of a child where 'child' means a person under the age of five years who is placed with the employee for the purposes of adoption, other than a child or step-child of the employee or of the parent of the employee or a child who has previously lived continuously with the employee for a period of six months or more.
- (ii) **'Continuous service'** means service under an unbroken contract of employment and includes:
 - (1) any period of leave taken in accordance with this clause;
 - (2) any period of part-time employment worked in accordance with this clause; or
 - (3) any period of leave or absence authorised by the employer or by the award.
- (iii) **'Employee'** includes a part-time employee but does not include an employee engaged upon casual work, unless that work has been under a continuous contract of employment of at least 12 months.
- (iv) **'Female employee'** means an employed female who is pregnant or is caring for a child she has borne or a child who has been placed with her for adoption purposes.
- (v) **'Male employee'** means an employed male who is caring for a child borne of his spouse or a child placed with the employee for adoption purposes.
- (vi) **'Primary care-giver'** means a person who assumes the principal role of providing care and attention to a child.
- (vii) **'Spouse'** includes a de facto or a former spouse.

(b) Entitlement

- (i) After twelve months continuous service, parents are entitled to a combined total of 52 weeks unpaid parental leave on a shared basis in relation to the

birth or adoption of their child. For mothers, maternity leave provisions apply and for male employees, paternity leave provisions apply. Adoption leave provisions apply in the case of adoption.

- (ii) Subject to subclause (c) (vi), parental leave is to be available to only one parent at a time, in a single unbroken period, except that both parents may simultaneously take:
 - (1) for maternity and paternity leave, an unbroken period of up to one week at the time of the birth of the child;
 - (2) for adoption leave, an unbroken period of up to three weeks at the time of placement of the child.
- (iii) Unless otherwise agreed between the employee and the employer, parental leave shall be granted and taken in accordance with the notice given by the employee as specified below.

(c) Maternity Leave

- (i) An employee must provide notice to the employer in advance of the expected date of commencement of parental leave. The notice requirements are:
 - (1) of the expected date of confinement (included in a certificate from a registered medical practitioner stating that the employee is pregnant) – at least 10 weeks;
 - (2) of the date on which the employee proposes to commence maternity leave and the period of leave to be taken – at least 4 weeks.
- (ii) Where the employee gives notice under (d) (i) the employee must also provide a statutory declaration stating particulars of any period of paternity leave sought or taken by her spouse, and that for the period of maternity leave she will not engage in any conduct inconsistent with her contract of employment.
- (iii) An employee will not be in breach of this clause if failure to give the stipulated notice is occasioned by confinement occurring earlier than the presumed date or other compelling circumstances.
- (iv) An employee may commence maternity leave at any time within six weeks immediately prior to the expected date of birth.
- (v) Where an employee continues to work within the six week period immediately prior to the expected date of birth, or where the employee elects to return to work within six weeks after the birth of the child, an employer may require the employee to provide a medical certificate stating that she is fit to work on her normal duties.

(vi) Special Maternity Leave

- (1) Where the pregnancy of an employee not then on maternity leave terminates after 28 weeks other than by the birth of a living child, then the employee may take unpaid special maternity leave of such periods as a registered medical practitioner certifies as necessary.
- (2) Where an employee is suffering from an illness not related to the direct consequences of the confinement, an employee may take any paid personal leave to which she is entitled in lieu of, or in addition to, special maternity leave.
- (3) Where an employee not then on maternity leave suffers illness related to her pregnancy, she may take any paid personal leave to which she is then entitled and such further unpaid special maternity leave as a registered medical practitioner certifies as necessary before her return to work. The aggregate of paid personal leave, special maternity leave and parental leave, including paternity leave taken by her spouse, may not exceed 52 weeks.

(vii) Transfer to a safe job

- (1) Where an employee is pregnant and, in the opinion of a registered medical practitioner, illness or risks arising out of the pregnancy or hazards connected with the work assigned to the employee make it inadvisable for the employee to continue at her present work, the employee will, if the employer deems it practicable, be transferred to a safe job at the rate and on the conditions attaching to that job until the commencement of maternity leave.
- (2) If the transfer to a safe job is not practicable, the employee may elect, or the employer may require the employee to commence parental leave for such period as is certified necessary by a registered medical practitioner.

(d) Paternity Leave

- (i) A male employee will provide to the employer at least 10 weeks prior to each proposed period of paternity leave:
 - (1) that a certificate from a registered medical practitioner which names his spouse, states that she is pregnant and the expected date of confinement, or states the date on which the birth took place, and
 - (2) written notification of the proposed dates on which the period of paternity leave will start and finish and
 - (3) a statutory declaration stating:

- (A) that period of paternity leave will be taken to become the primary care-giver of a child;
 - (B) particulars of any period of maternity leave sought or taken by the mother, and
 - (C) that for the period of paternity leave, the employee will not engage in any conduct inconsistent with their contract of employment.
- (4) The employee will not be in breach of this subclause if the failure to give the required period of notice is because of the birth occurring earlier than expected, the death of the mother of the child, or other compelling circumstances.

(e) Adoption leave

- (i) The employee will notify the employer at least ten weeks in advance of the date of commencement of adoption leave and the period of leave to be taken. An employee may commence adoption leave prior to providing such notice, where through circumstances beyond the control of the employee, the adoption of a child takes place earlier.
- (ii) Before commencing adoption leave, an employee will provide the employer with a statutory declaration stating:
 - (1) the employee is seeking adoption leave to become the primary care-giver of the child;
 - (2) particulars of any period of adoption leave sought or taken by any other person in respect of that child, and
 - (3) that for the period of adoption leave the employee will not engage in any conduct inconsistent with their contract of employment.
- (iii) An employer may require an employee to provide confirmation from the appropriate government authority of the placement.
- (iv) Where the placement of a child for adoption with an employee does not proceed or continue, the employee will notify the employer immediately and the employer will nominate a time not exceeding four weeks from receipt of notification for the employee's return to work.
- (v) An employee will not be in breach of this subclause as a consequence of failure to give the stipulated periods of notice if such failure results from a requirement of an adoption agency to accept earlier or later placement of a child, the death of an adoptive parent or other compelling circumstances.
- (vi) An employee seeking to adopt a child is entitled to unpaid leave for the purpose of attending any compulsory interviews or examinations as are

necessary as part of the adoption procedure. The employee and the employer should agree on the length of the unpaid leave. Where agreement cannot be reached, the employee is entitled to take up to two days unpaid leave. Where paid leave is available to the employee, the employer may require the employee to take such leave instead.

(f) Parental Leave and Other Entitlements

An employee may in lieu of or in conjunction with parental leave, access any annual leave or long service leave entitlements which they have accrued subject to the total amount of leave not exceeding 52 weeks.

(g) Part time work

(i) Entitlement

With the agreement of the employer:

- (1) An employee may work part-time in one or more periods at any time from the date of birth of the child until its second birthday or, in relation to adoption, from the date of placement of the child until the second anniversary of the placement.
- (2) A female employee may work part-time in one or more periods while she is pregnant where part-time employment is, because of the pregnancy, necessary or desirable.

(ii) Effect of Part-time Employment on Continuous Service

Commencement on part-time work under this clause, and return from part-time work to full-time work under this clause, shall not break the continuity of service or employment.

(iii) Pro Rata Entitlements

Subject to the provisions of this subclause and the matters agreed to in accordance with this subclause, part-time employment shall be in accordance with the provisions of this award which shall apply pro rata.

(iv) Transitional Arrangements - Annual Leave

- (1) An employee working part-time under this subclause shall be entitled to any leave accrued in respect of a period of full-time employment, as if the employee was still working full-time, in the position held prior to taking leave.
- (2) (A) A full-time employee shall be entitled to annual leave accrued in respect of a period of part-time employment under this subclause,

as if the employee was working part-time in the position held, immediately before resuming full-time work.

- (B) Provided that, by agreement between the employer and the employee, the period over which the leave is taken may be shortened to the extent necessary for the employee to receive pay at the employee's current full-time rate.

(v) Transitional Arrangements - Personal Leave

An employee working part-time under this subclause shall have personal leave entitlements which have accrued under this award (including any entitlements accrued in respect of previous full-time employment) converted into hours. When this entitlement is used, whether as a part-time employee or as a full-time employee, it shall be debited for the ordinary hours that the employee would have worked during the period of absence.

(vi) Part-time Work Agreement

- (1) Before commencing a period of part-time employment under this subclause the employee and the employer shall agree:
 - (A) that the employee may work part-time;
 - (B) upon the hours to be worked by the employee, the days upon which they will be worked and commencing times for the work;
 - (C) upon the classification applying to the work to be performed; and
 - (D) upon the period of part-time employment.
- (2) The terms of this agreement may be varied by consent.
- (3) The terms of this agreement or any variation to it shall be reduced to writing and retained by the employer. A copy of the agreement and any variation to it shall be provided to the employee by the employer.
- (4) The terms of this agreement shall apply to the part-time employment.

(vii) Termination of Employment

- (1) The employment of a part-time employee under this clause, may be terminated in accordance with the provisions of this award but may not be terminated by the employer because the employee has exercised or proposes to exercise any rights arising under this clause or has enjoyed or proposes to enjoy any benefits arising under this clause.
- (2) Any termination entitlements payable to an employee whose employment is terminated while working part-time under this clause, or

while working full-time after transferring from part-time work under this clause, shall be calculated by reference to the full-time rate of pay at the time of termination and by regarding all service as a full-time employee as qualifying for a termination entitlement based on the period of full-time employment and all service as a part-time employee on a pro rata basis.

(viii) Extension of Hours of Work

An employer may request, but not require, an employee working part-time under this clause to work outside or in excess of the employee's ordinary hours of duty provided for in accordance with paragraph (vi).

(ix) Nature of Part-time Work

The work to be performed part-time need not be the work performed by the employee in his or her former position but shall be work otherwise performed under this award.

(x) Inconsistent Award Provisions

An employee may work part-time under this clause notwithstanding any other provisions of this award which limits or restricts the circumstances in which part-time employment may be worked or the terms upon which it may be worked including provisions:

- (1) limiting the number of employees who may work part-time;
- (2) establishing quotas as to the ratio of part-time to full-time employees;
- (3) prescribing a minimum or maximum number of hours a part-time employee may work; or
- (4) requiring consultation with, consent of or monitoring by a union;

and such provisions do not apply to part-time work under this clause.

