

Vol. 359, Part 2

19 May 2006

Pages 169 - 418



NEW SOUTH WALES
INDUSTRIAL GAZETTE

Printed by the authority of the
Industrial Registrar
50 Phillip Street, Sydney, N.S.W.

ISSN 0028-677X

CONTENTS

Vol. 359, Part 2

19 May 2006

Pages 169 - 418

		Page
Awards and Determinations -		
Awards Made or Varied -		
Boral Peats Ridge Quarry (State)	(AIRC)	223
Building and Construction Industry (State)	(VIRC)	388
Building Crane Drivers (State)	(VIRC)	396
Building Employees Mixed Industries (State)	(VIRC)	390
Crown Employees (NSW Fire Brigades Firefighting Staff) Award 2005	(VIRC)	383
Crown Employees (NSW Fire Brigades Retained Firefighting Staff) Award 2005	(VIRC)	381
Crown Employees (Public Service Conditions of Employment) Reviewed Award 2006	(ERR)	414
Crown Employees (Skilled Trades)	(VIRC)	401
	(VIRC)	402
Crown Employees NSW Adult Migrant English Service (Teachers and Related Employees) Award 2006	(AIRC)	169
Crown Employees Wages Staff (Rates of Pay) Award 2005	(VIRC)	356
Divisions of General Practice (State)	(VIRC)	357
Engine Drivers, &c., General (State)	(VIRC)	398
Glass Workers (State)	(VIRC)	412
Government Railways (Building Trades Construction Staff)	(VIRC)	407
Government Railways (Building Trades Maintenance Staff)	(VIRC)	409
Hunter Water Corporation Employees (State) Award 1999	(VIRC)	353
Joiners (State)	(VIRC)	392
Local Government (State) Award 2004	(VIRC)	348
Mainteck Services Pty Ltd Port Kembla Slab Caster Segment Workshop Industrial Award	(AIRC)	191
New South Wales Lotteries Corporation (Salaries, Allowances and Conditions of Employment) 2004 Award	(VIRC)	385
Plant, &c., Operators on Construction (State)	(VIRC)	394
Plasterers, Shop Hands and Casters (State) Consolidated	(VIRC)	404
School Support Staff (Archdiocese of Sydney, Dioceses of Broken Bay and Parramatta) (State) Award 2005	(VIRC)	345
Social and Community Services Employees (State)	(VIRC)	373
Spastic Centre of New South Wales (Allied Professional Staff) (State) Award 2004	(AIRC)	248
Spastic Centre of New South Wales Enterprise (State)	(VIRC)	365
State Transit Authority of New South Wales Ferries (State)	(VIRC)	378
Sydney Water Award 2004	(VIRC)	343
	(VIRC)	350
Teachers (Non-Government Early Childhood Service Centres Other Than Pre-Schools) (State) Award 2006	(AIRC)	307
Teachers (Non-Government Pre-Schools) (State) Award 2006	(AIRC)	275
Unions NSW Port Kembla Steelworks Construction Award 2006	(AIRC)	256
Enterprise Agreements Approved by the Industrial Relations Commission		415

**CROWN EMPLOYEES NSW ADULT MIGRANT ENGLISH SERVICE
(TEACHERS AND RELATED EMPLOYEES) AWARD 2006**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by NSW Department of Education and Training.

(No. IRC 1048 of 2006)

Before The Honourable Justice Schmidt

9 March 2006

AWARD**PART A****1. Arrangement**

Clause No.	Subject Matter
1.	Arrangement
2.	Statement of Intent
3.	Dictionary
4.	Professional Responsibilities of Teachers
5.	Duties as Directed
6.	Teachers and Related Employees - Annual Review
7.	Performance Management for Operations Managers
8.	Salaries
9.	Salary Packaging
10.	Salary Scale Progression Arrangements
11.	Allowances
12.	Unpaid Absences
13.	Part-Time Work
14.	Hours
15.	Averaging of Hours
16.	Annual Leave and Weeks of Non-Attendance
17.	Sick Leave
18.	Family and Community Service Leave
19.	Personal/Carer's Leave
20.	Adoption, Maternity and Parental Leave
21.	Conditions of Employment - Casual Teachers
22.	Professional Development
23.	AMES Year
24.	Transfer Procedures
25.	Anti-Discrimination
26.	Dispute Resolution Procedures
27.	Goods and Services Tax
28.	Flexible Working Arrangements
29.	Deduction of Union Membership Fees
30.	No Further Claims
31.	Secure Employment Test Case - OHS Obligations
32.	Area, Incidence and Duration

PART B

MONETARY RATES

Table 1 - Salaries

Table 2 - Other Rates

2. Statement of Intent

- 2.1 The purpose of this award is to provide salaries and conditions of employment for AMES teachers and related employees that will:
- 2.1.1 attract and retain highly skilled employees
 - 2.1.2 acknowledge the professional status and responsibilities of AMES teachers and related employees and their commitment to the achievement of excellence in the delivery of teaching and training programs and related services;
 - 2.1.3 support the active involvement and participation of AMES teachers and related employees in the professional growth of the organisation;
 - 2.1.4 take into account the changes that are taking place in respect of AMES service delivery;
 - 2.1.5 take into account the specific finding and contractual arrangements that may apply to AMES and the competitive environment in which it operates.
- 2.2 Except where specific provision is otherwise made in this award, the administration of attendance, leave and absences of AMES teachers and related employees shall be managed in accordance with the relevant provisions of the *Public Sector Employment and Management Act 2002* and NSW Government Personnel Handbook.

3. Dictionary

- 3.1 "AMES" means the New South Wales Adult Migrant English Service.
- 3.2 "Casual Teacher" means a person employed to teach a course or courses on an hourly basis. A "400 hour Casual Teacher" means a casual teacher who has completed the equivalent of 400 hours teaching service in any teaching year. A "Less than 400 hour Casual Teacher" means a casual teacher who has completed less than 400 hours teaching service in any teaching year.
- 3.3 "Co-ordinator Course Information and Admissions" means an officer or temporary employee appointed, employed or seconded as such.
- 3.4 "Co-ordinator of Studies" means an officer or temporary employee appointed, employed or seconded as such.
- 3.5 "Degree Course" means a university or college of advanced education degree course approved by the Director.
- 3.6 "Department" means the NSW Department of Education and Training.
- 3.7 "Director" means the Director, Community and Migrant Education.
- 3.8 "Director-General" means the Director-General of Education and Training.
- 3.9 "Educational Counsellor" means an officer or temporary employee appointed, employed or seconded as such.

- 3.10 "Education Officer" means an officer or a temporary employee appointed, employed or seconded as such.
- 3.11 "Equivalent" when referring to qualifications means qualifications and/or experience deemed by the Director to be equivalent to specified qualifications.
- 3.12 "Federation" means the New South Wales Teachers Federation.
- 3.13 "Five Year Trained" in relation to a teacher means a teacher whose teaching qualifications include a degree with honours of a recognised university which requires a minimum of four years full-time study, and has in addition, completed one year's teacher training at a university or college of advanced education approved by the Director or has completed such other course or courses and/or has vocational experience which the Director may, from time to time, deem to be equivalent.
- 3.14 "Four Year Trained" in relation to a teacher means a teacher whose teaching qualifications include a degree of a recognised university or college which requires a minimum of three years full-time study, and has in addition, completed one year's teacher training at a university or college of advanced education approved by the Director or has completed such other course or courses and/or has vocational experience which the Director may, from time to time, deem to be equivalent.
- 3.15 "Full-time Temporary Teacher" means a person employed and designated as such under Section 27 of the *Public Sector Employment and Management Act 2002*.
- 3.16 "Graduate" means a person who has obtained a degree of a recognised university or college or possesses qualifications deemed by the Director to be equivalent to such a degree.
- 3.17 "Officer" means a person employed in any capacity under Part 2, of the *Public Sector Employment and Management Act 2002*, and includes an officer on probation but does not include a temporary employee.
- 3.18 "Operations Manager" means an officer appointed as such.
- 3.19 "Permanent Teacher" means an officer appointed as such in the AMES pursuant to the provisions of the *Public Sector Employment and Management Act 2002*.
- 3.20 "Program" means a learning arrangement or composite of learning arrangements under the management of an operations manager.
- 3.21 "Region" means an area designated as such by the Director including one or more venues.
- 3.22 "Senior Education Officer" means an officer or a temporary employee appointed, employed or seconded as such.
- 3.23 "Teacher" means an officer, temporary employee or casual employee appointed or employed as such.
- 3.24 "Teachers and related employees" means all officers and temporary employees covered by this award and includes casual, permanent and full-time temporary teachers, education officers and senior education officers, co-ordinators of studies, co-ordinators of course information and admissions and operations managers.
- 3.25 "Teaching Centre" means a location designated as such by the Director that may include one or more teaching venues.
- 3.26 "Temporary Employee" means a person temporarily employed under Section 27 of the *Public Sector Employment and Management Act 2002*.
- 3.27 "Year of Service" means full-time employment for a period of 52 weeks or the equivalent. Future employees shall be deemed to have the incremental status indicated by the rate of pay at which they are employed.

4. Professional Responsibilities of Teachers

- 4.1 In order to foster and sustain a collaborative professional culture and in keeping with their professional status and their commitment to the achievement of excellence in the delivery of teaching and training programs and related services, teachers shall as part of their professional responsibilities:
- (i) maintain and exhibit the highest standards of conduct;
 - (ii) ensure that in the performance of their teaching and associated duties, AMES policies, standards and practices are observed;
 - (iii) work collaboratively with their colleagues in helping to ensure that essential organisational goals and objectives are met;
 - (iv) provide peer support and leadership to less experienced teachers or to teachers experiencing performance difficulties;
 - (v) participate in working groups and staff meetings as required, to develop and enhance professional knowledge and to improve practices and procedures;
 - (vi) contribute to the development of curricula, teaching materials and resources which support the achievement of excellence in the delivery of teaching and training programs and related services; and
 - (vii) participate in the ongoing moderation of the assessment of student achievements.

5. Duties as Directed

- 5.1 The Director or her/his nominee may direct any employee to carry out such duties as are within the limits of the person's skill, competence and training consistent with the classifications covered by this award and provided that such duties are not designed to promote deskilling.
- 5.2 The Director or her/his nominee may direct any employee to carry out such duties and use such tools, materials and equipment as may be required, provided that the officer has been properly trained in the use of such tools, materials and equipment.
- 5.3 Any directions issued by the Director pursuant to this clause shall be consistent with the Director's responsibility to provide a safe and healthy working environment.
- 5.4 The Director may from time to time deploy teachers to duties other than face-to-face teaching duties in accordance with guidelines designed to increase the efficiency of AMES. Deployments will be for a predetermined period not exceeding one year.
- 5.5 Teachers perform a broad range of duties that include the following activities:

Direct Teaching Activities	Duties Related to Teaching
Direct teaching activities include but are not limited to: - face to face teaching in any environment or setting, including but not limited to: classrooms, individual learning centres, educational computer rooms, workshops, industry, in the field; distance mode and online; assessment of new students; workplace training and assessment.	Duties related to teaching include but are not limited to: preparation; marking; assessment and recording of student learning outcomes; support and advice to clients; attendance administration; course development and review; training and professional development; development of learning materials; attendance at staff meetings and moderation sessions;

	recognition of prior learning; referral of new students; workplace consultancy and advisory services; work placement coordination and supervision.
--	---

- 5.6 Education Officers, Senior Education Officers and Operations Managers perform a range of duties as stated in their Statement of Duties.

6. Teachers and Related Employees - Annual Review

- 6.1 To provide feedback on performance, the Director or nominee will ensure that the performance of all teachers and related employees, except casual teachers and operations managers, is appraised by annual review.
- 6.2 This annual review shall be supported by:
- (i) conferences between the teacher or related employee and the operations manager or nominee;
 - (ii) review of documentation such as lesson planning, lesson material and student work, plans, evaluations and reports, as appropriate; and
 - (iii) for teachers, observations of educational programs.
- 6.3 The annual review for teachers and related employees shall be reported by way of a NSW AMES Teachers and Related Employees Assessment Review Form.
- 6.4 Concerns about the performance and or conduct of teachers and related employees shall be managed in accordance with the *Public Sector Employment and Management Act 2002* as outlined in Part 2.7 of that Act and as detailed in Chapter 9 of the NSW Government Personnel Handbook.

7. Performance Management for Operations Managers

- 7.1 The performance of operations managers shall be reviewed annually under a performance management scheme.
- 7.2 The objectives of the performance management scheme for operations managers are to:
- (i) establish clear individual performance goals linked to, and consistent with, AMES goals and priorities and regional plans and objectives;
 - (ii) identify each employee's current and medium term development needs and career goals and develop strategies to support these;
 - (iii) assist with the achievement of AMES long term objectives and annual priorities;
 - (iv) provide for each employee a valid basis for performance assessment against job-related criteria;
 - (v) provide job-related guidance and performance feedback in a continuing way.
- 7.3 Appropriate training will support the implementation of the scheme.
- 7.4 Concerns about the performance and or conduct of operations managers shall be managed in accordance with the *Public Sector Employment and Management Act 2002* as outlined in Part 2.7 of that Act and as detailed in Chapter 9 of the NSW Government Personnel Handbook.

8. Salaries

- 8.1 The salaries and other rates that apply to teachers, education officers, senior education officers and operations managers shall be paid in accordance with this clause and Tables 1 and 2 of Part B of this award.

9. Salary Packaging

- 9.1 Officers may participate in the Department's salary packaging scheme.
- 9.2 Salary packaging does not apply to casual or temporary employees.

10. Salary Scale Progression Arrangements

- 10.1 Permanent teachers and full-time temporary teachers who meet the admission requirements as determined by the Director shall commence at a level not less than the first step on the common salary scale, provided that teachers who are four-year trained or five-year trained shall commence on the common salary scale at a level not less than:

Four-year trained	2nd salary level
Five-year trained	3rd salary level

- 10.2 Education officers who meet the admission requirements as determined by the Director shall commence at a level not less than the first step on the common salary scale, provided that graduate education officers - not teacher-trained and graduate education officers - teacher-trained, shall commence on the common salary scale at a level not less than:

Graduate - not teacher-trained	2nd salary level
Graduate - teacher-trained	3rd salary level

- 10.3 Employees shall be entitled to progress after each 12 months of service along the salary steps of the common salary scale, subject to the employee demonstrating continuing satisfactory performance in accordance with the Teacher Quality - Annual Review provisions set out in clause 5.
- 10.4 Any employee whose initial employment is approved on or after 1 January 1992, and who does not satisfy the teacher training requirements as determined by the Director, will not progress more than two salary steps along the common salary scale.

11. Allowances

- 11.1 An education officer who:
- 11.1.1 has completed 12 months service at the salary prescribed on the maximum of the common salary scale; and
- 11.1.2 has demonstrated to the satisfaction of the Director by the work performed, its quality and the results achieved, that the aptitude and abilities of the employee warrant additional payment;
- shall be paid an allowance as set out in Item 1 of Table 2 - Other Rates of Part B, Monetary Rates, and after a further 12 months an additional allowance as set out in the said Item 1. This allowance shall count as salary and be paid for all purposes.
- 11.2 The operations manager may nominate a teacher to undertake responsibilities associated with the supervision and administration of smaller teaching venues and/or smaller evening or weekend teaching programs.
- 11.3 A teacher nominated by the operations manager who accepts and undertakes such responsibilities shall for the period that the responsibilities are undertaken be paid an allowance as set out in Item 2 of Table 2 - Other Rates, of Part B, Monetary Rates. This allowance shall not count as salary.

- 11.4 The Director may release the nominated teacher from face-to-face teaching duties as necessary to undertake these responsibilities.

12. Unpaid Absences

- 12.1 Unpaid absences in excess of five days per annum shall not be taken into account for the purposes of calculating length of service except in relation to leave approved pursuant to subclause 19.2.

13. Part-Time Work

- 13.1 Any permanent officer may apply to work part-time at any time, subject to the appropriate work being available for the position and it is convenient to AMES.
- 13.2 Arrangements of between 0.2 and 0.8 equivalent full-time may in general be worked in patterns mutually convenient to the AMES and the teacher.
- 13.3 Part-time teachers shall be required to undertake, on a pro-rata basis, the full range of duties undertaken by full-time teachers.
- 13.4 Salary and conditions for approved part-time work shall attract a pro-rata entitlement of that associated with full-time permanent or temporary employment.
- 13.5 "Pro-rata entitlement" shall be taken to mean a calculation in which the quantum of hours, leave, pay or other remuneration is determined by multiplying the quantum applicable to full-time teachers by the appropriate equivalent full-time (eg 0.2 to 0.8).
- 13.6 Service shall not be regarded as having been broken by permanent part-time work.

14. Hours

- 14.1 The daily span of working hours for teachers, education officers, senior education officers, co-ordinators of studies, co-ordinators of course information and admissions and operations managers is between 6.00 a.m. and 10.00 p.m. on Monday to Saturday inclusive. Teachers and related employees who are required as part of their program to work on a Saturday shall, if they so request, be entitled to have two consecutive days off in the following week.
- 14.2 Teachers, education officers and senior education officers may elect to work on a Sunday or on a Monday to Friday between the hours of 10.00pm and 7.30am but shall not be directed to do so.
- 14.3 A teacher may apply to the Director to exclude Saturday from their ordinary attendance pattern for a period not exceeding 12 months on compassionate grounds where there are exceptional and compelling circumstances. Written applications for such exclusion must contain full and substantiated grounds and supporting documents, where appropriate.
- 14.4 The standard hours of attendance for permanent and full-time temporary teachers shall be 30 hours per week inclusive of 20 face to face teaching hours per week, except where such face to face teaching hours are reduced with the approval of the Director for the purpose of undertaking alternative duties.
- 14.5 The standard hours of attendance for education officers, senior education officers and operations managers shall be 35 hours per week.
- 14.6 Standard hours of attendance excludes time taken for meal breaks.
- 14.7 Ordinary attendance patterns within the daily span of hours for teachers, education officers and senior education officers shall be arranged by the operations manager.
- 14.8 Teachers shall be invited to submit their attendance pattern preferences in June and December each year. In arranging ordinary attendance patterns within the daily span of hours operations managers shall, to the extent possible and practicable, accommodate such preferences. Where there are difficulties in

accommodating attendance pattern preferences there will be consultation with the teachers at the teaching location(s) concerned to enable them collectively or individually to make recommendations to resolve the difficulties. In the event that the difficulties are not resolved through consultation with teachers, the operations manager shall apply the principle of rotation and no teacher shall unreasonably refuse.

- 14.9 Teachers and related employees may be required to work on any five days from Monday to Saturday as part of their program. However, with the approval of the operations manager and subject to AMES requirements being met, a teacher's ordinary attendance pattern may be undertaken across four days and/or day/evening configuration.
- 14.10 The hours of attendance for non-teaching duties may be arranged by teachers in consultation with the operations manager provided that the requirements of AMES are met at all times.
- 14.11 Face-to-face teaching hours required to be worked by permanent and full-time temporary teachers as part of their teaching program during the following time bands shall be paid at time and one-quarter of their ordinary rate:

6.00 am and 7.30 am Monday to Friday;
5.30 pm and 10.00 pm Monday to Friday.

- 14.12 Work undertaken by permanent and full-time temporary teachers as part of their teaching program during the following time bands shall be paid at time and one-quarter of their ordinary rate:

6.00 am and 5.30 pm Saturday.

- 14.13 Work undertaken by permanent and full-time temporary teachers as part of their teaching program during the following time bands shall be paid at double time of their ordinary rate:

5.30 pm Saturday to 6.00 am Monday;

10.00 pm to 6.00 am weekdays;

Midnight Friday to 6.00 am Saturday.

15. Averaging of Hours

- 15.1 Notwithstanding the provisions of sub-clause 14.4 of clause 14 Hours, the 20 face to face teaching hours per week may be averaged on a semester or program basis, provided that the arrangement is known in advance and provided that for the duration of the averaging period the teacher shall continue to receive her/his normal fortnightly or weekly pay.
- 15.2 In scheduling such hours the operations manager shall to the extent possible and practicable, accommodate teacher's attendance preference patterns. Where there are difficulties in scheduling such hours, the operations manager shall consult with the teachers at the teaching location(s) concerned to enable them collectively or individually to make recommendations to resolve the difficulties. In the event that the difficulties are not resolved through consultation with teachers, the operations manager shall apply the principle of rotation and no teacher shall unreasonably refuse.
- 15.3 The operations manager shall ensure that the face to face teaching hours in any one week do not exceed 24 per week.
- 15.4 If a teacher leaves the AMES prior to completion of the relevant settlement period an appropriate credit or debit adjustment to the teacher's payment on termination shall be made.
- 15.5 The adjustment shall reflect the difference between the total of the hours actually worked (including any period of approved leave in the relevant period) and the total of the hours that would have been worked in the relevant period but for the averaging arrangement.

- 15.6 Where applicable, evening and weekend loadings in accordance with clauses 14.11, 14.12 and 14.13 shall apply to hours worked as part of an averaging arrangement.

16. Annual Leave and Weeks of Non-Attendance

- 16.1 Subject to the operation of subclause 22.4 of clause 22 AMES Year, and in lieu of the provisions under the *Annual Holidays Act 1944* the following classifications of employees shall not be required to attend their place of employment for the number of weeks as set out in the following schedule:

Classification	Annual Leave Weeks	Weeks of Non Attendance
Permanent Teacher	4	7
Full-time Temporary Teacher	4	7
Operations Manager	4	Nil
Senior Education Officer	4	Nil
Education Officer	4	Nil

- 16.2 Except where provision is otherwise made in this award, agreed non-attendance will be deemed to be in lieu of additional work.
- 16.3 Permanent teachers and full-time temporary teachers who are deployed for periods not exceeding 12 weeks to positions which would otherwise not be in receipt of equivalent leave and agreed non-attendance will retain their leave and agreed non-attendance as provided by clause 16.1 hereof.

17. Sick Leave

- 17.1 Permanent teachers, full-time temporary teachers, education officers, senior education officers and operations managers shall be entitled to 15 days sick leave per annum with the unused component of the annual entitlement being fully cumulative.
- 17.2 Additional sick leave in the first two years of service:
- 17.2.1 The provisions of this paragraph shall only apply to permanent and full-time temporary teachers.
- 17.2.2 The maximum grant of additional sick leave during the first 2 years of service is 15 days.
- 17.2.3 Additional sick leave provided by this clause is available at any stage during the teacher's first two years of service but will only be granted in circumstances where:
- (a) there is no current concern regarding the teacher's use of sick leave;
 - (b) all sick leave entitlements have been exhausted.

18. Family and Community Service Leave

- 18.1 The Director shall, in the case of emergencies or in personal or domestic circumstances, grant to an employee some or all of the available family and community service leave on full pay.
- 18.2 Such cases may include, but are not limited to, the following:
- 18.2.1 compassionate grounds, such as the death or illness of a close member of the family or a member of the staff member's household;
- 18.2.2 accommodation matters up to one day, such as attendance at court as defendant in an eviction action, arranging accommodation, or when required to remove furniture and effects;
- 18.2.3 emergency or weather conditions such as when flood, fire or snow, etc. threaten and/or prevent an employee from reporting for duty;

- 18.2.4 other personal circumstances, such as citizenship ceremonies, parent/teacher interviews or attending a child's school for other reasons.
- 18.3 Attendance at court by an employee to answer a charge for a criminal offence, if the Director considers the granting of family and community service leave to be appropriate in a particular case.
- 18.4 Employees who are selected to represent Australia or the State as competitors in major amateur sport (other than Olympic or Commonwealth Games).
- 18.5 Employees who hold office in Local Government other than as a Mayor of a Municipal Council, President of a Shire Council or Chairperson of a County Council, to attend meetings, conferences or other duties associated with that office where those duties necessitate absences during normal working hours.
- 18.6 The maximum amount of family and community service leave on full pay which may, subject to this award, be granted to an employee shall be the greater of the leave provided in subparagraph 18.6.1 and 18.6.2:
- 18.6.1 two and a half working days in the employee's first year of service and, on completion of the employee's first year of service, five working days in any period of two years;
- 18.6.2 after the completion of two years' continuous service, the available family and community service leave is determined by allowing one day's leave for each completed year of service, less the total amount of short leave or family and community service leave previously granted to the employee.
- 18.7 If the available family and community service leave is exhausted as a result of natural disasters, the Director shall consider applications for additional family and community service leave, if some other emergency arises.
- 18.8 In cases of illness of a family member for whose care and support the employee is responsible, paid sick leave in accordance with sub clause 19.1 of clause 19 Personal/Carer's Leave, shall be granted when paid family and community service leave has been exhausted.
- 18.9 On the death of a person defined in subparagraph 19.1.3 (b) of clause 19 Personal/Carer's Leave, additional paid family and community service leave of up to two days may be granted on a discrete, per occasion basis to an employee.
- 18.9.1 The employee must notify the Director as soon as practicable of the intention to take bereavement leave and will, if required by the Director, provide to the satisfaction of the Director proof of death.
- 18.9.2 An employee shall not be entitled to bereavement leave under this clause during any period in respect of which the employee has been granted other leave.
- 18.9.3 Bereavement leave may be taken in conjunction with other leave available under paragraphs 19.2, 19.3, 19.4 and 19.5. In determining such a request, the Director will give consideration to the circumstances of the employee and the reasonable operational requirements of the AMES.

19. Personal/Carer's Leave

- 19.1 Use of Sick Leave for the purpose of providing care and support to a member of a class of person set out in sub paragraph 19.1.3 (b), who is ill.
- 19.1.1 An employee, other than a casual employee, with responsibilities in relation to a class of person set out in sub paragraph 19.1.3 (b) below, who needs the employee's care and support shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement provided for in clause 17 Sick Leave, for absences to provide care and support for such persons when they are ill. Such leave may be taken for part of a single day.

19.1.2 The employee shall, if required, 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 person.

19.1.3 The entitlement to use sick leave in accordance with this paragraph is subject to:

- (a) the employee being responsible for the care of the person concerned; and
- (b) the person concerned being:
 - (1) a spouse of the employee; or
 - (2) a de facto spouse who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as husband or wife of that person on a bona fide domestic basis although not legally married to that person; or
 - (3) a child or an adult child (including an adopted child, a stepchild, a foster child or an ex-nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
 - (4) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide basis; or
 - (5) a relative of the employee who is a member of the same household where, for the purposes of this section:
 - (i) "relative" means a person related by blood, marriage, affinity or Aboriginal kinship structures;
 - (ii) "affinity" means a relationship that one spouse, because of marriage, has to blood relatives of the other; and
 - (iii) "household" means a family group living in the same domestic dwelling.

An employee, shall wherever practicable, give the Director notice, prior to the absence of the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give notice of absence, the employee shall notify the Director by telephone of such absence at the first opportunity on the day of absence.

19.2 Use of unpaid Leave for Family Purpose - An employee may elect, with the consent of the Director, to take unpaid leave for the purpose of providing care and support to a member of a class of person set out in sub paragraph 19.1.3 (b) above, who is ill.

19.3 Use of Annual Leave for the purpose of providing care and support to a member of a class of person set out in sub paragraph 19.1.3 (b) above, who is ill.

19.3.1 An employee may elect, with the consent of the Director, subject to the *Annual Holidays Act* 1944, to take annual leave not exceeding ten days in single day periods or part thereof, in any calendar year at a time or times agreed by the parties.

19.3.2 Access to annual leave, as prescribed in subparagraph 19.3.1 above, shall be exclusive of any shutdown period provided for elsewhere under this award.

- 19.3.3 An employee may elect with the Director's agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.
- 19.4 Use of Time Off in Lieu of Payment for Overtime for the purpose of providing care and support to a member of a class of person set out in sub paragraph 19.1.3 (b) above, who is ill.
- 19.4.1 An employee may elect, with the consent of the Director, to take time off in lieu of payment for overtime at a time or times agreed with the Director within twelve (12) months of the said election.
- 19.4.2 Overtime taken as time off during ordinary time hours shall be taken at ordinary time rate, that is an hour for each hour worked.
- 19.4.3 If, having elected to take time as leave in accordance with subparagraph 19.4.1 above, the leave is not taken for whatever reason, payment for time accrued at overtime rates shall be made at the expiry of the twelve month period or on termination.
- 19.4.4 Where no election is made in accordance with subparagraph 19.4.1 above, the employee shall be paid overtime rates in accordance with the award.
- 19.5 Make-up Time - An employee may elect, with the consent of the Director, to work 'make-up time' under which the employee takes time off ordinary hours for the purpose of providing care and support to a member of a class of person set out in sub paragraph 19.1.3 (b) above, who is ill, and works those hours at a later time, during the spread of ordinary hours provided in the award, at the ordinary rate of pay.

