

**This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.**

Industrial Relations Act 1984  
**IN THE TASMANIAN INDUSTRIAL COMMISSION**  
(Matter No. T564 of 1986)

**RETAIL TRADES AWARD**

**No. 1 of 1987  
(Consolidated)**

**This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.**

## **1. TITLE**

This award shall be known as the "Retail Trades Award".

## **2. SCOPE**

This award is established in respect of the industry of selling goods by retail in shops other than those within the jurisdiction of Automotive Industries, Bakers, Chemists, and Meat Trades Awards but including the selling by retail of cooked or other prepared food which is not to be consumed on the sellers' premises, where those premises are principally used for the retailing of other goods.

## **3. ARRANGEMENT**

<u>Subject Matter</u>	<u>Clause No.</u>	<u>Page No.</u>
Title	1	2
Scope	2	2
Arrangement	3	2
Date of Operation	4	3
Supersession & Savings	5	3
Parties & Persons Bound	6	3
Definitions	7	4
Wage Rates	8	6
Annual Leave	9	12
Casual Employees	10	14
Clothing	11	16
Compassionate Leave	12	16
Contract of Employment	13	16
Estimating Service	14	17
Holidays with Pay	15	17
Holiday Work	16	17
Hours of Work	17	17
Maternity Leave	18	19
Mixed Functions	19	23
Overtime	20	24
Part-time Employees	21	24
Payment of Wages	22	25
Ratio of Juniors to Adult Employees	23	25
Resolution of Disputes Relating to Implementation of 38 Hour Week	24	26
Rest Periods	25	26
Right of Entry of Union Officials	26	27

**This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.**

<u>Subject Matter</u>	<u>Clause No.</u>	<u>Page No.</u>
Saturday Work	27	28
Shorter Working Week – Saving	28	28
Sick leave	29	29
Steward	30	30
Sunday Work	31	30
Tea Money	32	30
Travelling Time	33	31

#### **4. DATE OF OPERATION**

This award shall come into operation from the first full pay period commencing on or after 1 February, 1987.

Provided that, it is a term of this award that the unions undertake that, for a period of six months from 1 July 1986, they will not pursue any extra claims, award or overaward, except where consistent with the Principles of Wage Fixation of the Tasmanian Industrial Commission.

#### **5. SUPERSESION AND SAVINGS**

This award incorporates and supersedes No. 2 of 1986 (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 engaged in the industry specified in Clause 2 - Scope;
- (c) the Federated Clerks' Union of Australia (Tasmanian Branch) and the officers of that organisation and their members employed in the industry specified in Clause 2 - Scope;
- (d) the Federated Storemen & Packers' Union of Australia, Tasmanian Branch and the officers of that organisation and their members employed in the industry specified in Clause 2 - Scope;

**This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.**

- (e) the Furniture Retailers Council of Australia and the officers of that organisation and their members engaged in the industry specified in Clause 2 – Scope;
- (f) the Retail Traders Association of Tasmania and the officers of that organisation and their members engaged in the industry specified in Clause 2 – Scope;
- (g) the Shop, Distributive & Allied Employees' Association, Tasmanian Branch and the officers of that organisation and their members employed in the industry specified in Clause 2 – Scope;
- (h) the Transport Workers' Union of Australia (Tasmanian Branch) and the officers of that organisation and their members employed in the industry specified in Clause 2 – Scope;
- (i) the Tasmanian Chamber of Industries;
- (j) the Tasmanian Trades and Labor Council.

## **7. DEFINITIONS**

**"Assistant"** means any employee who devotes any portion of his or her time to the sale of goods, including take-away food, parcelling, key cutting, goods or assembling orders and/or messenger.

A **"casual employee"** means any person specifically engaged to work on an irregular basis, as and when required by mutual consent between employer and employee, but does not include any person employed on a part-time or full-time basis.

A **"part-time employee"** is one engaged on regular work for less hours per day or week than those prescribed for full-time employees.

**"Window dresser" and/or "show card-writer"** means an employee the greater part of whose time is engaged in the supervision of and/or preparation of displays and/or dressing of windows.

**"Senior sales assistant"** means the adult sales assistant who is second in charge of a department controlled by a department manager/owner and such an employee shall be classed as second in charge only if so appointed by the employer or his representative.

**"Section manager" and/or "buyer/orderer" or "section manageress" or "buyer/orderer"** means an employee in charge of a section or an employee who buys or supervises the buying or selection of stock, and who is responsible for the keeping of stock of the section and who is actually employed in that section and in direct contact with the customers, notwithstanding that he or she may be under the orders of a supervisor who does not devote the whole of his or her time to the management of the section.

**This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.**

**"Maker's capacity"** shall mean the capacity attributed to the vehicle by the manufacturer as a maximum gross rating less the vehicle's tare, except in cases where on any day the maximum weight of any load exceeds such capacity by one-third or more thereof, in which case such maximum load shall, for the purposes of assessing the wages to be paid for that day, be deemed to be the maker's capacity.

**"Employee handling money"** shall mean an employee subject to this award who collects or pays out money and who is responsible for the safe custody of the amounts so collected or carried to be paid out.

**"Shop or branch manager or manageress"**, i.e. an employee (whether adult or otherwise) who is in charge of a shop or branch shop, with or without the duty of buying notwithstanding that such employee may be under the orders of a superior who does not devote the whole or any part of his time to the management of the said shop or branch shop.