(h) Replacement Employees

- (i) A replacement employee is an employee specifically engaged as a result of an employee proceeding on parental leave or working part time in accordance with this clause.
- (ii) A replacement employee may be employed part-time. The provisions of this subclause in relation to annual leave and personal leave apply to the part-time employment of replacement employees.
- (iii) Before an employer engages a replacement employee under this paragraph, the employer shall inform the person of the temporary nature of the

employment and of the rights of the employee who is being replaced. Specifically, the employer must advise that the period of engagement is subject to variation or change in the event that the employee on leave exercises the right to vary the period of leave.

- (iv) Unbroken service as a replacement employee shall be treated as continuous service.
 - (v) Nothing in this subclause shall be construed as requiring an employer to engage a replacement employee.
- (i) Return to Former Position after a Period of Parental Leave or Part Time Work

Unless otherwise agreed between employee and employer, and consistent with the provisions of this clause

- (i) An employee will give at least four weeks' notice prior of their intention to return to work after a period of parental leave or part time work in accordance with this clause.
- (ii) An employee will be entitled to the position which they held immediately before proceeding on parental leave or part time work. In the case of an employee transferred to a safe job pursuant to subclause (c) (vii) of this clause, the employee will be entitled to return to the position they held immediately before such transfer.
- (iii) During the period of parental leave an employee shall be entitled to return to work at any time, as agreed between the employer and the employee, provided that the employer may require notice of not more than four weeks.
- (iv) An employee shall be entitled to extend the period of parental leave on one occasion, provided that the employer may require notice of not more than four weeks.

By mutual agreement between the employee and the employer, the period of leave may be further extended.

- (j) Redundancy
- (i) If a position held by an employee prior to taking parental leave is likely to be made redundant before the employee returns to work, the employer must advise the employee of the impending redundancy, provide an opportunity for consultation and shall not disadvantage the employee by virtue of the taking of parental leave.
 - (ii) Where such position no longer exists but there are other positions available which the employee is qualified for and is capable of performing, the employee will be entitled to a position as nearly comparable in status and pay to that of their former position.

(k) Right To Request Variation To Parental Leave Provision

- (i) An employee entitled to parental leave pursuant to the provisions of this clause may request the employer to allow the employee:
 - (1) to extend the period of simultaneous unpaid parental leave up to a maximum of eight weeks;
 - (2) to extend the period of unpaid parental leave by a further continuous period of leave not exceeding 12 months;
 - (3) to return from a period of parental leave on a part-time basis until the child reaches school age, to assist the employee in reconciling work and parental responsibilities.
- (ii) The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

(l) Communication During Parental Leave

- (i) Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:
 - (1) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
 - (2) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.
- (ii) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.
- (iii) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with (l)(i)(1).

28. PART-TIME EMPLOYEES

Adults may be employed as part-time employees in any classification in his award on the basis as follows:

- (a) Not less than three hours and not longer than eight hours per day, not less than three nor more than five days each week, and not less than 15 hours each week, nor in excess of 30 hours per week.

All time worked in excess of eight hours per day, five days per week and/or 30 hours per week shall be overtime and paid for at the rates prescribed for other weekly employees in Clause 26 - Overtime and Penalty Rates, of this award.

- (b) The hours of duty each day shall be worked continuously.

PROVIDED that an employee who is required to work longer than five hours shall be granted a meal break of not less and not more than 30 minutes. The meal break shall not be counted as time worked. Where such meal break is not granted in a period of not longer than five hours of duty the penalty prescribed in Clause 24 - Meal Periods, of this award shall be paid.

- (c)
 - (i) A part-time employee shall be paid per hour at the rate of one thirty-eighth of the weekly rate prescribed for the class of work performed plus 10 percent.
 - (ii) The additional 10 percent shall be regarded also as ordinary wages for the payment of annual leave, personal leave and when work is not performed on a holiday.
 - (iii)
 - (1) A part-time employee who is required to work any of his/her ordinary hours between the hours of 7.00 pm and midnight Monday to Friday inclusive shall be paid an additional \$1.48 per hour or part of an hour for such time worked within the said hours plus the 10 percent herein prescribed with a minimum daily payment of \$2.25 for any one day.
 - (2) A part-time employee who is required to work any of his/her ordinary hours between midnight and 7.00 am Monday to Friday inclusive shall be paid an additional \$2.10 per hour or part of an hour for such time worked within the said hours plus the 10 percent herein prescribed with a minimum daily payment of \$2.25 for any one day. For the purposes of this subparagraph midnight shall include midnight Sunday.
 - (iv) The said additional 10 percent shall not apply in addition to the rates prescribed for work on Saturday, Sunday, holidays, overtime or where double time is prescribed in the Award.
- (d) The provisions of this award in respect of annual leave, personal leave and holidays shall apply on a pro rata basis to part-time employees.

- (e) The provisions of Clause 35 - Roster, and Clause 26 - Overtime and Penalty Rates, of this award shall apply to part-time employees.
- (f) Notwithstanding the foregoing provisions by agreement between an employer and employee/s the following hours of work arrangement shall apply.

Employees shall be employed for a specific number of hours each week on the basis as follows:

- (i) The specific number of hours for such part-time employees shall be not less than 12 hours and not more than 32 hours each week and not less than three hours and not longer than eight hours each day to be worked in not more than five days each week.
- (ii) All time worked in excess of the rostered hours each day and the specific number of hours each week shall be overtime and paid for at the rates prescribed for other weekly employees in Clause 26 - Overtime and Penalty Rates, of this award.
- (iii) Provided further by agreement between the employer and the employee and/or the union the arrangement of hours of work can be implemented as follows:

The specific number of hours shall be not less than 48 and not more than 128 per each 4 week period:

Subject to the following conditions:

- (1) Not less than the three hours and not longer than eight hours each day and not more than 19 days in each four week period.
 - (2) Employees shall be entitled to a minimum of nine full days off per each four week period.
 - (3) No employee shall work more than 10 days in succession without a rostered day off.
 - (4) All time worked in succession of the rostered hours each day and the specific number of hours each four week period shall be overtime and paid for at the rates prescribed for other weekly employees in Clause 26 - Overtime and Penalty Rates, of this award.
- (iv) A part-time employee employed under the provisions of this subclause shall be paid per hour at the rate of one thirty-eighth of the weekly rate prescribed for the class of work performed.
 - (v) A part-time employee under the provisions of this subclause shall be entitled to all other conditions of this clause provided such conditions are not inconsistent with the provisions of this subclause.

(g) Make Up Time

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

- (i) An employee may elect, with the consent of the employer, to work 'make up time' under which the employee takes time off during ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in the award.
- (ii) An employee on shift work may elect, with the consent of their employer, to work 'make up time' under which the employee takes time off ordinary hours and works those hours at a later time, at the shift work rate which would have been applicable to the hours taken off.
- (iii) An employee or the employees may choose to request a union party to this award, to represent their interests in negotiation referred to in paragraph (i) of this subclause.
- (iv) Once a decision has been taken to introduce an enterprise system of make up time, in accordance with this clause, its terms must be set out in the time and wages records kept pursuant to Regulation 25 of the *Industrial Relations Regulations 1993*.
- (v) An employer shall record make up time arrangements in the time and wages book, as prescribed in Clause 43 - Time and Wages Book or Sheet of Division A of this award.

(h) Rostered Days Off

Notwithstanding provisions elsewhere in the award, the employer and the majority of employees at an enterprise may agree to establish a system of Rostered Days Off to provide that:

- (i) An employee may elect, with the consent of the employer, to take a rostered day off at any time.
- (ii) An employee may elect, with the consent of the employer, to take rostered days off in part day amounts.
- (iii) An employee may elect, with the consent of the employer, to accrue some or all rostered days off for the purpose of creating a bank to be drawn upon by the employee at times mutually agreed by the employer, or subject to the reasonable notice by the employee or the employer.

- (iv) An employee or the employees may choose to request a union party to this award to represent their interests in negotiation referred to in paragraph (i) of this subclause.
- (v) Once a decision has been taken to introduce an enterprise system of Rostered Days Off flexibility, in accordance with this clause, its terms must be set on in the time and wages records kept pursuant to Regulation 25 of the *Industrial Relations Regulations 1993*.
- (vi) An employer shall record Rostered Days Off arrangements in the time and wages book, as prescribed in Clause 43 - Time and Wages Book or Sheet of Division A of this award.

29. PAYMENT OF WAGES

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

Notwithstanding the foregoing by agreement between the union, the employer and the employee in a week where a holiday occurs payment of wages may be made on Friday.

- (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,
 - (iii) payment into employee's bank account,

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 by 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 fifteen 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.

PROVIDED that this subclause shall not apply to employees paid by electronic funds transfer.

- (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 monies due shall be made at the employee's normal place of employment prior to the employee's leaving such place of employment. If an employee is kept waiting for more than fifteen minutes after termination of employment such employees shall be paid overtime rates for waiting time.

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

For the purposes 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 two hours and a maximum of seven hours 36 minutes per day.

Notwithstanding the foregoing provisions if it is established by a hearing at the Tasmanian Industrial Commission that the failure to pay an employee correctly at the time of termination was due to a genuine error by the employer, payment of waiting time over and above the day of termination shall not apply.

PROVIDED FURTHER that in the case of an employee whose ordinary hours are arranged in accordance with subclauses (a)(i) and (ii) of Clause 22 - Hours of Work - Full-time Employees, of this award and who is paid average pay and who has not taken the day off or days due to him during the working cycle in which his employment is terminated, the wages due to that employee shall include the total of credits accrued during the work cycle as mentioned in Clause 22 - Hours of Work - Full-time Employees, of this award.

PROVIDED ALWAYS 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 deduction, net wage, and date to which payment is made.
- (g) For the purposes 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 2 (a), Division A, Clause 8 - Wage Rates, of this award by 38, subject to the provisions of Clause 13 - Casual Work.
- (h) (i) As an alternative to being paid by the week according to Clause 8 - Wage Rates, by agreement between the employer and the employee an employee can be paid at a rate equivalent to an annual salary of at least 25 percent or more above the rate prescribed in Clause 8 - Wage Rates, times 52 for the

work being performed. In such cases, there is no requirement under Clause 26 - Overtime and Penalty Rates, to pay overtime and penalty rates in addition to the weekly award wage.