20. Adoption, Maternity and Parental Leave

- 20.1 Adoption, maternity and parental leave conditions of employees under this Award shall be regulated in accordance with the provisions contained within the *Public Sector Employment and Management Act 2002* and Regulation and will be in addition to those set out in the *Industrial Relations Act 1996* (NSW) and Regulation.
- 20.2 On and from 1 January 2006 AMES teachers and related employees shall be entitled to adoption, maternity and parental leave in accordance with the relevant provisions of the Crown Employees (Public Service Conditions of Employment) Award 2002 (357 I.G. 1108) as varied, or its successor.
- 20.3 Right to Request
- 20.3.1 An employee entitled to adoption, maternity and parental leave may request the Director to allow the employee:
- (i) to extend the period of simultaneous unpaid parental leave use up to a maximum of eight weeks;
 - (ii) to extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;
 - (iii) 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.
- 20.3.2 The Director 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 Director's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

20.3.3 The employee's request and the Director's decision made under 20.3.1 (ii) and 20.3.1 (iii) must be recorded in writing.

20.3.4 Where an employee wishes to make a request under 20.3.1(iii), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

20.4 Communication During Adoption, Maternity and Parental Leave

20.4.1 Where an employee is on parental leave and a definite decision has been made to introduce a significant change at the workplace, the Director shall take reasonable steps to:

- (i) 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
- (ii) 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.

20.4.2 The employee shall take reasonable steps to inform the Director 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.

20.4.3 The employee shall also notify the Director of changes of address or other contact details which might affect the Director's capacity to comply with 20.4.1.

21. Conditions of Employment - Casual Teachers

21.1 Annual Leave

No casual teacher shall receive annual leave, as a component for leave is included in the hourly rates.

21.2 Leave Loading

21.2.1 A 400 hour teacher shall be entitled to an annual leave loading calculated according to the following formula:

$$17.5\% \times \text{Hourly Rate} \times 80 \times \frac{\text{Teaching hours}}{\text{years of service}}$$

21.2.2 A less than 400 hour teacher shall be entitled to an annual leave loading calculated according to the above formula, provided that 'teaching hours' shall be the hours completed since the most recent start, notwithstanding course breaks.

21.2.3 Full-time temporary service shall not be taken into account in determining entitlement to annual leave loading.

21.3 Sick Leave

21.3.1 Pre 400 Hours

A casual teacher who has:

- (a) completed less than 400 hours of paid duty in any teaching year; and

- (b) worked four successive weeks in the current period,

Is eligible to take as paid sick leave 1/10 of the continuous hours worked in the current engagement.

The maximum amount of paid leave in each teaching year is 80 hours. Unused hours are not credited to the next year.

If service is not continuous, excluding course breaks, each period of service becomes a separate accrual period for the purposes of sick leave.

21.3.2 Post 400 Hours

A casual teacher who has completed 400 hours of paid duty in any teaching year is eligible to take as paid sick leave:

- (a) 66 hours on full pay; and
- (b) six hours for every 36 hours of duty completed in excess of 400; and
- (c) any sick leave already taken as a pre 400 hour teacher,

to a maximum of 132 hours in any teaching year.

At the commencement of each year, a 400 hour casual teacher shall be credited with the unused sick leave accrued in the previous year.

21.3.3 General

There is no paid sick leave in advance of accrual.

21.4 Family and Community Services Leave

21.4.1 There is no entitlement to family and community services leave prior to completing 400 hours of paid duty in any teaching year. On completing 400 hours of paid duty in any teaching year, a casual teacher is eligible to apply for family and community services leave for extraordinary and pressing absences on rostered working days.

21.4.2 Within a teaching year, entitlement will accrue as follows:

400 - 531 hours of duty	6 hours leave
532 - 799 hours of duty	8 hours leave
800 + hours of duty	12 hours of leave

21.4.3 Unused credit shall not carry over from one year to another. Service shall not carry over from one year to the next, for the purposes of determining entitlement.

21.5 Special Leave

21.5.1 There is no entitlement to special leave prior to completing 400 hours of paid duty in any teaching year. On completing 400 hours of paid duty in a teaching year, a casual teacher is eligible to apply for special leave for absences of the nature of those listed below and which occur on rostered working days:

- (a) interpreting in court;
- (b) examination in a course of study;
- (c) graduation;

- (d) State emergencies;
- (e) jury service;
- (f) blood donation (if not possible in own time); and
- (g) any other reason which in the opinion of the Director warrants the grant of special leave.

21.5.2 Service shall not carry over from one year to the next, for the purposes of determining entitlement.

21.6 Parental Leave

21.6.1 Employees will be entitled to unpaid parental leave under Chapter 2, Part 4, Division 1, Section 54 Entitlement to Unpaid Parental leave, *Industrial Relations Act 1996*, if they meet the definition of a regular casual employee (see section 53 (2) of the *Industrial Relations Act 1996*). The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).

21.6.2 The Director must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:

- (a) the employee or employee's spouse is pregnant; or
- (b) the employee is or has been immediately absent on parental leave.

The rights of the Director in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.

21.7 Leave Without Pay - Casual teachers are not granted leave without pay.

21.8 Study Leave - Casual teachers are not granted leave for study.

21.9 Personal Carers Leave

21.9.1 Casual teachers are entitled to not be available to attend work, or to leave work if they need to care for a family member described in clause 19.1.3 (b) of the award who is sick and requires care and support, or who requires care due to an unexpected emergency, or the birth of a child. This entitlement is subject to the evidentiary requirements set out in 21.9.4(a), and the notice requirements set out in 21.9.4(b).

21.9.2 The Director and the casual teacher shall agree on the period for which the casual teacher will be entitled to not be available to attend work. In the absence of agreement, the casual teacher is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual teacher is not entitled to any payment for the period of non-attendance.

21.9.3 The Director must not fail to re-engage a casual teacher because the casual teacher accessed the entitlements provided for in this clause. The rights of the Director to engage or not to engage a casual teacher are otherwise not affected.

21.9.4 The casual teacher shall, if required,

- (a) 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 person, or
- (b) establish by production of documentation acceptable to the Director or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the casual teacher.

In normal circumstances, a casual teacher must not take carer's leave under this subclause where another person had taken leave to care for the same person.

21.9.5 The casual teacher must, as soon as reasonably practicable and during the ordinary hours of the first day or shift of such absence, inform the Director of their inability to attend for duty. If it is not reasonably practicable to inform the Director during the ordinary hours of the first day or shift of such absence, the casual teacher will inform the Director within 24 hours of the absence.

21.10 Bereavement entitlements for casual teachers

21.10.1 Casual teachers are entitled to not be available to attend work, or to leave work upon the death in Australia of a family member described in clause 19.1.3 (b) of the award on production of satisfactory evidence (if required by the Director).

21.10.2 The Director and the casual teacher shall agree on the period for which the casual teacher will be entitled to not be available to attend work. In the absence of agreement, the casual teacher is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual teacher is not entitled to any payment for the period of non-attendance.

21.10.3 The Director must not fail to re-engage a casual teacher because the casual teacher accessed the entitlements provided for in this clause. The rights of the Director to engage or not engage a casual teacher are otherwise not affected.

21.10.4 The casual teacher must, as soon as reasonably practicable and during the ordinary hours of the first day or shift of such absence, inform the Director of their inability to attend for duty. If it is not reasonably practicable to inform the Director during the ordinary hours of the first day or shift of such absence, the casual teacher will inform the Director within 24 hours of the absence.

21.11 Non-engagement on Attendance - Where a casual teacher reports for duty in a particular engagement on any day on the basis of a request by an authorised officer and is then advised that her/his services are not required, then the casual teacher shall be entitled to payment for that engagement at the appropriate rate.

21.12 Payment

21.12.1 A casual teacher shall attend and be paid only for face-to-face teaching in one or more engagements.

21.12.2 Casual teachers who perform duty after 5.30 pm or on a weekend shall be paid at the hourly rate of pay appropriate to their classification and year of service.

21.13 Incremental Progression - subject to the provisions of subclause 21.3 of this clause, a casual teacher on completing a year of service, irrespective of breaks in that service, shall be entitled to progress to the next incremental step on the common salary scale.

22. Professional Development

22.1 AMES and the Federation confirm a commitment to training and development for all teachers and related employees. Teachers and related employees recognise the importance of maintaining and updating their skills. AMES recognises its obligations to provide teachers and related employees with opportunities to maintain and update their skills.

22.2 It is the aim of AMES and the Federation that the teachers and related employees of AMES shall be provided with opportunities for training and development so that they will continue to form a highly skilled, competent and committed workforce, experiencing job satisfaction and providing the highest quality service.

- 22.3 In order to develop their skills and to meet the aims and objectives of AMES, teachers and related employees may be provided with the opportunity to move between tasks and functions consistent with their classifications and positions. Such opportunities shall be identified in consultation with teachers and related employees having regard to the professional and career development needs of individuals, target groups, efficient organisation of work and personal considerations.
- 22.4 AMES will facilitate the professional development, skills enhancement and career development opportunities of employees and improve effectiveness through a range of activities.

23. Ames Year

- 23.1 The AMES Year means a period of 50 weeks, excluding the two-week period surrounding Christmas/New Year, during which educational programs may be conducted.
- 23.2 Within the 50 weeks of operation, courses will be scheduled to maximise use of existing accommodation and facilitate access for students.
- 23.3 In each preceding year, operations managers will provide program managers with a plan of courses appropriate to the region for the next academic year.
- 23.4 Teachers may elect to accrue three weeks of annual leave, provided that the operations manager can accommodate their preference for leave within the pattern of courses planned for the region/program. In the preceding year, teachers will provide advice on their leave intentions for the following academic year.
- 23.5 Teachers who elect to accrue leave within the leave year may do so for a maximum of four years.
- 23.6 Teachers may not vary their election of leave within the leave year except in exceptional circumstances and at the discretion of the Director.
- 23.7 Teachers who have not elected to accrue three weeks leave must exhaust all leave within the current leave year except in exceptional circumstances and at the discretion of the Director.
- 23.8 Teachers who elect to accrue three weeks leave per annum may only take the accrued leave in course blocks or in configurations arranged on an agreed basis between the teacher and the operations manager, taking account of the need to minimise disruption to educational programs.
- 23.9 No teacher may be directed to teach beyond eleven consecutive weeks without taking a course break of at least one week.

24. Transfer Procedures

- 24.1 Requested Transfers
- 24.1.1 This procedure provides for transfer of a permanent teacher at the request of the teacher.
- 24.1.2 A permanent teacher may apply at any time in writing to transfer from one teaching centre to another.
- 24.1.3 A register of transfer applications will be maintained for each teaching centre. The register will be published annually and a copy forwarded to each teaching centre.
- 24.1.4 Transfer applications will be ranked according to date of receipt. Where two or more requests are received on the same date priority in ranking will be determined on the basis of the closest recorded home address to the vacancy to be filled.
- 24.1.5 Transfers of eligible teachers will take place once each year on a nominated transfer date prior to the nominal first course date in each year.

- 24.1.6 To be eligible for transfer a teacher must at the date of transfer be on duty or on a form of approved leave.
- 24.1.7 A teacher who is offered a transfer for which that teacher has applied shall be removed from all transfer registers.
- 24.1.8 Requested Transfers will be published in the Staff Bulletin.
- 24.2 Operational Transfers
- 24.2.1 Operational transfers may be directed by the Director at any time in order to meet AMES operational requirements.
- 24.2.2 Except in cases where there are special fitness requirements, for example, a requirement for bilingual teaching, when it is necessary to effect an operational transfer the Director shall first offer the transfer in accordance with the transfer register. If the transfer is not accepted, or if there are no applications for transfer, the Director shall offer the transfer to all teachers in the teaching centre from which the transfer is to be made. If the transfer is not accepted, or if there are two or more applications for transfer, the Director shall nominate for transfer the teacher with the closest recorded home address to the vacancy to be filled.
- 24.2.3 In cases where there is a special fitness requirement the Director shall firstly offer the transfer to all teachers who meet the special fitness requirement. If the transfer is not accepted or if two or more applications to transfer are received, the Director shall nominate for transfer the teacher who meets the special fitness requirement with the closest recorded home address to the vacancy to be filled.
- 24.2.4 A teacher nominated for operational transfer shall be given a minimum of two weeks notice before they are required to transfer.
- 24.2.5 A teacher may apply to the Director to be excluded from operational transfer on compassionate grounds for up to twelve months where there are exceptional and compelling circumstances. Applications for exclusion from operational transfer must contain full and substantiated grounds and supporting documents, where appropriate.
- 24.2.6 Operational transfers shall be considered temporary until the nominated transfer date in each year, at which time the transfers shall be offered in accordance with the procedures set out in subclause 24.1. If a transfer that is offered in accordance with subclause 24.1 is not accepted, the operational transfer will be confirmed and will cease to be considered temporary.

25. Anti-Discrimination

- 25.1 It is the intention of the parties bound by this award to seek to achieve the object in section 3(f) of the *Industrial Relations Act 1996* to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.
- 25.2 It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this award the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the award which, by its terms or operation, has a direct or indirect discriminatory effect.
- 25.3 Under the *Anti-Discrimination Act 1977*, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- 25.4 Nothing in this clause is to be taken to affect:
- 25.4.1 any conduct or act which is specifically exempted from anti-discrimination legislation;

- 25.4.2 offering or providing junior rates of pay to persons under 21 years of age;
- 25.4.3 any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
- 254.4 a party to this award from pursuing matters of unlawful discrimination in any State or federal jurisdiction.

26. Dispute Resolution Procedures

- 26.1 Subject to the provisions of the *Industrial Relations Act 1996*, the following procedures shall apply:
- 26.1.1 Should any dispute (including a question or difficulty) arise as to matters occurring in a particular workplace then the employee and/or the Federation's workplace representative shall raise the matter with the appropriate supervisor as soon as practicable.
- 26.1.2 The supervisor shall discuss the matter with the employee and/or the Federation's representative within two working days with a view to resolving the matter or by negotiating an agreed method and time frame for proceeding.
- 26.1.3 Should the above procedure be unsuccessful in producing resolution of the dispute, or in relation to matters where it is inappropriate, or should the matter be of a nature which involves multiple workplaces, then the employee and or the Federation may raise the matter with the Director or the Director's nominee with a view to resolving the dispute, or by negotiating an agreed method and time frame for proceeding.
- 26.1.4 Where the procedures in paragraph 26.1.3 do not lead to resolution of the dispute, the matter shall be referred to the General Manager of Industrial Relations and Employment Services of the Department and the General Secretary of the Federation. They or their nominees shall discuss the dispute with a view to resolving the matter or by negotiating an agreed method and time frame for proceeding.
- 26.2 Should the above procedures not lead to a resolution then either party may make application to the Industrial Relations Commission of New South Wales.
- 26.3 While the dispute resolution procedure is being followed, the status quo will remain. The status quo is the situation which prevailed before the cause of the dispute.
- 26.4 Where the subject of the dispute involves the Director or the Director's nominee, the matter may be referred to the General Manager of Industrial Relations and Employment Services/Director-General as appropriate.

27. Goods and Services Tax

- 27.1 The parties shall monitor the overall impact of the Commonwealth Government's goods and services tax through the term of the award. In the event that the Industrial Relations Commission makes a State decision (as defined by section 49 of the *Industrial Relations Act 1996*) having regard to the impact on wages of the goods and services tax, the Federation reserves the right to make application to the Industrial Relations Commission in relation to that decision.

28. Flexible Working Arrangements

- 28.1 Subject to the operating needs of AMES, where possible, employees should be assisted to deal with family responsibilities through flexible leave and working arrangements in accordance with current Government policy.

29. Deduction of Union Membership Fees

- 29.1 The union shall provide the employer with a schedule setting out union fortnightly membership fees payable by members of the union in accordance with the union's rules.
- 29.2 The union shall advise the employer of any change to the amount of fortnightly membership fees made under its rules. Any variation to the schedule of union fortnightly membership fees payable shall be provided to the employer at least one month in advance of the variation taking effect.
- 29.3 Subject to 29.1 and 29.2 above, the employer shall deduct union fortnightly membership fees from the pay of any employee who is a member of the union in accordance with the union's rules, provided that the employee has authorised the employer to make such deductions.
- 29.4 Monies so deducted from employees' pay shall be forwarded regularly to the union together with all necessary information to enable the union to reconcile and credit subscriptions to employees' union membership accounts.
- 29.5 Unless other arrangements are agreed to by the employer and the union, all union membership fees shall be deducted on a fortnightly basis.
- 29.6 Where an employee has already authorised the deduction of union membership fees from his or her pay prior to this clause taking effect, nothing in this clause shall be read as requiring the employee to make a fresh authorisation in order for such deductions to continue.

30. No Further Claims

- 30.1 Except as provided by the *Industrial Relations Act* 1996, there shall be no further salaries or conditions claims by the parties prior to 31 December 2008, in relation to matters expressly contained in this award.

31. Secure Employment Test Case - Ohs Obligations

- 31.1 For the purposes of this clause, the following definitions shall apply:
- 31.1.1 A "labour hire business" is a businesses (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer
- 31.1.2 A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- 31.2 If the employer engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises, the employer shall do the following (either directly, or through the agency of the labour hire or contract business):
- 31.2.1 consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
- 31.2.2 provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely.

- 31.2.3 provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
- 31.2.4 ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- 31.3 Nothing in this clause is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- 31.4 Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- 31.5 This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

32. Area, Incidence and Duration

- 31.1 This award shall apply to all teachers and related employees employed within the NSW Adult Migrant English Service.
- 31.2 This award rescinds and replaces the NSW Adult Migrant English Service Crown Employees (Teachers and Related Employees) Award 2004 published 27 January 2006 (356 I.G. 965) and all variations thereof.
- 31.3 This award takes effect from 1 January 2006, except for clause 31 which takes effect from 1 March 2006, and remains in force until 31 December 2008.

PART B

MONETARY RATES

Table 1 - Salaries

	From the first pay period to commence on or after 1.1.2006 \$	From the first pay period to commence on or after 1.1.2007 \$	From the first pay period to commence on or after 1.1.2008 \$
Salary Scale for Permanent Teachers, Full Time Temporary Teachers and Education Officers			
Increase	3%	3%	3%
1st Salary Level	44,932	46,280	47,668
2nd Salary Level	47,334	48,754	50,217
3rd Salary Level	49,734	51,226	52,763
4th Salary Level	52,134	53,698	55,309
5th Salary Level	54,878	56,524	58,220
6th Salary Level	57,281	58,999	60,769
7th Salary Level	59,679	61,469	63,313
8th Salary Level	62,081	63,943	65,861
9th Salary Level	64,998	66,948	68,956
	4.5%	4.5%	4%
10th Salary Level	69,076	72,184	75,071

Salary Scale for Senior Education Officers			
Increase	4%	4%	4%
Senior Education Officer Class II	93,438	97,176	101,063
Senior Education Officer Class I			
Year 1	79,635	82,820	86,133
Year 2	82,924	86,241	89,691
Year 3	86,215	89,664	93,251
Salary Scale for Operations Managers			
Increase	4%	4%	4%
Operations Manager	113,632	118,177	122,904
Casual Teachers			
Increase	3%	3%	3%
1st Salary Level	55.33	56.99	58.70
2nd Salary Level	58.29	60.04	61.84
3rd Salary Level	61.25	63.09	64.98
4th Salary Level	64.21	66.14	68.12
5th Salary Level	67.59	69.62	71.71

Table 2 - Other Rates

Item No.	Clause No.	Brief Description	4% From the first Pay period to Commence on or After 1.1.2006 \$	4% From the first pay period to commence on or after 1.1.2007 \$	4% From the first pay period to commence on or after 1.1.2008 \$
1	11	Education Officer after 12 months on the maximum of the common salary scale	3,012	3,132	3,257
		after a further 12 months on the maximum of the common salary scale	3,012	3,132	3,257
2	11.3	Teacher nominated to undertake additional responsibilities	5,332	5,545	5,767

M. SCHMIDT J.

MAINTECK SERVICES PTY LTD PORT KEMBLA SLAB CASTER SEGMENT WORKSHOP INDUSTRIAL AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by The Australian Industry Group New South Wales Branch, Industrial Organisation of Employers and State Peak Council.

(No. IRC 1585 of 2006)

Before The Honourable Justice Walton, Vice-President

20 March 2006

AWARD

INDEX

Clause No.	Subject Matter
4.	Adult Apprentices
43.	Alcohol and Other Drugs
28.	Annual Leave
50.	Anti-Discrimination
3.	Apprentices
51.	Area, Incidence and Duration
1.	Basic Wage
40.	Blood Donations
32.	Compassionate Leave
34.	Contract of Employment
29.	Days added to the Period of Annual Leave
38.	Definitions
48.	Employee Entitlements/Redundancy
44.	Employee Representatives
25.	Employees presenting Themselves for Work and Not Required
7.	Employment Security
46.	Formal Discipline/Warning Procedure
21.	Holidays
13.	Hours of Work
41.	Income Protection Insurance
35.	Introduction of Change
31.	Jury Service
8.	Labour Flexibility
30.	Long Service Leave
24.	Maximum Payment
16.	Night Work for Day Workers and Day Shift Workers
11.	No Extra Claims
5.	Objectives and Commitments
45.	Occupational Health and Safety
19.	Overtime
33.	Parental Leave
27.	Personal and Carers' Leave
47.	Procedure for resolving Claims, Issues and Disputes
42.	Protective Clothing and Equipment
2.	Rates of Pay
20.	Requirements to Work in Accordance with the Needs of the Enterprise

- 36. Redundancy
- 15. Saturday Rates for Shift Workers
- 14. Shift Work Allowances for Shift Workers
- 23. Shift Workers whose working Period includes Sundays and Holidays as Ordinary Working Days
- 26. Sick Pay
- 12. Special Rates
- 6. Structural Efficiency
- 22. Sunday and Holiday Rates
- 37. Superannuation
- 10. Team Leaders and Acting Supervisor
- 39. Time and Payment of Wages
- 9. Training
- 17. Transfer of Day Workers from Day Work to Shift Work
- 18. Transfer of Shift Workers
- 49. Transmission of Business

PART B

MONETARY RATES

Table 1 - Rates Of Pay

Table 2 - Other Rates and Allowances

PART A

1. Basic Wage

The rates of pay in this award are made by reference and in relation to a basic wage for adult employees as set out in Part B.

2. Rates of Pay

- (a) An adult employee in a classification or class of work specified in subclause (b) of this Clause (other than an apprentice) shall be paid the respective award wage rate per week assigned to that classification or class of work set out in Table 1, Rates of Pay, of Part B.

An additional amount per week as set out in Table 2, Item 1, Other Rates and Allowances, of Part B shall be paid to an employee employed and working as an electrical tradesperson and possessing an Electrical Licence.

- (b) Classification Definitions

- (i) NON TRADES

Maintenance Attendant - Level 1

Means an employee who has undertaken induction training including:

- Workplace induction
- Conditions of employment
- Training and career path opportunities
- Work and document procedures\Quality system
- Occupational Health and Safety
- Equal Opportunity

and performs routine manual jobs such as cleaning or labouring. The employee will have completed their probationary period.

Maintenance Attendant - Level 2

Means an employee who understands and has undertaken basic quality control/assurance procedures training, and who has undergone relevant In-House and on-the-job training including competency matrix .

Such an employee will perform repetitive work, assemble components with basic hand tools using basic written, spoken and / or diagrammatic instructions, assist Engineering tradespersons, carry out basic welding, scrap cutting and stores work.

Maintenance Attendant - Level 3

Means an employee who is qualified as a Maintenance Attendant - Level 2 and has worked for a minimum period of 5 years at that level and can display competency in the following:

Pendant crane driving and associated chasing
Forklift driving
Assemble components and some stores work

Plus 3 appropriate TAFE modules

(ii) TRADESPERSONS

Mechanical Tradesperson - Base

Means a tradesperson who:

- (1) Has a Mechanical Trades Certificate or recognised equivalent; or has served a Mechanical Trades Apprenticeship or recognised equivalent.

plus

- (2) Has undertaken induction training including:

Workplace induction
Conditions of employment
Training and career path opportunities
Work and document procedures/Quality systems
Occupational Health and Safety
Equal opportunity
Maintenance practices (or equivalent)

plus

- (3) Can display competency In the following:

Pendant crane driving and associated chasing
Forklift driving
Oxy cutting and welding safety

Mechanical Tradesperson - Level 1

Means a tradesperson who is qualified as a Mechanical Tradesperson - Base, and has worked for a minimum of one year at that level plus

relevant in-house and on-the-job training.

Mechanical Tradesperson - Level 2

Means a tradesperson who is qualified as a Mechanical Tradesperson - Level 1 and has a minimum of three years experience on the job, plus has satisfactorily completed a minimum of three (3) appropriate and approved TAFE modules.

plus

relevant in-house and on-the-job training.

Mechanical Tradesperson - Level 3

Means a tradesperson who is qualified as a Mechanical Tradesperson - Level 2 and has a minimum of five years experience on the job, plus has satisfactorily completed a minimum of six (6) appropriate and approved TAFE modules.

plus

relevant in-house and on-the-job training.

Mechanical Tradesperson - Level 4

Means a tradesperson who is qualified as a Mechanical Tradesperson - Level 3 and has a minimum of eight (8) years experience on the job, plus has successfully completed a minimum of 12 appropriate and approved TAFE modules.

Mechanical Tradesperson - Level 5

Means a tradesperson who is qualified as a Mechanical Tradesperson - Level 4 and has a minimum of twelve (12) years experience on the job, plus has successfully completed 30 appropriate and approved TAFE modules thus achieving the attainment of an Associate Diploma.

Electrical Tradesperson - Base

Means a tradesperson who:

Has served an electrical apprenticeship or recognised equivalent; or has successfully completed a recognised electrical trades course or recognised equivalent; and has obtained an electrical licence; and

- (1) Has undertaken induction training :

Workplace induction
 Conditions of employment
 Training and career path opportunities
 Work and document procedures \ quality systems
 Occupational Health and Safety
 Equal Opportunity
 Maintenance practices (or equivalent)

plus

- (2) Can display a competency in the following:

Oxy cutting and welding safety
 Pendant crane driving and associated chasing
 Forklift Driving

Electrical Tradesperson - Level 1

Means a tradesperson who is qualified as an Electrical Tradesperson - Base and has worked for a minimum of one year at that level

plus

relevant in-house and on-the-job training.

Electrical Tradesperson - Level 2

Means a tradesperson who is qualified as an Electrical Tradesperson - Level 1 and has a minimum of three (3) years experience on the job, plus has satisfactorily completed a minimum of three (3) appropriate and approved TAFE modules.

plus

relevant in-house and on-the-job training.

Electrical Tradesperson - Level 3

Means a tradesperson who is qualified as an Electrical Tradesperson - Level 2 and has a minimum of five (5) years experience on the job, plus has satisfactorily completed a minimum of six (6) appropriate and approved TAFE modules

plus

relevant in-house and on-the-job training.

Electrical Tradesperson - Level 4

Means a tradesperson who is qualified as an Electrical Tradesperson - Level 3 and has a minimum of eight (8) years experience on the job, plus has satisfactorily completed a minimum of 12 appropriate and approved TAFE modules.

Electrical Tradesperson - Level 5

Means a tradesperson who is qualified as an Electrical Tradesperson - Level 4 and has a minimum of twelve (12) years experience on the job, plus has satisfactorily completed 30 appropriate and approved TAFE modules thus achieving the attainment of an Associate Diploma.

General

(a) All electrical tradespersons will be required to undertake the following duties:

1. use lifting equipment incidental to his/her work;
2. perform non-trade tasks incidental to his/her work;
3. perform oxy cutting and welding tasks associated with his/her work including welded repairs.

(c) TOOL ALLOWANCE

- (i) Trades classifications wage rates include an allowance as set out in Part B, Table 2 item 2 per 38 hour week for supplying and maintaining tools ordinarily required in the performance of their work as tradespersons. The allowance shall apply for all purposes of the award;

- (ii) Tradespersons shall replace or pay for any tools supplied by their employer if lost or damaged through their negligence.
- (iii) The Company shall make available to tradespersons any tools which may be required to be used to perform their work other than those contained in the list of tools which each tradesperson is required to provide for himself / herself as set out in the tool policy.

Provided that the list of tools detailed above can be amended to a new list of equivalent value, subject to the mutual agreement of all parties to this Industrial Award.

3. Apprentices

(a) CONTRACT OF APPRENTICESHIP

Every contract of apprenticeship made under this award will be in accordance with the Apprenticeship Authority Guidelines.

(b) APPRENTICESHIP AUTHORITY - DEFINITION

For the purposes of this clause "Apprenticeship Authority" shall mean the Vocational Training Board established under the Industrial and *Commercial Training Act* 1989.

(c) INSTRUCTION IN WELDING

The training of apprentices in the Mechanical and Fabrication streams shall include instruction in electric welding and / or oxy-acetylene welding. The training of apprentices to electrical fitting shall include sufficient instruction in welding to enable them to perform the work of their trade in the shop in which they are trained.

(d) WAGES

The weekly rate of wage for apprentices will be as set out in Part B, Table 1, Rates of Pay.