**"Corsetiere"** means a person trained and required to fit surgical corsets.

**"Storeman"**, i.e. an employee who is exclusively engaged in receiving and dispatching goods, and who performs the duties incidental to the work of a storeman.

**"Launceston"** for the purpose of this award shall mean the area within 7 miles from the Chief Post Office at Launceston.

**"Show Day"** means not more than one local show day observed on an employee's ordinary working day, other than a Saturday or a Sunday, in the city, town or district in which the employee is employed; or such other day which, in the absence of such a local show day, is agreed on by the employee and the employer, therefore making a total of 11 paid public holidays per year.

**"Industrial Commission"** means Tasmanian Industrial Commission.

**This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.**

## **8. WAGE RATES**

### **1. WAGES**

Adult employees of a classification or grade hereunder mentioned shall (except as provided in sub-section (c), Section A, and sub-section (b), Section B hereof) be paid the amount assigned opposite that classification or grade.

#### **Section 'A' – Sales Staff and Allied Classifications**

	Amount Per Week \$
<b>(a) Adults</b>	
1. Assistant –	
(i) 1 <sup>st</sup> year's adult experience	233.60
(ii) 2 <sup>nd</sup> year's adult experience	253.40
(iii) 3 <sup>rd</sup> year's adult experience and thereafter	279.10
2. Senior sales assistant	294.20
3. Section Manager/manageress and/or buyer/orderer (as defined)	
(i) Of a section where 5 or more employees (including the section manager/manageress and/or buyer/orderer) are employed	334.20
(ii) Of a section where 3 or 4 employees (including the section manager/manageress and/or buyer/orderer) are employed	319.20
(iii) Of a section where 2 employees (including the section manager/manageress and/or buyer/orderer) are employed	311.90
4. Manager/Manageress of shop or branch	357.50

**This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.**

	Amount Per Week \$
5. Gunsmith	305.00

#### Tool Allowance

All employees engaged in classifications that are proclaimed as trades under the Industrial and Commercial Training Act 1985 shall either be supplied with all tools by the employer or be paid a tool allowance of not less than \$8.10 per week.

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

6. Cleaner	224.10
7. Corsetiere	285.50
8. Van Salesman	279.50

#### **(b) Storeman/woman and packers**

1. Storeman/woman Grade 1	264.00
2. Storeman/woman Grade 2	270.60

A

storeman/storewoman working singly and/or a storeman/storewoman who has control of an isolated store where no direct supervision is exercised and is responsible for receipt, controls, issues and stock checking of goods and/or material, notation and preparation of necessary documents

3. Leading Hands –
  - (i) If in charge of less than 3 employees,  
\$3.70 per week extra
  - (ii) If in charge of 3 to 10 employees,  
\$7.30 per week extra
  - (iii) If in charge of 11 to 20 employees,  
\$11.60 per week extra
  - (iv) If in charge of 21 or more employees,  
\$17.30 per week extra

**This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.**

Amount Per Week  
\$

**(c) Junior Assistants**

The minimum rates of wages that may be paid to junior employees shall be the undermentioned percentages of the 2<sup>nd</sup> year adult rate adjusted to the nearest 10 cents.

	Percentage of 2 <sup>nd</sup> year Adult Rate %	Amount Per Week \$
Under 17 years of age	54	136.80
17 to 18 years of age	59	149.50
18 to 19 years of age	73	185.00
19 to 20 years of age	86	217.90
20 to 21 years of age	90	228.10

Proviso – When determining the margin payable to an employee attaining the age of 21 years, who has been employed as a junior assistant in any of the trades covered by this award, experience obtained after reaching the age of 18 years shall be counted as adult experience.

**Section 'B' – Clerks**

Amount Per Week  
\$

**(a) Adults**

1.	Grade 1 (as defined)	279.10
2.	Grade 2 (as defined)	289.30
3.	Grade 3 (as defined)	296.80
4.	Grade 4 (as defined)	306.70
5.	Grade 5 (as defined)	382.90
6.	A clerk who is appointed by management as a clerk in charge of and responsible for the work of -	
(a)	2 employees	312.10
(b)	3 or 4 employees	319.30
(c)	5 or more employees	334.40

## **Definitions – Adult Clerks**

## **Examples**

### **Grade 1 –**

Carries out routine and repetitive duties of limited scope and complexity

Filing Clerk, Photocopier, Records Clerk, Invoice Clerk, Clerk Handling Mail Sorting Dockets, Copy Typist, Data Processor, Receptionist.

### **Grade 2 -**

Carries out routine and repetitive functions, speed, accuracy and reliability expected. Limited decision making, may have responsibility for guidance of Grade 1 personnel and juniors. Calculations of moderately complex nature

Shorthand Typist, Switchboard Attendant (solely engaged), Telex Operator, Despatch Clerk, Production Clerk, Punch Card Operator, Verifier, Accounting Machine Operator.

### **Grade 3 -**

Carries out wide range clerical duties. May be specialist in job of complex nature. Work involves large degree of personal discretion and is basically unchecked. May be responsible for guidance of Grade 1 and 2 personnel and juniors and may check and allocate their work

Accounts Clerk, Credit Clerk, Middle Management Secretaries, Pay Clerk.