PROVIDED that the salary paid over a year was sufficient to cover what the employee would have been entitled if all award overtime and penalty rate payment obligations had been complied with.

PROVIDED FURTHER in the event of termination of employment prior to completion of a year the salary paid during such period of employment shall be sufficient to cover what the employee would have been entitled to if all award overtime and penalty rate payment obligations had been complied with.

- (ii) An employee being paid according to this subclause shall be entitled to a minimum of eight days off per four week cycle. Further, if an employee covered by this clause is required to work on a public holiday, such employee shall be entitled to a day off in lieu or a day added to his or her annual leave entitlement.
- (iii) Where payment in accordance with this subclause is adopted, the employer shall keep a daily record of the hours worked by an employee which shall show the date and start and finish times of the employee for the day. The record shall be countersigned weekly by the employee and shall be kept at the place of employment for a period of at least six years.

30. PENALTY RATES NOT CUMULATIVE

Except as provided in Clause 24 - Meal Periods hereof, where time worked is required to be paid for at more than the ordinary rate such time shall not be subject to more than one penalty, but shall be subject to that penalty which is to the employee's greatest advantage.

31. PERSONAL LEAVE

The provisions of this clause apply to an employee, other than one engaged as a casual or part-time employee in receipt of a loading in lieu of an entitlement to paid leave. The entitlements of casual employees and employees in receipt of a loading in lieu of an entitlement to paid leave are set out in subclause (k) – Casual Employees and Employees in Receipt of a Loading in lieu of Paid Leave – Caring Responsibilities.

(a) Definitions

The term 'immediate family' includes:

- (i) spouse (including a former spouse, a de facto spouse and a former de facto spouse) of the employee. A de facto spouse means a person of the opposite

sex to the employee who lives with the employee as his or her husband or wife on a bona fide domestic basis; and

- (ii) child or an adult child (including an adopted child, a step child or an ex-nuptial child), parent, grandparent, grandchild or sibling of the employee or spouse of the employee.

(b) Amount of Paid Personal Leave

- (i) Paid personal leave is available to an employee, when they are absent:
 - (1) due to personal illness or injury; or
 - (2) for the purposes of caring for an immediate family or household member who is sick and requires the employee's care and support or who requires care due to an unexpected emergency.
- (ii) The employee shall not be entitled to be paid for any absence for any period for which he/she is entitled to workers' compensation.
- (iii) Subject to the provisions of subclause (e) he/she shall not be entitled to leave for each year of service in excess of 76 hours of working time.
- (iv) An employee shall not be entitled to paid leave in excess of 16 hours during the first three calendar months of his/her employment with an employer and a further 16 hours during the second three calendar months of such employment.

PROVIDED that should his/her employment continue beyond 6 months he/she shall be paid for the leave for which he/she would otherwise have been entitled to be paid except for the limitations prescribed in this paragraph and for which payment has not previously been made.

(c) Personal Leave for Personal Injury or Sickness

An employee is entitled to use the full amount of their personal leave entitlement including accrued leave for the purposes of personal illness or injury, subject to the conditions set out in this clause.

- (d) An employer taking over a business shall be responsible for all personal leave covered by the period of employment of each employee who was employed by an immediate predecessor in the business.
- (e) Personal leave which has not been taken by an employee during the immediately preceding 9 years, together with the allowance of the then current year render an employee entitled to a maximum of 760 hours personal leave in any one year.

PROVIDED that personal leave entitlements falling due and not taken between 1 May 1973 and 7 February 1979 shall accumulate at the rate of 48 hours for the first year of service and 64 hours for each year thereafter.

(f) An employee shall have his or her personal leave entitlements for each hour of absence on personal leave reduced by that amount up to the number of hours the employee is rostered for work.

(g) Personal Leave to Care for an Immediate Family or Household Member

(i) An employee is entitled to use up to 10 days personal leave, including accrued leave, each year to care for members of their immediate family or household who are sick and require care and support or who require care due to an unexpected emergency, subject to the conditions set out in this clause.

Leave may be taken for part of a single day.

(ii) By agreement between an employer and an individual employee, the employee may access an additional amount of their accrued personal leave for the purposes set out in paragraph (d)(i), beyond the limit set out in paragraph (d)(i). In such circumstances, the employer and the employee shall agree upon the additional amount that may be accessed.

(h) Employee Must Give Notice

Except where genuine reasons exist, employees shall notify their employer at least 2 hours before the commencement of a shift of their inability to attend for duty because of illness or personal injury. The employee should state the nature of the injury or illness (if known) and give an estimated duration of absence.

(i) Evidence Supporting Claim

(i) A claim made for personal leave shall be supported by evidence satisfactory to the employer (or in the event of a dispute to a hearing of the Tasmanian Industrial Commission) that he/she was unable on account of injury or personal illness to attend for duty on the day for which leave is claimed.

(ii) When taking leave to care for members of their immediate family or household who require care due to an unexpected emergency, the employee must, if required by the employer, establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

(j) Unpaid Personal Leave

Where an employee has exhausted all paid personal leave entitlements, they are entitled to take unpaid personal leave to care for members of their immediate family or household who are sick and require care and support or who require care

due to an unexpected emergency. The employer and the employee shall agree on the period. In the absence of agreement, the employee is entitled to take up to two days (up to a maximum of 16 hours) per occasion, provided the requirements of subclauses (h) and (i) are met.

(k) **Casual Employees and Employees in Receipt of a Loading in lieu of Paid Leave – Caring Responsibilities**

Subject to the evidentiary and notice requirements in subclauses (h) and (i), casual employees and employees in receipt of a loading in lieu of paid leave, are entitled to not be available to attend work, or to leave work if they need to care for members of their immediate family or household who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.

The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. Casual employees and employees in receipt of a loading in lieu of paid leave are not entitled to any payment for the period of non-attendance.

An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

32. POSTING OF AWARD

This award shall be exhibited by each employer on his premises in a place accessible to all employees.

33. 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.

34. REFERENCE OF DISPUTES

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.

35. ROSTER

(a) A roster for all permanent employees 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.

(b) (i) In the case of employees working under Clause 22 - Hours of Work - Full-time Employees (a)(i), the roster shall be alterable by mutual consent at any time or by amendment of the roster on seven days' notice. Where practicable two weeks' notice of rostered day or days off shall be given.

PROVIDED that the days off may be changed by mutual consent or through sickness or other cause over which the employer has no control.

(ii) The case of employees working under Clause 22 - Hours of Work - Full-time Employees (a)(ii), the roster shall be alterable by mutual consent at any time or by amendment of the roster on 14 days' notice. Where practicable 3 weeks' notice of rostered day or days off shall be given.

PROVIDED that the days off may be changed by mutual consent or through sickness or other cause over which the employer has no control.

36. SEXUAL HARASSMENT

(a) All employees are to be allowed to work in an environment free of sexual harassment.

(b) An employer shall not dismiss an employee on the grounds of refusal to dress in a manner which would cause that employee embarrassment.

37. SPECIAL CLOTHING

- (a) Where the employer requires any special clothing such as coats, dresses, caps, aprons, cuffs and any other articles of clothing to be worn by an employee they shall be purchased and laundered at the employer's expense. Such clothing shall remain the property of the employer. By agreement the employee may be required to wash and iron the special clothing and an agreed sum of money shall be paid to the employee each week by the employer.

PROVIDED that in the event of dispute the amount shall be determined by the Tasmanian Industrial Commission.

For the purposes of this clause black and white attire (not being dinner suit or evening dress), shoes, hose and/or socks shall not be regarded as special clothing.

- (b) Where it is necessary that waterproof or other protective clothing such as waterproof boots, aprons, or gloves be worn by an employee, such clothing shall be supplied without cost to the employee and shall remain the property of the employer.

PROVIDED that in the event of dispute, the necessity for the provision of protective clothing shall be determined by the Tasmanian Industrial Commission.

- (c) An employee on commencing employment shall sign a receipt for item/s of uniform and property. Such receipt shall list the item/s of uniform and property and value of same. Upon ceasing employment if the employee does not return item/s of uniform and property in accordance with the receipt the employer shall be entitled to deduct the value as stated on the receipt from the employee's termination wages.

Records of receipt shall be available for inspection by an official of the union. In the case of genuine wear and tear, damage, loss or theft that is not the employee's fault this provision shall not apply.

Any disagreement concerning the value of item/s of uniform and property and any other aspect of this subclause shall be determined by the Tasmanian Industrial Commission.

38. STANDING DOWN OF EMPLOYEES

An employer may deduct payment for any day or part of a day on which an employee cannot be usefully employed for the following reasons:

- (a) a strike or stop work meeting;
- (b) a break down of machinery;
- (c) rationing of power or the lack of fuel or transport;

- (d) the non delivery of the raw material and finished products in the Liquor Trades Industry;
- (e) any cause for which the employer cannot reasonably be held responsible, but shall not apply to slackness of trade.

In respect of (a) to (e) above:

- (i) No employee shall be deemed to be a casual employee only by reason of being given intermittent work in pursuance of this clause.
- (ii) At least 4 hours' notice of such deduction shall be exhibited where all employees concerned shall be able to see it.
- (iii) Service is not to be considered broken merely because employees have been temporarily stood down through no fault of their own.
- (iv) Continuity of service is to be protected for the purpose of annual leave, holidays and personal pay, as provided by this division.
- (v) Employees allowed or required to commence work at the usual starting time on any day shall be paid for at least 4 hours, and where they are called upon to attend for duty twice on any one day they shall be paid not less than a full day's pay.

39. STOP-WORK MEETING

One official stop-work meeting per year shall be allowed without loss of ordinary pay provided the conditions are observed as follows:

- (a) At least 14 days' notice of such meeting is given to each employer.
- (b) The period of the meeting shall be 3 hours as a maximum, the employees returning to duty by noon.
- (c) Payment to be made for the period that the employee was rostered for duty.
- (d) Such stop-work meetings to be held on weekdays, other than Thursday or Friday.
- (e) Payment of wages shall be made only upon the employer being in receipt of satisfactory evidence of the employees attendance at the meeting.

40. STRUCTURAL EFFICIENCY

- (a) The parties to this award are committed to co-operating positively to increase the efficiency and productivity of enterprise and to enhance the career opportunities and job security of employees subject to the award.