(e) OVERTIME AND SHIFT WORK

No apprentice under the age of 18 years shall be required to work overtime or shift work unless he/she so desires.

No apprentice shall, except in an emergency, work or be required to work overtime or shift work at times which would prevent his/her attendance at technical school as required by an statute, award or regulation applicable to him/her.

(f) LOST TIME

The apprenticeship year may be extended by the number of days that during that year fall short of the prescribed number of days as a result of unauthorised leave.

(g) ATTENDANCE AT TECHNICAL SCHOOLS

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

(h) LEAVE ENTITLEMENTS

Apprentices shall be entitled to sick, annual and bereavement leave in accordance with the provisions of this award.

(i) HOURS

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

4. Adult Apprentices

(a) DEFINITIONS

For the purposes of this award an adult apprentice means a person of 21 years of age or over at the time of entering into an apprenticeship indenture in either:-

- (i) Mechanical Tradesperson (Fitting, Machining, Fabrication).
- (ii) Electrical Tradesperson

(b) CONTRACT OF INDENTURE

The training to be completed by an adult apprentice under a contract of indenture will be in accordance with the relevant State Training Authority Legislation. This Authority shall determine the training credits for relevant work experience and educational standards.

(c) WAGE RATE

- (i) The rate of pay of an adult apprentice shall be the rate of pay that is from time to time applicable to the highest non-trades classification or class of work specified in Clause 2 of this award.
- (ii) Where a person was employed by the company immediately prior to becoming an adult apprentice with the company, such person shall not suffer a reduction in the rate of pay by virtue of becoming indentured.

(d) PREFERENCE

- (i) Preference of employment as an adult apprentice should be given to an applicant who is currently employed by the employer so as to provide for genuine career path development.
- (ii) Adult apprentices shall not be employed at the expense of other apprentices.

5. Objectives and Commitments

The Parties to this Award have jointly developed and are committed to the following objectives to fulfil its obligations in providing a 365 days per year, 24 hours per day service delivery to its customers which, collectively express the purpose and intent of this award:

- (i) to have a system of self direction in the workplace;
- (ii) to maintain a work environment based on high employee morale;
- (iii) to provide employees the opportunity to develop and realise their full potential and remuneration within the needs of the company;
- (iv) to provide employees with fair and equitable wages and conditions of employment and which allows Mainteck to maintain a competitive position within the industry and the labour market;
- (v) to work together as one team with aligned objectives;
- (vi) establishment of levels of responsibility and accountability for Mainteck and its employees
- (vii) enhance the future of the company and the employee's employment security;

- (viii) develop relationships between the Company and its' employees based on respect, honesty, trust and focusing on the overall benefits of the business;
- (ix) focus on developing and maintaining an efficient business
- (x) develop a workplace based on positive environmental practices

6. Structural Efficiency

- (a) The parties to this award are committed to co-operating positively to increase the efficiency, productivity and international competitiveness of the company and to enhance the career opportunities and job security of employees in the company.
- (b) The Company and its employees shall have a consultative committee appropriate to the size, structure and needs of the Company. Measures raised by the Company, employees or unions consistent with the objectives of subclause (a) herein shall be processed through that consultative committee for consideration by the Company.
- (c) Employees shall at all times work in a manner consistent with the Company's Occupational Health, Safety, Welfare and Rehabilitation obligations by following safe work procedures, being aware of the safety of others, and abide by safety instructions.
- (d) Employees shall acknowledge and work in accordance with the Company's lawful policies and procedures in relation to the Company's contractual, legal and administrative obligations.

7. Employment Security

The Parties to this Award believe that the philosophy to employment security is critical and fundamental to the long term business growth and success of Mainteck and its people. Employment security may only be achieved when all Parties are working to a common goal/s. It is the intent of Mainteck to align its employees close to the business so that ownership together with employee empowerment will ensure best decisions are made resulting in jobs and employment security.

8. Labour Flexibility

- (a) For the purpose of increasing productivity and flexibility, as well as enhancing career opportunities for employees, discussion shall take place with a view to reaching agreement for employees to perform a wider range of tasks, removal of demarcation barriers and participation of employees in additional training.
- (b) Notwithstanding the provisions of subclause (a), employees shall perform a wider range of duties, within their scope of skill and competence, particularly work which is incidental or peripheral to their main tasks.
- (c) Employees shall perform such work as is reasonable and lawfully required of them by the employer, including accepting instruction from authorised personnel, and shall take all reasonable steps to ensure the quality, accuracy and completion of any job or task assigned to them.
- (d) Employees shall comply with all reasonable requests to transfer or to perform any work provided for by this award provided that it is agreed that the work lies within the scope of the skill and competence of the employee concerned.
- (e) Employees are employed on the basis that duties will be required to be performed within their level of competence, skills and training. In the case of a downturn in work, employees may be given an option (in lieu of termination due to redundancy) to transfer to any of the company's sites, workshops or locations.

- (f) Housekeeping, asset, plant and equipment care, controlling usage of direct and non-direct consumables are the responsibility of each employee and will be undertaken irrespective of job or skill classification as, when and where required.
- (g) Employees are expected to work reasonable overtime as required by the company in addition to the rostered ordinary hours.
- (h) To further enhance flexibility and efficiencies and allow the company to undertake work on site, and following consultation the company will have the right to engage hourly hire labour from approved providers from time to time to address peak work loads.
- (i) Wage rates payable to labour hire employees shall be no less than the rate of pay payable Mainteck Services Pty Ltd employees of a similar classification under the graded wage structure as per Table 1 and Table 2 of Part B.
- (j) Employees must use such protective clothing and equipment provided by the company for specific circumstances.
- (k) Employees must comply with the safety requirements of the company.

9. Training

- (a) The parties to this award recognise that in order to increase the efficiency, productivity and international competitiveness of the Company, a greater commitment to training and skill development is required. Accordingly, the parties commit themselves to:
 - (i) Developing a more highly skilled and flexible work force;
 - (ii) Providing employees with career opportunities through appropriate training to acquire additional skills; and
 - (iii) Removing barriers to the utilisation of skills acquired.
- (b) Following proper consultation in accordance with subclause (b) of clause 6 - Structural Efficiency, the Parties shall develop a training program consistent with:
 - (i) The current and future skill needs of the Company;
 - (ii) The size, structure and nature of the operations of the Company;
 - (iii) The need to develop vocational skills relevant to the company through mutually agreed courses conducted by accredited educational institutions and providers;
 - (iv) The need to develop / enhance skills for union delegates and committee members through mutually agreed courses run by appropriate bodies such as MTFU, TAFE, AIG or other bodies.
- (c)
 - (i) This clause does not apply to training that is generally not associated with (a) and / or (b) above.
 - (ii) So far as is reasonably practicable, having regard to the operational requirements and the need to minimise labour costs additional to those of the employee's paid ordinary hours, an employee's training shall be undertaken during the employee's ordinary hours of work, (including where appropriate by rescheduling those hours).
 - (iii) The Company and the employee may mutually agree to take time off in lieu of ordinary hours when attending approved training courses outside of ordinary working hours.

- (d) Where, with the approval of the company an employee attends training authorised by the company, payment will be on the following basis:
- (i) TAFE and other externally provided courses -

During ordinary hours - no deduction from the employee's ordinary wage.

Outside ordinary working hours - attendance and payment at single time will be approved in accordance with the needs of the authorised training. Generally, this training will not exceed six hours per week except that additional training may be approved and single time payment will be made if exceptional training requirements exist.
 - (ii) On the job training

during ordinary working hours - no deduction from the employee's ordinary wages.

outside ordinary working hours -single time payment.
 - (iii) If an employee is required to attend authorised training outside ordinary working hours on a Saturday, Sunday, Public Holiday or rostered day off the employee shall be entitled to the appropriate penalty payments, or by agreement, time off in lieu. (Time off in lieu is equal time not penalty time).
- (e) Any costs associated with standard fees for prescribed courses and prescribed textbooks (excluding those textbooks which are available in the Company's technical library) incurred in connection with the undertaking of training shall be reimbursed by the Company upon production of evidence of such expenditure and provided that reimbursement shall also be on a session or annual basis subject to the presentation of reports of satisfactory progress.
- (f) Any dispute arising in relation to subclause (b) shall be subject to the provisions of clause 47 - Procedure for Resolving Claims, Issues and Disputes of this award.

10. Team Leaders and Acting Supervisors

Employees appointed by the Company as acting team leaders, team leaders or acting supervisor shall be paid additional amounts as follows:

- (a) **TEAM LEADER AND ACTING TEAM LEADER**
- (i) If in charge of not less than three and not more than ten employees - at the rate set out in Item 3 of the said Table 2 per 38 hour week;
 - (ii) If in charge of more than ten and not more than twenty employees - at the rate set out in Item 4 of the said Table 2 per 38 hour week;
 - (iii) If in charge of more than twenty employees - at the rate set out in Item 5 of the said Table 2 per 38 hour week.
- (b) **ACTING SUPERVISOR**
- (i) If in charge of not less than three and not more than ten employees at the rate set out in Item 6 of the said Table 2 per 38 hour week;
 - (ii) If in charge of more than ten and not more than twenty employees at the rate set out in Item 7 of the said Table 2 per 38 hour week;
 - (iii) If in charge of more then twenty employees - at the rate set out in Item 8 of the said Table 2 per 38 hour week.

An employee who is required to work as an acting team leader or acting supervisor for two (2) hours of more on any day of shift, shall be paid at the higher rate for the whole day or shift.

11. No Extra Claims

The parties agree that it is a term of this award that, no further claims will be made, either at a local or industry level to vary the terms of the award during its 3 year term of operation.

Having regard to the spirit and intent of this award, the parties recognise that during the currency of this award, a special anomalous or extraordinary problem may be found to exist. Such special, anomalous or extraordinary problem shall be dealt with in accordance with Clause 47 Procedure for Resolving Claims, Issues and Disputes.

(a) Leave Reserved

Leave is reserved in respect of Clause 13, Hours of Work, for the parties to review the ordinary average hours of work per week, should there be a change in the community standard during the life of this Award. Such a claim shall be dealt with in accordance with Clause 47 Procedure for Resolving Claims Issues or Disputes.

12. Special Rates

Employees involved in gap checking and aligning segments or carrying out abnormal repairs inside assembled segments will be paid an additional amount per hour as contained in Item 9 of Table 2 for the actual time worked when:

- (a) Gap measuring; aligning the pinch roll only on any assembled segment and / or Gap measuring and aligning the rolls beyond the third roll from either end of any assembled Segment Zero.
- (b) Performing abnormal repairs or welding tasks within the confines of an assembled segment.

For site work:

- (c) Employees engaged in an unusually dirty or offensive capacity will be paid an additional amount per hour as contained in Item 17 of Table 2 for the actual time worked to a maximum of 6 hours per day.
- (d) Heat money will apply when work is performed in places where the temperature is raised by artificial means above 49 degrees Celcius. The amount per hour is contained in Item 18 of Table 2.
- (e) A confined space allowance as shown in Item 19 of Table 2 will be paid when an employee is required to work in a compartment, space or a place the dimensions of which necessitate an employee working in a stooped or otherwise cramped position or without proper ventilation.
- (f) An "On Site Allowance" as shown in Item 20 Table 2 will be paid when an employee is required to work on the Bluescope Steel Port Kembla Steelworks site.

13. Hours of Work

(a) ALL EMPLOYEES

Ordinary working hours shall be an average of thirty eight hours per week over the full cycle of the relevant work roster. Ordinary working hours shall not exceed:

- (i) eight during any consecutive twenty-four hours; or
- (ii) 152 in twenty-eight consecutive days,

except in the case of rostering arrangements which provide for the weekly average of 38 ordinary hours to be achieved over a period which exceeds 28 consecutive days.

(b) DAY WORKERS

Ordinary working hours shall be worked Monday to Friday, inclusive, between the hours of 6.00am and 6.00pm except for a meal break.

(c) MEAL BREAK

Twenty minutes shall be allowed each day or shift to enable employees to take a meal which shall count as time worked.

(d) EXTENSIVE HOURS OF WORK

The parties recognise that long working days on a regular basis may not be conducive to a safe, healthy and productive work environment. Where hours on any day worked exceed the rostered hours they shall be subject to:

- (i) Appropriate health monitoring procedures being introduced
- (ii) Suitable roster arrangements being made
- (iii) Proper supervision being provided
- (iv) Adequate breaks being provided

14. Shift Work Allowances for Shift Workers

(a) Shift workers shall be paid, in addition to the rates payable under this award, a shift work allowance.

- (i) Shift workers whilst working a rotating five day, afternoon and night shift roster - shall be paid the amount as set out in Item 10 of the said Table 2 per 38 hour week.

Where a roster system does not provide for at least one-third of his / her working time in the full cycle of the roster being day shift, the employee shall be paid an additional shift allowance amount as set out in Item 11 of the said Table 2 per 38 hour week.

- (ii) Shift workers whilst working day, afternoon; or day, night; shift work which involves regular weekly changes shall be paid the respective amount as set out in Item 12 of the said Table 2 per 38 hour week.
- (iii) Shift workers whilst working shift work on shift systems as follows:
 - (1) Night shift, afternoon shift
 - (2) Night shift only
 - (3) Afternoon shift only

at the amount as set out in Item 13 of the said Table 2 per 38 hour week for all ordinary shifts worked.

- (iv) Shift workers who work any afternoon or night shift other than under the shift systems set out in paragraphs (a), (b), (c), and (d), of this subclause shall be paid the amount as set out in Item 14 of the said Table 2 per shift for each shift worked.

(b) "Night Shift" means any shift finishing after midnight and at or before 8.00am.

15. Saturday Rates for Shift Workers

Shift workers for their ordinary shifts of eight hours performed on Saturday shall be paid at the rate of time and a half.

16. Night Work for Day Workers

- (a) Subject to Clause 24, Maximum Payment, but otherwise notwithstanding anything contained herein:
- (i) a day worker who is required in lieu of ordinary day work, or
 - (ii) a day worker who is required in lieu of a day shift on which he / she would ordinarily be rostered, to work at night for periods of not less than eight hours on less than five consecutive nights or on less than four consecutive nights when the fifth night is his 38 hour week rostered off night shall be paid at the rate of time and one half of the ordinary rate of pay under Clause 2, Rates of Pay, of this award, except:
 - (iii) on Saturdays, Sundays, 38 hour week rostered off days and holidays, and
 - (iv) in respect of any night in respect of which he/she has not been given at least 38 hours' notice; when he/she shall be paid at overtime rates for day workers. No shift allowance is payable in respect of night work under this clause.

17. Transfer of Day Workers from Day Work to Shift Work

Day workers may be employed as and become shift workers for a period of not less than five shifts or not less than four shifts when the fifth shift is his 38 hour week rostered off shift and paid accordingly.

Provided that an employee shall be paid at overtime rates for any shift upon which he/she is employed as a shift worker under this clause in respect of which he/she has not been given at least 48 hours' notice.

18. Transfer of Shift Workers

A shift worker who is required to work on a shift other than the shift on which he/she would ordinarily be rostered shall be paid at overtime rates for any such shift in respect of which he/she has not been given at least 48 hours' notice. This provision shall not apply when the employee reverts to the shift on which he/she would ordinarily have been rostered.

19. Overtime

(a) DAY WORKERS

- (i) Day workers for all time worked in excess of or outside the ordinary working hours and time prescribed by this award shall be paid at a rate of time and one half for the first two hours and at the rate of double time thereafter.
- (ii) Except in the case of urgent breakdown work necessary to secure an immediate resumption of operations overtime shall be paid for all time worked in excess of five hours without a meal break.

(b) SHIFT WORKERS

Shift workers for all time worked:

- (i) in excess of the ordinary working shift hours prescribed by this award, or
- (ii) on more than eleven shifts in twelve consecutive days; or
- (iii) on a rostered shift off; or

(iv) in excess of five-and-one-half hours without a crib break, shall be paid at the rate of time and one half for the first two hours and at the rate of double time thereafter. This clause shall not apply when the time is worked:

(1) by arrangement between the employees themselves; or

(2) for the purpose of effecting the customary rotation of shifts.

(c) General

(i) Where overtime work is necessary it shall, wherever reasonably practicable, be so arranged that employees have at least eight consecutive hours off duty between the work of successive days. An employee who works so much overtime between the termination of his ordinary work on one day and the commencement of his ordinary work on the next day that he / she has not had at least eight consecutive hours off duty between those times shall, subject to this subclause, be released after completion of such overtime until he/she has had eight consecutive hours off duty without loss of pay for ordinary working time occurring during such absence. If on the instructions of the company such an employee resumes or continues working without having had such eight consecutive hours off duty he/she shall be paid at double rate until he / she is released from duty for such period and he / she then shall be entitled to be absent until he / she has had eight consecutive hours off duty, without loss of pay, for ordinary working time occurring during such period.

Where immediately after taking an eight hour rest period pursuant to this subclause, an employee is required to report for work at other than his/her ordinary day or shift commencing time and reasonable means of transport are not available to him/her, the company shall convey him/her or supply him/her with conveyance to the works.

(ii) A day worker, required to work on a Saturday, Sunday, a 38 hour week rostered day off or a holiday, or a Monday to Saturday shift worker required to work on a Sunday, a 38 hour week rostered day off or a holiday, shall be paid for a minimum of four hours' work. Provided that an employee recalled from his/her home to work overtime shall be paid for a minimum of four hours' work. When the actual time worked is of shorter duration than the applicable minimum specified in this paragraph the working period shall not be regarded as overtime for the purpose of paragraph (a) in this subclause. The day worker shall be entitled to a 20 minute paid crib break.

(iii) An employee required to continue at work on overtime for more than one-and-a-half hours after his/her ordinary ceasing time without having been notified before leaving his/her work on the previous day that he/she would be required to work overtime shall be paid the amount as set out in Item 15 of the said Table 2 for such meal and any subsequent meal. For the purpose of this clause there is an entitlement to a subsequent meal break after four hours overtime.

(iv) If an employee pursuant to notice, has provided a meal and is not required to work overtime or is required to work less than one-and-a-half hours he/she shall be recompensed suitably for the meal which he/she has provided but which is surplus.

(v) A fraction of a quarter of an hour of overtime shall count as a quarter of an hour if more than five minutes thereof have been worked.

(vi) Where an employee working overtime finishes work at a time when reasonable means of transport are not available to him/her the company shall within a reasonable time convey him/her to his/her home or by agreement to a place to which he/she usually travels to or by public conveyance when returning home from work.

(vii) An employee who is recalled from his/her home to work overtime shall be paid the amount as set out in Item 16 of the said Table 2 for such meal and each subsequent meal. In the case where the employee is recalled for immediate return to work overtime pay shall commence from the time the employee is notified, provided the travel time is reasonable. This clause shall not apply to

employees contacted at home in accordance with the existing overtime allocation procedure unless the overtime is required on the day of contact.

- (viii) The provisions of this clause shall over ride all previous meal allowance arrangements.

20. Requirements to Work in Accordance With the Needs of the Enterprise

- (a) The Company may require any employee to work reasonable overtime at overtime rates and such employee shall work overtime in accordance with such requirements. The assignment of overtime shall be based on specific work requirements and the practice of "one in, all in" overtime shall not apply.
- (b) Subject to Clause 17, Transfer of Day Workers from Day Work to Shift Work, and Clause 18, Transfer of Shift Workers, for the purpose of meeting the needs of the industry the company may require any employee to transfer from one system of work to another system of work prescribed by this award at the rate applicable thereto and, unless reasonable cause exists, an employee shall transfer in accordance with such requirement.

21. Holidays

- (a) The days on which New Year's Day, Australia Day, Good Friday, the Saturday following Good Friday, Easter Monday, Anzac Day, Queen's Birthday, the local Eight Hour Day, Christmas Day and Boxing Day and the union's picnic day (AMWU & AWU - FIMEE, Port Kembla Branch) if any, are observed and special days appointed by proclamation as public holidays throughout the State shall be holidays and day workers and Monday to Saturday shift workers not required to work on a holiday shall be paid for the holiday at the ordinary rates of pay under Clause 2, Rates of Pay of this award.
- (b) This provision for payment does not apply to:
- (i) Employees (with the exception of seven day shift workers) not rostered for work on the said holiday.
- (ii) employees absent without leave or reasonable excuse on the working day preceding or the working day succeeding a holiday or group of holidays.
- (c) A seven day shift worker who is rostered off duty on a day which is a holiday shall be paid, in the pay for the period in which the holiday falls, for the holiday at the rate payable pursuant to subclause (i) of this clause or alternately have this day added to their next period of leave.

22. Sunday and Holiday Rates

- (a) Employees shall be paid at the rate of double time for all work done on Sundays and at a rate of double time and one half for all work done on the holidays prescribed by this award.
- (b) Day shift or afternoon shift commencing on a Sunday or holiday shall be paid for at the Sunday or holiday rates throughout, and for a night shift, the shift commencing immediately before midnight on the day prior to the Sunday or Holidays shall attract the Sunday or Holiday rate.

23. - Shift Workers Whose Working Period Includes Sundays and Holidays as Ordinary Working Days

No working period shall include Sundays and holidays as ordinary working days except for seven day shift workers.

24. Maximum Payment

Shift allowance and special rates shall not be subject to any premium or penalty additions.

25. Employees Presenting Themselves for Work and Not Required

Subject to the provisions of Clause 34, Contract of Employment, an employee who presents himself/herself for his/her ordinary work or rostered overtime shift and is advised without notice, that he/she is not required shall be paid four (4) hours at the normal time rate.

26. Sick Pay

- (a) An employee who is unable to attend for duty during his/her ordinary working hours by reason of personal illness or personal incapacity not due to his/her own serious and wilful misconduct shall be entitled to be paid at ordinary time rates of pay which would have been payable if he / she had attended for duty, for the time of such non-attendance subject to the following:
- (i) he/she shall not be entitled to be paid leave of absence for any period in respect of which he/she is entitled to workers' compensation;
 - (ii) he/she shall, where practicable, prior to the normal shift commencement time, or in any case, on the day of the non attendance, inform, or arrange for the company to be informed, of his / her inability to attend for duty and, as far as possible, state the nature of the illness or incapacity and the estimated duration of the same.
 - (iii) he/she shall prove to the satisfaction of the company, or, in the event of a dispute, the Industrial Commission of New South Wales, that he/she is or was unable, on account of such illness or incapacity, to attend for duty on the day or days for which payment under this clause is claimed. For the purposes of this clause medical proof shall not be required for the first two single day absences in any one sick leave year.
 - (iv) the number of ordinary working hours referred to in paragraph (iv) of this subclause shall be:
 - (1) in the case of an employee with less than 1 year's continued employment - 40 hours.
 - (2) in the case of an employee with 1 or more year's continued employment but less than 10 years continued employment - 64 hours.
 - (3) in the case of an employee with 10 or more year's continued employment - 80 hours.
 - (v) The rights under this clause shall accumulate from year to year so long as the employment continues with the company, whether under this award or any award, so that any part of the number of ordinary working hours specified in paragraph (iv) of subclause (a) of this clause which has not been allowed in any year may be claimed by the employee and shall be allowed by the company, subject to the conditions prescribed by this clause, in a subsequent year of such continued employment.

27. Personal/Carer's Leave

- (a) Use of sick leave
- (i) An employee, other than a casual employee, with responsibilities in relation to a class of person set out in subparagraph (1) and (2) of paragraph (iii), who needs the employee's care and support, shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for in clause 26, Sick Leave, for absences to provide care and support for such persons when they are ill. Such leave may be taken for a part of a day.
 - (ii) The employee shall, if required, 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 person. In normal circumstances, an employee must not take carer's leave under this subclause where another person has taken leave to care for the same person.

- (iii) The entitlement to use sick leave in accordance with this subclause is subject to:
- (1) the employee being responsible for the care of the person concerned; and
 - (2) the person concerned being:-
 - (a) a spouse of the employee; or
 - (b) a de facto spouse, who, in relation to a person, is 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; or
 - (c) a child or an adult child (including an adopted child, a step child, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), a grand parent, grand child or sibling of the employee or spouse or de facto spouse of the employee; or
 - (d) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
 - (e) a relative of the employee who is a member of the same household, where for the purposes of this subparagraph:
 - (i) "relative" means a person related by blood, marriage or affinity;
 - (ii) "affinity" means a relationship that one spouse, because of marriage, has to blood relatives of the other; and
 - (iii) "household" means a family group living in the same domestic dwelling.
 - (iv) An employee shall, wherever practicable, give the employee notice prior to the absence of the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of the absence. If it is not practicable for the employee to give prior notice of the absence, the employee shall notify the employer by phone of such absence at the first opportunity on/ the day of absence.

(b) Unpaid leave for family purposes

An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a member of a class of person set out in subparagraph (2) of the paragraph (iii) of subclause (a) who is ill.

(c) Annual leave

- (i) An employee may elect, with the consent of the employer, subject to the *Annual Holidays Act 1944*, to take annual leave not exceeding five days in single day periods or part thereof, in any calendar year at a time or times agreed by the parties.
- (ii) Access to annual leave, as prescribed by (i) of this subclause, shall be exclusive to any shutdown period if provided for elsewhere in 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.

- (d) time off in lieu of payment for overtime
 - (i) An employee may elect, with the consent of the employer, to take time off in lieu of payment for overtime at a time agreed with the employer within 12 months of the said election.
 - (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.
 - (iii) If, having elected to take time as leave in accordance with paragraph (i) of this subclause, the leave is not taken for whatever reason payment for time accrued at overtime rates shall be made at the expiry of the 12 month period or at termination.
 - (iv) Where no election is made in accordance with the said paragraph (i), the employee shall be paid overtime rates in accordance with this award.
- (e) make-up time
 - (i) An employee may elect, with the consent of the employer, to work 'make-up time', under which the employee takes time off ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in this award, at the ordinary rate of pay.
 - (ii) An employee on shift work 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 at a time mutually agreed between the employee and employer, or subject to reasonable notice by the employee to the employer.
- (f) rostered days off
 - (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 days 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 at a time mutually agreed between the employee and employer, or subject to reasonable notice by the employee to the employer.
 - (iv) This subclause is subject to the employer informing each union which is both party to this award and which has members employed at the particular enterprise of its intention to introduce an enterprise system of RDO flexibility, and providing a reasonable opportunity for the union(s) to participate in negotiation.

28. Annual Leave

- (a) Day Workers and Monday to Saturday Shift Workers: For annual leave provisions see *NSW Annual Holidays Act 1944*.
- (b) Shift Workers under Clause 23 Shift Workers whose working period includes Sundays and Holidays as Ordinary Working Days:
 - (i) In addition to the benefits provided by Section 3 of the *NSW Annual Holidays Act 1944*, with respect to an annual holiday of four weeks an employee who, during the year of his employment with the company with respect to which he/she becomes entitled to the said annual holiday of four weeks, gives service to the company as a seven-day shift worker under the said Clause 23, shall be entitled to the additional leave as below specified:
 - (1) If during the year of his employment he/she has served the Company continuously as such seven-day shift worker the additional leave with respect to that year shall be one week.

- (2) Subject to subparagraph (4), of this paragraph, if during the year of his/her employment he/she has served for only portion of it as such seven-day shift worker the additional leave shall be one day for every thirty three ordinary shifts worked as a seven-day shift worker.
 - (3) Subject to subparagraph (4), of this paragraph, an employee shall be paid for such additional leave at the annual leave rate of pay, for the number of ordinary hours of work for which such employee would have been rostered for duty during the period of additional leave had such employee not been on such additional leave.
 - (4) Where the additional leave calculated under this subclause is or includes a fraction of a day such fraction shall not form part of the leave period and any such fraction shall be discharged by payment only.
 - (5) In this clause reference to one week and one day include holidays and non-working days.
- (ii) Where the employment of a worker has been terminated and he/she thereby becomes entitled under section 4 of the *Annual Holidays Act, 1944*, to payment in lieu of an annual holiday with respect to a period of employment, he/she also shall be entitled to an additional payment of three and one-half hours at the annual leave rate of pay with respect to such twenty-one shifts of service as such seven-day shift worker which he/she has rendered during such period of employment.
- (c) All employees - Annual Leave Loading:

In respect of a period of annual leave an employee shall be paid a loading of 20 per cent of his/her award rate of pay for ordinary time at the commencement of his/her annual leave as prescribed by: Clause 2, Rates of Pay; Clause 10, Team Leaders and Acting Supervisors.

Provided, that an employee who would have worked on shift work had he / she not been on annual leave shall be paid whichever is the greater of the said loading, or the shift work allowances pursuant to Clause 14, Shift Work Allowances for Shift Workers, and the weekend penalty rates pursuant to Clause 15, Saturday Rates for Shift workers, and (in respect of Sundays only) Clause 22, Sunday and Holiday Rates, of this award that would have been payable to him/her in respect of ordinary time during his/her period of annual leave had he/she not been on annual leave.

The loading prescribed by this subclause shall apply to payment in lieu of a fully due annual holiday on termination of employment, but shall not apply to proportionate annual holiday payment on termination of employment.