### **Grade 4 -**

Carries out work of an advanced nature. Has recognised experience in a job of complex nature. Often consulted by superiors and subordinates. Work rarely checked. May be required to direct and control lower grade personnel (and may be an officially appointed supervisor). Organises own work day.

Senior Clerk, General Manager's Secretary, Senior Credit Clerk, Senior Clerk responsible for preparing detailed management reports, Pay-masters.

**This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.**

## **Definitions – Adult Clerks**

## **Examples**

### **Grade 5 -**

Carries out work of a special nature. Will be a specialist. Will include professionally qualified personnel and Chief Clerk totally responsible for the administration of an office

Accountant, Chief Clerk wholly responsible for office work and who prepares balance sheet and profit and loss account

Clerks shall be graded according to the work in which they are principally employed.

All currently and future employed clerks shall be notified in writing by the employer of their grading within one month of this Award coming into operation.

In the event of a dispute regarding the grading of a clerk, the matter shall be discussed by the employer involved or his representative and the Federated Clerks' Union in an attempt to resolve the matter, and if then still in dispute, shall be referred to the President of the Tasmanian Industrial Commission for determination.

### **(b) Juniors**

The minimum rates of wages that may be paid to Juniors shall be the undermentioned percentages of the Grade 1 adult rate adjusted to the nearest 10 cents.

	Percentage of Total Grade 1 Adult Rate %	Amount Per Week \$
Under 17 years of age	48	134.00
17 to 18 years of age	53	147.90
18 to 19 years of age	65	181.40
19 to 20 years of age	77	214.90
20 to 21 years of age	81	226.10

### **(c) Additional Payments**

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

**This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.**

	Amount \$
Under 16 years of age	1.00
16 to 17 years of age	1.20
17 to 18 years of age	1.30
18 to 19 years of age	1.50
19 to 20 years of age	1.80
20 to 21 years of age	1.90
21 years of age and over	2.50

### **Section 'C' – Transport Workers**

	Amount Per Week \$
<b>(a) Adults</b>	
1. Employee driving motor vehicle having maker's capacity as defined of -	
1.2 tonnes or less	274.80
1.2 tonnes but not over 3 tonnes	278.40
3 tonnes but under 6 tonnes	282.80
6 tonnes but under 7 tonnes	283.50
7 tonnes but under 8 tonnes	284.30
8 tonnes but under 9 tonnes	285.00
9 tonnes but under 10 tonnes	285.70
10 tonnes but under 11 tonnes	286.60
2. Loader	266.00
3. Motor Driver's Assistant and yardman	260.50
4. Employee handling money as defined -	
For any amount handled up to \$20.00	0.60
For any amount handled over \$20.00 but not exceeding \$200.00	1.10
For any amount handled over \$200.00 but not exceeding \$600.00	2.00
For any amount handled over \$600.00 but not exceeding \$1,000.00	3.00
For any amount handled over \$1,000.00	4.00

**This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.**

**(b) Juniors**

Junior employees shall be paid the following percentage of the appropriate adult male rate of wages -

	%
Under 19 years of age	70
19 and under 20 years of age	80
20 years and over	Adult Rate

**2. MINIMUM WAGE**

- (a) Notwithstanding the provisions of subclause 1 hereof, no adult employee shall be paid less than the rate of \$198.70.
- (b) Provided that payments for overtime, holiday and weekend penalties, prescribed in this award shall not be taken into account in the calculation of such minimum weekly rate of wage.

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

**3. ADDITIONAL RATES**

Window-dressers or show-card writers (as defined) shall receive 5% in addition to the total rate of pay applicable to their age or years of experience.

**9. ANNUAL LEAVE**

**(a) Period of Leave**

A period of one hundred and fifty two hours paid annual leave shall be allowed annually after 12 months' continuous service on weekly hiring.

**(b) Broken Leave**

Leave allowed under the provisions of this sub-clause shall be given and taken in one consecutive period, or if the employer and the employee so agree, in two separate periods, the lesser of which shall not be less than 7 consecutive days. No entitlement shall be permitted to accrue beyond 12 months after the date of accrual.

**This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.**

(c) Leave to be Exclusive of Public Holidays

If any of the holidays prescribed by Clause 15 falls within an employee's period of annual leave, and is observed on a day which in the case of that employee would have been an ordinary working day, there shall be added to that leave one day for each such holiday so occurring.

(d) Payment in Lieu Prohibited

Except as provided in sub-clause (h) payment shall not be made or accepted in lieu of annual leave.

(e) Time of Taking Leave

Annual Leave shall be given at a time fixed by the employer within a period not exceeding 6 months from the date when the right to annual leave accrued, and after not less than 2 weeks' notice to the employee.

(f) Payment for Period of Leave

- (i) All employees before going on leave shall be paid the amount of wages they would have received in respect of the ordinary time which they would have worked had they not been on leave during the relevant period.
- (ii) In addition thereto all employees (including part-time employees engaged to work 20 or more hours per week) shall receive a loading of 17 1/2% on payment made for annual leave as prescribed in paragraph (i) hereof. Such loading shall not apply to proportionate leave on termination of service.
- (iii) Part-time employees engaged to work less than 20 hours per week, for a continuous 12 months period shall be paid a loading on each anniversary date of their engagement for employment.