- (b) Consistent with the objectives of subclause (a) herein, employers, employees and the union shall establish consultative mechanisms and procedures appropriate to the size, structure and the need of the enterprise.

In acknowledgment of the fact that employees subject to this award are often in the minority in particular establishments, regard will be had for consultative mechanisms which may already be in place and have application to the enterprise as a whole.

- (c) An employer may direct an employee to carry out such duties as are within the limits of the employee's skill, competence and training consistent with the classification structure of the award.

This provision should not deny such employee any award entitlement which might be applicable for performing work at a higher classification; nor should the provision enable the employer to pay an employee at a rate lower than the substantive classification for performing work of a lower classification.

41. SUB-CONTRACTS

- (a) No employer shall permit any of the classes of work covered by this award to be carried on by a contractor or other persons except in accordance with the terms and conditions of this award as if the contractor or other person were himself an employer and bound by this award.
- (b) No employer shall enter into any contract for the carrying on of any of the classes of work covered by this award by any contractor unless the contract contains a clause binding the contractor to pay the rates and observe the conditions set out in this award in respect of the work contracted for and unless a clause is inserted in any such contract to the effect that the employer can determine the contract if there is any breach of the conditions above referred.

42. SUPERANNUATION

- (a) Application and Commencement

Each employer shall, by the date hereinafter stated, provide superannuation for eligible employees in accordance with the terms of this clause.

By 1 June 1990.

- (b) Definitions

'**Scheme**' means the Hospitality Industry Portable Liquor Union Superannuation Trust Deed (HOST-PLUS), which complies with the Australian Government's Operational Standards for Occupational Superannuation Funds.

'Trustees' means HOST-PLUS Pty Ltd.

'Eligible employee' in the case of full-time and part-time employees means:

- (i) an employee who immediately before the date of commencement of superannuation as provided in subclause (a) has completed 4 weeks' continuous service with the employer; or
- (ii) an employee who subsequent to the date of commencement of superannuation completes 4 weeks' continuous service with the employer; or
- (iii) an employee who commences employment after the date of commencement of superannuation and who is an existing member of the scheme.

'Eligible employee' in the case of casual employees means:

- (i) an employee who immediately before the date of commencement of superannuation as provided in subclause (a) has completed continuous service over two successive calendar months in each of which the employee has had not less than two engagements and has aggregate ordinary time earnings, as defined, equivalent to not less than \$57 for each week in the month calculated by the number of Fridays falling within the calendar month; or
- (ii) an employee who subsequent to the date of operation of superannuation completes continuous service over two successive calendar months in each of which the employee has had not less than two engagements and has aggregate ordinary time earnings, as defined, equivalent to not less than \$57 for each week in the month calculated by the number of Fridays falling within the calendar month; or
- (iii) an employee who commences employment after the date of commencement of superannuation and who is an existing member of the scheme and has ordinary time earnings upon commencement or at any time thereafter of not less than \$57 per week in any one week.

'Ordinary time earnings' means the ordinary periodic salary wages or other remuneration paid by the employer to the employee each week including shift penalties, weekend and public holiday penalties, in-charge allowances, overaward payments and all other all purpose payments and in respect of a casual employee shall include any casual loading including weekend and late shift penalties as prescribed by this award but not including any bonuses, commission, payment for overtime or other extraordinary payment, remuneration or allowance.

(c) Enrolment

Each employer shall:

- (i) take all necessary steps to enable contributions to be made to the scheme; and
- (ii) take all reasonable steps to ensure that each eligible employee becomes a member of the scheme, including a written notification to each individual employee offering superannuation in accordance with this clause and providing an application form for the employee to become a member of the scheme.
- (iii) If the completed Application for Scheme Membership form is returned to the employer within one month of the written notice referred to in paragraph (i), contributions will be made in respect of that employee either from the date of commencement of superannuation as provided in subclause (a) or the date on which the employee qualified as an eligible employee, whichever is the later.
- (iv) If the completed Application for Scheme Membership form is not returned to the employer within one month, the employee will be regarded as having refused to join the scheme. In such a case the employer shall notify the Trustees in writing of the refusal to join. After a period of six months the employer shall make to the employee a further offer of superannuation in accordance with this clause. In cases which fall within this subclause, the employer's obligation to make contributions shall commence from the time that he receives a completed application form or notification that the Trustees or Administrator of the scheme have received such completed application form.

(d) Contributions

- (i) Each employer shall, in respect of each eligible employee who is a member of the scheme, contribute an amount equal to 9 percent of ordinary time earnings as defined.

PROVIDED that in any monthly contribution period the aggregate ordinary time earnings for a casual employee does not exceed \$200, no contribution shall be made in respect of such employee. However, where an employee is employed by more than one employer and his aggregate earnings with those employers exceeds \$200 per month, then each employer will on production of satisfactory evidence by the employee, be required to make contributions in respect of earnings with that employer.

- (ii) On the commencement of superannuation as provided in subclause (a), the starting dates for contributions for existing employees shall be:

- (1) In respect of employees who on superannuation commencement date are eligible employees because of prior service; from the commencement date of superannuation.
 - (2) In respect of other employees; from the date on which they become eligible employees.
 - (3) Provided always that such contribution dates are subject to the completion of scheme membership forms as provided in subclause (c)(ii) and (iii).
- (iii) In respect of employees who commence employment after the commencement of superannuation as provided in subclause (a), the starting dates for contributions shall be:
- (1) In respect of employees who on starting employment are eligible employees because of existing membership of the scheme; from the commencement of employment.
 - (2) In respect of other employees; from the date on which they become eligible employees subject to the completion of scheme membership forms as provided in subclause (c)(iii) and (iv).
- (iv) Each employer shall make such contributions monthly for pay periods completed in such month or at such other times and in such other manner as may be agreed in writing between the Trustees of a scheme and the employer from time to time.
- (e) Exemptions
- (i) An employer may make application to the Tasmanian Industrial Commission by 1 June 1990 to be exempt from using the scheme as defined in paragraph (ii) herein.
- PROVIDED** that such exemption shall only be granted to employers who at 1 June 1990 are already providing occupational superannuation in accordance with subclause (d) into a fund which complies with Commonwealth Occupational Standards.
- (ii) An employer who commences a new business after 1 June 1990 may make application for exemption in accordance with paragraph (i) above. Such application must be made within one month of the commencement of operation of the new business.

43. TIME AND WAGES BOOK OR SHEET

- (a) (i) Time and wages book or sheets 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 and shall place the completed time and wages book or sheets in a place designated by the employer.

- (ii) The employer shall keep such time and wages book or sheets 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 sheets may be inspected by the officials of the Federated Liquor and Allied Industries Employees' Union of Australia at all reasonable hours.
 - (iii) The employer shall keep a record of the time worked and the amount of wages and overtime paid each week, together with the date of payment. The employee shall each pay day be given: details of his gross pay, taxation deductions and net pay.
 - (iv) On the time and wages book or sheets that the employee completes he must enter his name, and age (if under 21 years), on the same time record the employer must enter the employee's work classification, whether permanent full-time, part-time or casual as well as the rate per week and hourly rate of pay. Any alteration made to the employee's time record must be initialled by the employee concerned and employer representative.
 - (v) When broken or ordinary shifts are worked the employee shall enter in the time and wages book or sheets the time he or she goes off for each meal or break and the time of restarting work after each meal or break and the finishing time.
- (b) Time and wages book or sheets must be kept at the place of employment for at least six years.
 - (c) Notwithstanding subclause (b) of this clause the requirement to keep such records is to be phased in from 20 December 1984, and over the next succeeding five years.
 - (d) Notwithstanding the other provisions in this clause, employers respondent to the award 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.

44. TRAVELLING FACILITIES

- (a) Where an employee is detained at work until it is too late to travel by the last ordinary regular conveyance to his or her usual place of residence the employer shall either provide proper conveyance or provide accommodation for the night free of charge.
- (b) If an employee is required to start work before his ordinary commencing time and before the first ordinary means of conveyance is available to convey him or her

from his or her usual place of residence, the employer shall provide a conveyance or pay the cost thereof.

- (c) Where a weekly employee is engaged for work outside a distance of 80 kilometres from the place of engagement he shall be paid all fares actually and necessarily incurred in travelling from the place of engagement to the place of employment.

PROVIDED that if the employee leaves his or her place of employment or is dismissed for misconduct within a period of 3 months of the date of engagement the employer may recover from the employee the fare paid on engagement.

45. UNIFORM, TOOLS AND GEAR

- (a) All aprons, towels, tools, ropes, brushes, knives, choppers, implements, utensils and material shall be supplied by the employer without cost to the employee.
- (b) Notwithstanding the provisions of subclause (a) of this clause where a cook employed on a weekly basis is required to provide his own tools an allowance of \$4.10 per week shall be paid.

46. UNION OFFICIALS

The Secretary and accredited officials of the union shall have the right to enter the premises of an employer at a time reasonably convenient to the employer for the purpose of interviewing members but such official shall obtain the permission of the employer before entering either the cellar or the back of the house.

47. WEEKLY EMPLOYEES

- (a) All employees shall be employed as permanent (full-time or part-time) or casual employees.
- (b) At the time of engagement an employer shall inform each employee as to the terms of his or her engagement and in particular whether he or she is to be a full-time, part-time or casual employee.
- (c) Employees engaged by the week by an employer shall not be engaged for casual work in the establishment in which they are permanently employed.

**CONDITIONS FOR EMPLOYEES IN DIVISION B
- MOTELS**

48. ANNUAL LEAVE

- (a) Weekly and part-time employees who have been in the service of an employer for at least 12 months shall be granted 28 days annual leave to be paid at the current rates prescribed in Clause 8 - Wage Rates of this award, plus an additional 17½ percent.

The 17½ percent shall apply on each completed year of service.

- (b) The annual leave prescribed by this clause shall be exclusive of the holidays prescribed by Clause 70 - Public Holidays of this award, and if any such holiday falls within an employee's period of annual leave and is observed on a day which, in the case of that employee, would have been an ordinary working day, there shall be added to the period of annual leave time equivalent to the ordinary working time which the employee would have worked if such day had not been a holiday, or payment for such day be made in lieu thereof.
- (c) 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 of the working day immediately following the last day of the period of his annual leave, he shall not be entitled to be paid for such holiday.
- (d) Annual leave shall be taken within a period of 4 months after the date on which it becomes due.