29. Days Added to the Period of Annual Leave

- (i) In respect of any holiday prescribed by this award which falls within the period of annual leave or long service leave to which an employee is entitled under this award, one day shall be added to his/her annual leave period or long service leave period.
- (ii) Any day or days added in the case of annual leave shall be paid for at the annual leave rate of pay and in the case of long service leave shall be paid for at the long service rate of pay.
- (iii) Any day or days added in accordance with subclause (i) of this clause, shall be the working day or working days immediately following the period of annual leave or long service leave respectively to which the employee is entitled under Clause 28, Annual Leave or Clause 30, Long Service Leave.

30. Long Service Leave

Long service leave will accrue at the rate of 13 weeks long service leave after 10 years continuous service. This rate of accrual is not retrospective and applies only to long service leave accrued from the 5th February 2004.

31. Jury Service

An employee required to attend for jury service:

- (a) During his/her ordinary working hours; or
- (b) Immediately following an ordinary night shift or immediately preceding an ordinary afternoon shift on which the employee is rostered to work and, as a result of attending for jury service, is not reasonably able to report for work on the night shift or afternoon shift, as the case may be: shall be reimbursed by the Company an amount equal to the difference between the amount paid in respect of his/her attendance for such jury service and his/her ordinary time rate of pay which would have been payable in respect of the ordinary time he/she would have worked had he/she not attended for jury service.
- (c) An employee shall notify the Company as soon as possible of the date upon which he/she is required to attend for jury service.
- (d) Further, the employee shall give the Company proof of his/her attendance, the duration of such attendance and the amount received in respect of such jury service.
- (e) It is expected that if an employee is discharged from Jury duty that they return to work to complete the remainder of their shift.

32. Compassionate Leave

- (i) An employee, other than a casual employee, shall be entitled to up to two days compassionate leave without deduction of pay, on each occasion of the death of a person as prescribed in subclause (iii) of this clause.
- (ii) The employee must notify the employer as soon as practicable of the intention to take compassionate leave and will provide to the satisfaction of the employer proof of death.
- (iii) Compassionate leave shall be available to the employee in respect to the death of a person prescribed for the purposes of Personal/Carer's Leave as set out in sub paragraph (2) of paragraph (iii) of subclause (a) of clause 27, Personal/Carer's Leave, provided that, for the purpose of compassionate leave, the employee need not have been responsible for the care of the person concerned.
- (iv) In addition to those persons described in paragraph (iii), compassionate leave is also available to the employee in respect to the death of a mother-in-law or father-in-law.
- (v) An employee shall not be entitled to compassionate leave under this clause during any period in respect of which the employee has been granted other leave.
- (vi) Compassionate leave may be taken in conjunction with other leave available under subclauses (b), (c), (d), (e) and (f) of the said clause 27. In determining such a request, the employer will give consideration to the circumstances of the employee and the reasonable operational requirements of the business.

33. Parental Leave

Refer to Part 4 - Parental Leave of the NSW *Industrial Relations Act* (1996).

34. Contract of Employment

In order to terminate the employment of an employee the employer shall give to the employee the following notice or provide the following payment in lieu of notice:

- (a) Subject as provided for elsewhere in this award employment shall be on a weekly basis.

- (b) New employees will be subject to a three month probation period. Employment of employees on probation for the first four weeks of service shall be from day to day at the weekly rate fixed, determinable at a day's notice.
- (c) Employees shall perform such work as the Company shall, from time to time, reasonably require and an employee not attending for or not performing his duty shall, except as provided by the leave provisions of this award, lose his pay for the actual time of such non-attendance or non-performance.
- (d) In order to terminate the employment of an employee the employer shall give to the employee the following notice or provide the following payment in lieu of notice:

Payment of Continuous Service	Period of Notice
1 year or less	1 week
1 year and up to the completion of 3 years	2 weeks
3 years and up to the completion of 5 years	3 weeks
5 years and over	4 weeks

Employees over 45 years of age at the time of the giving of the notice with not less that two years continuous service, shall be entitled to one additional weeks notice.

The notice of termination required to be given by an employee shall be the same as that required of an employer, save and except that there shall be no additional notice based on the age of the employee concerned.

If an employee fails to give notice the employer shall have the right to withhold monies due to the employee with a maximum amount equal to the ordinary time rate of pay for the period of notice.

- (e) This clause shall not affect the right of the Company to deduct payment for any day during which an employee cannot be employed usefully because of any strike or through any breakdown of machinery or due to any cause for which the Company reasonably cannot be held responsible.
- (f) This clause shall not affect the right of the Company to dismiss an employee without notice for refusal of duty, malingering, inefficiency, neglect of duty or misconduct and in such cases wages shall be payable up to the time of dismissal only, provided that:
- (i) No employee shall be dismissed without notice before an adequate investigation of the circumstances of the alleged offence has been made.
 - (ii) Any decision as to the dismissal of an employee without notice shall be made by the Manager of the department to which the employee is attached.
 - (iii) When a Manager decides to dismiss an employee without notice the Manager shall so tell the employee and give the employee the reasons for the dismissal without notice.
 - (iv) If immediately following a dismissal without notice the dismissed employee, or his/her delegate, tells the Manager that the dismissal will be contested:
 - (1) The dismissal shall take effect seven calendar days from the time that the employee was told of his/her dismissal, and
 - (2) During these 7 calendar days, the employee shall be stood down without pay.

35. Introduction of Change

- (a) Company's duty to notify
- (i) Where the Company has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on

employees, the Company shall notify the employees who may be affected by the proposed changes and their employee representatives.

- (ii) "Significant effects" include termination of employment, major changes in the composition, operation or size of the Company's work force or in the skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure, the alteration of hours of work; the need for retraining or transfer of employees to other work or locations and the restructuring of jobs. Provided that where the award makes provision for alteration of any of the matters referred to herein an alteration shall be deemed not to have significant effect.
- (b) Company's duty to discuss change
- (i) The Company shall discuss with the employees affected and their employee representatives, the introduction of the changes referred to in subclause (a) hereof, the effects the changes are likely to have on employees, measures to avert or mitigate the adverse effects of such changes on employees and shall give prompt consideration to matters raised by the employees and/or their representatives in relation to the changes.
- (ii) The discussions shall commence as early as practicable after a definite decision has been made by the Company to make the changes referred to in subclause (a) hereof.
- (iii) For the purposes of such discussion, the Company shall provide in writing to the employees concerned and their employee representatives, all relevant information about the changes including the nature of the changes proposed; the expected effects of the changes on employees and any other matters likely to affect employees provided that the company shall not be required to disclose confidential information the disclosure of which would be inimical to the Company's interests.

36. Redundancy

This clause shall apply to collective dismissals by way of retrenchment, whether made at the same time or over a period of time and where the dismissals relate to circumstances affecting the employer's enterprise and not to the conduct of the employees.

- (a)
- (i) The company is obliged to inform the employee representatives and the company's employees who may be affected by any retrenchments, as soon as the company becomes aware that the retrenchments are necessary, of the facts and circumstances of the proposed retrenchments.
- (ii) The Company will seek to call for volunteers, where possible, before any forced redundancies take place.
- (iii) In addition to the period of notice prescribed for ordinary termination in subclause 31(d) an employee whose employment is terminated for reasons set out in paragraph (a)(i) hereof shall be entitled to the following amount of severance pay in respect of a continuous period of service:-

Period of Continuous Service	Severance Pay Under 45 years	Severance Pay 45 years & over
Less than 1 year	Nil	Nil
1 year, an less than 2 years	4 weeks	5 weeks
2 years, and less than 3 years	7 weeks	8.75 weeks
3 years, and less than 4 years	10 weeks	12.5 weeks
4 years, and less than 5 years	12 weeks	15 weeks
5 years, and less than 6 years	14 weeks	17.5 weeks
6 years and over	16 weeks	20 weeks

Weeks pay, means the ordinary time rate of pay for the employee concerned.

- (iv) Where an employee is transferred to lower paid duties as a result of reasons set out in this clause the employee shall be entitled to the same period of notice of transfer as he/she would have been entitled to if his/her employment had been terminated, and the employer may, at the employer's option make payment in lieu thereof of an amount equal to the difference between the former ordinary time rate of pay and the new ordinary time rate of pay for the weeks still owing.
- (v) During the period of notice an employee shall be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.

37. Superannuation

(a) Definitions

- (i) "Eligible Employee" means an employee who is or becomes a member of the superannuation fund selected in accordance with subclause (c) hereof and who is a weekly employee with not less than 4 week's continuous service with the employer.
- (ii) "Ordinary Time Earnings" means an employee's award classification rate, any overaward payment, tool allowance, leading hand allowance and shift loading including weekend and public holiday rates where the shift worked is part of the employee's ordinary hours of work.
- (iii) "Act means the Occupational Superannuation Standards Act, 1987".
- (iv) "Regulations" mean the Occupational Superannuation Standards Regulations.

(b) Contributions

- (i) Subject to subclauses (d) and (e) hereof, the employer shall contribute to a superannuation fund which complies with the Act and Regulations on behalf of each eligible employee, a superannuation contribution being an amount consistent with the requirements of the Superannuation Guarantee Legislation.
 - (1) upon completion of the qualifying periods specified in subclause 1 and contributions on behalf of each eligible employee shall apply from the date of the employee's commencement of employment with the employer subject to the operative date of this award; and provided that:
 - (2) the benefits by the fund selected in accordance with subclause 3 hereof and of which the employee is a member, may be improved such that the improvements are equivalent to the value of contributions required to be made by paragraph (1) hereof and are in accordance with the Act and Regulations.
- (ii) the contributions required herein shall be made to the relevant fund selected in accordance with clause (c) hereof in the manner and at the times specified by the terms of the fund or any agreement between the employer and the trustees of the fund.
- (iii) Employees may voluntarily elect to contribute an additional proportion of their wages to their nominated superannuation fund. To do so an employee must notify Mainteck Services Pty Ltd in writing.

(c) Superannuation Fund

- (i) The employer shall make the superannuation contributions or improvements pursuant to this award to any fund agreed between the employer and the Superannuation Policy Committee, provided that such fund complies with the Act and Regulations.

(d) Fund Membership

The employer shall make the employee aware of his/her entitlements under this award and offer the employee the opportunity to become a member of the appropriate fund in accordance with subclause (c) hereof. An employee shall be required to properly complete the necessary application forms to become a member of the appropriate fund in order to be entitled to the contributions prescribed in subclause (b) hereof.

(e) Absence From Work

(i) Paid leave

Contributions shall continue whilst a member of a fund is absent on paid leave such as annual leave, long service leave, public holidays, jury service, sick leave and bereavement leave.

(ii) Unpaid Leave

Contributions shall not be required to be made in respect of absence from work without pay.

(iii) Work Related Injury and Sickness

In the event of an eligible employee's absence from work due to work related injury or sickness, contributions shall continue for the period of the absence (subject to a maximum of 52 weeks total absence for each injury or sickness) provided that the member of the fund (employee) is receiving payments in accordance with the provisions of an award or an industrial agreement with accident pay.

38. Definitions

- (a) Day workers are employees, other than shift workers, and include employees on night work within Clause 16, Night Work for Day Workers and Day Shift Workers.
- (b) Shift workers are employees working on a one, two, or three shift system.
- (c) Monday to Saturday shift workers are shift workers whose ordinary working hours are worked between Monday to Saturday.
- (d) For shift workers each day, including Sunday and holidays, shall be deemed to commence at 10.50 pm on the preceding day.
- (e) A "Team Leader" is an employee who is responsible to management for the performance of his/her allocated "team" or group of employees to carry out specified tasks, and/or undertake normal duties within the assigned or designated parameters. Assigned or designated parameters includes but is not limited to company quality control procedures, company safety procedures and customers delivery schedules.
- (f) An "Acting Supervisor" is an employee who is directed by management for the performance of his/her work shift in the absence of a salaried supervisor for periods of time in excess of two hours.

39. Time and Payment of Wages

- (a) All wages shall be paid fortnightly directly into the employee's nominated financial institution account.
- (b) Each pay period shall commence with night shift on Saturday evening.
- (c) The provision of subclauses (a) and (b) of this clause shall not have application in circumstances where it is not reasonably practicable for the Company to comply with its obligations thereunder on account of causes for which it cannot reasonably be held responsible. Proof of the existence of such circumstances shall lie upon the Company.

In such circumstances the Company shall pay wages as soon as it is reasonably practicable for it to do so.

- (d) Any variation of this award expressed to operate from the beginning of a pay period shall operate as if each fortnightly pay period comprises two separate weekly pay periods.

40. Blood Donations

Mainteck will promote employee participation in blood donation programmes. Mainteck shall also pursue ways for employees to actually donate blood with minimum disruption to its business.

41. Income Protection Insurance

Permanent Employees of Mainteck Services engaged pursuant to this Award shall be provided with Income Protection Insurance under the following terms and conditions

A qualifying period of 14 Days

The insurance cover benefits payable will be applied for a maximum period of two years

Mainteck Services will contribute up to 2% of an employee's gross earnings to an income insurance plan, subject to the following:

1. In the event that the claims experience requires a review of the insurance plan, the adjustment will be to plan and not the Company's insurance premium. Alternatively, employees may elect to supplement any additional premium by deduction from their pay
2. People accessing the insurance plan will agree to participate in the rehabilitation program, which includes assessment by the company's nominated medical services provider

42. Protective Clothing and Equipment

- (i) It is a requirement that employees wear authorised Mainteck Services issued clothing/uniform, and appropriated personal protective equipment including steel capped boots
- (ii) On engagement, full time employees shall be issues with one (1) pair of safety boots, four (4) shirts, four (4) trousers and one (1) jacket
- (iii) On an annual basis after twelve (12) months continuous service, full time employees shall be entitled to one (1) pair of safety boots, two (2) shirts, two (2) trousers, and one (1) jacket every 2 years.
- (iv) Employees, who leave within the probationary period (3 months), shall reimburse the company for clothing and personal protective equipment as per the letter of "offer for employment".
- (v) Clothing and footwear provided by Mainteck Services shall be replaced by the Company on a fair wear and tear basis after approval from the appropriate supervisor.
- (vi) It is a condition of employment that clothing/uniforms provided by the Company to employees be worn at all times during working hours. Employees failing to comply with this request will be managed through the Issue Resolution process as a non performance issue.
- (vii) Records of the type of clothing issued to employees will be recorded by the Company.
- (viii) Clothing will be worn for 2 days before washing - laundry/repair service has been clothes are collected from a dirty clothes bin on Wed & Fri and delivered back to the crib room.

43. Alcohol and Other Drugs Policy

Mainteck Services Australia Pty Ltd considers the Health and Safety of all employees to be of the utmost importance. Persons affected by alcohol or other drugs are a safety hazard to themselves and other persons at the workplace.

It is the policy of Mainteck that a person affected by alcohol or other drugs will not be allowed to commence work until that person can demonstrate that they can work in a safe manner.

The decision on a person's ability to work in a safe manner will be made by a peer present at the time. An employee representative, a member of the OH&S Committee or supervisor may be called to assist in the decision should it be deemed necessary.

If there is no cooperation the relevant employee representative and a management representative must become involved. If either of these people are not available the senior Mainteck person on site will manage the situation.

Suitable arrangements must be made to ensure the person's safety when leaving the site. If this involves payment of a taxi fare the company will be liable for the costs.

Wages may not be paid from the time that the person is informed to leave the site by an authorised person. Where loss of wages and/or any other expenses may be involved the appropriate union delegate should be informed.

The employee will be referred to an employee assistance programme as appropriate.

Testing of employees for alcohol and other drugs may be undertaken where a person is suspected to be acting in an unsafe manner due to the influence of alcohol or other drugs or following a significant safety incident.

44. Employee Representatives

The Company shall give recognition to an employee who is the delegate representing the employees in a shop or department where he/she is employed and he/she shall be allowed the necessary time to interview the Company or its representatives during working hours, in the case of a dispute affecting employees in his/her shop or department, provided that the Company shall not be bound to give recognition as employee representatives to any employee in respect of whom a written notification has not been received from the employees concerned advising of the person's election as an employee representative. The Company shall, upon request, provide each recognised employee representative with a suitable locker for the purpose of storing relevant material at the workplace.

45. Occupational Health and Safety

All parties to this Award are committed to creating and maintaining a safe working environment as a priority to ensure that everyone involved in our work returns to their homes in the same condition as they left them. The Parties will focus on the continued development and review of an Operations Safety Plan that includes, but is not limited to the following:

- Risk Assessments
- Job Safety Analysis (JSA)
- Toolbox safety meetings
- Hazardous Substances
- Personal Protective Equipment
- Communication and Organisational Learning
- Routine Inspection
- Routine Inspection and Evaluation
- Safety Audits
- Fitness for Work, Drugs and Alcohol
- Incident Response
- Injury Management and rehabilitation

It is a condition of employment that employees comply with the obligations and responsibilities contained within the Operations Safety Plan.

The Parties to this Award will work together to minimise any harmful effect on the environment.

The parties to this Award agree to adopt the following principles as a sole guide to handling safety issues:

- (i) that all employees shall act in good faith and co-operate to find or create a safe environment so that work may continue;
- (ii) that should a portion of a job be affected by safety issues, all other employees not so affected shall continue to work;
- (iii) that should a portion of a job be affected by safety issues, employees so affected shall accept transfer to another work location on the site if, in the opinion of the company, useful work is available in that area, other site or place of work and that work is within the scope of the employees' skill and competency.

46. Formal Discipline/Warning Procedure

All parties support the attainment of high levels of performance, and are committed to encouraging and supporting employees to achieve this. However, in the case of an employee's poor performance, the following procedure will apply.

(a) COUNSELLING

The employee will be counselled by the Supervisor, in the presence of an employee nominated witness or where appropriate, an employee representative. This counselling will be recorded on the employee's personnel file and is an attempt to correct or modify inappropriate behaviour.

(b) FIRST WRITTEN WARNING

The employee will be firmly counselled by the Supervisor in the presence of an employee nominated witness or where appropriate, an employee representative, in a second attempt to correct inappropriate behaviour. The employee will be issued with a written warning that continuation of such behaviour could ultimately lead to dismissal. This warning will be recorded in the employee's personnel file.

(c) FINAL WRITTEN WARNING

The employee is given a formal written warning by the relevant Manager in the presence of an employee nominated witness or, where appropriate, an employee representative. They will be informed that repetition of the misconduct will lead to termination of employment. A copy of the warning will be recorded on the employee's personnel file.

(d) TERMINATION

After conducting disciplinary interviews to enable investigation of all the facts and give the employee a proper opportunity to offer an explanation or answer allegations, it is open to management to dismiss the employee either with or without notice, in accordance with all relevant legislation.

Before any termination takes place, the parties will confer as to what steps need to be taken to resolve the issue to the satisfaction of the parties.

(e) PERFORMANCE MONITORING

The company may wish to monitor the employee's performance on a regular basis throughout any such disciplinary matter.

At all stages of this procedure an employee may utilise the Procedure for Resolving Claims, Issues and Disputes in this Award if the employee so requires.

(f) **SERIOUS & WILFUL MISCONDUCT**

Nothing in the above procedure removes the rights of Mainteck Services to summarily dismiss an employee in a case of serious and wilful misconduct.

47. Procedure for Resolving Claims, Issues and Disputes

The objectives of this procedure shall be to promote the resolution of disputes by measures based on consultation, co-operation and discussion; to reduce the level of industrial confrontation; and to avoid interruption to the performance of work and consequential loss of production and wages. Included in this clause are issues arising from policies and procedures implemented by the Company from time to time.

(a) **Claims, Issues and Disputes**

- (i) Employee(s) and/or their representatives will place the claim, issue or dispute before the immediate supervisor. The immediate supervisor will take all reasonable steps to reply to the employee(s) and/or representative(s) as soon as possible. If the reply cannot be given by the end of the next ordinary working shift, a progress report will be given.
- (ii) Failing agreement, employee(s) and/or their representative(s) will place the claim, issue or dispute before the Manager or his/her deputy. The Manager or his/her deputy will take all reasonable steps to reply to the employee(s) and/or representative(s) as soon as possible.
- (iii) Notwithstanding paragraph (i) and (ii), claims, issues or disputes may be referred to the Consultative Committee who shall make recommendations as to solutions to resolving the claim, issue or dispute.
- (iv) Failing agreement, the matter shall be fully reviewed by Management and the employee representatives involved and all reasonable steps shall be taken to resolve the matter.
- (v) Failing agreement, the claim, issue or dispute shall be referred to an appropriate third party for resolution. This may include the relevant Industrial Relations Commission.
- (vi) The procedures in (i) and (ii) above do not apply to claims, issues or disputes relating to genuine safety matters. In such matters the Company will undertake immediate investigations including discussions with the employee(s) and/or employee representatives. As necessary the appropriate government authority will be involved.
- (vii) Whilst the above procedure is being affected, the status quo existing immediately prior to the matter giving rise to the dispute will remain without stoppage or the imposition of any ban, limitation or restriction. Normal safe work shall continue. No party shall be prejudiced as to final settlement by the continuance of work in accordance with this subclause.

48. Employee Entitlements/Redundancy

The Redundancy provisions for Mainteck Employees will be managed and guaranteed by Mainteck. The company shall comply with legislation as varied from time to time, that governs the rights and obligations of the parties.

49. Transmission of Business

(a) **Adequate Alternate Employment**

An employer in a particular redundancy case, may make application to the Commission to have the general severance pay prescription varied if the employer obtains adequate alternative employment for an employee.

This provision does not apply to circumstances involving transmission of business as set out in (b)

(b) Transmission of Business

The provisions of Clause 35 (Redundancy) of this Award are not applicable where a business is before or after the date of this agreement, transmitted from an employer (in this subclause called "the transmitter") to another employer (in this subclause called "the transmittee"), in any of the following circumstances:

- (i) Where the employee accepts employment with the transmittee which recognises the period of continuous service which the employee had with the transmitter and any prior transmitter to be continuous service of the employee with the transmittee; or
- (ii) Where the employee rejects an offer of employment with the transmittee:

In which terms and conditions are substantially similar and no less favourable, considered on an overall basis, than the terms and conditions applicable to the employee at the time of ceasing employment with the transmitter; and

which recognises the period of continuous service which the employee had with the transmitter and any prior transmitter to be continuous service of the employee with the transmittee.

- (c) The Commission may vary (b)(ii) if it is satisfied that this provision would operate unfairly in a particular case.

50. Anti-Discrimination

- (1) It is the intention of the parties bound by this award to seek to achieve the object in section 3(f) of the *Industrial Relations Act 1996* to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.
- (2) It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this award, the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the award which, by its terms or operation, has a direct or indirect discriminatory effect.
- (3) Under the *Anti-Discrimination Act 1977*, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- (4) Nothing in this clause is to be taken to affect:
 - (a) any conduct or act which is specifically exempted from anti-discrimination legislation;
 - (b) offering or providing junior rates of pay to persons under 21 years of age;
 - (c) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
 - (d) a party to this award from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.
- (5) This clause does not create legal rights or obligations in addition to those imposed upon the parties by legislation referred to in this clause.

NOTES -

- (a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.

(b) Section 56(d) of the *Anti-Discrimination Act 1977* provides:

"Nothing in this Act affects ... any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion."

51. Area, Incidence and Duration

This award shall apply to all work performed for the slabmaking (BOS/Caster) department at Bluescope Steel - Port Kembla by Mainteck Services Pty. Ltd.

The parties to this Award are:

- (a) Mainteck Services Pty Ltd, 20 - 24 Flinders Street, Port Kembla, NSW 2505.
- (b) Employees of Mainteck Services Pty Ltd who are employed to work at the Slab Caster Workshop, on site at Bluescope Steel Port Kembla Steelworks whether members of the organisation of employees listed in subclause (c) hereof or not; and
- (c) The organisations that represent the employees defined in (b) namely
 - (i) Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union
 - (ii) The Australian Workers Union
 - (iii) Electrical Trades Union

This award shall not apply to:

- (a) employees on the clerical staff
- (b) employees on salaried staff.

This award rescinds and replaces the Mainteck Services Pty Ltd Port Kembla Slab Caster Segment Workshop Industrial Award published 28 January 2005 (348 I.G. 222) and shall take effect from the beginning of the first pay period to commence on or after 20 January 2006 and shall remain in force for a period of three years from the date of operation.

PART B

SCHEDULE 1

MONETARY RATES

Basic Wage for Adult employee per week \$121.40

Table 1 - Rates of Pay per 38 hour week

	Jan 2006	Jan 2007	Jan 2008	Jan 2009
Mechanical Tradesperson Base	\$954.20	\$992.90	\$1,032.10	\$1,072.87
Mechanical Tradesperson Level 1	\$990.90	\$1,031.06	\$1,071.79	\$1,114.15
Mechanical Tradesperson Level 2	\$1018.50	\$1,059.77	\$1,101.65	\$1,145.20
Mechanical Tradesperson Level 3	\$1047.40	\$1,089.82	\$1,132.90	\$1,177.71
Mechanical Tradesperson Level 4	\$1075.00	\$1,118.53	\$1,162.76	\$1,208.76
Mechanical Tradesperson Level 5	\$1201.70	\$1,250.30	\$1,299.80	\$1,351.28

Above rates include a tool allowance of \$12.80 per week (from Jan 2007)

Electrical Tradesperson Base	\$973.50	\$1,012.97	\$1,052.97	\$1,094.58
Electrical Tradesperson Level 1	\$1010.00	\$1,050.93	\$1,092.45	\$1,135.64
Electrical Tradesperson Level 2	\$1037.90	\$1,079.94	\$1,122.63	\$1,167.02
Electrical Tradesperson Level 3	\$1101.90	\$1,146.50	\$1,191.85	\$1,239.01
Electrical Tradesperson Level 4	\$1122.80	\$1,168.24	\$1,214.46	\$1,262.52
Electrical Tradesperson Level 5	\$1221.70	\$1,271.10	\$1,321.43	\$1,373.77

Above rates include a tool allowance of \$12.80 per week and Electrical Licence of \$30.60 per week (from January 2007)

Maintenance Attendant Level 1	\$814.90	\$847.50	\$881.40	\$916.65
Maintenance Attendant Level 2	\$848.00	\$881.92	\$917.20	\$953.88
Maintenance Attendant Level 3	\$888.00	\$923.52	\$960.46	\$998.88

Apprentices (4 year term)

1st year (42% of Mechanical Base)	\$400.75	\$417.02	\$433.48	\$450.61
2nd year (55% of Mechanical Base)	\$524.79	\$546.09	\$567.65	\$590.08
3rd year (75% of Mechanical Base)	\$715.62	\$744.67	\$774.07	\$804.65
4th year (88% of Mechanical Base)	\$839.66	\$873.75	\$908.25	\$944.13

Above rates also include relevant % of Tool Allowance for each year

Table 2 - Allowances

Item No	Clause No.	Description	Jan 06 \$	Jan-07 \$	Jan-08 \$	Jan 09 \$
1	2(a)	Working as an electrical tradesperson and possessing an Electrician's A Grade Licence	28.60	30.90	30.90	30.90
2	2 (c)(i)	Tool allowance for supplying and maintaining tools	11.80	12.80	12.80	12.80
3	10 (a)(i)	In charge of not less than 3 and not more than 10 employees	55.89	58.13	60.45	62.87
	Team Leader					
4	10 (a)(ii)	In charge of not less than 10 and not more than 20 employees	69.71	72.50	75.40	78.41
	Team Leader					
5	10 (a)(iii)	In charge of more than 20 employees	82.66	85.97	89.41	92.98
	Team Leader					
6	10 (b)(i)	In charge of not less than 10 and not more than 20 employees	146.28	152.13	158.22	164.55
	Actg. Supervisor					
7	10(b)(ii)		159.47	165.85	172.48	179.38
	Actg. Supervisor					
8	10 (b)(iii)	In charge of more than 20 employees	173.18	180.11	187.31	194.80
	Acting Supervisor					
9	12 (a), (b)	When involved in gap checking and aligning segments or working inside assembled segments (per hour)	0.56	0.58	0.61	0.63
10	14 (a)(i)	Shift workers working rotating shifts	64.24	66.81	69.48	72.26
11	14 (a)(i)	Rotating shift workers when engaged under a roster system which does not allow at least one third of his/her working time on day shift, additional:	42.48	44.18	45.95	47.78
12	14 (a)(ii)	Shift workers while working shift work which involves regular weekly changes as follows:				
		Day shift, Night shift-	64.24	66.81	69.48	72.26
		Day shift, Afternoon shift -	52.92	55.04	57.24	59.53

13	14(a)(iii)	Shift workers while working shifts as follows:				
		Night shift, Afternoon shift, or Night shift or Afternoon shift only	64.24	66.81	69.48	72.26
14	14 (a)(iv)	Shift workers who work any afternoon or night shift other than under the shift systems set out in paragraphs (i),(ii) or (iii)	24.26	25.23	26.24	27.29
15	19(c)(iii)	An employee required to work overtime without sufficient notice	8.30	9.00	9.00	9.00
16	19(c)(vii)	Employee recalled from home to work overtime	8.30	9.00	9.00	9.00
17	12(c)	Employees engaged in unusually dirty or offensive capacity(per hour) Max. 6 hrs per day	0.34	0.35	0.37	0.38
18	12(d)	Heat money (per hour)	0.34	0.35	0.37	0.38
19	12(e)	Confined space allowance (per hour)	0.51	0.53	0.55	0.57
20	12(f)	On Site Allowance (per hour)	0.56	0.58	0.61	0.63

M. J. WALTON J, *Vice-President*

Printed by the authority of the Industrial Registrar.

