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**TASMANIAN INDUSTRIAL COMMISSION**

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

**Health Services Union of Australia, Tasmania No. 1 Branch**  
(T9853 of 2001)

**MEDICAL PRACTITIONERS (PRIVATE SECTOR) AWARD**

Award variation - insertion of provision for Carer's Leave - application approved - operative date ffpp 7 November 2001

**ORDER BY CONSENT -**

**No 3 of 2001**

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AMEND THE **MEDICAL PRACTITIONERS (PRIVATE SECTOR) AWARD** IN THE FOLLOWING MANNER:

**1. By inserting into Clause 3 - Arrangement, the following new clause:**

"Carer's Leave 11A"

**2. By deleting Clause 9 - Annual Leave, and inserting in lieu thereof the following:**

**"9. ANNUAL LEAVE**

(a) Period of Leave

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

**PROVIDED** that, by mutual agreement between the employer and the employee, leave may be taken in any combination providing one period is at least 14 consecutive days (i.e., 10 working days).

(b) Payment for Period of Leave

(i) All employees before going on annual leave other than casual or part-time employees working less than 20 hours per week who attract a 20 per cent loading in lieu of annual leave, sick leave and public holidays as mentioned in Clause 12 - Casual Employees, and Clause 23(b) - Part-Time Employees, shall be paid the amount of wages they would have received in respect of the ordinary time they would have worked had they not been on leave during the relevant period.

(ii) In addition thereto, all full-time employees shall be paid an amount equivalent to the minimum wage as prescribed in subclause 2 - Minimum Wage of Clause 8 - Wage Rates.

(iii) Part-time employees who work 20 hours or more a week shall have an entitlement based on the average weekly hours worked in the previous three months divided by 40 multiplied by the minimum wage.

(c) Proportionate Leave on Termination of Service

A weekly employee who lawfully leaves the employment or who is dismissed, except for misconduct or neglect of duty, shall be paid 13 1/3 hours for each completed month of continuous service.

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(d) Single Day Annual Leave

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 subclause, 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."

**3. By inserting a new Clause 11A - Carer's Leave, after Clause 11 - Breakages, as follows:**

**"11A. CARER'S LEAVE**

(a) Paid Carer's Leave

- (i) An employee, other than a casual employee, is entitled to use, in accordance with this subclause, up to a maximum of five days per annum of any current or accrued sick leave entitlement, provided for at Clause 27 - Sick Leave, of the award, for absences to provide care and support for either members of their immediate family or household who need their care and support when they are ill.

Leave may be taken for part of a single day.

- (ii) If required the employee must establish, either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another.

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(iii) The entitlement to use sick leave in accordance with this subclause is subject to the person being either:

- (1) a member of the employee's immediate family, or
- (2) a member of the employee's household.

The term '**immediate family**' includes:

- (1) spouse (including a former spouse, a de facto spouse and a former de facto spouse) of the employee. A de facto spouse, in relation to a person, means a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; and
  - (2) child or an adult child (including an adopted child, a step child, a foster child or an ex nuptial child), parent (including foster parent, step parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse of the employee.
- (iv) Where practicable the employee must give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and the person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.
- (v) In normal circumstances an employee must not take carer's leave under this clause where another person has taken leave to care for the same person.

(b) Unpaid Carer's Leave

An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care to a family or household member who is ill.

(c) Grievance Process

Clause 25 - Reference of Disputes of this award applies to a dispute about the effect or operation of this clause."

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**4. By deleting Clause 17 - Hours of Duty, and inserting in lieu thereof the following:**

**"17. HOURS OF DUTY**

- (a) Except where otherwise mutually agreed the ordinary hours of duty shall not exceed 40 per week within a spread of nine hours per day to be worked as follows:

Between the hours of 8.30am and 8.30pm, Monday to Friday inclusive.

- (b) Evening Shift Allowance

When normal hours of duty are altered, so that an employee finishes work after 6.00pm, an additional rate of 15 per cent shall be paid for those days.

- (c) 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 during 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 negotiations 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 subclause, 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 at each time this provision is used.

- (d) 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 (RDOs) to provide that:

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- (i) An employee may elect, with the consent of the employer, to take a RDO at any time.
- (ii) An employee may elect, with the consent of the employer, to take RDOs in part day amounts.
- (iii) An employee may elect, with the consent of the employer, to accrue some or all RDOs 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 to the employer.
- (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 RDO flexibility, in accordance with this subclause, 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 RDO arrangements in the time and wages book at each time this provision is used."

**5. By deleting Clause 21 - Overtime, and inserting in lieu thereof the following:**

**"21. OVERTIME**

- (a) For all time of duty before the usual time for commencing work or after the usual time for ceasing work or for work performed outside the ordinary hours of duty, payment shall be made at the rate of time and a half for the first two hours and double time thereafter.
- (b) Overtime shall not be payable unless the period of time worked in excess of the ordinary hours exceeds 15 minutes on any day and the overtime is worked on the orders of the employer or the employers representative.
- (c) Time Off In Lieu of Payment

Notwithstanding provisions elsewhere in this 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 shall be taken at the penalty equivalent.
- (iii) An employer shall, if requested by an employee, provide payment at the rate

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provided for the payment of overtime as prescribed in this clause for any overtime worked under this subclause where such time has not been taken within four weeks of accrual.

- (iv) An employee or the employees may choose to request a union party to this award, to represent their interests in negotiations referred to in paragraph (i) of this subclause.
- (v) Once a decision has been taken to introduce an enterprise system of time off in lieu in accordance with this subclause, 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 time off in lieu arrangements in the time and wages book at each time this provision is used."

### **OPERATIVE DATE**

These variations shall come into operation from the first full pay period to commence on or after 7 November 2001.

Tim Abey  
**COMMISSIONER**

12 November 2001