PROVIDED that by agreement between the employee and the employer this period may be extended to six months.

- (e) At least 14 days notice of the date annual leave shall commence shall be given to each employee by the employer in writing.
- (f) The annual leave provided for by this clause shall be allowed and shall be taken and except in the case of pro rata leave, and except as provided for in subclause (b) hereof, payment shall not be made or accepted in lieu thereof.
- (g) If after one month's continuous service in any qualifying 12 monthly period an employee leaves his employment or his employment is terminated by his employer, the employee shall be paid pro rata leave at the rate of 1/12th of his ordinary earnings during his continuous service with the employer, the service being service in respect of which leave has not been granted in accordance with this clause.

Payment of the 17 1/2 percent additional payment as provided for in subclause (a) hereof shall apply to leave entitlements for completed years of service.

- (h) Prior to going on leave an employee shall be paid all wages due to date and his annual leave pay.

- (i) Notwithstanding provisions elsewhere in the award, the employer and the majority of employees at an enterprise may agree to establish a system of single day annual leave absences provided that:
 - (i) An employee may elect, with the consent of the employer, to take annual leave in single day periods or part of a single day not exceeding a total of five days in any calendar year at a time or times agreed between them.
 - (ii) Access to annual leave, as prescribed in paragraph (i) above, shall be exclusive of any shutdown period provided for elsewhere under this award.
 - (iii) An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken.
 - (iv) An employee or the employees may choose to request a union party to this award, to represent their interests in negotiations referred to in paragraph (i) of this subclause.
- (v) Once a decision has been taken to introduce an enterprise system of single day annual leave, in accordance with this clause, its terms must be set out in the time and wages records kept pursuant to Regulation 25 of the Industrial Relations Regulations 1993.
- (vi) An employer shall record these short term annual leave arrangements in the time and wages book, as prescribed in Clause 76 - Time and Wages Records of Division B of this award each time this provision is used.

49. BEREAVEMENT LEAVE

- (a) A weekly employee shall on the death within Australia of the husband, wife, father, mother, child, brother and sister or step- child of the employee be entitled to leave up to and including the day of the funeral of such relation, such leave for a period not exceeding 2 days in respect of any such death shall be without loss of any ordinary pay which the employee would have received if he or she had not been on such leave.
- (b) The right to such paid leave shall be dependent on compliance with the following conditions:
 - (i) The employee shall give the employer notice of his or her intention to take such leave as soon as reasonably practicable after the death of such relation.
 - (ii) Satisfactory evidence of such a death shall be furnished by the employee to his or her employer.

- (iii) The employee shall not be entitled to leave under this clause in respect of any period of leave entitlement under this award or otherwise.
- (c) For the purpose of this clause words 'husband' or 'wife' shall include a person who lives with the employee as a de facto husband or wife.
- (d) Unpaid Bereavement Leave

An employee may take unpaid bereavement leave by agreement with the employer.
- (e) Casual Employees and Employees in Receipt of a Loading in lieu of Paid Leave
 - (i) Subject to the evidentiary requirements in subclause (a), casual employees and employees in receipt of a loading in lieu of paid leave are entitled to not be available to attend work, or to leave work upon the death in Australia of an immediate family or household member.
 - (ii) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. Casual employees and employees in receipt of a loading in lieu of paid leave are not entitled to any payment for the period of non-attendance.
 - (iii) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

50. BOARD AND LODGING

- (a) Where board and residence is made available to adult employees the employer shall have the right to deduct from the pay of the employee residing on the premises an amount of \$119.40 per week.

PROVIDED that where an adult employee is required to share a room for lodging, the amount to be deducted from the pay of such employee for board and lodging shall be \$117.62.
- (b) Where lodgings only are made available to adult employees, the employer shall have the right to deduct from the pay of the employee residing on the premises the sum of \$113.08.

PROVIDED that where an adult employee is required to share a room for lodging, the amount to be deducted from the pay of such employee for lodging shall be \$112.75.

- (c) In the case of employees who do not reside on the employer's premises a deduction at the rate of \$6.04 for each meal supplied and consumed during the employee's spread of working hours may be deducted by the employer.
- (d) Where necessary, lodging rooms shall be fitted with adequate heating and cooling appliances.
- (e) The rates for board and lodging for adults shall be increased or decreased by 20 cents, for each meal by 1 cent, for every 50 cents per week alteration in the rate of classification Hospitality Services Grade 1, subclause (a), Division B - Motels.
- (f) Junior employees receiving adult rates of pay as prescribed in this award shall be subject to the deduction applicable to adults prescribed in this clause.
- (g) Junior employees receiving junior rates of pay shall be subject to a deduction at the rate of 50 cents for each meal supplied and consumed during the employee's spread of working hours.

51. BROKEN PERIODS OF WORK

A weekly employee who has a broken work day shall receive an additional allowance for a spread of hours as prescribed in Clause 57 - Hours of Work, as follows:

Where the spread of hours is	But is under	Rate per day
Under 10	-	Nil
10	10 ½	\$0.95
10 ½	11 ½	\$1.90
11 ½ or more	12 ½	\$2.85

52. CASUAL EMPLOYMENT

An employee engaged to work less than 40 hours in a week (other than a part-time employee as provided in Clause 64 - Part-time Employees, hereof) shall be paid as follows:

Casual employees working Monday to Friday inclusive shall be paid per hour one fortieth of the weekly rate prescribed for the work he or she performs plus 25 percent; such additional amount to be payment in lieu of annual leave, personal leave and public holidays.

Casual employees shall be paid at the rate of time and one half for work performed on Saturdays.

For all work performed on Sundays and public holidays casual employees shall be paid at the rate of double time.

A casual employee shall be paid a minimum of three hours pay for each engagement.

53. EMPLOYEES' DUTIES

- (a) Any drink dispenser or cellarman shall not be required to scrub or wash floors or tables; such work shall be performed by the useful.
- (b) A female shall not be required to do any cleaning work in a public convenience for males during any period such convenience is open and/or accessible to the public on any premises covered by this award.

54. FESTIVAL PERIODS

Notwithstanding the other provisions of this award, and subject to agreement by the appropriate union, employees may be worked during Easter, Christmas, New Year, school holidays and any additional periods agreed upon between the State Branch of the union and the employer or group of employers, as follows:

The working hours of weekly and part-time employees and days they are allowed off duty may be averaged over 3 successive weeks without the payment of overtime.

PROVIDED that the maximum number of working hours in any one week shall not exceed 48 hours.

PROVIDED ALWAYS that each employee shall receive a minimum of one day off duty in each week.

Days off which are not allowed to employees in consequence of this clause shall be taken within 2 weeks immediately following the conclusion of the period in which the accumulation took place.

55. FIRST AID OUTFIT

The provisions of the *Workplace Health and Safety Act 1995* shall apply.

56. GENERAL CONDITIONS

The provisions of the following clauses of Division A shall also apply to this division:

- Clause 12 - Breakages
- 14 - Day Off Coinciding with a Public Holiday
- 15- Dressing Rooms, Showers, etc
- 27 - Parental Leave
- 33 - Preference of Employment
- 40 - Structural Efficiency

57. HOURS OF WORK

- (a) The ordinary working hours of all weekly employees shall be 40 per week to be worked in 5 days of 8 hours each exclusive of meal times within a period of 12 hours from commencing time.

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

- (b) Make Up Time

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

- (i) An employee may elect, with the consent of the employer, to work 'make up time' under which the employee takes time off during ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in the award.
- (ii) An employee on shift work may elect, with the consent of their employer, to work 'make up time' under which the employee takes time off ordinary hours and works those hours at a later time, at the shift work rate which would have been applicable to the hours taken off.
- (iii) An employee or the employees may choose to request a union party to this award, to represent their interests in negotiation referred to in paragraph (i) of this subclause.
- (iv) Once a decision has been taken to introduce an enterprise system of make up time, in accordance with this clause, its terms must be set out in the time and wages records kept pursuant to Regulation 25 of the *Industrial Relations Regulations 1993*.
- (v) An employer shall record make up time arrangements in the time and wages book, as prescribed in Clause 76 - Time and Wages Records of Division B of this award.

- (c) Rostered Days Off

Notwithstanding provisions elsewhere in the award, the employer and the majority of employees at an enterprise may agree to establish a system of Rostered Days Off to provide that:

- (i) An employee may elect, with the consent of the employer, to take a rostered day off at any time.
- (ii) An employee may elect, with the consent of the employer, to take rostered days off in part day amounts.

- (iii) An employee may elect, with the consent of the employer, to accrue some or all rostered days off for the purpose of creating a bank to be drawn upon by the employee at times mutually agreed by the employer, or subject to the reasonable notice by the employee or the employer.
- (iv) An employee or the employees may choose to request a union party to this award to represent their interests in negotiation referred to in paragraph (i) of this subclause.
- (v) Once a decision has been taken to introduce an enterprise system of Rostered Days Off flexibility, in accordance with this clause, its terms must be set on in the time and wages records kept pursuant to Regulation 25 of the *Industrial Relations Regulations 1993*.
- (vi) An employer shall record Rostered Days Off arrangements in the time and wages book, as prescribed in Clause 76 - Time and Wages Records of Division B of this award.

58. JURY SERVICE

An employee on weekly or part-time weekly hiring required to attend for jury service during his ordinary working hours shall be reimbursed by the employer an amount equal to the difference between the amount paid in respect of his attendance for such jury service and the amount of ordinary wage he would have received Monday to Friday in respect of the ordinary time he would have worked had he not been on jury service.

An employee shall notify his employer as soon as possible of the date upon which he is required to attend for jury service.

Further the employee shall give his employer proof of his attendance, the duration of such attendance and the amount in respect of such jury service.

59. MEAL MONEY

A weekly or part-time employee required to work overtime for more than two hours without being notified on the previous day or earlier that he or she will be so required to work shall either be supplied with a meal by the employer or paid \$15.40 meal money.

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

60. MEAL PERIODS

- (a) (i) 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 six hours of duty.

PROVIDED that an employee allowed a crib break of not less than 20 minutes pursuant to subclause (c) hereof shall be deemed to have been allowed the meal interval provided in this subclause.

The foregoing provision does not have to apply to casual or part-time employees who are rostered for five hours or less in any day.