BORAL PEATS RIDGE QUARRY (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Boral Construction Materials Group Limited.

(No. IRC 1241 of 2006)

Before The Honourable Mr Deputy President Harrison

21 March 2006

AWARD**1. Title**

1.1 This Award shall be known as the Boral Peats Ridge Quarry (State) Award.

2. Contents

2.1 This Award is arranged as follows:

1. Title
2. Contents
3. Application And Parties
4. Start Date And Period Of Operation
5. Anti Discrimination
6. Dictionary
7. Contract Of Employment
8. Consultation
9. Redundancy
10. Conflict Resolution
11. Classifications Etc
12. Competency Assessment
13. Training And Progression
14. Assessor
15. Leading Hands
16. Work Practices
17. Payment Of Wages
18. Tools
19. First Aid
20. Temporary Transfer
21. Hours Of Work
22. Method Of Working The 38 Hour Week
23. Meal Breaks
24. Rest Breaks
25. Sundays And Holidays
26. Overtime
27. Annual Leave
28. Annual Leave Loading
29. Long Service Leave
30. Parental Leave And Personal/Carer's Leave
31. Bereavement Leave
32. Jury Service
33. Sick Leave
34. Protective Clothing
35. Protective Equipment
36. Use Of Car
37. Annual Wage Adjustment And Bonus

38. Fares
39. Additions To Wage
40. Delegates
41. Counselling
42. Kitchen
43. Timekeeping
44. Wages Sacrifice In Return For Increased Employer Funded Superannuation

Table 1 - Rates of Pay

Table 2 - Other Rates And Allowances

Schedule 1 - Wages Sacrifice Election Form

3. Application and Parties

- 3.1 This Award operates to the exclusion of any other Award or Enterprise Agreement whether made before or after the operation of this Award and shall apply to all employees of Boral employed in the Quarry.
- 3.2 This Award shall be binding upon:
 - (a) Boral; and
 - (b) the Employees; and
 - (c) the Union.

4. Start Date and Period of Operation

- 4.1 This Award rescinds and replaces the Boral Peats Ridge Quarry (State) Award published 31 May 2002 (333 I.G. 932) and shall commence from 16th March 2006 and remain in force for a period of 3 years.

5. Anti Discrimination

- 5.1 Obligation
 - (a) It is the intention of the parties bound by this Award to seek to achieve the object in section 3(f) of the *Industrial Relations Act* 1996 to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity age and responsibilities as a carer.
 - (b) It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this Award the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this Award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the Award that, by its terms or operation, has a direct or indirect discriminatory effect.
 - (c) Under the *Anti-Discrimination Act* 1977, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
 - (d) Nothing in this clause is to be taken to affect:
 - (i) any conduct or act which is specifically exempted from anti-discrimination legislation;
 - (ii) offering or providing junior rates of pay to persons under 21 years of age;

- (iii) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
- (iv) a party to this Award from pursuing matters of unlawful discrimination in any State or federal jurisdiction.
- (e) This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.

NOTATION:

- (a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
- (b) Section 56(d) of the *Anti-Discrimination Act 1977* provides:

"Nothing in the Act affects ... any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion."

6. Dictionary

6.1 Definitions

In this Award the following words in the left-hand column of the dictionary shall have the meaning given to them by the right hand column of the dictionary:

Boral	Boral Construction Materials Group Limited
Employee	an employee employed by Boral at the quarry
Start Date	date upon which this Award is made by the Industrial Relations Commission of New South Wales in accordance with the Act;
Union	the Australian Workers' Union; NSW;
Wife, Husband	shall include de facto wife or husband;
Father, mother	shall include foster-father or mother and stepfather or mother;
Afternoon Shift	means any shift finishing after 6.00pm and at or before midnight and shall receive a shift penalty of thirty three and one third percent;
Night Shift	means any shift finishing subsequent to midnight and at or before 8.00am and shall receive a shift penalty of thirty three and one third percent;
Weeks pay	means the ordinary time weekly rate of pay;
Significant effects	include termination of employment, major changes in the composition, operation or size of Boral's workforce or in the skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of you to other work or locations and the restructuring of jobs. (Provided that where the award makes provision for alteration of any of the matters referred to herein an alteration shall be deemed not to have significant effect);
Technological change notice	means 3 months notice of termination or payment in lieu of such notice;
Quarry	means the Peats Ridge quarry operated by Boral Resources (NSW) Pty Limited;

Standard	National Competency Standard as contextualised to the quarry;
Medical certificate	documentation provided by a registered medical practitioner proving that you are incapable of attending work due to a medically diagnosed condition;
Award	means Boral Peats Ridge Quarry (State) Award;
External auditor	a reputable and qualified auditor who is not an employee of Boral or a company related to Boral within the meaning of the Corporations Law;
Salaried employees	any employee (who has actually worked as a salaried employee within the Metropolitan Division for the majority of the preceding 12 months) who does not have their terms of employment covered by an award and is not remunerated on a 'total cost' basis;
Metropolitan Division	the operations of Boral comprising the Emu Plains, Prospect, Peat's Ridge and Dunmore quarries and any other quarry or similar site operated by Boral from time to time and the Drill and Blast Team;
Percentage salary increase	the percentage before being adjusted to take into account a salaried employee's 'compa ratio' (and excluding any regrading variations);
An award	an award of the Australian Industrial Relations Commission or the Industrial Relations Commission of New South Wales;
Gross earnings	the total amount earned exclusive of any expense related allowances;
General wage increase	any increase granted by the Industrial Relations Commission of New South Wales in accordance with section 50 or 51 of the Act;
Act	the <i>Industrial Relations Act 1996</i> ;
Appropriate action	in clause 38 includes training, further review, warning (verbal or written) or dismissal from employment;
Federal Act	the <i>Workplace Relations Act 1996</i> ;
Confined Space	means a compartment or space (access to which is through a manhole or similar opening) or a place the dimensions of which necessitate employees working in a stooped or otherwise cramped position or without proper ventilation;
Operator in charge of Plant	An employee shall be deemed to be in charge of an item of plant where - <ul style="list-style-type: none"> (a) two or more operators are employed on a unit of plant at the same time and the employee is the operator specifically entrusted with the supervision and responsibility; (b) (i) an operator is instructed by the supervisor of the work that their duties are to include repairs to their unit of plant in addition to the work of operating the plant but not when they merely assist a fitter or engineer to do such work. (ii) Where it is sought to introduce this provision, the site consultative committee shall be consulted prior to any implementation; and
Nominal Term	means the period of three (3) years commencing from the start date.

7. Contract of Employment

7.1 Except as hereinafter provided, employment shall be by the week. Any employee not specifically engaged as a casual employee shall be deemed to be employed by the week.

7.2 All new employees shall be on probation for the first three months of engagement. There shall be appropriate procedures for the proper induction of new employees (including Occupational Health and Safety matters, a description of the classification the employee will be employed in when commencing work and an outline of work practices and methods in the quarry etc).

7.3 Termination of employment of weekly employees - Employment shall be terminated:

- (a) by an employee with one week's notice or by forfeiture of a week's wages; or
- (b) by Boral in accordance with the Federal Act.

Notation: The Federal Act provides for the following periods of notice:

Serious Misconduct	Immediate
Not more than 1 year	1 week
More than 1 but no more than 3 years	2 weeks
More than 3 years but no more than 5 years	3 weeks
More than 5 years	4 weeks

If the employee is over 45 years of age and has 2 or more continuous years of service add 1 week for all notice except for serious misconduct.

7.4 Part-time Employment -

- (a) An employee may be engaged by the week to work on a part-time basis for a constant number of hours which, having regard to the various ways of arranging ordinary hours, shall average less than 38 but not less than 16 hours per week.
- (b) An employee so engaged shall be paid per hour one thirty-eighth of the weekly rate prescribed by clause 11 of this Award for the classification in which the employee is engaged.
- (c) An employee engaged on a part-time basis shall be entitled to payments in respect of annual leave, public holidays and sick leave arising under this Award on a proportionate basis.
- (d) No existing employee engaged full-time shall be forced to reduce to part-time employment because of this provision.
- (e) Employees under this clause shall not commence work prior to their fixed starting time unless such time is paid at overtime rates.
- (f) The number of part-time employees shall not exceed 20 per cent of employees at the quarry unless agreed to by the majority of employees at the quarry.
- (g) Prior to the introduction of any part-time employment, Boral should consult with the employees at the quarry by utilising the site consultative mechanism and procedures established in accordance with clause 8 Consultation.

7.5 Casual Employment -

- (a) A casual employee is one engaged and paid as such. A casual employee for working ordinary time shall be paid per hour one thirty-eighth of the weekly rate prescribed by this Award for the work that they perform, plus 15 percent.

- (b) If after having been engaged by Boral at the quarry for a period of 12 months a casual employee requests to be made permanent Boral shall make the employee a permanent employee.
- (c) To avoid any doubt the following clauses do not apply to casual employees: 7.1, 7.2, 7.3, 7.4, 7.5, 9, 13, 14, 25, 27, 28, 30.2, 31, 32 and 33.
- (d) A casual employee may have their employment terminated upon one hour's notice.

8. Consultation

8.1 The Committee

The parties will do all that is reasonably needed to form, maintain and operate a consultative committee comprising Boral representatives and employee representatives.

8.2 Sub-Committees

The consultative committee may form (and dissolve) a sub-committee to deal with a stated issue or issues and may act through that sub-committee.

8.3 Proceedings

All procedures of the consultative committee are to be determined by the consultative committee. All procedures of any sub-committee of a consultative committee are to be determined by the consultative committee, and to the extent that the consultative committee does not determine them, by the sub-committee itself.

8.4 Functions

Boral must use its best efforts to ensure that the Boral representatives, and employees use their best efforts to ensure that employee representatives, each do whatever is necessary to ensure that the consultative committee performs the functions set out in this Award, and performs those functions properly and speedily.

8.5 Powers

The consultative committee and any sub-committee are empowered to discuss, debate and make recommendations on any subject matter referred to it by employees or Boral. To avoid any doubt, subject to any express provision of this Award, Boral can decide to accept or reject any such recommendation.

9. Redundancy

9.1 Preservation of Employment

Where practicable and having regard to the needs of the quarry, the parties:

- (a) will co-operate to preserve existing employment and enhance future employment opportunities generally; and
- (b) recognise that this is best achieved when they co-operate to ensure that what can be done is done, to produce sustainable improvements in the competitive performance of the quarry.

9.2 Selection

When redundancies are to occur, Boral will:

- (a) call for volunteers; and

- (b) accept volunteers unless to do so will leave the quarry without the necessary skills to operate satisfactorily, then

if there are insufficient volunteers those to be made redundant will be selected by Boral by reference to their:

- (c) skills;
 (d) experience;
 (e) training; and
 (f) performance.

And:

having undertaken such an assessment, if it is necessary to make redundant individuals that are comparatively equal in terms of the assessment [unless some other pressing domestic issue is raised by the individuals concerned] if an employee has the shortest period of service that employee will be retrenched first.

9.3 Introduction of Change

Where Boral has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on an employee, Boral shall consult with the consultative committee about the changes and discuss the introduction of the changes, the effects the changes are likely to have on the employee, measures to avert or mitigate the adverse affects of such changes on the employee and shall give prompt consideration to matters raised by the employee before any redundancies are affected.

9.4 Redundancy Pay

If, following a decision made by Boral in accordance with clause 9.3 Boral decides that a position in the quarry is redundant then Boral will pay the employee:

- (a) If the employee is under 45 years of age

Less than 1 year's service	Nil,
1 year and less than 2 years	4 weeks' pay
2 years and less than 3 years	7 weeks' pay
3 years and less than 4 years	10 weeks' pay
4 years and less than 5 years	12 weeks' pay
5 years and less than 6 years	14 weeks' pay
6 years and less than 7 years	16 weeks' pay

and thereafter two weeks pay per year of service up to a maximum payment of 52 weeks' pay.

- (b) If the employee is 45 years of age or over

Less than 1 year's service	Nil
1 year and less than 2 years	5 weeks' pay
2 years and less than 3 years	8.75 weeks' pay
3 years and less than 4 years	12.5 weeks' pay
4 years and less than 5 years	15 weeks' pay
5 years and less than 6 years	17.5 weeks' pay
6 years and less than 7 years	20 weeks' pay

and thereafter two weeks pay per year of service up to a maximum payment of 52 weeks' pay.

9.5 Resignation During Notice of Redundancy

If an employee's position in the quarry is made redundant the employee may resign their employment during the period of notice and still receive any monies arising from clause 9.4.

10. Conflict Resolution

10.1 Steps

The following steps shall apply in the following order for resolution of a dispute. For each step, the next step may be taken if the dispute has not been resolved within a reasonable time:

- (a) consultation between the employee and a representative of Boral at the quarry;
- (b) consultation between the employee and the quarry manager;
- (c) consultation involving the consultative committee;
- (d) consultation between the employee and a senior manager of Boral;
- (e) reference of the matter to the Industrial Relations Commission of NSW for conciliation/arbitration no later than 72 hours after the step in (a) above unless otherwise agreed; and

10.2 Continuation of Normal Work

While the procedure above is being followed and until the matter is resolved work must continue normally.

11. Classifications Etc

11.1 Classifications

An employee will be classified by Boral into one of the grades/levels set out in Table 1 of Part B.

11.2 Rates Of Pay

Subject to clause 44, the rates of pay to be paid to an employee for the classification the employee is in are set out in Table 1 of this Award.

12. Competency Assessment

12.1 Assessment and Allowance

- (a) An employee must undertake and successfully complete competency based assessments for the work performed by the employee from time to time.
- (b) An employee shall be paid the amount per week set out in Item 14 of Table 2, Other Rates and Allowances of Part B in consideration of the obligations arising from clause 12.1(a) for all purposes of the Award.

Notation: To avoid doubt this allowance will be paid to the employee if the employee was employed at the quarry at the date of the making of this Award from that date and for new employees from their start date.

13. Training and Progression

13.1 Training Program To Be Established

As soon as reasonably practicable after the making of this Award Boral shall organise a training interview between an employee and the quarry manager to agree on a training program for the employee that is consistent with the operational needs of the quarry.

13.2 Training Program

An employee's training program shall:

- (a) identify the competencies the employee need to gain recognition in for the tasks the employee already performs;
- (b) any new competencies, in addition to those identified in (a), to gain recognition in;
- (c) the process by which the employee will gain such recognition (on the job, off the job, mentor program, etc);
- (d) an indicative timetable for gaining such recognition; and
- (e) the process by which the employee will work to maintain those competencies the employee has gained recognition in.

14. Assessor

14.1 Assessor Competencies

The assessor competency is:

- (a) Assessor

NMITAB units:	7	Workplace Trainer
	8	Workplace Assessor

14.2 To Become An Assessor

Despite anything else contained in this Award, an employee can only train to acquire the assessor competency in 14.1 above, after having been offered such opportunity by Boral who may make or not make such offer at its complete discretion.

14.3 Use Of Assessor Competency

Upon having the assessor competency recognised, an assessor will be appointed, by Boral, to such a role when such a role is available.

15. Leading Hands

15.1 Appointment

Boral may, in its complete discretion, appoint an employee to be a leading hand from time to time and when so appointed the employee shall supervise, direct or be in charge of other employees. To avoid any doubt, there is no requirement to appoint leading hands merely because groups of employees work together.

15.2 Allowance

If an employee is appointed as a leading hand, while so appointed the employee shall be paid the relevant allowance below determined by the number of persons the leading hand is in charge of:

2 - 5 employees:	the amount set out in Item 2 Table 2 of Part B per week
6 - 10 employees:	the amount set out in Item 3 Table 2 of Part B per week
11 - 20 employees:	the amount set out in Item 4 Table 2 of Part B per week
More than 20 employees:	the amount set out in Item 5 Table 2 of Part B per week;

16. Work Practices

16.1 Using Skills As Directed

Despite anything else contained in this Award, an employee must fully utilise the skills and/or competencies he/she has, as directed by Boral to meet the needs of the quarry.

To avoid any doubt this includes performing tasks at a lower Grade or Level.

17. Payment of Wages

17.1 Electronic Funds Transfer

Wages shall be paid weekly by means of electronic funds transfer to an account in a recognised financial institution.

17.2 Late Pay

When an employee's wages are not in their nominated account on the designated pay day the quarry manager if requested to do so by the employee, must provide the wages to the employee in cash by conclusion of the next day's shift.

18. Tools

18.1 Tradesperson Level 1-5 inclusive shall be paid an allowance per week as set out in Item 7 of Table 2 - Other Rates and Allowances, of Part B, Monetary Rates, for supplying and maintaining tools ordinarily required in the performance of their work as tradespersons.

18.2 All tools required by Grades 1-14 inclusive shall be provided free of charge by Boral.

19. First Aid

19.1 Certificate

If an employee holds a first-aid certificate and is appointed by Boral to perform first-aid duties the employee shall be paid an allowance as set out in Item 8 of Table 2 of Part B per day.

20. Temporary Transfer

20.1 Transfer Terms

If an employee agrees, Boral may temporarily transfer the employee to work somewhere other than at the quarry. When this occurs Boral and the employee must agree on the terms of the transfer including payment (if any) of travelling time, accommodation etc.

21. Hours of Work

21.1 Average Week

Subject to this Award, an employee must work an average of 38 ordinary hours each week as directed by Boral.

21.2 Spread of Hours

An employee's ordinary hours of work shall be worked:

- (a) on any day of the week Monday to Friday inclusive; and
- (b) between the hours of 6.30am and 6.00pm; or
- (c) between such spread of hours as is agreed between Boral and the majority of you in the section of the quarry concerned:

Or if an employee is a shift worker:

- (a) any day of the week Monday to Friday inclusive; or
- (b) by agreement with the majority of employees in the section of the quarry concerned on any day of the week Monday to Sunday inclusive.

21.3 Ten Hour Days

Unless it is agreed between Boral and the majority of employees in the section of the quarry concerned an employees ordinary hours of work must not exceed ten on any day.

21.4 Change to or from Shift Work

Unless otherwise agreed, Boral may direct an employee to change from regularly working day work to regularly working shift work (or vice versa) by giving the employee one month's notice in writing and the employee shall then work their ordinary hours on the shifts/days the employee has been rostered to work.

21.5 Rosters

Boral shall give an employee a roster for working their ordinary hours at least seven days in advance.

21.6 Change to Rosters

Despite clause 21.5, if due to unforeseen circumstances Boral needs to change an employee's roster to keep the quarry operating effectively Boral may change the employee's roster:

- (a) upon giving the employee no less than notice on the previous day of any such change if the employee is a day worker; or
- (b) upon giving the employee no less than notice on the previous day of any such change if the employee is a shift worker provided that if he/she is given less than seven days notice he/she shall continue to be paid their shift penalty for the balance of the such seven days even if he/she is transferred to day work.

21.7 Afternoon Shifts

If an employee is rostered to work an afternoon shift he/she shall be paid the afternoon shift allowance.

21.8 Night Shifts

If an employee is rostered to work a night shift he/she shall be paid the night shift allowance.

21.9 Saturday Shifts

If an employee work a shift that part of which is between midnight on Friday and midnight on Saturday he/she shall be paid at the rate of time and a half for the first two hours and double time thereafter and such extra rate shall be in substitution for and not cumulative upon his/her shift allowance.

21.10 Sundays and Holidays

If an employee works a shift that part of which is on a Sunday he/she shall be paid at the rate of double time and such extra rate shall be in substitution for and not cumulative upon their shift allowance.

21.11 Holidays

If an employee works a shift that part of which is on a public holiday he/she shall be paid at the rate of double time and one half and such extra rate shall be in substitution for and not cumulative upon his/her shift allowance.

22. Method of Working the 38 Hour Week

22.1 Work Cycles

The method of working the 38-hour week shall be any one of the following:

- (a) by Boral fixing one work day in the 4th week of a 4 week work cycle as a rostered day off on which the employee will be off work;
- (b) by Boral fixing two rostered work days on which the employee may be rostered off for two half days during a particular 4 week work cycle;
- (c) [subject to agreement between an employee and Boral] by the employee working less than eight ordinary hours on each day; or
- (d) by Boral fixing the recognised building and construction industry rostered day off as a rostered day off on which the employee will be off work.

22.2 Accumulation of Rostered Days Off

Rostered days off:

- (a) may be accumulated by agreement between an employee and Boral to be taken at an agreed time (and such agreement is reduced to writing); or
- (b) may be paid out by Boral to an employee at the rate of 7.6 ordinary hours pay per rostered day off accumulated but not taken as at 31 January each year.

22.3 Rostered Days Off on Public Holidays

When a rostered day off falls on a public holiday as prescribed in clause 25.1 the next working day shall be taken in lieu of the rostered day off unless an alternate day is agreed to between an employee and Boral.

22.4 Accrual

Each day of paid leave taken and any public holiday occurring during any cycle of four weeks shall be regarded as a day worked for the purposes of accruing a rostered day off.

22.5 Taking a Rostered Day Off

A rostered day off shall be taken as a paid day off.

23. Meal Breaks

23.1 Work Before Break

An employee shall not be required to work for more than five ordinary hours of work without a break for a meal which shall be taken as unpaid. Provided that an employee and Boral may agree to extend the five ordinary hours before taking a break up to six.

23.2 Continuity of Operations

The time of taking a scheduled meal break may be altered by agreement between an employee and Boral or by Boral if it is necessary to maintain continuity of quarry operations.

23.3 Staggering Breaks

Boral may stagger the time of taking a meal break to meet operational requirements.

23.4 Meal Breaks for Shift Workers

Despite the provisions of this clause, if an employee is a shift worker he/she shall be allowed a thirty (30) minute paid meal break during each shift, which shall be counted as time worked.

23.5 Working Through a Meal Break

Except as provided for in clause 23.1 and 23.2, an employee shall be paid at the rate of time and one half of ordinary time for all work done during his/her meal break and thereafter until a meal break is taken.

24. Rest Breaks

24.1 Daily Break

An employee shall be given a paid rest break of ten (10) minutes each day.

24.2 Staggering

Boral may stagger the time of taking a rest break to meet operational requirements.

24.3 Continuous Operation

The time of your taking a scheduled rest break may be altered by agreement between an employee and Boral or by Boral if it is necessary to maintain continuity of quarry operations.

24.4 Shift Workers

In the case of shift workers the rest break may be combined (by Boral) with the paid meal break so as to enable a forty-minute paid meal break.

25. Sundays and Holidays

25.1 Holidays

The days on which the following holidays are observed shall be granted to an employee without loss of pay as a holiday:

- (a) New Year's Day;

- (b) Australia Day;
- (c) Good Friday;
- (d) Easter Saturday;
- (e) Easter Monday;
- (f) Anzac Day;
- (g) Queen's Birthday;
- (h) Eight Hour Day;
- (i) Christmas Day;
- (j) Boxing Day;
- (k) Picnic Day, the first Monday in December (or a substitute day agreed to by an employee and Boral and taken by 31 December in the following year); and
- (l) any other day gazetted as a public holiday for the State.

25.2 Absence

When an employee is absent from work on the working day before or the working day after a holiday, without reasonable excuse or without the consent of Boral, then the employee shall not be entitled to payment for such holiday.

25.3 Working on a Holiday

For work done on any of the holidays referred to in clause 25.1 (except (k) Union Picnic Day), an employee shall be paid at the rate of double time and one-half with a minimum payment for four hours' work.

25.4 Sundays

For work done on a Sunday an employee shall be paid at the rate of double time with a minimum payment for four hours' work.

26. Overtime

26.1 Payment

Subject to clause 25.3 and 25.4, for all work performed by an employee outside of and/or in excess of their ordinary hours he/she shall be paid at the rate of time and one-half for the first two hours and double time thereafter; such double time to continue until the completion of the overtime worked.

26.2 Day Stands Alone

Except as provided in clause 26.3 in computing an employee's overtime each day's work shall stand-alone.

26.3 10 Hour Rest Period

(Subject to clause 26.4) When:

- (a) overtime work is necessary it shall wherever reasonably practicable, be so arranged that an employee has at least ten consecutive hours off duty between the work of successive days;

- (b) an employee works so much overtime between the termination of their ordinary work on one day and the commencement of their ordinary work on the next day that they have not had at least ten consecutive hours off duty between those times the employee shall be released after completion of such overtime until they have had ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence; and
- (c) on the instruction of Boral an employee resume or continue work without having had such ten consecutive hours off duty he/she shall be paid at double time rates until he/she is released from duty for such period and he/she shall then be entitled to be absent until he/she has had had ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

26.4 8 Hour Rest Period for Shift Workers

The provisions of clause 26.3 shall apply in the case of shift workers who rotate from one shift to another as if eight hours were substituted for ten hours when overtime is worked:

- (a) for the purpose of changing shift rosters; or
- (b) where a shift worker does not report for duty.

26.5 Call Back

- (a) If an employee is recalled to work overtime after leaving the quarry (whether notified before or after leaving) the employee shall be paid for a minimum of four hours' work (whether worked or not) or where the employee has been paid for standing by he/she shall be paid a minimum of three hours' pay at the appropriate rate.
- (b) This clause shall not apply in cases where it is customary for the employee to return to the quarry to perform a specific job outside their ordinary working hours, or where the overtime is continuous (subject to a reasonable meal break) with the completion or commencement of ordinary working time.
- (c) Overtime worked in the circumstances set out above, shall not be regarded as overtime for the purposes of clause 23.6 when the actual time worked is less than three hours on each such recall.
- (d) If an employee is directed to hold himself/herself in readiness to work after his/her ordinary hours the employee shall be paid stand-by time, at ordinary rates of pay, until released.

26.6 Overtime Bonus and Breaks

If an employee is required to work overtime:

- (a) for one and one half hours after his/her normal ceasing time and he/she was not notified on the day before (or earlier) of the need to work overtime he/she shall be paid the amount set out in Item 11 of Table 2 of Part B of this Award;
- (b) for two hours or more after his/her normal ceasing time he/she shall be paid the amount set out in Item 11 of Table 2 of Part B of this Award;
- (c) for four hours after his/her normal ceasing time (and for each four hours thereafter) he/she shall be provided with a 30 minute break without loss of pay provided that overtime work continues after any such break; and
- (d) for six hours or more after his/her normal ceasing time (and for each four hours thereafter) he/she shall be paid the amount set out in Item 11 of Table 2 of Part B of this Award.

26.7 Not Required to Work Overtime

Despite clause 26.6, if an employee is notified of the intention to work overtime but he/she is not called upon to work that overtime he/she shall be paid an amount ascertained from clause 26.6 (a).

26.8 Weekend Crib Breaks

Where overtime is worked on a Saturday or Sunday and it continues after 12 noon, the employee shall be given a paid break for a meal of 30 minutes between 12.00 noon and 1.00pm, provided that the work continues after the meal break.

26.9 Weekend Minimum

If an employee is required to work overtime on a Saturday he/she shall be given at least four hours' work or receive four hours' pay.

27. Annual Leave

27.1 Entitlement

See *Annual Holidays Act 1944* (NSW) as amended.

28. Annual Leave Loading

28.1 Payment of Loading

Whenever an employee enters a period of annual leave he/she shall be paid, in addition to his/her annual leave pay a loading of 17.5 percent on top of his/her annual leave pay.

28.2 Calculation of Loading

The loading is to be calculated on the employee's rate of pay that is applicable immediately before commencing annual leave, excluding any other allowances, penalty rates, shift allowances, overtime or any other payments prescribed by this Award.

28.3 Shift Workers

Despite any thing else contained in this Award, if an employee is a shift worker when he/she enters a period of annual leave then he/she shall be entitled to the greater of the following:

- (a) his/her shift work allowances and/or weekend penalty rates for the ordinary time (not including time on a public holiday) which he/she would have worked during the period of the leave; or
- (b) the loading calculated in accordance with this clause.

29. Long Service Leave

29.1 Entitlement

See *Long Service Leave Act 1955* (NSW) as amended.

30. Parental Leave and Personal/Carer's Leave

30.1 Parental Leave

See *Industrial Relations Act 1996* (NSW) as amended.

