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**TASMANIAN INDUSTRIAL COMMISSION**

Industrial Relations Act 1984  
s.23 application for award or variation of award

**Australian Liquor, Hospitality and Miscellaneous Workers Union -Tasmanian  
Branch  
(T11416 of 2004)**

COMMISSIONER P C SHELLEY

**Award variation - Clause 29 – Part-Time Employees – penalty rates - consent  
matter - application granted - award varied - operative date ffpp 1 April 2004  
and 1 January 2005**

**HOTELS, RESORTS, HOSPITALITY AND MOTELS AWARD**

**ORDER BY CONSENT**

**No. 2 of 2004**

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THE **HOTELS, RESORTS, HOSPITALITY AND MOTELS AWARD** IS VARIED IN THE FOLLOWING MANNER:

**By deleting Clause 29 – PART-TIME EMPLOYEES and inserting in lieu thereof the following:**

**"29. 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 27 - 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 25 - 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, sick 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 \$1.21 (provided that this amount will increase to \$1.38 from the first pay period on or after 1 January 2005) 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 \$1.83 (provided that this amount will increase to \$2.09 from the first pay period on or after 1 January 2005) 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 \$1.80 (provided that this amount will increase to \$1.97 from the first pay period on or after 1 January 2005) per hour or part of an hour for such time worked within the said hours plus the 10

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percent herein prescribed with a minimum daily payment of \$1.83 (provided that this amount will increase to \$2.09 from the first pay period on or after 1 January 2005) 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, sick leave and holidays shall apply on a pro rata basis to part-time employees.
- (e) The provisions of Clause 35 - Roster, and Clause 27 - 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 27 - 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.

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- (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 27 - 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 44 - 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.

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- (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 44 - Time and Wages Book or Sheet of Division A of this award."

#### **OPERATIVE DATE**

This variation shall come into operation from the first full pay period to commence on or after 1 April 2004 and 1 January 2005.

P C Shelley  
**COMMISSIONER**

2 April 2004