- (ii) 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 that where an employee is required to exceed five 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 foregoing, employees shall be allowed a rest period of ten minutes duration between the start of work and the midday meal break and one of five minutes duration between the midday meal break and cessation of work for the day, to be taken at such times as may be mutually arranged between the employer and the employee.

The rest periods so prescribed shall be given and taken in the employer's time.

- (c) Where an employee's hours of work falls wholly between 11.00 pm and 8.00 am the employee including a part-time employee shall be allowed a crib break not less than 20 minutes which shall be counted as time worked.

61. MIXED FUNCTIONS

- (a) An employee engaged for two or more hours on one day on duties carrying a higher rate than his ordinary classification shall be paid the higher rate for such day. If for less than two hours he shall be paid the higher rate for the time so worked.
- (b) A higher paid employee shall, when necessary, temporarily relieve a lower paid employee without loss of pay.

62. NOTICE OF DISMISSAL

- (a) Three days notice for which the employee shall receive payment shall be given by the employer or the employee to terminate employment or in lieu of such notice three days wages shall be paid by the employer or forfeited by the employee.

(b) An employer may dismiss an employee without notice:

- (i) for neglect of duty or misconduct, or
- (ii) inefficiency within the first seven days.

Wages must be paid to time of dismissal in each instance.

(c) Subject to Clause 67 - Personal Leave, of this division, an employee who fails without good reason to notify his employer within one hour of his rostered commencing time of his inability to attend for duty on any day, may be dismissed without notice.

(d) Notwithstanding anything hereinbefore contained, an employee shall not be given notice or dismissed, except for misconduct, whilst legitimately absent from duty on accrued personal leave or annual leave.

63. OVERTIME

(a) (i) Requirement to Work Reasonable Overtime

(1) Subject to subparagraph (2) of this subclause and subclause (c) of this clause, an employer may require an employee to work reasonable overtime at overtime rates.

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

- (A) any risk to employee health and safety;
- (B) the employee's personal circumstances including any family responsibilities;
- (C) the needs of the workplace or enterprise;
- (D) the notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and
- (E) any other relevant matter.

(ii) To ensure that permanent employees are not deprived of the opportunity to work reasonable overtime, an employer shall so far as is practicable offer such employee the opportunity to work any overtime that may be required to meet fluctuations in his or her trade or other special circumstances, in preference to engaging casuals to supplement his normal labour force.

- (b) All time worked by a weekly employee in excess of the ordinary hours and/or outside the spread of hours or outside the rostered hours prescribed in Clause 57 - Hours of Work, and/or Clause 69 - Posting of Roster, of this division shall be overtime and shall be paid for at the following rates:
- (i) Monday to Friday inclusive time and a half for the first 2 hours and double time for all work thereafter.
 - (ii) Between midnight Friday and midnight Saturday time and three quarters for the first 3 hours and double time for all time worked thereafter.
 - (iii) Between midnight Saturday and midnight Sunday double time for all time worked.
 - (iv) Overtime on any day shall stand alone.
 - (v) If an employee is so long on overtime duty following his or her normal finishing time that he or she has not had 8 hours interval before his or her next regular starting time such employee shall be allowed at least 8 consecutive hours interval without deduction of pay or shall be paid at overtime rates for all time of duty until such employee has had at least 8 hours interval.
- (c) Notwithstanding the rate prescribed in subclause (b) at the instigation of the employee there may be an agreement in writing between the employee and employer to take time off with pay equivalent to the amount for which payment would otherwise have been made. Such accumulated time must be taken within four weeks from the time of accrual.
- (d) An employer shall, if requested by an employee, provide payment at the rate provided for the payment of overtime as prescribed in this clause, for any overtime worked under this subclause where such time has not been taken within four weeks of accrual.

64. PART-TIME EMPLOYEES

Adults may be employed as part-time employees in any classification in this Division on the following basis:

- (a) Not less than 3 hours and not longer than 8 hours per day, not more than 5 days each week, and not less than 15 hours each week, not in excess of 30 hours per week.

All time worked in excess of 8 hours per day, 5 days per week, and/or 30 hours per week shall be overtime and paid for at the rates prescribed for weekly employees in Clause 63 - Overtime, of this award.

- (b) 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 and not more than 30 minutes. The meal break shall not be counted as time worked. Where such meal break is not granted in a period of not longer than 5 hours of duty the penalty prescribed in Clause 60 - Meal Periods, hereof shall be paid.

- (c) Part-time employees shall be paid the ordinary appropriate hourly rate prescribed for the classification in which they are employed plus 10 percent.

The additional 10 percent prescribed shall be regarded also as ordinary wages for the payment of annual leave, personal leave, and work not performed on a holiday.

The additional 10 percent herein prescribed shall not apply in addition to the rates prescribed for weekly employees for work performed on Saturday, Sunday, holidays, overtime, where double time or double time and a half is prescribed in this Division.

- (d) The provisions of this division in respect to annual leave, personal leave and holidays shall apply on a pro rata basis to part-time employees.

- (e) The following award clauses only shall apply to part-time employees:

- Clause 2 Scope
- 7 Definitions
- 8 Wage Rates
- 48 Annual Leave
- 49. Bereavement Leave
- 50 Board and Lodging
- 51 Broken Periods of Work
- 53 Employees' Duties
- 54 Festival Periods
- 55 First Aid Outfit
- 56 General Conditions
- 58 Jury Service
- 59 Meal Money
- 60 Meal Periods
- 61 Mixed Functions
- 62 Notice of Dismissal
- 63 Overtime
- 64 Part-time Employees
- 65 Payment of Wages
- 66 Penalty Rates not Cumulative
- 67 Personal leave
- 68 Posting of Award
- 69 Posting of Roster
- 70 Public Holidays
- 71 Reference of Disputes

- 72 Right of Entry of Union Official
- 73 Standing Down of Employees
- 74 Stop Work Meeting
- 75 Superannuation
- 76 Time and Wages Records
- 77 Travelling Facilities
- 78 Uniforms, Tools and Gear
- 79 Weekend Penalty Rates
- 80 Weekly Employees

(f) Alternative Provision

Notwithstanding the foregoing provisions by agreement between an employer and employee's the following hours of work arrangement shall apply.

Employees shall be employed for an identical specific number of hours each week on the basis as follows:

- (i) The identical specific number of hours for such part-time employees shall be not less than 12 hours and not more than 32 hours each week and not less than 3 hours and not longer than 8 hours each day to be worked in not more than 5 days each week.
- (ii) All time worked in excess of the rostered hours each day and the specific number of hours each week shall be overtime and paid for at the rates prescribed for other weekly employees in Clause 63 - Overtime, of this award.
- (iii) Provided further by agreement between the employer and either the employee or the State branch of the union or both, the arrangement of hours of work can be implemented as follows:

The identical specific number of hours shall be not less than 48 and not more than 128 per each four week period.

Subject to the following conditions:

- (1) Not less than 3 hours and not longer than 8 hours each day and not more than 20 days in each four week period.
- (2) Employees shall be entitled to a minimum of 10 full days off per each four week period.
- (3) No employee shall work more than 10 days in succession without a rostered day off.
- (4) All time worked in excess of the rostered hours each day and the specific number of hours each 4 week period shall be overtime and paid for at the rates prescribed for other weekly employees in Clause 26 - Overtime and Penalty Rates.

- (iv) A part-time employee employed under the provisions of this subclause shall be paid per hour at the rate of 1/40th of the weekly rate prescribed for the class of work performed.
- (v) A part-time employee employed under the provisions of this subclause shall be entitled to all other conditions of this clause.

PROVIDED that such conditions are not inconsistent with the provisions of this subclause.

(g) Make Up Time

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

- (i) An employee may elect, with the consent of the employer, to work 'make up time' under which the employee takes time off during ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in the award.
- (ii) An employee on shift work may elect, with the consent of their employer, to work 'make up time' under which the employee takes time off ordinary hours and works those hours at a later time, at the shift work rate which would have been applicable to the hours taken off.
- (iii) An employee or the employees may choose to request a union party to this award, to represent their interests in negotiation referred to in paragraph (i) of this subclause.
- (iv) Once a decision has been taken to introduce an enterprise system of make up time, in accordance with this clause, its terms must be set out in the time and wages records kept pursuant to Regulation 25 of the *Industrial Relations Regulations 1993*.
- (v) An employer shall record make up time arrangements in the time and wages book, as prescribed in Clause 76 - Time and Wages Records of Division B of this award.

(h) Rostered Days Off

Notwithstanding provisions elsewhere in the award, the employer and the majority of employees at an enterprise may agree to establish a system of Rostered Days Off to provide that:

- (i) An employee may elect, with the consent of the employer, to take a rostered day off at any time.

- (ii) An employee may elect, with the consent of the employer, to take rostered days off in part day amounts.
- (iii) An employee may elect, with the consent of the employer, to accrue some or all rostered days off for the purpose of creating a bank to be drawn upon by the employee at times mutually agreed by the employer, or subject to the reasonable notice by the employee or the employer.
- (iv) An employee or the employees may choose to request a union party to this award to represent their interests in negotiation referred to in paragraph (i) of this subclause.
- (v) Once a decision has been taken to introduce an enterprise system of Rostered Days Off flexibility, in accordance with this clause, its terms must be set on in the time and wages records kept pursuant to Regulation 25 of the *Industrial Relations Regulations 1993*.
- (vi) An employer shall record Rostered Days Off arrangements in the time and wages book, as prescribed in Clause 76 - Time and Wages Records of Division B of this award.

65. PAYMENT OF WAGES

- (a) Except upon the termination of employment, all wages of weekly and part-time employees including overtime shall be paid on any day other than Friday, Saturday or Sunday in each week and not more than 2 days' wages shall be kept in hand by the employer.
- (b) Notwithstanding the provisions of subclause (a) hereof by agreement between the employer, the employee and the union where practical wages may be paid either weekly or fortnightly by one of the following means:
 - (i) cash;
 - (ii) cheque; or
 - (iii) payment into employee's nominated financial institution account, 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 by cash without consultation.

- (c) Employees who are paid their wages at any time other than during their working time shall, if kept waiting for 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.

PROVIDED that this subclause shall not apply to employees paid by electronic funds transfer.