30.2 Personal Carers Leave

- (a) If an employee is a full time or part time employee, with responsibilities in relation to a class of person set out in clause 30.2 (c) (ii) who needs the employee's care and support, the employee shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for in clause 33 of this Award, for absences to provide care and support, for such persons when they are ill. Such leave may be taken for part of a single day.
- (b) An employee shall, if required, establish 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 person. In normal circumstances, the employee must not take carer's leave under this subclause where another person has taken leave to care for the same person.
- (c) The entitlement to use sick leave in accordance with this subclause is subject to:
- (i) the employee being responsible for the care and support of the person concerned; and
 - (ii) the person concerned being:
 - the employee's spouse; or
 - a de facto spouse, who, in relation to a person, is 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 or;
 - a child or an adult child (including an adopted child, a step child, a foster child or an ex-nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
 - a same sex partner who lives with the employee as the employee's de facto partner on a bona fide domestic basis; or
 - a relative who is a member of the same household, where for the purposes of this paragraph:
 - "relative" means a person related by blood, marriage or affinity;
 - "affinity" means a relationship that one spouse because of marriage has to blood relatives of the other; and
 - "household" means a family group living in the same domestic dwelling.
- (d) An employee shall, wherever practicable, give Boral notice prior to the absence or the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, then the employee shall notify Boral by telephone of such absence at the first opportunity on the day of absence.

30.3 Unpaid Leave for Family Purpose

An employee may elect, with the consent of Boral, to take unpaid leave for the purpose of providing care and support to a class of person set out in clause 30.2 (c) (ii) above who is ill.

31. Bereavement Leave

31.1 Entitlement

An employee shall be entitled to up to three days' bereavement leave without deduction of pay on each occasion of the death of a person prescribed in clause 30.2 (c) (ii), subject to the following:

(a) Notification

The employee must notify Boral as soon as practicable of the intention to take bereavement leave and will, if required by Boral, provide to the satisfaction of Boral proof of death.

(b) Responsibility For Care

Bereavement leave shall be available to you in respect to the death of a person prescribed for the purposes of Personal/Carer's leave in clause 30.2 (c) (ii), provided that for the purposes of bereavement leave, an employee need not have been responsible for the care of the person concerned.

(c) Bereavement Leave Not When Other Leave Granted

You shall not be entitled to bereavement leave under this clause during any period in respect of which you have been granted other leave.

(d) Bereavement Leave in Conjunction with Other Leave

Bereavement leave may be taken in conjunction with other leave available under this Award. In determining such a request Boral will give consideration to your circumstances and the reasonable operational requirements of the quarry.

32. Jury Service

32.1 Entitlement

If the employee is required to attend for jury service during his/her ordinary working hours he/she shall be reimbursed by Boral an amount equal to the difference between the amount paid in respect of the employee's attendance for such jury service and the amount of wages he/she would have received in respect of the ordinary time he/she would have worked had he/she not been on jury service.

32.2 Notification

You must notify Boral as soon as possible of the date upon which you are required to attend for jury service. Further, you must give Boral proof of your attendance, the duration of such attendance and the amount received in respect of such jury service.

33. Sick Leave

33.1 Entitlement

An employee, subject to clause 33.2 and the production of a medical certificate be entitled to ten days' sick leave during the first and subsequent years of service on full pay (provided that a statutory declaration shall be sufficient proof of sickness in respect of the first two single days' absence in any year).

33.2 Notification

An employee must notify Boral of his/her absence prior to his/her normal starting time on the same day of his/her absence and in any event before 9.00am on that day unless because of the nature of the illness he/she is incapable to do so in which case he/she must notify Boral as soon as possible.

33.3 Workers Compensation

An employee shall not be entitled to sick leave for any period in respect of which he/she is entitled to workers' compensation

33.4 Accumulation

If the full period of sick leave is not taken in any year, the whole or any untaken portion shall be cumulative from year to year.

33.5 Absent on Holidays and Rostered Days Off

If an Award holiday or rostered day off occurs during an employee's absence on sick leave then such Award holiday or rostered day off shall not be counted as sick leave.

34. Protective Clothing

34.1 Entitlement

At the commencement of an employee's employment, Boral shall provide the employee with four sets of clothes, two pairs of boots and in May a winter jacket, which shall be replaced on an item for item exchange basis.

35. Protective Equipment

35.1 Entitlement

Boral shall:

- (a) provide an employee with all personal protective equipment required to perform his/her work and;
- (b) replace such articles, when, in the opinion of Boral, they are no longer in a serviceable condition, but the employee shall not be entitled to a replacement unless he/she returns the corresponding article issued to the employee or if the article is lost or misplaced by the employee, he/she shall pay a reasonable price for the article.

36. Use of Car

36.1 Allowance

If an employee is required to use their car by Boral he/she will be paid per km the amount set out in Item 9 of Table 2 of Part B.

37. Annual Wage Adjustment and Bonus

37.1 Adjustment Mechanism

- (a) On the first full pay period to commence on or after 1 November each year the rates set out in Table 1 Wages and the allowances set out in Table 2 Other Rates and Allowances shall increased by the greater of the average percentage salary increase given that year to salaried employees employed in:
 - (i) the Metropolitan Division; or
 - (ii) the Peats Ridge quarry.

Notation: A salaried employee will be taken to be employed in the Peats Ridge quarry if they have worked in the quarry for the majority of the preceding 12 months.

- (b) On the first full pay period to commence on or after 1 November each year you shall be paid an amount of money equivalent to the greater of the average percentage bonus paid to salaried employees employed in:
- (i) the Metropolitan Division; or
 - (ii) the Peats Ridge quarry,
- applied to your gross earnings for the preceding twelve months.
- Notation: A salaried employee will be taken to be employed in the Peats Ridge quarry if they have worked in the quarry for the majority of the preceding 12 months.
- (c) If requested to do so by the majority of employees, Boral shall at its expense have an external auditor validate the:
- (i) average salary increase determined for the purposes of clause 37.1 (a); and/or
 - (ii) average percentage bonus determined for the purposes of clause 37.1 (b).
- (d) Should Boral at any time alter the method by which they remunerate the salaried employees relevant to this Award they shall confer with the employees and the union about those changes and whether any variation to this Award is necessary to ensure that the original purpose of this Award is maintained.
- (e) Despite any thing else in his award, the wage increase paid in accordance with clause 37.1 (a) shall not be less than any general wage increase granted in that year.

38. Fares

38.1 Payment

From the start date an employee shall receive in compensation for fares incurred travelling to and from work at irregular hours when public transport is not necessarily available the amount set out in Item 10 of Table 2 of Part B per week, provided that the above allowance shall be payable to employees who commence prior to 6:30am or finish subsequent to 7:00pm.

39. Additions to Wage

39.1 Allowances

- (a) In addition to the rate of pay ascertained from clause 11.2, an employee shall receive the following allowances (paid for all purposes of this Award) if the employee:
- (i) is appointed as an assessor the amount set out in Item 12 of Table 2 of Part B per week;
 - (ii) holds NATA signatory status the amount set out in Item 13 of Table 2 of Part B per week;
or
 - (iii) is appointed as in charge of plant, while so appointed the amount set out in Item 1 of Table 2 of Part B per week.
- (b) In addition to the rate of pay ascertained from clause 11.2, if the employee is classified as a Tradesperson Level 1-5 inclusive, the employee shall be paid an allowance per week as set out in Item 6 of Table 2 of Part B for working in confined spaces (as defined).

40. Delegates

40.1 Appointment

Boral shall recognise the appointed delegates for the union at the quarry.

40.2 Time

Boral shall provide the delegate with reasonable time while at work to perform the proper functions of the delegate.

41. Counselling

41.1 Procedure

Upon Boral becoming aware that an employee's conduct, performance and/or work performance was/is unsatisfactory it should:

- (a) undertake an investigation of the matter;
- (b) put the matter to the employee with any relevant supporting information Boral is aware of and allow him/her to respond;
- (c) consider the employee's response;
- (d) conclude whether or not the employee's conduct behaviour and/or work performance was/is unsatisfactory;
- (e) explain why the conclusion reached has been arrived at; and then
- (f) take appropriate action.

42. Kitchen

42.1 Tea and Coffee

Boral shall provide an employee with a reasonable supply of coffee, tea, milk and sugar for use during meal and crib breaks.

43. Timekeeping

43.1 Decimal Proportion

Boral shall:

- (a) utilise, for time keeping purposes, the decimal proportion 0.1 of an hour; and
- (b) apply such proportion in the calculation of an employee's working time.

43.2 Latecomers

If an employee:

- (a) does not commence work at the time he/she is rostered to; or
- (b) ceases work before his/her rostered finish time,

Boral may pay the employee only for the time that he/she actually worked.

44. Wages Sacrifice in Return for Increased Employer Funded Superannuation

- 44.1 A permanent employee may elect to forgo receiving part of their weekly ordinary time rate of pay in return for increased employer funded superannuation by completing the election form set out in Schedule 1 of this award.
- 44.2 Having made a wages sacrifice election in accordance with this clause an employee shall have their weekly ordinary time rate of pay reduced by the relevant elected amount except when:
- (a) overtime is worked in which case the relevant pre election weekly ordinary time rate of pay shall apply for the purposes of calculating the payment for overtime;
 - (b) calculating allowances arising from Table 2 - Other Rates and Allowances, in which case the relevant pre election weekly ordinary time rate of pay shall apply for the purposes of calculating the said allowances;
 - (c) calculating annual leave loading, in which case the relevant pre election weekly ordinary time rate of pay shall apply for the purposes of calculating the said allowances;
 - (d) calculating payments upon termination of employment (pay in lieu of notice, accrued annual and long service leave entitlements and redundancy pay) in which case the relevant pre election weekly ordinary time rate of pay shall apply for the purposes of calculating the payment those payment upon termination; or
 - (e) calculating an employee's minimum statutory Superannuation Guarantee contribution, in which case the relevant pre election weekly ordinary time rate of pay shall apply for the purposes of calculating the said contribution.
- 44.3 If an employee has made an election in accordance with this clause Boral shall provide the employee with employer funded superannuation contributions in the amount elected in addition to any statutory contributions.
- 44.4 Having made an election in accordance with this clause an employee may cease or vary their election by completing a further election form as set out in Schedule 1 of this award to have prospective effect on and only on 1 January or 1 July each year.
- 44.5 Despite anything else in this clause, if an employee makes an election in accordance with this clause:
- (a) should any laws governing taxation or superannuation change at any time so as to impose any additional cost or tax upon Boral than those applicable at the commencement of the operation of this clause then Boral may serve a notice upon the employee of their intention to cease the wages sacrifice for the employee and upon the first full pay period to commence on or after the service of the notice the employee's wages sacrifice election shall cease to operate;
 - (b) the employee enters a period of leave without pay the employee's wages sacrifice election shall be suspended for the period of such leave;
 - (c) during any period when the employee is injured or incapacitated and in receipt of workers' compensation payments, Boral will continue to provide the employee with employer funded superannuation contributions in the amount elected while the employee is still employed by Boral, up to a maximum of 26 weeks within any continuous period of 52 weeks from the date of the employee's injury or incapacitation; or
 - (d) the employee must not make a sacrifice election of a percentage that when added to the minimum Superannuation Guarantee Contribution exceeds the age-based contribution limit provided for by sections 82AAC to 82AAF of the *Income Tax Assessment Act 1946* (Cth). TABLE 1 - RATES OF PAY

Subject to this Award, an employee shall be paid in accordance with the following table of rates (as at 1 November 2005):

Grade	Description	Weekly Wage \$
Grade 1	Trainee	657.23
Grade 2	Attendant	669.51
Grade 3	Advanced Attendant	717.02
Grade 4	Operator	758.32
Grade 5	Skilled Operator	773.59
Grade 6	Advanced Operator	787.74
Grade 7	Special Class Operator	799.68
Tradesperson 1	Tradesperson - Electrical/Mechanical	787.71
Tradesperson 2	Tradesperson - Electrical/Mechanical (experienced)	820.10
Tradesperson 3	Tradesperson - Special Class	824.98
Tradesperson 4	Tradesperson - Special Class (experienced)	857.27
Tradesperson 5	Advanced Electronics	913.49

Notation:

The rates in Table 1 above include and consume the "Industry Disability" allowance and the "Inclement Weather" allowance. Accordingly, the rates in Table 1 above compensate you for working in the open in quarries and thereby being subject to climatic conditions such as dust blowing in the wind, sloppy and muddy conditions and the lack of usual amenities associated with factory work, etc. and for the additional disabilities of being required to work when exposed to inclement weather and for working in isolated and underdeveloped locations: "inclement weather" means wet weather and/or abnormal climatic conditions such as hail, cold, high winds, severe dust storms, extreme high temperatures or any combination thereof.

Table 2 - Other Rates And Allowances

The following allowances shall apply from the first full pay period to commence on or after 1 November 2005.

Item No.	Clause No.	Brief Description	Amount \$
1	36.1 (a) (iii)	In Charge of Plant	14.45 per week
		Leading Hand Allowances	
2	15.2	2 to 5	21.28 per week
3	15.2	6 to 10	30.25 per week
4	15.2	11 to 20	42.81 per week
5	15.2	More than 20	54.61 per week
6	36.1 (b)	Confined Space	0.62 per hour
7	18.1	Tools	15.53 per week
8	19.1	First Aid Allowance	2.14 per day
9	36.1	Motor Vehicle Allowance	0.60 per km
10	38.1	Transport not Available	7.03 per day
11	26.6	Meal Allowance	12.92
12	39.1 (a) (i)	Assessor	26.53 per week
13	39.1 (a) (ii)	NATA	26.53 per week
14	12.1 (b)	Competency	5.60 per week

SCHEDULE 1**'WAGES SACRIFICE' ELECTION FORM**

Pursuant to clause 44 of the Boral Peats Ridge Quarry Award an employee may elect to forgo part of their weekly ordinary time rate of pay in return for increased employer funded superannuation to an equivalent amount.

Having taken my own independent financial and taxation advice on the matter, I [insert employee name] classified on Level [insert level] elect in accordance with clause 44 of the Boral Peats Ridge Quarry Award to forgo the amount circled in the table below for increased employer funded superannuation contributions equal to this amount.

On and from 1 November 2005

Classification	No Election	1% Election	3% Election	5% Election	7% Election	10% Election	15% Election	20% Election
Trainee	657.23	650.66	637.51	624.37	611.22	591.51	558.65	525.78
Attendant	669.51	662.81	649.42	636.03	622.64	602.56	569.08	535.61
Advanced Attendant	717.02	709.85	695.51	681.17	666.83	645.32	609.47	573.62
Operator	758.32	750.74	735.57	720.40	705.24	682.49	644.57	606.66
Skilled Operator	773.59	765.85	750.38	734.91	719.44	696.23	657.55	618.87
Advanced Operator	787.74	779.86	764.11	748.35	732.60	708.97	669.58	630.19
Special Class Operator	799.68	791.68	775.69	759.70	743.70	719.71	679.73	639.74
Tradersperson Electrical/Mechanical	787.71	779.83	764.08	748.32	732.57	708.94	669.55	630.17
Tradersperson Electrical/Mechanical (experienced)	820.10	811.90	795.50	779.10	762.69	738.09	697.09	656.08
Tradesperson Special Class (experienced)	857.27	848.70	831.55	814.41	797.26	771.54	728.68	685.82
Advanced Electricians	913.49	904.36	886.09	867.82	849.55	822.14	776.47	730.79

Having taken my own independent financial and taxation advice on the matter, I (insert employee name) classified on Level (insert level) elect in accordance with clause 44 of the Boral Peats Ridge Quarry Award to forgo:

1%;

3%;

5%;

7%;

10%;

15%; or

20% (circle percentage elected),

of my weekly ordinary time rate of pay in return for increased employer funded superannuation contributions equal to this amount.

Sacrifice of Annual Cash Bonus Election

Having taken my own independent financial and taxation advice on the matter, I (insert employee name) classified on Level (insert level) elect in accordance with clause 44 of the Boral Peats Ridge Quarry Award to forgo any annual cash bonus falling due after this election in return for increased employer funded superannuation contributions equal to this amount.

In making this election, the elected percentage when added to the minimum Superannuation Guarantee Contribution does not exceed the age-based contribution limit provided for by sections 82AAC to 82AAF of the *Income Tax Assessment Act 1946* (Cth).

Notation:

For the 2004/2005 tax year these were:

Under 35 Years of age	35 to 49 Years of age	Over 50 Years of age
\$13,934	\$38,702	\$95,980

Signed by (insert employee name)

Confirmed by Boral (insert name)

Date

R. W. HARRISON *D.P.*

Printed by the authority of the Industrial Registrar.

SPASTIC CENTRE OF NEW SOUTH WALES (ALLIED PROFESSIONAL STAFF) (STATE) AWARD 2004

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Health Services Union, Industrial Organisation of Employees.

(No. IRC 518 of 2006)

Before The Honourable Justice Wright, President

13 February 2006

AWARD

1. Delete clause 8, Casual Employees, of the award published 13 August 2004 (345 IG 911), as varied, and insert in lieu thereof the following:

8. Casual Employees

- (i) A casual employee is one who is engaged and paid by the hour otherwise than as a permanent part time or full time employee.
- (ii) Casual employees shall be paid one thirty-eighth of the appropriate rate prescribed by clause 3, plus a loading of 10 per cent with a minimum payment of 2 hours for each engagement.
- (iii) Casual employees who are required to work on Saturdays, Sundays or public holidays shall, in lieu of the loading prescribed in subclause (ii) of this clause, be paid the following allowances:
 - (a) For work done on Saturday, an allowance of 50 per cent.
 - (b) For work done on Sunday, an allowance of 75 per cent.
 - (c) For work done on a public holiday, an allowance of 150 per cent.
- (iv) Casual employees shall not be entitled to the provisions of Clause 5, Hours of Work etc; Clause 10, Overtime; Clause 12, Public Holidays; Clause 16, Sick Leave; and Clause 27, Termination of Employment.

Note: Casual employees are entitled to pro rata payment in lieu of annual leave in accordance with the *Annual Holidays Act 1944*.

- (v) Personal Carers Entitlement for casual employees
 - (a) Subject to the evidentiary and notice requirements in Clauses 17(i)(b) and 17(i)(d) casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in Clause 17(i)(c)(2) who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.
 - (b) 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. The casual employee is not entitled to any payment for the period of non-attendance.
 - (c) 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.

- (vi) Bereavement entitlements for casual employees
- (a) Subject to the evidentiary and notice requirements in Clause 18 casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in Clause 20.
 - (b) 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. The casual employee is not entitled to any payment for the period of non-attendance
 - (c) 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 engage a casual employee are otherwise not affected.
2. Delete clause 17, State Personal/Carer's Leave, and insert in lieu thereof the following:

17. State Personal/Carer's Leave

- (i) Use of Sick Leave
- (a) An employee other than a casual employee, with responsibilities in relation to a class of person set out in (c) who needs the employee's care and support shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement provided for at Clause 16-Sick Leave of the award, for absences to provide care and support for such persons when they are ill or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.
 - (b) The employee shall, if required:
 - (1) 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 person. In normal circumstances, an employee must not take carer's leave under this subclause where another person has taken leave to care for the same person, or
 - (2) 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.
 - (c) The entitlement to use sick leave in accordance with this subclause is subject to:
 - (1) The employee being responsible for the care of the person concerned; and
 - (2) The person concerned being:
 - (A) A spouse of the employee, or
 - (B) A de facto spouse who, in relation to a person, is 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. For the purpose of this clause, the word "spouse" shall include a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
 - (C) A child or an adult child (including an adopted child, a step child, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or

- (D) A same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis, or
- (E) A relative of the employee who is a member of the same household where for the purposes of this paragraph:

"relative" means a person related by blood, marriage or affinity

"affinity" means a relationship that one spouse because of marriage has to blood relatives of the other; and

"household" means a family group living in the same domestic dwelling.

- (d) An employee shall, wherever practicable, give The Centre notice prior to the absence of the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify The Centre by telephone of such absence at the first opportunity on the day of absence.

Note: In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes the employer and employee shall discuss appropriate arrangements which, as far as practicable, take account of the employer's and employee's requirements.

Where the parties are unable to reach agreement the disputes procedure at Clause 25 should be followed.

(ii) Unpaid Leave for Family Purpose

An employee may elect, with the consent of The Centre, to take unpaid leave for the purpose of providing care and support to a member of a class of person set out in sub paragraph (ii) of paragraph (c) above who is ill or who require care due to an unexpected emergency.

(iii) Annual Leave

- (a) An employee may elect with the consent of The Centre, subject to the *Annual Holidays Act 1944*, to take annual leave not exceeding ten days in single-day periods or part thereof in any calendar year at a time or times agreed by the parties.
- (b) Access to annual leave, as prescribed in paragraph (a) of this subclause shall be exclusive of any shutdown period provided for elsewhere under this award.
- (c) An employee and The Centre 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.
- (d) An employee may elect with the employers agreement to take annual leave at any time within a period of 24 months from the date at which it falls due

(iv) Time Off in Lieu of Payment for Overtime

- (a) For the purpose of providing care and support for a person in accordance with subclause (I) of this clause, and the provision of Clause 10-Overtime, the following provision shall apply.
- (b) An employee may elect, with the consent of The Centre, to take time off in lieu of payment for overtime at a time or times agreed with the employer within twelve (12) months of the said election.
- (c) 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.

- (d) If, having elected to take time as leave in accordance with paragraph (a) above the leave is not taken for whatever reason, payment for time accrued at overtime rates shall be made at the expiry of the twelve (12) month period or on termination.
 - (e) Where no election is made in accordance with the said paragraph (a) the employee shall be paid overtime rates in accordance with this award.
- (v) Make-up Time
- (a) An employee may elect, with the consent of The Centre, to work ‘make up time’, under which the employee takes time off ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in the award, at the ordinary rate of pay.
- (vi) Allocated Days Off (ADO)
- (a) An employee may elect, with the consent of The Centre, to take an allocated day off at any time.
 - (b) An employee may elect, with the consent of The Centre, to take allocated days off in part day amounts.
 - (c) An employee may elect, with the consent of The Centre, to accrue some or all allocated days off for the purpose of creating a bank to be drawn upon at a time mutually agreed between the employer and employee or subject to reasonable notice by the employee or the employer.
 - (d) This subclause is subject to The Centre informing each union which is both party to the award and which has members employed at the particular enterprise of its intention to introduce an enterprise system of ADO flexibility, and providing a reasonable opportunity for the union(s) to participate in negotiations.
3. Delete clause 19, Parental Leave, and insert in lieu thereof the following:

19. Parental Leave

- (i) All employees are entitled to parental leave in accordance with the provisions of the *Industrial Relations Act 1996*.
- (ii)
 - (a) Full-time employees and permanent part-time employees are eligible for paid parental leave in accordance with the following provisions:
 - (b) Permanent employees are eligible for paid parental leave when they have completed at least three (3) years of continuous service.
 - (c) Employees who are eligible for paid parental leave are entitled to such leave as follows:
 - (1) Paid Component of Parental Leave:
 - (A) Paid Maternity Leave - an eligible employee is entitled to four weeks paid maternity leave at ordinary pay from the date the maternity leave commences. In addition, an eligible employee will receive one week’s leave at ordinary pay for four (4) consecutive fortnights, on returning to their normal duties.

Maternity leave may commence up to nine weeks prior to the expected date of birth. It is not compulsory for an employee to take this period off work. However, if an employee decides to work during this period, it is subject to the employee being able to satisfactorily perform the full range of normal duties.

- (B) Paid Paternity Leave - an eligible employee is entitled to one week paid paternity leave in any one year at ordinary pay, which must commence within four weeks of the birth of the child (Eligible employees will be as defined in the *Industrial Relations Act 1996*.)
- (C) Paid Adoption Leave - an eligible employee is entitled to paid adoption leave of four weeks from and including the date of taking custody of the child. In addition, an eligible employee will receive one week's leave at ordinary pay for four (4) consecutive fortnights, on returning to their normal duties.
- (D) Such leave may be paid:
 - (i) on a normal fortnightly or monthly basis;
 - (ii) in advance in a lump sum for the first four (4) weeks of entitlement;
 - (iii) for the first four (4) weeks of entitlement at the regular fortnightly basis for maternity or adoption leave.

Annual and/or long service leave credits can be combined with periods of maternity leave or adoption leave on half pay to enable an employee to remain on full pay for that period.

(2) Unpaid Component of Parental Leave:

- (A) Unpaid Maternity Leave - An employee is entitled to a further period of unpaid maternity leave of not more than forty-eight (48) weeks.
- (B) Unpaid Paternity Leave - An employee is entitled to a further period of unpaid paternity leave of not more than three (3) weeks, to be taken in conjunction with a period of paid paternity leave, unless otherwise agreed by the employer and employee.
- (C) Unpaid Adoption Leave - An employee is entitled to unpaid adoption leave as follows:
 - (i) where the child is under the age of twelve (12) months - a period of not more than forty-eight (48) weeks from date of taking custody;
 - (ii) where the child is over the age of twelve (12) months - a period of up to forty-eight (48) weeks, such period to be agreed upon by both the employee and the employer.
 - (iii) an employee who has once met the conditions for paid maternity leave and paid adoption leave will not be required to again work the three (3) years continuous service in order to qualify for a further period of maternity leave, unless:
 - (a) there has been a break in service where the employee has been re-employed or re-appointed after a resignation, medical retirement or after her services have been otherwise dispensed with: or
 - (b) the employee has completed a period of leave without pay of more than forty (40) weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay or leave without pay associated with an illness of injury compensable under the Workers' Compensation Act.
- (D) An employee who intends to proceed on maternity or paternity leave should formally notify the employer of such intention as early as possible, so that

arrangements associated with the absence can be made. Written notice of not less than eight (8) weeks prior to the commencement of the leave should accordingly be given. This notice must include a medical certificate stating the expected date of birth and should also indicate the period of leave desired.

- (E) In the case of notification of intention to take adoption leave, due to the fact that an employee may be given little notice of the date of taking custody of a child, employees who believe that, in the reasonably near future, they will take custody of a child, should formally notify their employer as early as practicable of the intention to take adoption leave. This will allow arrangements associated with the adoption leave to be made.
- (F) After commencing maternity leave or adoption leave, an employee may vary the period of her maternity leave or adoption leave, once, without the consent of the employer and otherwise, with the consent of the employer. A minimum of four (4) weeks' notice must be given, although an employer may accept less notice if convenient.
- (G) Any person who occupies the position of an employee on parental leave must be informed that the employee has the right to return to her former position. Additionally, since an employee also has the right to vary the period of her maternity leave or adoption leave, offers of temporary employment should be in writing, stating clearly the temporary nature of the contract of employment. The duration of employment should also be set down clearly, to a fixed date or until the employee elects to return to duty, whichever occurs first.
- (H) When an employee has resumed duties, any period of full pay leave is counted in full for the accrual of annual and long service leave and any period of maternity leave or adoption leave on half pay is taken into account to the extent of one-half thereof when determining the accrual of annual and long service leave.
- (I) Except in the case of employees who have completed ten (10) years service, the period of parental leave without pay does not count as service for long service leave purposes. Where the employee has completed ten (10) years service the period of parental leave without pay shall count as service for long service leave purposes provided such leave does not exceed six (6) months.
- (J) Parental leave without pay does not count as service for incremental purposes. Periods of parental leave on full pay and at half pay are to be regarded as service for incremental progression on a pro-rata basis.
- (K) Where public holidays occur during a period of paid parental leave, payment is at the rate of parental leave received, that is the public holidays occurring in a period of full pay parental leave are paid at the full rate and those occurring during a period of half pay leave are paid at the half rate.
- (L) If because of an illness associated with her pregnancy an employee is unable to continue to work then she can elect to use any available paid leave (sick, annual and/or long service leave) or to take sick leave without pay.
- (M) Where an employee is entitled to paid maternity leave, but because of illness, is on sick, recreation, long service leave, or sick leave without pay prior to the birth, such leave ceases four (4) weeks prior to the expected date of the birth. The employee then commences maternity leave with the normal provisions applying.
- (N) Where, because of an illness or risk associated with her pregnancy, an employee cannot carry out the duties of her position, an employer is obliged, as far as practicable, to provide employment in some other position that she is able to satisfactorily perform. A position to which an employee is transferred under these

circumstances must be as close as possible in status and salary to her substantive position.

- (O) In the event of a miscarriage any absence from work is to be covered by the current sick leave provisions.
- (P) In the case of stillbirth, an employee may elect to take sick leave, subject to the production of a medical certificate, or maternity leave. She may resume duty at any time provided she produces a doctor's certificate as to her fitness.
- (Q) An employee who gives birth prematurely, and prior to proceeding on maternity leave shall be treated as being on maternity leave from the date leave is commenced to have the child. Should an employee return to duty during the period of paid maternity leave, such paid leave ceases from the date duties are resumed.
- (R) An employee returning from parental leave has the right to resume their former position. Where this position no longer exists the employee is entitled to be placed in a position nearest in status and salary to that of her former position and for which the employee is capable or qualified.
- (S) Employees may make application to their employer to return to duty for less than the full-time hours they previously worked.
 - (1) Employees who return to work under this arrangement will be paid a pro-rata amount of the additional four (4) weeks paid maternity or adoption leave at ordinary pay as set out in clause (ii) (c) (1) (A).
- (T) Where an employee becomes pregnant while on maternity leave, a further period of unpaid maternity leave shall be granted. Should this second period of maternity leave commence during the currency of the existing period of maternity leave, then any residual maternity leave from the existing entitlement lapses.