Such loading shall be calculated in the following manner:-

70% of the average weekly wage for the 3 months prior to the anniversary date falling due. This average weekly wage is to exclude the 20% loading paid in lieu of annual leave, sick leave and public holidays.

**This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.**

(g) Leave Allowed before Due Date

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

Where leave has been granted to an employee pursuant to this sub-clause before the right thereto has accrued due and the employee subsequently leaves or is discharged from the service of the employer before completing the 12 months' continuous service in respect of which the leave was granted, the employer may, for each complete month of the qualifying period of 12 months not served by the employee deduct from whatever remuneration is payable to the employee upon the termination of the employment, one-twelfth of the amount of wages paid on account of annual leave, which amount shall not include any sums paid for any of the holidays prescribed by Clause 15.

(h) Proportionate Leave on Termination of Service

If after one completed month of service in any 12 monthly period an employee lawfully leaves his employment or his employment is terminated by the employer through no fault of the employee, the employee shall be paid as follows:-

12.67 hours for each completed month of continuous service. This service is in respect of which leave has not been granted.

(i) Transitory Provisions

Employees with annual leave entitlements as at 1 February 1987 shall have their entitlements adjusted in the relationship 38/40.

## **10. CASUAL EMPLOYEES**

(a) Transport Workers

A casual employee, for working ordinary time shall be paid per hour one-fortieth of the sum of the weekly rate prescribed herein plus 15% of that rate for work which he performs. A minimum payment as for 4 hours shall be paid.

Provided that as from 1 February 1988, the divisor shall become one thirty-eighth.

A Casual Employee shall be notified at the end of the day if his services are not required next working day, failing such notice a full day's wages shall be paid for the next working day.

(b) All Others

- (i) A casual employee, for working ordinary time shall be paid per hour one-fortieth of the weekly rates prescribed for the work which he or she performs. In addition thereto a casual employee shall receive 20% of the ordinary hourly rate in respect of each hour for which he or she is paid; such additional amount to be payment in lieu of annual leave, sick leave, and public holidays.

Provided that as from 1 February 1988, the divisor shall become one thirty-eighth.

- (ii) Subject to any different prescription contained elsewhere in this award, no casual employee shall be employed for less than four hours for work performed on any given day between the hours of 7.00am and 6.00pm.

Provided that where a period of engagement commences during the spread of ordinary hours and continues beyond 6.00pm, the total number of hours worked in that engagement shall be counted for determining the minimum period of engagement herein prescribed.

- (iii) Where the trading period Monday to Friday is outside the span of hours 7.00 a.m. to 6.00 p.m. and the duration of the trading period is less than 4 hours, casual employees shall receive a minimum payment as for the duration of such trading period.

(c) Penalty Provisions

Penalty rates prescribed in Clauses 16, 20, 27 and 31 hereof are applicable to casual employees. The 20 per cent loading prescribed elsewhere in this clause shall be paid for all hours worked including times when penalty rates are applicable. Provided that all penalty additions shall be calculated on the ordinary time rate excluding this loading. Viz:-

Time and one half	equates to 1.7	)	Of the ordinary
Double time	equates to 2.2	)	time rate without
Double time and		)	the 20% loading
one half	equates to 2.7	)	

- (d) A casual employee shall have only one engagement consisting of consecutive hours per day with any one employer. Provided that in establishments employing 5 or less employees broken shifts may be worked by mutual agreement between the employee and the employer.

**This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.**

## **11. CLOTHING**

Where an employer requires an employee to wear outer clothing or protective clothing of a distinctive colour or style such clothing shall be supplied by the employer without cost to the employee. The cost of repair and replacement of such clothing shall likewise be the responsibility of the employer.

## **12. COMPASSIONATE LEAVE**

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

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

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

## **13. CONTRACT OF EMPLOYMENT**

- (a) With the exception of employees engaged as specified in Clause 21 hereof, all employment shall be by the week and the employment of an employee will not be terminated except for misconduct which would justify instant dismissal, without at least one week's notice being given by the employer to the employee, and the employee shall likewise give to the employer one week's notice of his intention to terminate his employment. If one week's notice be not given by the employer or employee, one week's wages shall be paid or forfeited as the case may be, and in the case of misconduct wages shall be paid up to the time of dismissal only.

Any dispute on what constitutes misconduct shall be determined by the Industrial Commission whose decision shall be final.

- (b) An employee shall be entitled to receive on request a reference on termination of services. Such reference shall contain at least the commencing and finishing dates of service and shall become absolute property of the employee. Any prospective or future employer shall return the reference to the employee within 7 days of having received it.

**This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.**

#### **14. ESTIMATING SERVICE**

In estimating the number of years service of an employee mentioned in this award, the total time in the service of every employer engaged in the trade or trades covered by this award shall be taken into account to ascertain the minimum wage rate which shall be paid.

Provided that in respect to clerks, the total clerical experience in the service of every employer in the trades or groups of trades in respect of which Tasmanian Industrial Commission awards are established shall be taken into account.

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

- (a) All employees (other than casuals or part-time employees as mentioned in subclause (b), Clause 21 shall be allowed the following days as paid holidays:- New Year's Day, Australia Day, Hobart Regatta Day (south of Oatlands), Labour Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Show Day (as defined), the first Monday in November (where Hobart Regatta Day is not observed), Christmas Day and Boxing Day.
- (b) Payment for the holidays mentioned in sub-clause (a) which are taken and not worked, shall be at the normal rate of pay which would have applied to the employee concerned, when, if it were not for such holiday, he had been at work.
- (c) Payment to an employee for work performed on holidays mentioned in sub-clause (a) of this clause shall be at the rates prescribed elsewhere in this award.