- (e) When notice of termination of employment has been given by an employee or an employee's services have been terminated by the employer, payment of all wages and other moneys due shall be made at the employee's normal place of employment during normal office hours, prior to the employee leaving such place of employment. If an employee is kept waiting for 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 one hour from the time of dismissal, if such takes place within ordinary office hours or otherwise as soon thereafter as is practical.

For the purposes 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 8 hours per day. The above 8 hours shall refer to the period of shift normally worked by the employee.

Notwithstanding the foregoing provisions if it is established by the Tasmanian Industrial Commission as provided for in this award that the failure to pay an employee correctly at time of termination was due to a genuine error by the employer payment of waiting time over and above the day of termination shall not apply.

- (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 wages, taxation deduction, net wage and date to which payment is made.
- (g) (i) As an alternative to being paid by the week according to Clause 8 - Wage Rates, by agreement between employer and the employee an employee can be paid at a rate equivalent to an annual salary of at least 25 percent or more above the rate prescribed in Clause 8 - Wage Rates, times 52 for the work being performed.

In such cases there is no requirement under Clause 79 - Weekend Penalty Rates, to pay overtime and penalty rates in addition to the weekly award wage.

PROVIDED that the salary paid over a year was sufficient to cover what the employee would have been entitled if all award overtime and penalty rate payment obligations had been complied with.

PROVIDED ALWAYS in the event of termination of employment prior to completion of a year the salary paid during such period of employment shall be sufficient to cover what the employee would have been entitled to if all award overtime and penalty rate payment obligations had been complied with.

- (ii) An employee being paid according to this subclause shall be entitled to a minimum of 8 days off per 4 week cycle. Further, if an employee covered by this clause is required to work on a public holiday, such employee shall be entitled to a day off in lieu or a day added to his or her annual leave entitlement.
- (iii) Where payment in accordance with this subclause is adopted, the employer shall keep a daily record of the hours worked by an employee which shall show the date and start and finish times of the employee for the day. The record shall be countersigned weekly by the employee and shall be kept at the place of employment for a period of at least six years.

66. PENALTY RATES NOT CUMULATIVE

Except as provided in Clause 60 - Meal Periods, hereof, where time worked is required to be paid for at more than the ordinary rate, such time shall not be subject to more than one penalty, but shall be subject to that penalty which is to the employee's greatest advantage.

67. PERSONAL LEAVE

The provisions of this clause apply to an employee, other than one engaged as a casual or part-time employee in receipt of a loading in lieu of an entitlement to paid leave. The entitlements of casual employees and employees in receipt of a loading in lieu of an entitlement to paid leave are set out in subclause (j) – Casual Employees and Employees in Receipt of a Loading in lieu of Paid Leave – Caring Responsibilities.

(a) Definitions

The term 'immediate family' includes:

- (i) spouse (including a former spouse, a de facto spouse and a former de facto spouse) of the employee. A de facto spouse means a person of the opposite sex to the employee who lives with the employee as his or her husband or wife on a bona fide domestic basis; and

- (ii) child or an adult child (including an adopted child, a step child or an ex-nuptial child), parent, grandparent, grandchild or sibling of the employee or spouse of the employee.

(b) Amount of Paid Personal Leave

- (i) Paid personal leave is available to an employee, when they are absent:
 - (1) due to personal illness or injury; or
 - (2) for the purposes of caring for an immediate family or household member who is sick and requires the employee's care and support or who requires care due to an unexpected emergency.
- (ii) An employee shall not be entitled to be paid for any absence for any period for which he or she is entitled to workers' compensation.
- (iii) Subject to the provisions of subclause (e) hereof weekly and part-time employees shall not be entitled in any one year (whether in the employ of one employer or several) to leave in excess of the following in each successive year after the operation of this award:
 - First year - 6 working days;
 - Second year and thereafter - 10 working days.
- (iv) An employee shall not be entitled to be paid for personal leave in excess of 10 hours during the first 3 calendar months of his or her employment with an employer and a further 10 hours during the second 3 calendar months of such employment.

PROVIDED that should his or her employment continue beyond 6 months he or she shall be entitled to be paid for personal leave for which he or she would otherwise have been entitled to be paid except for the limitations prescribed in this paragraph and for which payment has not previously been made.

(c) Personal Leave for Personal Injury or Sickness

An employee is entitled to use the full amount of their personal leave entitlement including accrued leave for the purposes of personal illness or injury, subject to the conditions set out in this clause.

- (d) Any employer taking over a business shall be responsible for all personal leave covered by the period of employment of each employee who was employed by an immediate predecessor in the business.
- (e) Personal leave which has not been taken by an employee during the immediately preceding 5 years together with the allowance of the then current year render an employee entitled to a maximum 320 hours in the instance of weekly employees

and in the case of part- time employees 8 times the average weekly hours such employee works in any one year.

(f) Personal Leave to Care for an Immediate Family or Household Member

- (i) An employee is entitled to use up to 10 days personal leave, including accrued leave, each year to care for members of their immediate family or household who are sick and require care and support or who require care due to an unexpected emergency, subject to the conditions set out in this clause.

Leave may be taken for part of a single day.

- (ii) By agreement between an employer and an individual employee, the employee may access an additional amount of their accrued personal leave for the purposes set out in paragraph (f)(i), beyond the limit set out in paragraph (f)(i). In such circumstances, the employer and the employee shall agree upon the additional amount that may be accessed.

(g) Employee Must Give Notice

The employee shall within 24 hours of the commencement of such absence, inform the employer of his inability to attend for duty and state the nature of the injury or personal illness and the estimated duration of absence.

(h) Evidence Supporting Claim

- (i) A claim made for personal leave shall be supported by evidence satisfactory to the employer (or in the event of a dispute to the Tasmanian Industrial Commission) that he or she was unable on account of injury or personal illness to attend for duty on the day for which leave is claimed.
- (ii) When taking leave to care for members of their immediate family or household who require care due to an unexpected emergency, the employee must, if required by the employer, establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

(i) Unpaid Personal Leave

Where an employee has exhausted all paid personal leave entitlements, they are entitled to take unpaid personal leave to care for members of their immediate family or household who are sick and require care and support or who require care due to an unexpected emergency. The employer and the employee shall agree on the period. In the absence of agreement, the employee is entitled to take up to two days (up to a maximum of 16 hours) per occasion, provided the requirements of subclauses (g) and (h) are met.

(j) Casual Employees and Employees in Receipt of a Loading in lieu of Paid Leave – Caring Responsibilities

Subject to the evidentiary and notice requirements in subclauses (g) and (h), casual employees and employees in receipt of a loading in lieu of paid leave, are entitled to not be available to attend work, or to leave work if they need to care for members of their immediate family or household who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.

The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. Casual employees and employees in receipt of a loading in lieu of paid leave are not entitled to any payment for the period of non-attendance.

An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

68. POSTING OF AWARD

A copy of this award, as varied from time to time, shall be maintained in each establishment of an employer and shall be available for inspection at any time by an employee covered by this award.

69. POSTING OF ROSTER

A roster for all weekly and part-time employees 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 seven 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 through absence through sickness or other cause over which the employer has no control.

70. PUBLIC HOLIDAYS

- (a) Weekly employees shall be entitled to the following days without loss of pay:

New Year's Day, Australia Day, Hobart Regatta Day (south of Oatlands), Labour Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Recreation Day (where Hobart Regatta Day is not observed), Christmas Day and Boxing Day.

- (b) **PROVIDED** that when an employee is absent from his or her employment only of one working day or part of a day before or after a holiday, except on account of illness or other legitimate reason, he or she shall not suffer loss of payment for more than one day of the holidays.
- (c) Subject to Clause 14 - Day Off Coinciding with a Holiday, of this award, all time worked by a weekly employee on a holiday herein prescribed shall be paid for at the rate of double time and one half for the hours worked, with a minimum of 4 hours additional pay. Alternatively, weekly employees who work on a prescribed holiday may, by agreement, perform such work at time and one half the ordinary Monday to Friday rate.

PROVIDED that the equivalent of the time worked is also added to the employee's annual leave or one day in lieu of such public holiday shall be allowed to the employee during the week in which such holiday falls.

PROVIDED ALWAYS such holiday may be allowed to employees within 28 days of such holiday falling due.

- (d) Casual and part-time employees working on a public holiday prescribed by this clause shall be paid respectively according to the provisions of Clause 52 - Casual Employment subclause (a), and Clause 64 - Part-time Employees subclause (c), of this division.
- (e) Where in a State or Territory or locality within a State or Territory an additional public holiday (other than Easter Saturday) is proclaimed or gazetted by the authority of the Commonwealth Government, or of a State or Territory government, and such proclaimed or gazetted holiday is to be observed generally by persons throughout that State or Territory or a locality thereof, other than by those covered by Federal Awards, or when such a proclaimed or gazetted day is, by any required judicial or administrative order, to be so observed, then such day shall be deemed to be a holiday for the purposes of this award, for employees covered by this award who are employed in the State, Territory or locality in respect of which the holiday has been proclaimed, or ordered as required. (The insertion of this provision shall not of itself prejudice the right of the union to make application for variation of this award in respect to Easter Saturday).

In respect to Christmas and Boxing Day if either falls on a Saturday or Sunday and an employee is required to work on such day or days then the day or days shall be treated as the public holiday and the day substituted shall be paid at the rate that would otherwise be paid on the 25 and/or 26 December.

71. REFERENCE OF DISPUTES

With respect to each of the employers bound 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 organiser and delegate will discuss the matter with representatives of the employer.
- (d) Should the matter still not be resolved the procedure will be as follows:
 - (i) A joint discussion shall be held between representatives of the employer and the Liquor, Hospitality and Miscellaneous Union, Tasmanian Branch.
 - (ii) If the matters are not finalised they shall be referred to the Tasmanian Industrial Commission.
- (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 employer. No party shall be prejudiced as to the final settlement by the continuance of work in accordance with this subclause.

72. RIGHT OF ENTRY OF UNION OFFICIALS

The Secretary and accredited officials of the union shall have the right to enter the premises of an employer at a time reasonably convenient to the employer for the purposes of interviewing members, but such official shall obtain the permission of the employer before entering.

73. STANDING DOWN OF EMPLOYEES

An employer may deduct payment for any day or part of a day on which an employee cannot be usefully employed for the following reasons:

- (a) A strike or stop work meeting (except as provided in Clause 74 - Stop Work Meeting, hereof).