A permanent employee who has returned to work after parental leave, must complete at least one (1) year of continuous service prior to the expected date of birth or prior to the date of taking custody of the child before they can again become eligible for paid parental leave.

(iii) An employer must not fail to re-engage a regular casual employee (see section 53(2) of the *Industrial Relations Act 1996* (NSW)) because:

- (a) the employee or employee's spouse is pregnant; or
- (b) the employee is or has been immediately absent on parental leave.

The rights of an employer in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.

(iv) Right to request

- (a) An employee entitled to parental leave may request the employer to allow the employee:
 - (1) to extend the period of simultaneous unpaid parental leave use up to a maximum of eight weeks;
 - (2) to extend the period of unpaid parental leave for 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.
- (b) 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.
- (c) Employee's request and the employer's decision to be in writing
- The employee's request and the employer's decision made under Clause 19 must be recorded in writing.
- (d) Request to return to work part-time
- Where an employee wishes to make a request under Clause 19 such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.
- (v) Communication during parental leave
- (a) 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.
- (b) 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 or other contact details which might affect the employer's capacity to comply with Clause 19.
- (c) 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 paragraph (a).
4. These variations shall take effect on and from 19 December 2005.

F. L. WRIGHT J, *President*

UNIONS NSW PORT KEMBLA STEELWORKS CONSTRUCTION AWARD 2006

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Notification by Unions NSW, Industrial Organisation of Employees and State Peak Council, of a dispute with BlueScope Steel.

(No. IRC 6774 of 2005)

Before The Honourable Justice Walton, Vice-President

23 March 2006

AWARD

1. Arrangement

1. Arrangement
2. Objectives
3. Definitions
4. Application
5. Duration
6. Project Construction Allowance
7. Transport Drivers
 - 7.1 Project Site Allowance Eligibility
 - 7.2 Contract Carrier
 - 7.3 Goods and Services Tax ("GST")
8. Environment, Health, Safety and Rehabilitation (EHS&R)
 - 8.1 Induction
 - 8.2 Health and Safety Plans
 - 8.3 The Safety Committee
 - 8.4 Implementation of this Clause
 - 8.5 Formwork Safety
 - 8.6 Temporary Power / Testing and Tagging
 - 8.7 Crane Safety
9. Dispute resolution
 - 9.1 Project Disputes:
 - 9.2 Demarcation Disputes
 - 9.3 Procedures to prevent Disputes regarding Statutory and Other Entitlements
 - 9.4 On-Site Register
10. Productivity initiatives
 - 10.1 Learning initiatives
 - 10.2 Inclement weather
 - 10.3 Maximising Working Time
11. Building Codes
12. Immigration Compliance
 - 12.1 Immigration compliance
 - 12.2 Legal right of Employees to work
13. Long Service Compliance
14. No Extra Claims
15. No Precedent
16. Rights of the Union(s) and Workplace Representative
 - 16.1 Visiting Union Officials
 - 16.2 Workplace Representatives
 - 16.3 Union Rights of Entry

17. Protective Clothing
18. Workers Compensation and Insurance Cover
19. Apprentices
20. Training and Workplace Reform
21. Anti-Discrimination
22. Personal/Carers' Leave
 - 22.1 Use of Sick Leave
 - 22.2 Unpaid Leave for Family Purpose
 - 22.3 Annual Leave
 - 22.4 Time-off in Lieu of Payment for Overtime
 - 22.5 Make-up Time
 - 22.6 Rostered days off (in respect of Carers and Parental Leave)
23. Times and Days when Project Construction Work is to be Performed - Continuous Work
 - 23.1 Continuous Work
 - 23.2 Rostered Days Off
 - 23.3 Project Close-down Days
 - 23.4 Public Holidays
 - 23.5 Reasonable Hours
24. Project Close-down Calendar
 - a. Project Close Down Calendar 2006
 - b. Project Close Down Calendar 2007

Annexure A - 'Construction Site' - Defined

Annexure B - Unions

Annexure C - Construction Work - The Project(s)

Annexure D - Project Construction Allowance

Annexure E - Authority To Obtain Details Of Work Rights Status From DIMIA

2. Objectives

The parties agree to the following objectives:

- 2.1 High standards of Environmental and Health & Safety throughout the Project(s).
- 2.2 High quality work on the Project(s);
- 2.3 Completion of the Project(s) ahead of schedule or as a minimum on time;
- 2.4 Compliance with legal obligations by all parties;
- 2.5 Compliance with applicable building and construction industry codes and guidelines;
- 2.6 Improved quality of work;
- 2.7 Elimination of unproductive time;
- 2.8 Reward Employees for improvements in productivity on the Project(s).

3. Definitions

"Award"	means the Unions NSW Port Kembla Steelworks Construction Award 2006.
"BlueScope Steel"	means BlueScope Steel (AIS) Pty Ltd of Five Islands Road, Port Kembla NSW.
"Contract Carrier"	means a carrier engaged in or in connection with a Contract of Carriage for the purposes of section 309 of the <i>Industrial Relations Act 1996</i> (NSW) where the Contract of Carriage is for carriage of Excavation and Demolition material
"Contract of Carriage"	shall be as defined in the <i>Industrial Relations Act 1996</i> (NSW)

"Contractor"	means any company (other than BlueScope Steel), contractor or subcontractor engaged to do on-site Project Work.
"Construction Manager"	means the Construction Manager for the Project appointed by an Employer from time to time.
"Employee"	means a person who is employed by the Employer to perform construction Project Work on the Project(s).
"Employer"	means any Contractor who employs Employees to perform construction Project Work on a Project(s).
"EHS&R"	means Environment, Health, Safety and Rehabilitation.
"Health Safety and Rehabilitation Policy"	means the plan or policy devised and implemented by the Project Manager for the Project(s) (as amended from time to time).
"On-site"	means on a construction site as defined in Annexure A, at Port Kembla Steelworks NSW. On-site shall also mean a temporary work site at Port Kembla Steelworks NSW that has been set up for the sole purpose of performing construction work associated exclusively with the construction of a "Project" as defined by this Award. For the avoidance of doubt, fabrication assembly work on the Port Kembla Steelworks site but not on a construction site defined at Annexure A is excluded.
"Practical Completion"	means the completion of the Project Work up to major contract package completion and pre-commissioning such that the facility or part of the facility is ready to accept input material and the stage the operations manager takes responsibility for the operation of the plant from the Project Manager. Items of plant, equipment or areas related to the Project(s) and/or any of the systems utilized during the construction phase may be accepted by BlueScope Steel upon completion at any time during the course of the construction project(s). Such items shall, subject to this clause, be deemed to be pre-commissioned for the purposes of this Award with the result that BlueScope Steel's non-construction employees may at that time involve themselves with the use and operation of such equipment and facilities. It is the responsibility of the Project Manager to issue a statement of practical completion. Any items of work embraced by the above provisions of this clause shall be clearly identified by area or by other means (such as tags). Subsequent to each identification of such areas, equipment and facilities will become the responsibility of BlueScope Steel's operations
"Project"	means the construction works contracted by BlueScope Steel (AIS) Pty Ltd as defined in Annexure C.
"Project Manager"	means the BlueScope Steel (AIS) Pty Ltd appointed manager for the design and construction phases of the Project(s).
"Project Work"	means on-site construction work carried out under construction packages managed by the Project Manager. The following activities are not considered Project Work under this Award: <ul style="list-style-type: none"> - Commissioning activities by BlueScope Steel employees; - Any operational and maintenance related activities undertaken by BlueScope Steel's employees; - Any other activities by BlueScope Steel's employees; - Any off-site related activities.
"Safety Committee"	means the site safety committee formed under the <i>Occupational Health and Safety Act (NSW) 2000</i> .
"Unions"	means each of the unions listed in Annexure B.
"Work Package"	shall mean the Project Construction packages covered by an individual contract managed by the Project Manager.
"Workplace Representative"	means a union delegate or other employee elected by the Employer's workforce.

4. Application

- 4.1 This Award shall apply to construction Employees engaged by the Employer to perform construction Project Work on a Project as defined in this Award.

- 4.2 This Award is intended to co-exist with the terms of any relevant Enterprise Agreement of the Employer and its primary purpose is to provide a framework to manage various issues on the Project(s) so as to deliver the Project(s) on time, safely and on budget.

5. Duration

This Award shall operate on and from 23 March 2006 and shall remain in force and effect for a period of three (3) years thereafter.

6. Project Construction Allowance

6.1 Project Construction Allowance

- (a) Subject to subclause (b) below, a Project Construction Allowance in accordance with Annexure D shall be paid to construction Employees for each hour worked on the Project(s). This allowance shall be paid as a flat amount for each hour worked, and shall not attract any premium or penalty. This allowance shall be deemed not to form part of an Employee's ordinary pay and shall not be payable during periods of leave. The allowance shall be for the term of the Award and shall not be used as a precedent on other construction sites. Such applicable Project Construction Allowance is in recognition that the projects being undertaken are being completed on a shutdown basis and the conditions under which the construction work is performed, for example, the requirements for continuous work.
- (b) An Employee shall not be entitled to the Project Construction Allowance where the employee does not work in accordance with the provisions of Clause 23 Times and Days when Project Construction Work is to be Performed - Continuous Work, of this Award.

6.2 BlueScope Steel (AIS) Pty Ltd Disability Allowance

Construction employees shall be paid, the BlueScope Steel (AIS) Pty Ltd Disability Allowance prescribed in the MECA at Clause 18.9, in lieu of allowances specified in MECA at Clause 22 (i.e. allowances for cold work, confined space, dirty work, hot work, height work, insulation work, wet work, explosive powered tools, multi storey building work, swing scaffold work, asbestos eradication work and suspended perimeter work platform work) and in recognition of disabilities unique to or otherwise experienced on the BlueScope Steel, Port Kembla (AIS) site, provided such payment is required under the terms of the Enterprise Agreement or other industrial instrument under which the construction employees are employed. This allowance of \$1.00 per hour is an all purpose rate and is paid to eligible construction employees for every hour they work on the Projects and there shall be no double dipping (i.e. no double payment for disabilities encountered on the Project(s)).

This allowance shall be for the term of the Award and shall not be used as a precedent on other construction sites.

7. Transport Drivers

7.1 Project Site Allowance Eligibility

It is further agreed that any Transport Worker carrying out work relating to the Project(s) will be eligible to receive the Project Construction Allowance (as provided in clause 6, above), provided that the driver has had a regular involvement of two (2) hours or more on any day with the Project(s).

7.2 Contract Carrier

The Parties agree that all Contract Carriers, as defined, involved in the Transport Industry shall be paid the rates of pay applicable under the Transport Industry Excavated Materials Contract Determination for the cartage of materials to, on and from the site.

7.3 Goods and Services Tax ("GST")

Rates paid to contractor's carriers, including any applicable Project Construction Allowance, shall be exclusive of GST. A separate amount equal to 10% of the value of the remuneration payable shall be paid to the carrier for contracts of carriage (the GST amount). The total fee payable to the contract carrier shall be the sum of the remuneration payable and the GST Amount.

8. Environment, Health, Safety and Rehabilitation (EHS&R)

8.1 Induction

Prior to the commencement of work on site, all Employees will be required to attend and undertake the following induction sessions, or provide documentary evidence of having undertaken such training:

- (a) NSW WorkCover OH & S Induction Training for Construction Work ("Greencard");
- (b) BlueScope Steel (AIS) Pty Ltd General Induction (Compulsory unless accompanied at all times by an inducted person);
- (c) BlueScope Steel (AIS) Pty Ltd Driver Induction/Road & Rail Induction (if duties require);
- (d) Where relevant, training in use of Personal Locks for Isolation, Authority to Work procedures and Departmental Inductions;
- (e) Project specific Site Induction (Compulsory unless accompanied at all times on site by an authorised inducted person);
- (f) The NSW Transport and Distribution Competency Based Training System Certification (Blue Card) for transport drivers (if duties require);

Employees will have to demonstrate a clear understanding of the issues raised in the induction, prior to beginning actual work (this may include an oral and /or written competency assessment).

8.2 Health and Safety Plans

The Employer shall have an environment, health, safety and rehabilitation management plan in place that has been reviewed and approved by the Project Manager. This plan must include as a minimum procedures and methods that cover:

- (a) risk assessment of their works;
- (b) hazard identification, prevention and control;
- (c) planning and re-planning for a safe working environment, including the formation of a OHS Consultative Committee;
- (d) industry and trade specific induction of Employees;
- (e) monitoring performance and improvement of work methods;
- (f) reporting of all incidents and/or accidents;
- (g) compliance verification; and
- (h) regular EHS&R meetings, inspections and audits of the Project(s).

8.3 The Safety Committee

The Safety Committee will be properly constituted under the OH&S Act and will abide by the agreed procedures as defined in its constitution and as revised from time to time. All members of the Safety Committee will undertake Occupational Health and Safety training with an agreed provider.

8.4 Implementation of this Clause

- (a) The parties acknowledge and agree that all parties are committed to safe working procedures and to the Project Environment Health and Safety Policy.
- (b) If the Construction Manager or Project Manager is of the opinion that an Employee has committed a serious breach of either the Environment, Health and Safety Policy or the relevant safety management plan (or any other agreed safe working procedures), the Employer may implement disciplinary action against the Employee which may include taking all steps required to remove the Employee from the Project(s).
- (c) The parties agree that consistent with the requirements of the Occupational Health Safety Act 2000 (NSW) that in the event an unsafe condition exists, work is to continue in all areas not affected by that condition and that the Employer may direct Employees affected by the unsafe condition to move to a safe place of work and to perform alternative duties. No Employee will be required to work in any unsafe area or situation.
- (d) Nothing in this clause shall negate the rights of a Union Official under the applicable Occupational Health and Safety legislation.

8.5 Formwork Safety

All persons engaged on the erection or dismantling of formwork will have the relevant WorkCover Formwork Certificate of Competency. Where an Employee does not have a Certificate of Competency, an agreed provider will be contacted to assess the qualifications of the relevant Employee.

8.6 Temporary Power/Testing and Tagging

In order to maintain the highest standards of safety with regard to the use of electricity during construction, it is agreed that temporary installation will be installed strictly in accordance with AS 3012 (1995). All relevant work will be carried out by qualified electrical trades people. Testing and tagging will only be carried out by licensed electricians.

8.7 Crane Safety

The parties acknowledge that certification of mobile cranes to the NSW WorkCover Regulations and to Australian Standard AS 2550 is mandatory on Projects covered by this Award.

BlueScope Steel (AIS) Pty Ltd Standard DIV-SE-04-01 "Conditions For Entry For Mobile Equipment" is mandatory and requires mobile cranes to have a current assessment from a WorkCover assessor as part of this process for the issuing of a BlueScope Steel (AIS) Pty Ltd permit to use a mobile crane on the project site.

All mobile cranes engaged on the Project(s) covered by this Award will be required to be certified by CraneSafe Australia (New South Wales) or other accredited body prior to the date of commencement of the crane on the Project(s) and be valid for the duration on the Project site and display the certification sticker and registration certificate.

9. Dispute Resolution

This Award is designed to place maximum emphasis on the avoidance of stoppages/industrial disputation and the expeditious settlement of grievances and/or disputation.

All grievances must initially be dealt with as close to its source as possible with graduated steps for further discussion and resolution at higher levels of authority.

9.1 Project Disputes:

If there is a dispute or conflict affecting more than one employer or the Progress of the Project(s), the following shall apply:

- (a) At any stage of the procedure, the Employee(s) may, at the request of the Employee(s), be represented by a Workplace Representative or other person nominated by them and the Employer may, at the request of the Employer, be represented by an employer association or other person nominated by them.
- (b) The grievance or dispute shall be dealt with as follows:
 - (i) The Employee(s) shall notify their supervisor(s) of the grievance or dispute and the remedy sought, in writing.
 - (ii) A meeting shall be held between the Employee(s) and the supervisor(s) to discuss the grievance or dispute and the remedy sought.
 - (iii) If the matter remains unresolved, the Employee(s) may request the matter be referred to the applicable Construction Manager(s) for discussion. A further meeting between the parties shall be held as soon as practicable.
 - (iv) If the matter remains unresolved, the Employee(s) may request the matter be referred to Senior Management of the Employer.
 - (v) If the matter remains unresolved, the Employer shall provide the Employee(s) with a written response. The response shall include the reasons for not implementing any proposed remedy.
 - (iv) Either party may notify the Industrial Relations Commission of New South Wales of the existence of a dispute at any stage of this procedure and seek its assistance in resolving the dispute pursuant to its powers set out in the *Industrial Relations Act 1996* (NSW).
- (c) Normal work shall continue without interruption or dislocation whilst the parties to the dispute are genuinely attempting to resolve the dispute.

9.2 Demarcation Disputes

If a union demarcation dispute arises which cannot be resolved between the relevant Unions, the Unions agree to the following dispute settling procedure:

- (a) Work shall continue without interruption or dislocation during discussion and resolution of disputes. The continuation of work in such circumstances will not prejudice the position of any party;
- (b) Discussion between Unions NSW and the Unions to try to resolve the dispute;
- (c) The parties agree that the outcome of any matter dealt with under the terms of clause 9.2 (b), shall not be used as a precedent, reference, example or exhibit in any way whatsoever in matters arising from the Project(s);
- (d) If the dispute is not resolved after step (b), either Union may notify the dispute to the Industrial Relations Commission of New South Wales and request that the Industrial Relations Commission of New South Wales resolve the dispute pursuant to its powers set out in the *Industrial Relations Act 1996* (NSW); and

- (e) Nothing in this sub clause shall affect the rights of the Employer or a Union in relation to the settlement of any demarcation issue.

9.3 Procedures to prevent Disputes regarding Statutory and Other Entitlements

- (a) Where the Employer engages a contractor(s) to work on-site, it will:
- (i) check monthly payments of the contractor(s) with respect to employee entitlements so as to ensure compliance with relevant award, enterprise agreements or other legislative obligations, and
 - (ii) check that the contractor(s) has/have not introduced arrangements such as unlawful 'all-in' payments or 'cash-in-hand' payments, (i.e. payments designed to avoid tax and other statutory obligations and sham subcontract arrangements).

Where such practices are identified the Employer will take immediate steps to ensure that any such arrangements are rectified and that any Employee affected by any such arrangement receives all statutory entitlements.

- (b) Each contractor engaged on site by the Employer will be specifically advised and monitored in respect of payroll tax and required to comply with their lawful obligations.
- (c) In accordance with Section 127 of the *Industrial Relations Act* 1996, Section 175(b) of the *Workers' Compensation Act* 1987 or Part 5B s1G-31J of the *Payroll Tax Act* 1971 where the Employer engages a sub-contractor(s) to work on-site it will obtain all applicable sub-contractors Statements regarding workers' compensation, payroll tax and remuneration. A copy of these statements will be made available to the Employer's Workplace Representative, on request, who shall advise the Employer if they believe the information which has been provided by the sub-contractor is not correct.
- (d) Any dispute concerning non-compliance shall be resolved in accordance with the dispute settling procedures of this Award.

9.4 On-Site Register

Where a Contractor engages another Employer, known for the purposes of this sub-clause as "sub-contractor", the Contractor shall be responsible for ensuring compliance with this sub-clause and maintaining a register of the following information as set out in 9.4(a) and 9.4(d) in respect of that sub-contractor. For the removal of doubt, this obligation shall apply to each level of the contractual chain.

Each Contractor shall provide the Project Manager with an up to date register containing details about their business and each construction employee they have engaged to perform work on the Project. This register is to be kept on-site.

Prior to commencing work on the Project each Contractor will provide a copy of their register to the Project Manager and certify that the details contained in it are correct. Thereafter, each Contractor will be required to keep the register up to date and to provide the Project Manager with a copy of any updates.

- (a) The Register shall contain the following information about the Contractor's Business.

Registered business name and address of employer and ABN number.

Workers Compensation Policy Number, Underwriter and Currency Certificate

Rehabilitation Provider

Public Liability Policy Number, Underwriter and Currency Certificate

Superannuation Fund Name and employer number

Long Service Leave employer number

Redundancy, Trust name and employer number

Uplus or equivalent Number

- (b) Each sub-contractor shall be required to provide the above information about their business to the Contractor.
- (c) Failure to comply with subclauses (a) or (b) may result in a Contractor being removed from the Project.
- (d) The Register shall contain the following information for each construction employee engaged to perform work on the Project, by the Contractor

Name and address

Classification and Certificate details

Induction date

Start Date on Construction Site

Superannuation scheme name and employee number

Long Service Leave number

Uplus or equivalent number

Green Card number

Blue Card number

Emergency Contact

Failure to comply with this subclause may result in employees being removed from the Project.

To the extent provided for under applicable legislation (e.g. OHS, right of entry, privacy and building industry and industrial relations legislation including industry codes and regulations) the parties will be able to view information contained in a Contractor's register. Subject to applicable legislation, such information will be made available to the Industrial Relations Commission of New South Wales in the event of a dispute about compliance.

10. Productivity Initiatives

10.1 Learning initiatives

The parties recognise that where practicable, it is in the interest of the Employer to implement skill enhancement and workplace reform programs while working on the Project(s).

10.2 Inclement weather

- (a) The parties to this Award will collectively proceed towards the minimisation of lost time due to inclement weather.

- (b) Further, the parties are bound to adopt the following principles with regard to inclement weather and idle time created by inclement weather:
- (i) Adoption of a reasonable approach regarding what constitutes inclement weather;
 - (ii) Employees shall accept transfer to an area or site not affected by inclement weather if, in the reasonable opinion of the Employer, useful work is available in that area or site and that work is within the scope of the Employee's skill, competence and training consistent with the relevant classification structures (provided that the Employer shall provide transport to such unaffected area where necessary);
 - (iii) Where the initiatives described in (ii) above are not possible or productive, the use of non-productive time will be used for activities such as relevant and meaningful skill development; production/upgrade of skill modules; presentation and participation in learning; planning and reprogramming of the Project(s);
 - (iv) All parties are committed to an immediate resumption of work following any cessation of work due to inclement weather; and
 - (v) The parties agree the practice of "one out, all out" will not occur.

10.3 Maximising Working Time

The parties agree that crib and lunch breaks may be staggered for Employees so that work does not cease during crib and lunch. There will be no unreasonable interruption of the comfort of Employees having lunch and the amenities will be maintained in a clean and hygienic state at all times.

11. Building Codes

If, on account of the terms of this Award, any difficulty arises in respect of the Employer's ability to continue to comply with applicable state or federal building codes (including any new or revised codes and guidelines) the Unions will make themselves available to meet with the Employer and discuss the issue. After this discussion, the Employer may apply to the NSW Industrial Relations Commission to vary this Award to the extent necessary to achieve compliance with state and/or federal building codes. The Union parties reserve their rights in this regard.

12. Immigration Compliance

12.1 Immigration compliance

The parties will comply with Australian immigration laws.

12.2 Legal right of Employees to work

The Employer shall, prior to Employees commencing work on-site, check the legal right of Employees to work. The authorisation form attached to this Award (as per Annexure E) may assist in providing evidence of an Employee's legal status.

13. Long Service Compliance

If applicable, in accordance with the NSW Building and Construction Industry Long Service Leave Act, no Employee will be engaged on site unless he or she is a worker registered under the relevant long service leave legislation. The Employer (if applicable) will be registered as an employer in accordance with the NSW Building and Construction Industry Long Service Payments Act and will strictly comply with their obligations.

14. No Extra Claims

The parties agree that they will not pursue extra claims in respect of any matter (whether in this Award or not) during the term of this Award.

15. No Precedent

The parties will not use this Award as a precedent and this Award will not create a claim for flow-on of onsite wage rates and conditions.

16. Rights of the Union(s) and Workplace Representative

The parties to this Award acknowledge the right of Employees to be union members or not be union members if they choose. The parties to this Award also acknowledge that good industrial relations is important in assisting the parties to resolve grievances and disputes in a timely fashion.

16.1 Visiting Union Officials

The parties acknowledge that Union Officials are entitled to access the site in accordance with right of entry provisions in applicable industrial relations and OH&S legislation. Officials may access the site at other times with the prior agreement of the Project Manager (or their nominee), as appropriate.

16.2 Workplace Representatives

- (a) The parties agree that employees of the Employer may elect a Workplace Representative to represent them in discussions with the Employer.
- (b) The Workplace Representative shall, subject to the reasonable performance of their usual duties of employment, have the right to approach or be approached by an Employee of the Employer to discuss matters pertaining to the employment relationship of that Employee during normal working hours provided that any Employee shall have the right to not be approached if they so choose. The Employer shall not unreasonably impede this communication.
- (c) With the consent of the Employer, a Workplace Representative may attend any Court or Industrial Tribunal proceedings relating to industrial matters on the Project without deduction to wages, and such consent shall not be unreasonably withheld.

16.3 Union Rights of Entry

Subject to right of entry laws, properly accredited officials and workplace representatives of the Union(s) shall have the right to be provided with appropriate access to Employees.

17. Protective Clothing

- (a) The Employer shall provide its Employees with appropriate high visibility protective clothing and equipment and shoes suitable to the tasks and the environment. Such clothing shall be, as far as practicable, made in Australia. All clothing shall be replaced on a fair wear and tear basis.
- (b) Employees who receive from the Employer an issue and/or replacement of appropriate high visibility protective clothing and equipment as part of the Employer's policy or Enterprise Agreement shall not be entitled to the provisions of this clause.
- (c) All transport workers who are involved on the Project(s) for longer than 2 hours on any calendar day, will be provided with safety footwear, one set of clothing and one jacket by their Employer prior to commencement on the Project(s), unless they have been provided with such footwear and clothing by their Employer within the previous 12 month period.

18. Workers Compensation and Insurance Cover

- (a) To the extent required by law, the Employer shall ensure that all persons engaged to work on the Project(s) are covered by workers compensation insurance.

- (b) To the extent required by law, where the Employer engages a contractor(s) on site, it shall ensure that the wages estimate and tariff declared for the type of work undertaken by that contractor(s) is correct. This information will be made available to accredited Union officials, in accordance with applicable legislation.
- (c) To the extent required by law, the Employer and their Employees shall comply with the following steps to ensure expedited payment of workers compensation.
- (i) All Employees will report injuries to their supervisor and the Project first-aid officer and at the earliest possible time after the injury.
- (ii) All Employees will comply with the requirements for making a workers compensation claim, including the provision of a WorkCover medical certificate, at the earliest possible time after the injury. This information will also be supplied to their supervisor and the Project first aid officer.
- (iii) In cases where the Employee is unable to comply with the above, the relevant Employer will assist in fulfilling requirements for making a claim.
- (d) The Employer must ensure that they are aware of and will abide by Sections 63 to 69 of the Workers Injury Management and Workers Compensation Act 1998, which provide that:

The Employer shall keep a register of injuries/site accident book in a readily accessible place on site;

All Employees must enter in the register any injury received by the Employee. The Employer must be notified of all injuries on site immediately;

An Employer who receives a claim for compensation, must within seven (7) days of receipt, forward the claim or documentation, to their insurer;

An Employer who receives a request from their insurer for further specified information must within seven (7) days after receipt of the request, furnish the insurer with the information as is in the possession of the Employer or reasonably obtained by the Employer.

- (e) An Employer who has received compensation money from an insurer shall as soon as practicable pay the money to the person entitled to the compensation.

19. Apprentices

The parties acknowledge that the sustainability of the industry depends on skill development through apprenticeship and traineeship programs and that it is in the interest of Employers to ensure that such opportunities are made available where reasonably practicable.

20. Training and Workplace Reform

The parties are committed to achieving improvements in productivity and innovation through cooperation and reform.

21. Anti-Discrimination

- (a) It is the intention of the parties bound by this Award to seek to achieve the object in section 3(f) of the *Industrial Relations Act* 1996 to prevent and eliminate discrimination in the workplace. This includes discrimination on the ground of race, sex, marital status, disability, homosexuality, transgender identity, responsibilities as a carer and age.
- (b) It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this Award, the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this Award are not directly or indirectly discriminatory in their effects. It will be consistent with fulfilment of these obligations for the parties to make application to vary any provision of the Award which, by its terms or operation, has a direct or indirect discriminatory effect.

- (c) Under the *Anti-Discrimination Act 1977*, it is unlawful to victimise an Employee because the Employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- (d) Nothing in this clause is to be taken to affect:
 - (i) any conduct or act which is specifically exempted from anti-discrimination legislation;
 - (ii) offering or providing junior rates of pay to persons under 21 years of age;
 - (iii) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*; or
 - (iv) a Party to this Award from pursuing matters of unlawful discrimination in any State or federal jurisdiction.
- (e) This clause does not create legal rights or obligations in addition to those imposed upon the parties by legislation referred to in this clause.