#### **16. HOLIDAY WORK**

For all time of duty on any of the holidays mentioned in Clause 15 of this Award payment shall be made at the rate of double time and one half with a minimum payment as for 4 hours worked.

#### **17. HOURS OF WORK**

- (a) The ordinary hours of work shall be an average of 38 per week to be worked on one of the following bases:-
  - (i) seven hours thirty-six minutes per day; or
  - (ii) eight hours per day on four days and six hours on one day in each week; or
  - (iii) eight hours per day on nine days and four hours on one day in each fortnight; or

**This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.**

- (iv) eight hours per day on nineteen days with an accumulated rostered day off; or
- (v) eight hours per day with an accumulation of rostered days off up to a maximum of five.

The method of implementation shall be determined on a store by store or where appropriate, department by department basis, whereby the primary consideration shall be the efficient maximisation of customer service in each establishment. In the event of a dispute in relation to the method of implementation, the procedures set out in Clause 24 – Resolution of Disputes Relating to Implementation of Thirty Eight Hour Week, shall be followed.

Provided that establishments which employ fifteen or more full-time employees subject to this award shall adopt one or both of the options contained in (iv) and (v) herein. In circumstances whereby the implementation of such options can be shown to be contrary to the efficient maximisation of customer service, an establishment may seek discussions with the relevant unions as to alternative methods of implementation. If agreement cannot be reached the matter may be referred to the Industrial Commission for resolution.

For the purposes of this clause 'establishment' shall mean an identifiable outlet or office.

- (b) Subject to Clause 28 – Shorter Working Week - Saving, the ordinary hours shall be worked in 5 days of 8 consecutive hours (excluding meal breaks) between the hours of 7.00 a.m. and 6.00 p.m. Monday to Friday inclusive.

Provided that the hours for employees engaged in the trade of news-vendor shall (subject to the hours worked not exceeding on average 38 per week) be as follows -

**This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.**

Launceston – between the hours of 7.00 a.m. and 6.00 p.m., Monday to Friday inclusive and between the hours of 7.00 a.m. and 12 noon on Saturday.

All other areas – between the hours of 6.00 a.m. and 8.00 p.m., Monday to Friday inclusive and between the hours of 6.00 a.m. and 12 noon on Saturday.

- (c) The hours of work prescribed by this clause shall, excepting for a meal break of not less than 45 minutes nor more than 75 minutes, be continuous on each day. Such meal break shall be taken between the hours of 11.30 a.m. and 2.30 p.m.

In circumstances whereby a second meal break is required on any one day, such break shall not be less than 30 minutes.

- (d) Except where overtime is worked for a period not exceeding one hour after normal finishing time, no employee shall work for more than 5 hours without a break of not less than 45 minutes for a meal.
- (e) In circumstances whereby a system of 'Rostered Leisure Days' (RLD's) applies, an employer with the agreement of the employee may in an emergency situation substitute the day an employee is to take off for another day. Provided that such agreement will not be unreasonably withheld.
- (f) Employees other than those engaged as provided for in Clauses 10 and 21 hereof, shall, notwithstanding anything contained in Section 49 of the Industrial Relations Act 1984, be paid the weekly wage prescribed for a week of 38 hours for each week that he is ready, willing and available for work during the hours prescribed herein and, in addition thereto, such overtime or other penalty rates, if any, that may have occurred during the relevant period.

## **18. MATERNITY LEAVE**

- (a) Eligibility for Maternity Leave

An employee who becomes pregnant, shall upon production to her employer of a certificate from a duly qualified medical practitioner stating the presumed date of her confinement, be entitled to maternity leave provided that she has had not less than 12 months' continuous service with that employer immediately preceding the date upon which she proceeds upon such leave.

For the purposes of this clause:

- (i) An employee shall include a part-time employee but shall not include an employee engaged upon casual or seasonal work.
- (ii) Maternity leave shall mean unpaid maternity leave.

(b) Period of leave and commencement of leave

- (i) Subject to subclauses (c) and (f) hereof, the period of maternity leave shall be for an unbroken period of from 6 to 52 weeks and shall include a period of 6 weeks compulsory leave to be taken immediately following confinement.
- (ii) An employee shall, not less than 10 weeks prior to the presumed date of confinement, give notice in writing to her employer stating the presumed date of confinement.
- (iii) An employee shall give not less than 4 weeks' notice in writing to her employer of the date upon which she proposes to commence maternity leave stating the period of leave to be taken.
- (iv) An employer by not less than 14 days' notice in writing to the employee may require her to commence maternity leave at any time within 6 weeks immediately prior to her presumed date of confinement.
- (v) An employee shall not be in breach of this clause as a consequence of failure to give the stipulated period of notice in accordance with paragraph (iii) hereof, if such failure is occasioned by the confinement occurring earlier than the presumed date.