- (b) A break down of machinery.
- (c) Rationing of power or the lack of fuel or transport.
- (d) The non delivery of the raw material and finished products in the Liquor Trades Industry.
- (e) Any cause which the employer cannot reasonably be held responsible for, but shall not apply to slackness of trade.

In respect to (a) and (e) above:

- (i) No employee shall be deemed to be a casual employee only by reason of being given intermittent work in pursuance of this clause.
- (ii) At least 4 hours' notice of such deduction shall be exhibited where all employees concerned shall be able to see it.
- (iii) Service is not to be considered broken merely because employees have been temporarily stood down through no fault of their own.
- (iv) Continuity of service is to be protected for the purpose of annual leave, holidays and personal pay, as provided by this division.
- (v) Employees allowed or required to commence work at the usual starting time any day shall be paid for at least 4 hours, and where they are called upon to attend for duty twice on any one day they shall be paid not less than a full day's pay.

74. STOP WORK MEETING

One official stop work meeting per year authorised by the State Management Committee of the union shall be allowed without loss of ordinary pay for the purpose of discussing matters affecting the award, provided the following conditions are observed:

- (a) At least 14 days' notice of such meeting is given to each employer of motel employees in the area in which the meeting is to be held and a similar notification to the Tasmanian Director of The Motor Inn and Motel Association of Australia, Tasmanian Branch.
- (b) The period of the meeting shall be of three hours' duration as a maximum, including travelling time, and the employees shall return to duty by not later than 5.00 pm if so rostered.
- (c) Payment shall be made for the period that the weekly or part-time employee was rostered for duty in attendance at the meeting as provided for in (b) above.

- (d) Such stop work meeting shall be held on either a Monday or Tuesday, not being a week in which a public holiday occurs.
- (e) Payment of wages shall be made only upon the employer being in receipt of satisfactory evidence of the employee's attendance at the meeting.

75. SUPERANNUATION

- (a) Definitions

For the purpose of superannuation the following definitions shall apply:

'Scheme' means the Hospitality Industry Portable Liquor Union Superannuation Trust Deed (HOST-PLUS), which complies with the Australian Government's Operational Standards for Occupational Superannuation Funds.

'Trustees' means HOST-PLUS Pty Ltd.

'Eligible permanent full-time and part-time employees' means:

- (i) an employee who is a member of the scheme at commencement of employment and who provides confirmation to the employer of such membership; or
- (ii) an employee who was employed by an employer on a permanent basis full-time or part-time basis at or after 1 June 1990 subject to the completion of 4 weeks continuous service with the employer. Continuous service prior to 1 June 1990 shall count as service for the purpose of this paragraph.

'Eligible casual employee' means:

- (i) an employee employed by an employer on a casual basis who is a member of the scheme at commencement of employment and who provides confirmation to the employer of such membership; or
- (ii) an employee employed by an employer on a casual basis at or after 1 June 1990 at completion of 8 weeks continuous service from date of employment.

'Ordinary time earnings' for the purposes of superannuation contribution only means the ordinary periodic salary wages or other remuneration being paid by the employer to the employee each week including shift penalties, weekend and public holiday penalties, in-charge allowances, overaward payments and all other all purpose payments and in respect of a casual employee shall include any casual loading including weekend and public holiday penalties as prescribed by this award as varied from time to time but not including any bonuses, commission, payment for overtime or other extraordinary payment, remuneration or allowance.

(b) Deed of Adherence and Enrolment

Each employer shall:

- (i) enter into a Deed of Adherence with the Trustees, acknowledging itself to be bound by the HOST-PLUS Scheme;
- (ii) take all reasonable steps to ensure that each eligible employee becomes a member of the scheme, including a written notification to each individual employee offering superannuation in accordance with this clause and providing an application form for the employee to become a member of the scheme.
- (iii) If the completed Application for Scheme Membership form is returned to the employer within one month of the written notice referred to in subclause (b)(ii), contributions will be made in respect of that employee either from the date on which the employee qualified as an eligible employee.
- (iv) If the completed Application for Scheme Membership form is not returned to the employer within one month, the employee will be regarded as having refused to join the scheme and the employer shall not be required to make contributions on behalf of such employee. In such a case the employer shall notify the Trustees in writing of the refusal to join. After a period of six months the employer shall make to the employee a further offer of superannuation in accordance with this clause. If and when an employee completes and returns to the employer an application for membership form after the expiry of one month as provided for in this subparagraph, the employer's obligation to make contributions shall commence from the time he receives a completed application form.

(c) Contributions

- (i) Each employer shall in respect of each eligible full-time and part-time employee as defined, and each eligible casual employee as defined who earns \$257.50 or more in a 4 week period, contribute to the scheme of which the employee is a member and to which the employer is bound to contribute pursuant to the relevant Trust or Deed of Adherence an amount equal to 9 percent of the ordinary time earnings as defined, of such employee.
- (ii) Where an employee is absent on leave without pay, whether or not such leave is approved, no contribution from the employer shall be due in respect of that employee during and in respect of the period of unpaid absence.
- (iii) The obligation of the employer to contribute to the Fund in respect of an employee shall cease on the last day of such employee's employment with the employer.
- (iv) Each employer shall make such contributions monthly for pay periods completed in such month or at such other times and in such other manner as

may be agreed in writing between the Trustees of a scheme and the employer from time to time.

(d) Exemptions

- (i) An employer may make application to the Tasmanian Industrial Commission by 1 June 1990 to be exempt from using the scheme as defined in subclause (a) herein.

PROVIDED that such exemption shall only be granted to employers who at 1 June 1990 are already providing occupational superannuation in accordance with subclause (c) into a fund which complies with Commonwealth Occupational Standards.

- (ii) An employer who commences a new business after 1 June 1990 may make application for exemption in accordance with paragraph (i) above. Such application must be made within one month of the commencement of operation of the new business.

76. TIME AND WAGE RECORDS

- (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 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 an official of the Federated Liquor and Allied Industries Employees' Union of Australia, Tasmanian Branch, 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 restarting 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 6 years.
- (c) Notwithstanding subclause (b) of this clause the requirement to keep such records is to be phased in from the date of this variation over the next succeeding five years.

77. TRAVELLING FACILITIES

- (a) Where an employee is detained at work until it is too late to travel by the last ordinary conveyance to his or her usual place of residence the employer shall either provide proper conveyance or provide accommodation for the night free of charge.
- (b) If an employee is required to start work before his ordinary commencing time and before the first ordinary means of conveyance is available to convey him or her from his or her usual place of residence to the place of employment, the employer shall provide a conveyance or pay the cost thereof.
- (c) Where a weekly employee is engaged for work outside a distance of 44 kilometres from the place of engagement he shall be paid all fares actually and necessarily incurred in travelling from the place of engagement to the place of employment.

PROVIDED that if the employee leaves his or her place of employment or is dismissed for misconduct within a period of 3 months of the date of engagement, the employer may recover from the employee the fare paid on engagement.

78. UNIFORMS, TOOLS AND GEAR

- (a) Where any weekly employee is required by the employer to wear a special uniform, such uniform shall be provided and laundered by the employer free of cost to the employee, or if mutually agreed that the employee shall launder such uniform, the employer shall allow the employee \$2.42 per week in the case of weekly employees and 77 cents per uniform in the case of part-time employees for each uniform so laundered.
- (b) Where any casual employee is required to wear a special uniform such uniform shall be provided and laundered by the employer free of cost to the employee or if mutually agreed that the employee shall launder such uniform the employer shall pay the employee 77 cents for each uniform so laundered.
- (c) Where it is necessary that waterproof or other protective clothing such as waterproof boots, aprons, or gloves be worn by an employee, such clothing shall be supplied without cost to the employee and shall remain the property of the employer.

PROVIDED that in the event of a dispute, the necessity for the provision of protective clothing shall be determined by the Secretary for Labour.

- (d) All tools, brushes, knives, choppers, implements, utensils and material shall be supplied by the employer without cost to the employee.
- (e) An employee on commencing employment shall sign a receipt for item/s of uniform. Such receipt shall list the item/s of uniform and value of same. Upon ceasing employment if the employee does not return items of uniform in accordance with

receipt the employer shall be entitled to deduct the value as stated on the receipt from the employee's termination payment.

Records of receipt shall be available for inspection by an official of the union. In the case of genuine wear and tear, damage, loss or theft that is not the employee's fault this provision shall not apply.

Any disagreement concerning the value of item/s of uniform and any other aspect of this subclause shall be determined by the Tasmanian Industrial Commission.

79. WEEKEND PENALTY RATES

All ordinary time worked by weekly and part-time employees from midnight Friday to midnight Saturday shall be paid for at the rate of time and a half, and from midnight Saturday to midnight Sunday at time and three quarters.

80. WEEKLY EMPLOYEES

- (a) Except as hereinafter provided, all employees (other than casual employees) shall be paid weekly or by agreement may be paid fortnightly.
- (b) Where an establishment covered by this award is sold and the new employer continues to employ any weekly employees the continuity of service of such employee shall be deemed not to have been broken by reason of the sale or transmission of the business.

81. WEEKLY EMPLOYEES NOT TO BE EMPLOYED AS CASUALS

Weekly employees shall not be engaged for casual work in the same establishment in which they are permanently employed.

82. WORK EXPERIENCE

The provision of this award shall not apply to High or Secondary students whilst undergoing work experience with the written approval of a Schools Career Co-ordinator or similar school's officers.

83. WORK ON ROSTERED DAYS OFF

All work performed on an employee's rostered day off shall be paid for at double time, with a minimum payment of 4 hours at the rate of double time.

84. WORK OUTSIDE DAILY HOURS

- (a) Weekly employees who are required to work any of their ordinary hours outside the hours of 7.00 am to 7.00 pm on Mondays to Fridays inclusive, shall be paid \$1.07 per hour, or part thereof, for any such time worked outside the said hours with a minimum payment of \$1.65 for any one day.
- (b) Notwithstanding the foregoing, employees in Tasmania engaged on weekly hire who are required to work any of his or her ordinary hours outside the hours of 7.00 am to 7.30 pm on Mondays to Fridays inclusive shall be paid \$1.07 cents per hour or part thereof for any such time worked outside the set hours with a minimum payment of \$1.65 for any one day.

P C Shelley
DEPUTY PRESIDENT

3 August 2009