(c) Transfer to a safe job

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

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

(d) Variation of period of maternity leave

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

(e) Cancellation of maternity leave

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

(f) Special maternity leave and sick leave

- (i) Where the pregnancy of an employee not then on maternity leave terminates after 28 weeks other than by the birth of a living child then
  - (a) she shall be entitled to such period of unpaid leave (to be known as special maternity leave) as a duly qualified medical practitioner certifies as necessary before her return to work, or
  - (b) for illness other than the normal consequences of confinement she shall be entitled, either in lieu of or in addition to special maternity leave, to such paid sick leave as to which she is then entitled and which a duly qualified medical practitioner certifies as necessary before her return to work.
- (ii) Where an employee not then on maternity leave suffers illness related to her pregnancy, she may take such paid sick leave as to which she is then entitled and such further unpaid leave (to be known as special maternity leave) as a duly qualified medical practitioner certifies as necessary before her return to work, provided that the aggregate of paid sick leave, special maternity leave and maternity leave shall not exceed 52 weeks.
- (iii) For the purposes of subclauses (g), (h) and (i) hereof, maternity leave shall include special maternity leave.
- (iv) An employee returning to work after the completion of a period of leave taken pursuant to this subclause shall be entitled to the position which she held immediately before proceeding on such leave or, in the case of an employee who was transferred to a safe job pursuant to subclause (c), to the position she held immediately before such transfer.

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

(g) Maternity leave and other leave entitlements

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

- (i) An employee may, in lieu of or in conjunction with maternity leave, take any annual leave or any part thereof to which she is then entitled.
- (ii) Paid sick leave or other paid authorised award absences (excluding annual leave), shall not be available to an employee during her absence on maternity leave.

(h) Effect of maternity leave on employment

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

(i) Termination of employment

- (i) An employee on maternity leave may terminate her employment at any time during the period of leave by notice given in accordance with this award.
- (ii) An employer shall not terminate the employment of an employee on the ground of her pregnancy or of her absence on maternity leave, but otherwise the rights of an employer in relation to termination of employment are not hereby affected.

(j) Return to work after maternity leave

- (i) An employee shall confirm her intention of returning to her work by notice in writing to the employer given not less than 4 weeks prior to the expiration of her period of maternity leave.
- (ii) An employee, upon expiration of the notice required by paragraph (i) hereof, shall be entitled to the position which she held immediately before proceeding on maternity leave or, in the case of an employee who was transferred to a safe job pursuant to sub-clause (c) to the position which she held immediately before such transfer. Where such position no longer exists but there are other positions available for which the employee is qualified and the duties of which she is capable of performing, she shall be entitled to a position as nearly comparable in status and salary or wage to that of her former position.

(k) Replacement employees

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

- (ii) Before an employer engages a replacement employee under this subclause, the employer shall inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.
- (iii) Before an employer engages a person to replace an employee temporarily promoted or transferred in order to replace an employee exercising her rights under this clause, the employer shall inform that person of the temporary nature of the promotion or transfer and of the rights of the employee who is being replaced.
- (iv) Provided that nothing in this subclause shall be construed as requiring an employer to engage a replacement employee.
- (v) A replacement employee shall not be entitled to any of the rights conferred by this clause except where her employment continues beyond the 12 months' qualifying period.

## **19. MIXED FUNCTIONS**

### **(a) Other than Clerks**

An employee engaged for more than half of one day on duties carrying a higher rate than the employee's ordinary classification shall be paid the higher rate for such day.

An employee engaged for less than half of one day on duties carrying a higher rate than the employee's ordinary classification shall be paid the higher rate for the time so worked, provided that the aggregate time so worked shall exceed 2 hours in any one week. Provided further that this sub-clause shall not apply to employees engaged in a higher capacity on duties specified in Classifications 2, 3 and 4, Section A, sub-clause 1, Clause 8 (Wage Rates).

### **(b) Clerks Only**

Where an employee is called upon to perform 2 or more grades of work in any one day he shall for the purposes of assessing the wages to be paid, be deemed to have worked the whole day at the grade of work for which the highest rate of wages is prescribed.

An employee transferred to perform a grade of work for which a lesser rate of wage is prescribed than that at which he is usually employed shall not be paid at such lesser rate unless he is given a weeks' notice of such change of wage rate.

**This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.**

## **20. OVERTIME**

- (a) For all time of duty in excess of ordinary hours or before the time fixed for commencing work or after the time fixed for ceasing work, payment shall be made at the following rate –

time and one half for the first 3 hours and double time thereafter.

- (b) An employee who is recalled to work overtime after a period of one hour from the time fixed for ceasing work, whether or not he has been notified before ceasing work, shall receive a minimum payment as for 3 hours worked.
- (c) A junior employee under the age of 18 years shall not be required to work overtime unless he or she so desires.
- (d) In computing overtime, each day's work shall stand alone.
- (e) For the purpose of determining the appropriate hourly rate for overtime purposes, the appropriate weekly rates shall be divided by forty. Provided that the word 'forty' shall be replaced by 'thirty-eight' as at 1 February 1988.

## **21. PART-TIME EMPLOYEES**

- (a) Part-time employees engaged to work 20 or more hours per week shall be entitled to the holidays, annual leave and sick leave as prescribed in Clauses 9, 15 and 27, provided that payment therefor shall be made at the rate normally paid to such employees for a similar period of time worked.

The wage rates payable per hour shall be one-fortieth of the relevant weekly wage rate. Provided that as from 1 February 1988, the divisor shall become one thirty-eighth.

- (b) Part-time employees engaged to work less than 20 hours per week shall be paid per hour one-fortieth of the weekly rates prescribed for the work he or she performs. In addition thereto such employees shall receive 20% of the ordinary hourly rate in respect of each hour for which he or she is paid; such additional amount to be payment in lieu of annual leave, sick leave and public holidays.

Provided that as from 1 February 1988, the divisor shall become one thirty-eighth.

- (c) Penalty provisions - penalty rates prescribed in Clauses 16, 20, 26 and 29 herein are applicable to part-time employees.

Provided that in the case of part-time employees in receipt of a 20% loading, the penalty rates shall be calculated in the same manner as applies to casual employees described in Clause 10.

**This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.**

- (d) A part-time employee shall have only one engagement consisting of consecutive hours per day with any one employer. Provided that in establishments employing 5 or less employees broken shifts may be worked by mutual agreement between the employee and the employer.
- (e) No part-time employee shall be employed for less than four hours for work performed on any given day between the hours of 7.00am to 6.00pm.

Provided that where a period of engagement commences during the spread of ordinary hours and continues beyond 6.00pm, the total number of hours worked in that engagement shall be counted for the purposes of determining the minimum period of engagement herein prescribed.

- (f) Where the trading period Monday to Friday is outside the span of hours 7.00am to 6.00pm and the duration of the trading period is less than 4 hours, part-time employees shall receive a minimum payment as for the duration of such trading period.

## **22. PAYMENT OF WAGES**

Wages shall be paid weekly during the employer's time not later than Wednesday in each week, except in respect of the area comprised in the Municipalities of Gormanston, Queenstown, Strahan, Waratah and Zeehan, where payment of wages may be made fortnightly on Friday in each alternate week in working hours. Provided that for a 6 month period commencing on the 1<sup>st</sup> day of January 1977, employers shall have the option of paying wages either weekly or fortnightly during the employer's time not later than Wednesday in each week or fortnight as the case may be.

On the completion of the first full pay period and when any change is made in the weekly rate, the employee shall be notified in writing of the amount of wages to which he is entitled, the amount of deduction made therefrom, and the net amount being paid to him, provided also that such notification shall be given not less often than once in each year of service.

## **23. RATIO OF JUNIORS TO ADULT EMPLOYEES**

- (a) Sales staff and allied classifications other than Clerks

The maximum number of juniors to be employed (during any pay period) shall not exceed the ratio of one junior to every one adult. In establishments which do not comply with this ratio at the time of making this award, no person employed shall be dismissed to enable the ratio to be achieved. As the occasion offers the prescribed proportions should be established without detriment to present employees and within a period of 12 months.

**This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.**

Proviso: In the event of establishments being unable to implement the ratio within the prescribed period the matter will be referred to the Tasmanian Industrial Commission.

(b) Clerks

The maximum number of juniors to be employed shall not exceed the ratio of 2 juniors to every one adult.

**24. RESOLUTION OF DISPUTES RELATING TO IMPLEMENTATION OF THIRTY-EIGHT HOUR WEEK**

In the event of any dispute relating to the implementation of the 38 hour week, the following procedures shall be observed.

- (a) The matter shall in the first instance be discussed at establishment level.
- (b) In the event the matter remains unresolved, the officials of the relevant union may be involved. The employer may seek to involve his employer organisation.
- (c) Should the matter remain unresolved it shall be referred to the Tasmanian Industrial Commission for resolution.
- (d) The above procedure is to be followed without resort to industrial disputation and the parties will in examining any issue have regard to the spirit as well as the letter of the agreement.

**25. REST PERIODS**

Employees who work for 4 hours or more on any day shall be granted one 10 minute rest period. Provided that no rest period shall apply on Saturday morning.

If the work period includes a meal break, the rest period is to be granted in that portion of the work period which is the greater or where such work periods are of equal duration, the rest period of 10 minutes shall be given at a time to be mutually agreed upon.

Provided that employees who work for 6 hours or more on any day shall be granted two 10 minute rest periods, one during the period of work before and one during the period of work after the meal break. All rest period shall be counted as time worked.

**This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.**

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

- (a) For the purposes of interviewing employees on legitimate union business, an officer of an organisation of employees, accredited as hereinafter provided, may enter the employer's premises during regular meal or crib-time of employees on each day of the week on the following conditions:-
- (i) That he produces his authority to the gatekeeper or such other person as may be appointed by the employer for that purpose;
  - (ii) That he interviews employees only at recognised places where they are taking their meal or crib;
  - (iii) That not more than one representative of each of not more than 3 unions be on the premises at any one time;
  - (iv) That no one representative visits the premises more than once in each week; and
  - (v) That if the employer alleges that a representative is unduly interfering with his work or is offensive in his methods or is creating dissatisfaction amongst his employees, or is committing a breach of the previous conditions, the employer may refuse the right of entry, but the representative shall have the right to bring such refusal before the Industrial Commission.
- (b) An officer shall be a duly accredited representative of an organisation if he be the holder for the time being of a certificate which has not been cancelled or revoked, signed by the Secretary and bearing the seal of the organisation and bearing the signature of the holder. The certificate shall be in the following form or in a form not materially different therefrom:-

(Name of Organisation)

This is to certify that.....whose signature appears hereunder, is a duly accredited representative of the abovenamed organisation for the purpose of the Retail Trades Award.

(seal)

.....  
Secretary

.....  
Signature of Holder  
of Certificate

(This certificate is strictly not transferable)

**This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.**

## **27. SATURDAY WORK**

For all time worked on a Saturday, payment shall be made as follows:-

- (a) Where the employer's business premises are regularly open for normal business and require manning on Saturday, payment shall be made at the rate of double time.
- (b) Where the employer's business premises are not open for normal business, payment shall be made at the rate of one and one half times the ordinary rate for the first 2 hours and double time thereafter.
- (c) Subject to Clause 28 – Shorter Working Week – Savings, employees working on Saturday morning shall receive a minimum payment as for 2 hours worked.

## **28. SHORTER WORKING WEEK – SAVING**

As a consequence of the introduction of a thirty-eight hour week from the beginning of the first pay period commencing on or after 1 February 1987, the following savings provisions shall apply.

- (a) Clause 17 – Hours of Work

Employees who prior to 1 February 1987 had regularly worked in the period 7.00 a.m. to 8.00 a.m. Monday to Friday shall continue to receive payment at the rate of time and one half whilst working such hours.

- (b) Clause 27 – Saturday Work

The minimum period of engagement of two hours shall apply only to employees engaged after 1 February 1987. Employees engaged prior to that date shall receive minimum payments as for 3 hours worked, or the trading period, whichever is applicable.

- (c) Clause 32 – Tea Money

Employees who prior to 1 November 1986 were regularly in receipt of a meal allowance shall continue to receive such allowance whilst continuing to work in a similar work pattern, notwithstanding that there may not be an entitlement under the amended clause.

For the purposes of this subclause, 'regularly' shall mean an employee who has received a meal allowance on at least 4 occasions in the 3 months prior to 1 November 1986.

(d) Settlement of Disputes

Any question arising under this clause which cannot be resolved at establishment level may be referred to the Industrial Commission for resolution.

**29. SICK LEAVE**

- (a) An employee other than one engaged as a casual or part-time employee mentioned in subclause (b), Clause 21 of this Award, who is absent from work on account of personal illness or on account of injury by accident shall be entitled to leave of absence without deduction of pay, subject to the following conditions and limitations -
- (i) he shall not be entitled to such leave of absence for any period in respect of which he is entitled to workers' compensation;
  - (ii) he shall, within 48 hours of the commencement of such absence, inform the employer of his inability to attend for work, and as far as may be practicable, state the nature of the illness or injury and the estimated duration of absence;
  - (iii) he shall prove to the satisfaction of the employer (or in the event of a dispute, the Industrial Commission), that he was unable on account of such illness or injury to attend for work on the day or days for which the sick leave is claimed;
  - (iv) he shall not be entitled in any year (whether in the employment of one employer or more) to sick leave credit in excess of seventy six hours of ordinary working time.
  - (v) For the purpose of administering paragraph (iv) of this sub-clause, an employer may within one month of this award coming into operation or within 2 weeks of the employee entering his employment require an employee to make a sworn declaration or other written statement as to what paid leave of absence he has had from any employer during the then current year, and upon such statement the employer shall be entitled to rely and act.
- (b) Sick leave shall accumulate from year to year so that any balance of the period specified in subclause (a)(iv) of this Clause which has in any year not been allowed to an employee by an employer as paid sick leave shall be credited to the employee and, subject to the conditions hereinbefore prescribed shall be allowed by that employee in a subsequent year without diminution of the sick leave prescribed in respect of that year.
- (c) An employer shall not be required to make any payment in respect of accumulated sick leave credits to an employee who is discharged or leaves his employment, or for any time an employee is absent from work without producing satisfactory evidence of personal illness.

**This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.**

- (d) Any sick leave accumulation standing to the credit of an employee as at 1 February 1987, shall be adjusted in the ratio of 38/40.

### **30. STEWARD**

An employee appointed steward in the shop, office or department in which he is employed shall, upon notification thereof to his employer, be recognised as the accredited representative of the union to which he belongs, and he shall be allowed the necessary time during working hours to interview the employer or his representative on matters affecting employees whom he represents, provided that if the steward so requests it, he may be accompanied at such interview by another employee, and/or by his union official.

### **31. SUNDAY WORK**

For all time of duty on a Sunday, payment shall be made at the rate of double time, with a minimum payment as for 4 hours worked.

### **32. TEA MONEY**

- (a) Subject to Clause 28 – Shorter Working Week – Saving, an employee who has worked six hours or more during ordinary time and who is required to work overtime for more than one and a half hours shall be either supplied with an adequate meal by the employer or be paid \$4.80 meal money.
- (b) Any dispute as to what constitutes an adequate meal shall be referred to and decided by the Industrial Commission.
- (c) The payment prescribed in sub-clause (a) shall be made on the day on which the overtime is worked, prior to the meal break being taken.

**This document is translated from the original order and is not in itself a legal document. No responsibility is taken for any discrepancy that may arise between this document and the order that was printed and published by the Printing Authority of Tasmania.**

### **33. TRAVELLING TIME**

When an employee is required to work overtime beyond a time when public transport is available the employer shall be required to provide transport or meet the cost of transport to the employee travelling to his home. Where an employee uses his own means of transport he shall be paid a travelling allowance of 9.2 cents per kilometre travelled on his return to home by the most direct road route.

**R.J. WATLING**  
**COMMISSIONER**

21 January 1987.