22. Personal/Carers' Leave

22.1 Use of Sick Leave

- (a) An Employee, other than a casual employee, with responsibilities in relation to a class of person set out in clause 22.1 (c) (ii) who needs the Employee's care and support, shall be entitled to use, in accordance with this sub clause, any current or accrued sick leave entitlement, for absences to provide care and support, for such persons when they are ill. Such leave may be taken for part of a single day.
- (b) The Employee shall, if required, establish by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness requires care by another person. In normal circumstances, an Employee must not take carers' leave under this sub clause where another person has taken leave to care for the same person.
- (c) The entitlement to use sick leave in accordance with this sub clause is subject to:
 - (i) the Employee being responsible for the care of the person concerned; and
 - (ii) the person concerned being:
 - (a) a spouse of the Employee; or
 - (b) a de facto spouse, who, in relation to a person, is 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; or
 - (c) a child or an adult child (including an adopted child, a step child, a foster child or an exnuptial child), parent (including a foster parent and legal guardian) grandparent, grandchild or sibling of the Employee or spouse or de facto spouse of the Employee; or
 - (d) a same sex partner who lives with the Employee as the de factor partner of that Employee on a bona fide domestic basis; or
 - (e) a relative of the Employee who is a member of the same household, where for the purposes of this paragraph:
 - 1. "relative" means a person related by blood, marriage or affinity;

2. "affinity" means a relationship that one spouse because of marriage has to blood relatives of the other: and
 3. "household" means a family group living in the same domestic dwelling.
- (d) An Employee shall, wherever practicable, give the Employer notice prior to the absence of the intention to take leave, the name of the person requiring care and that person's relationship to the Employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the Employee 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.

22.2 Unpaid Leave for Family Purpose

An Employee may elect, with the consent of the Employer, to take unpaid leave for the purpose of providing care and support to a member of a class of person set out in 22.1 (c)(ii) above who is ill.

22.3 Annual Leave

- (a) An Employee may elect with the consent of the Employer, subject to the *Annual Holidays Act 1944* (NSW), to take annual leave not exceeding five days in single day periods or part thereof, in any calendar year at a time or times agreed by the parties. An employee shall accrue, 4 weeks leave per year of service.
- (b) Access to annual leave, as prescribed in paragraph 22.3(a) above, shall be exclusive of any shutdown period provided for elsewhere under this Award.
- (c) 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.

22.4 Time-off in Lieu of Payment for Overtime

- (a) 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 within twelve (12) months of the said election.
- (b) Overtime taken as time off during ordinary time hours shall be taken at the ordinary time rate, which is an hour for each hour worked.
- (c) If, having elected to take time as leave in accordance with paragraph 22.4(a) above, and the leave is not taken for whatever reason, payment for time accrued at overtime rates shall be made at the expiry of the twelve (12) month period or on termination.
- (d) Where no election is made in accordance with paragraph 22.4(a), the Employee shall be paid overtime rates in accordance with the award.

22.5 Make-up Time

- (a) An Employee may elect, with the consent of the Employer, to work "make up time", under which the Employee takes time off ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in the award at the ordinary rate of pay.
- (b) An Employee on shift work may elect, with the consent of the 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.

22.6 Rostered days off (in respect of Carers and Parental Leave)

- (a) An Employee may elect, with the consent of the Employer, to take a RDO at any time.
- (b) An Employee may elect, with the consent of the Employer, to take RDOs in part day amounts.

- (c) 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 at a time mutually agreed between the Employer and Employee, or subject to reasonable notice by the Employee or the Employer.
- (d) This sub clause is subject to the Employer informing each Union which is both party to the Award and which has members employed at the particular enterprise of its intention to introduce an enterprise system of RDO flexibility, and providing a reasonable opportunity for the Unions to participate in negotiations.

23. Times and Days When Project Construction Work is to be Performed - Continuous Work

The parties are committed to ensuring that the Project(s) under this Award are completed in the shortest time possible provided that appropriate occupational health and safety standards are observed at all times.

23.1 Continuous Work

The parties agree that work on the Projects will be continuous. That means that work will be scheduled and performed on days including days otherwise designated as "no work", RDO and/or public holidays, subject to the payment of penalty rates applicable to weekend work, working on RDO and/or public holiday work as the case may be.

Employees will have the option of 'cashing out' or 'banking' days at the option of the Employee.

23.2 Rostered Days Off

Subject to subclause 23.1:

- (a) In respect of full-time permanent Employees, Rostered Days Off shall notionally occur on the rostered days prescribed in clause 24 of this Award.
- (b) Where another applicable industrial instrument provides for project close down days and/or industry shut down days and/or rostered days off and/or public holidays, there shall be no double dipping (i.e. double counting) of rostered days off.

23.3 Project Close-down Days

Subject to subclause 23.1 where another applicable industrial instrument provides for project close down days and/or industry shut down days and/or rostered days off and/or public holidays, there shall be no double dipping (i.e. double counting) of Project Close-down Days.

23.4 Public Holidays

Subject to subclause 23.1, where another applicable industrial instrument provides for project close down days and/or industry shut down days and/or rostered days off and/or public holidays, there shall be no double dipping (i.e. double counting) of Public Holidays.

23.5 Reasonable Hours

- (a) Subject to paragraph (b) of this clause, the Employer may require an Employee to work reasonable overtime at overtime rates
- (b) 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.
- (c) For the purposes of paragraph (b), what is unreasonable or otherwise will be determined having regard to:

any risk to the employee;

the employee's personal circumstances including any family and carer responsibilities;

the needs of the workplace;

the notice, if any, given by the employer of the overtime and by the employee of their intention to refuse it; and

any other matter.

24. Project Close-Down Calendar

For the purposes of this Award the parties agree that the following Project Close-down Calendar will be adopted for the Project. However the parties agree that work will take place on a continuous basis in accordance with clause 23, on days including days otherwise designated as "no work", RDO and/or public holidays, subject to the payment of penalty rates applicable to weekend work, working on RDO and/or public holiday work as the case may be.

A. Project Close Down Calendar 2006

Monday January 2	Public Holiday
Thursday January 26	No Work Public Holiday
Friday January 27	RDO (fixed)
Saturday January 28	No Work Saturday
Sunday January 29	No Work Sunday
Friday April 14	No Work Public Holiday
Saturday April 15	No Work Saturday
Sunday April 16	No Work Sunday
Monday April 17	No Work Public Holiday
Saturday April 22	No Work Saturday
Sunday April 23	No Work Sunday
Monday April 24	RDO (fixed)
Tuesday April 25	No Work Public Holiday
Saturday June 10	No Work Saturday
Sunday June 11	No Work Sunday
Monday June 12	No Work Public Holiday
Tuesday June 13	RDO (fixed)
Saturday September 30	No Work Saturday
Sunday October 1	No Work Sunday
Monday October 2	No Work Public Holiday
Tuesday October 3	RDO (fixed)
Saturday December 2	No Work Saturday
Sunday December 3	No Work Sunday
Monday December 4	No Work Union Picnic Day
Tuesday December 5	RDO (fixed)
Monday December 25	Public Holiday
Tuesday December 26	Public Holiday

B. Project Close Down Calendar 2007

Monday January 01	Public Holiday
Friday January 26	No Work Public Holiday
Saturday January 27	No Work Saturday
Sunday January 28	No Work Sunday
Monday January 29	RDO (fixed)

Friday April 6	No Work Public Holiday
Saturday April 7	No Work Saturday
Sunday April 8	No Work Sunday
Monday April 9	No Work Public Holiday
Tuesday April 10	RDO (fixed)
Wednesday April 25	Public Holiday
Saturday June 9	No Work Saturday
Sunday June 10	No Work Sunday
Monday June 11	No Work Public Holiday
Tuesday June 12	RDO (fixed)
Saturday September 29	No Work Saturday
Sunday September 30	No Work Sunday
Monday October 1	No Work Public Holiday
Tuesday October 2	RDO (fixed)
Saturday December 1	No Work Saturday
Sunday December 2	No Work Sunday
Monday December 3	No Work Union Picnic Day
Tuesday December 4	RDO (fixed)
Tuesday December 25	Public Holiday
Wednesday December 26	Public Holiday

The Employer(s) and Union(s) shall agree to a Project Site Calendar for 2008. The site calendar shall follow the same principles as those established for the 2007 calendar.

ANNEXURE A

‘Construction Site’ - Defined

For the purposes of this Award, the areas depicted in Maps 1(a), 1(b) and 2 shall constitute a "construction site".

Please refer to file IRC 2005/6774 to view the following maps:

Map 1(a) - No5 Blast Furnace Reline Project

Map 1(b) - No5 Blast Furnace Reline Project

Map 2 - Sinter Plant Upgrade Project

ANNEXURE B

Unions

Unions:

Unions NSW

Construction, Forestry, Mining and Energy Union (New South Wales Branch)

The New South Wales Plumbers and Gasfitters Employees' Union

Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union, New South Wales Branch (also known as AMWU)

Electrical Trades Union of Australia (NSW Branch)

Transport Workers' Union of Australia, New South Wales Branch

Australian Workers Union (AWU)

ANNEXURE C

Construction Work - The Project(s)

For the purposes of this Award, "Project" shall mean the following construction works:

A. NO. 5 Blast Furnace Reline

The application of this award for the No5 Blast Furnace Reline Project is:

- (a) For a period starting three months prior to the No5 Blast Furnace Shutdown Start and finishing three months after the "blow in" (First Restarting of the Furnace).
- (b) Applicable to the Reline Project and all ancillary projects managed by the Reline team and carried out on the Site within the period described in a) above. For the avoidance of doubt, this award does not apply to usual maintenance and operations work carried out in this period and that is not part of the Reline Project.

B. Sinter Plant Upgrade

ANNEXURE D

Project Construction Allowance

PROJECT CONSTRUCTION ALLOWANCE

For the purposes of clause 6 of this Award, the following Project Construction Allowance shall apply:

PROJECT:	ALLOWANCE:
NO. 5 Blast Furnace Reline Project	\$4.00 per hour worked
Sinter Plant Upgrade Project in the circumstance where the main shutdown is carried out at the same time as the No 5 Blast Furnace Reline	\$4.00 per hour worked
Sinter Plant Upgrade Project in the circumstance where the main shutdown is not carried out at the same time as the No 5 Blast Furnace reline Project	\$2.50 per hour worked

ANNEXURE E

Authority To Obtain Details Of Work Rights Status From DIMIA

EMPLOYEE DETAILS (As specified in passport or other identity document)	EMPLOYER/LABOUR SUPPLIER DETAILS
Family Name:	Business Name:
Given Name(s):	
Other Name(s) used (eg maiden name):	Business Street Address:
Date of Birth:	
Nationality:	
Passport Number:	Type of Business:
Visa Number:	
Visa Expiry Date:	Name of Contact Person:

<p>I authorise the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) to release the details of my work rights status (that is, my entitlement to work legally in Australia) to the employer/labour supplier named on this form.</p>	<p>Telephone:</p> <p>Fax:</p>
<p>I understand that these details are held by DIMIA on departmental files and computer systems. I further understand that the employer/labour supplier will use this information for the purposes of establishing my legal entitlement to work in Australia, and for no other purpose. I also understand that I allow release of my work rights for a period of three months from the date below.</p>	<p>Note that the employee's work rights status will be sent directly to the fax number given above. Please ensure that this number is correct. THE COMPLETED FORM SHOULD BE FAXED TO 1800 505 550</p>
<p>Employee Signature:</p>	
<p>Date:</p>	

M. J. WALTON *J, Vice-President.*

Printed by the authority of the Industrial Registrar.

(629)

SERIAL C4464

TEACHERS (NON-GOVERNMENT PRE-SCHOOLS) (STATE) AWARD 2006

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by New South Wales Independent Education Union, industrial organisation of employees.

(No. IRC 790 of 2005)

Before The Honourable Justice Wright, President

23 January 2006

AWARD

Arrangement

PART A

Clause No.	Subject Matter
1.	Definitions
2.	Salaries
3.	Payment on Termination and Adjustment of Salary for Teachers Who Commence Employment After the Pre-School Service Date and for Teachers Who Take Approved Leave Without Pay
4.	Annual Holidays Loading
5.	Director's and Authorised Supervisor's Allowance
6.	Personal Leave
7.	Miscellaneous
8.	Other Leave
9.	Union Representatives
10.	Terms of Engagement and Information to be Provided to Teachers
11.	Procedure for Dealing with Job Performance Problems
12.	Disputes and Grievance Procedures
13.	Savings Clause and Leave Reserved
14.	Superannuation
15.	Enterprise Consultation
16.	Labor Flexibility
17.	Anti-Discrimination
18.	Settlement of Award
19.	Area, Incidence and Duration

PART B

Monetary Rates

Table 1 - Rates of Pay

Table 2 - Director's Allowances

Table 3 - Other Rates and Allowances

Table 4 - Authorised Supervisor's Allowance (Clause 5.2(i))

Table 5 - Authorised Supervisor's Allowance (Clause 5.2(ii))

PART C

Redundancy

Attachment A - Casual Teachers/Directors Record of Casual
Employment to be maintained by Teacher**PART A****1. Definitions**

For the purposes of this award, except for subclause (b) or (u) of this clause and clause 5, Director's and Authorised Supervisor's Allowance, all reference to teachers in this award shall include Director or Authorised Supervisor, and:

- (a) "Teacher" means any person employed as such in a pre-school, as defined in subclause (c) of this clause and any person employed as such in an Early Intervention Service, as defined in subclause (h) of this clause where the hours and conditions of work of a teacher in such an Early Intervention Service approximate those hours and conditions of work of a teacher in a recognised school.
- (i) "Full-time Teacher" means any teacher other than a casual, temporary, or part-time teacher.
- (ii) "Part-time Teacher" means any teacher who is engaged to work regularly and not more than 0.8 of the normal hours which a full-time teacher at a Full Day Care Centre is required to attend. Provided that a part-time teacher may work up to 0.9 of the normal hours of a full-time teacher if he or she is entitled to a preparation session equivalent to 0.1 of a teacher's normal hours. Provided further that a part-time teacher employed as at 31 January 1990 shall not be required by that employer to work in excess of 0.8 of the normal hours of a full-time teacher.
- (iii) "Temporary Teacher" means a teacher employed to work full-time or part-time for a specified period which is not more than a full Pre-School year but not less than 20 days.
- Provided that a teacher may be employed for a specific period in excess of a full Pre-School year but not more than two full Pre-School years where such a teacher is replacing a teacher who is on leave for a specified period in excess of a full Pre-School year."
- (iv) "Casual Teacher" means a teacher engaged as required by an employer for up to 20 working days in any one period of employment. Provided that the period may be extended as required by the employer if the employer has been notified that the permanent teacher will be absent beyond the twenty day period.
- (b) "Director" means the teacher who is responsible for the day to day operation and management of the Early Childhood Services Centre as defined in subclause (d) of this clause, holding Early Childhood qualifications as defined in subclause (p), (q), (r) and (s) of this clause.
- (c) "Pre-School" means a kindergarten, day school or nursery school, and shall include:-
- (i) Sessional Care Centres, and
- (ii) Full Day Care Centres.

It shall not include a Recognised School, Long Day Care Centre or Multi-Purpose Centre.

- (d) "Full Day Care Centre" means a child care establishment which does not operate on a sessional basis, but which usually operates during hours and terms which approximate those of a recognised school.
- (e) "Sessional Care Centre" means a child care establishment which operates on the basis of morning and/or afternoon sessions, and which usually operates during hours and terms which approximate those of a recognised school.
- (f) "Long Day Care Centre" means a child care establishment which usually provides services over a period of approximately eight hours or more each day for approximately 48 weeks or more during the year.

- (g) "Multi-Purpose Centre" means a child care establishment which usually provides the services of one or more of the above centres (but not solely a combination of subclauses (d) and (e) of this clause), and/or other children's services, and shall include a Neighbourhood Children's Centre.
- (h) "Early Intervention Service" means a service which provides individual programmes for developmentally delayed or disabled children, or children at risk of being developmentally delayed or disabled, aged 0-6 years, aimed at providing assistance to the child and his or her family in the areas of physical, emotional, social and educational needs.
- (i) "Unit" means a group or class of children which does not at any one time exceed 25 children but which need not necessarily consist of the same children at all times.
- (j) "Infants Department" means Kindergarten, Grades 1 and 2 in a recognised school.
- (k) "Recognised School" means a school registered under the provisions of the *Education Reform Act, 1990*.
- (l) "Recognised Teacher Training Institution" means an Australian College of Advanced Education, Australian Teachers College or Australian Institute of Education recognised by the Tertiary Education Commission.
- (m) "Recognised University" means an Australian University which is recognised by the Tertiary Education Commission.
- (n) "Graduate" means a teacher who holds a degree from a Recognised University or Recognised Teacher Training Institution.
- (o) "Category UG2 Level" means a course of study leading to a Category UG2 Diploma award as described in Statement No. 1, Nomenclature and Guidelines for awards in Advanced Education, August 1972 (as amended), issued by the Australian Council on Awards in Advanced Education, and recognised by the said Council for inclusion in the National Register of Awards in Advanced Education.
- (p) "Category PG1 Level" means a course of study leading to a Category PG1 Graduate Diploma (at the 19.1 level) as described in Statement No. 1, Nomenclature and Guidelines for Awards in Advanced Education, August 1972 (as amended), issued by the Australian Council on Awards in Advanced Education, and recognised by the said Council for inclusion in the National Register of Awards in Advanced Education.
- (q) "Equivalent Qualifications or Equivalent Course" means a qualification or course as the case may be which the employer and the teacher agree as being equivalent to the qualification or course prescribed by the clause in question in this award, or which the Conciliation Committee determines as being so equivalent.
- (r) "Two Years Trained Teacher" means:
- (i) A teacher who has satisfactorily completed a two year full-time course of study in Early Childhood Education at a Recognised Teacher Training Institution; or
 - (ii) A teacher who was employed as a Two Years Trained Teacher as at 1 February 1991; or
 - (iii) A teacher who has acquired other equivalent qualifications; and
 - (iv) A teacher who is not otherwise classified as a Three Years Trained Teacher or a Four Years Trained Teacher shall for the purposes of salary be paid as a Two Years Trained Teacher.
- (s) "Three Years Trained Teacher" means:-
- (i) A teacher who has satisfactorily completed a Three Years full-time course of study in Early Childhood Education at a Recognised Teacher Training Institution; or

- (ii) A teacher who, in addition to satisfying the requirements for classification as a Two Years Trained Teacher, has satisfactorily completed a course of study at Category UG2 level; or
 - (iii) A teacher who has acquired other equivalent qualifications; or
 - (iv) A teacher who was employed as a Three Years Trained Teacher as at 1 January 1985; or
 - (v) A three year Primary School trained teacher who has been recognised as equivalent by the New South Wales Department of Community Services.
- (t) "Four Years Trained Teacher means:-
- (i) A teacher who is a graduate in Education (four years full-time course); or
 - (ii) A teacher who is a graduate and who holds a Diploma in Education from a recognised University or Recognised Teacher Training Institution; or
 - (iii) A teacher who is a graduate and who has in addition satisfactorily completed a course of study at Category PG1 Level; or
 - (iv) A teacher who was employed as a Four Years Trained Teacher as at 1st January, 1985; or
 - (v) A teacher who has acquired other equivalent qualifications; or
 - (vi) A four year Primary School trained teacher who has been recognised as equivalent by the New South Wales Department of Community Services.
- (u) "Authorised Supervisor means: -A teacher who is appointed as Authorised Supervisor under the Children and Young Persons (Care and Protection) Act 1998 or its replacement, that is, as the person who is authorised under the Act to have the overall supervision of the provision of the child care service to which it relates and who is not appointed as a Director".

2. Salaries

- 2.1 The minimum fortnightly salary payable to full-time teachers shall, subject to the other provisions of this award, be calculated by dividing the per annum rates as set out in Table 1 - Rates of Pay, of Part B, Monetary Rates, by 26.07.
- (a) Two Years Trained Teacher
 - (i) A Two Years Trained Teacher shall commence on Step 1 of the scale and progress according to normal years of service to Step 10 of the scale.
 - (ii) A Two Years Trained Teacher who, by further study satisfactorily completes the equivalent of one third of a degree course, shall be paid an additional increment with retention of normal incremental date and shall thereafter progress according to normal years of service to Step 10 of the scale.
 - (iii) A Two Years Trained Teacher who, as at 1 October 1991, has completed nine or more years service shall progress to Step 10 of the scale from that date.
 - (b) Three Years Trained Teacher
 - (i) A Three Years Trained Teacher shall commence on Step 1 of the scale and progress according to normal years of service to Step 11 of the scale.
 - (ii) A Three Years Trained Teacher who, as at 1 February 1991, has completed eight or more years of full-time service, or its part-time equivalent, shall progress to Step 9 of the scale

with retention of normal incremental date, and shall thereafter progress according to normal years of service to Step 11 of the scale.

- (iii) A Three Years Trained Teacher being paid on Steps 1 to 10 of the scale who, by further study satisfactorily completes the equivalent of one third of degree course, shall receive a salary advance of one increment with retention of incremental date and shall thereafter progress in accordance with normal years of service to Step 11 of the scale.

(c) Four Years Trained Teacher

- (i) A Four Years Trained Teacher shall commence on Step 1 of the scale and progress, according to normal years of full-time service as a teacher in early childhood education services for children aged up to 8 years whether conducted by the employer or not, to Step 9 of the scale.
- (ii) A Four Years Trained Teacher who, as at 1 February 1991, has completed eight or more years of full-time service, or its part-time equivalent, shall progress to Step 9 of the scale with retention of normal incremental date.

2.2 Part-Time and Temporary Teachers

- (a) A part-time teacher, including a temporary part-time teacher, shall be paid at the same rate as a full-time teacher with the corresponding classification, but in that proportion which the teachers normal hours of attendance bears to the hours which a full-time teacher at a Full Day Care Centre is normally required to attend.
- (b) A temporary full-time teacher shall be paid at the same rate as that prescribed for a full-time teacher with the corresponding classification.

2.3 Casual Teachers

- (a) The salary payable to a casual teacher shall be the appropriate rate prescribed by subclause 2.1 of this clause, in accordance with years of full-time service, divided by 816 in the case of a quarter day payment, or 408 in the case of half day payment, or 204 in the case of daily payment; provided that the maximum rate payable shall be as follows:-

Two Years Trained	Fourth Step
Three Years Trained	Fourth Step
Four Years Trained	Fourth Step

- (b) The said rates include the pro rata payment in respect of annual holidays, to which the teacher is entitled in accordance with the Annual Holidays Act, 1944.

2.4 Travelling Expenses

- (a) Where a teacher is required to use his or her vehicle in connection with the teacher's employment, other than for journeys between home and the place of employment the teacher shall be paid an allowance per kilometre of travel, as set out in Item 1 of Table 3, Other Rates and Allowances, of Part B, Monetary Rates.
- (b) Travelling and other out of pocket expenses reasonably incurred by a teacher in the course of duties required by the employer shall be reimbursed by the employer.

2.5 Calculation of Service

- (a) For the purpose of this clause, any teacher if required by the employer so to do, shall upon engagement establish to the satisfaction of the employer, the length of his or her teaching service in a Pre-School, Long Day Care Centre, Multi-Purpose Centre, Early Intervention Service, or in the Infants Department of a recognised school or within an Infants Department of schools registered or certified under the appropriate legislation in other States or Territories of the

Commonwealth of Australia, and the period so established shall be taken to be the length of such service for the purpose of that employment.

- (b) For the purpose of this clause, a period of service other than service within paragraph (a) of this subclause, shall be counted as service in accordance with the following principles:-
- (i) A period of service as a lecturer in early childhood education or child development, as a child development officer, or as a Family Day Care Co-ordinator or equivalent shall be recognised as service;
 - (ii) A period of service as a carer in the child care industry, including service as a Family Day Care carer (as recognised under State Government Regulations), and a Child Care Certificate worker or equivalent, shall be recognised as service at the rate of one increment for each completed three years so engaged to a maximum of four increments.
- (c) For the purpose of calculating service:-
- (i) Any employment as a full-time employee (including employment as a temporary full-time employee) as referred to in paragraphs (a) and (b) of this subclause shall be counted as service.
 - (ii) The amount of service of a part-time teacher (including a temporary part-time teacher) shall be calculated by reference to the ratio which the number of hours taught by the teacher in any year bears to the normal number of hours taught by a full-time teacher at a Full Day Care Centre in the same year; Provided that a period of part-time service in terms of paragraph (b) of this subclause shall count as service in the proportion that the part-time employment bears to full-time employment in that occupation.
 - (iii) Casual teachers shall be entitled to normal incremental progression for each total of 204 full days of service or its equivalent; PROVIDED that only service performed in the preceding four years shall be included in determining incremental progression.
 - (iv) Provided also that the salary incremental date of any teacher who has taken leave without pay may be altered by adding the period of such leave without pay to the salary incremental date applicable to that teacher prior to the leave without pay.

2.6 Re-Classification

The transfer to a higher salary scale of a teacher who has completed a course of training which makes the teacher eligible to be so transferred and the progression of such teacher through the salary steps on that higher salary scale shall be effected as follows:-

- (a) A teacher seeking such transfer shall make application in writing to the employer and shall attach to such application documentary evidence establishing that he or she has had or will have conferred on him or her the diploma, degree or equivalent recognition of the completion of the course of training which makes him or her eligible to be so transferred.
- (b) Where an application is made under paragraph (a) of this subclause, which establishes that a teacher is eligible to be transferred to a higher salary scale, such transfer shall take effect:-
 - (i) From the beginning of the first pay period to commence on or after the date the teacher undertook the last paper in the final examination in the course of training which creates the eligibility for transfer, or from the beginning of the first pay period to commence on or after the date of completion of formal course requirements, whichever is the later. Provided that the application for transfer is received by the employer no later than the first Pre-School day of the Pre-School term following the conferral of the diploma, degree or equivalent recognition of the completion of such course of training; or

- (ii) Where the application for transfer is not received by the employer within the time specified in subparagraph [i] of this paragraph, from the beginning of the first pay period to commence on or after the date on which the employer receives such application.

A teacher who has completed a course of training entitling the teacher to transfer to a higher salary scale pursuant to this subclause shall, for the purpose of advancing through the steps on the higher salary scale to which the teacher has been so transferred, retain the teachers normal salary incremental date.

Provided that if the transfer of the teacher to the higher salary scale coincides with the teacher's normal salary incremental date, the increments shall be applied prior to the teacher being transferred to the higher salary scale.

- (c) The teacher shall be transferred to the salary step on the higher salary scale which shall be determined by the teacher's years of service on the lower salary scale.
- (d) The transfer to a higher salary scale of a teacher who has acquired a qualification (other than the completion of a course of training) which makes the teacher eligible to be so transferred, and the progression of such teacher through the steps on that higher salary scale shall be effected in accordance with the provisions of paragraphs (a), (b) and(c) of this subclause.

2.7 Payment of Salary

- (a) The salary payable to any full-time and part-time teacher pursuant to this clause shall be payable fortnightly or half monthly by either cash, cheque or electronic funds transfer into an account nominated by the teacher. Casual teachers may, by mutual agreement, be paid in the same manner as full-time teachers.
- (b) For the purposes of implementation of increases from a State Wage Case, a half monthly pay period shall be deemed to commence on the first date occurring after the operative date of any increase in salaries given under the State Wage Case decision, calculated by fortnightly periods commencing on the 31 January, 1977.
- (c) The rates of pay in this award include the adjustments payable under the State Wage Case of May 2001. These adjustments may be offset against:
 - (i) any equivalent overaward payments, and/or
 - (ii) award wage increases since 29 May 1991 other than safety net, State Wage Case and minimum rates adjustments.
- (d) Where the pay day for a half-monthly pay period falls on a Saturday, Sunday or public holiday, salaries shall be paid on the day not being a Saturday, Sunday or public holiday immediately preceding said pay day.

2.8 Overpayments

Where excess payments are made in circumstances which were not apparent or could not reasonably have been expected to be detected by the teacher, the relevant parties shall seek agreement on the matter of the overpayment including, when necessary and appropriate, discussion between the New South Wales Independent Education Union and relevant employer representatives.

2.9 Salary Packaging

- (a) Where agreed between the employer and a full-time or part-time employee, an employer may offer salary packaging in respect of the employees annual remuneration including allowances. Neither the employer nor the employee may be compelled to enter into a salary packaging agreement.

- (b) Salary packaging shall mean that the employee will have part of their annual remuneration including allowances packaged into a fringe benefit which does not constitute a direct payment to the employee but is payable to a bona fide third party.
- (c) The terms and conditions of such a package shall not, when viewed objectively, be less favourable than the entitlements otherwise available under this award and shall be subject to the following provisions:
 - (i) the employer shall ensure that the structure of any agreed remuneration package complies with taxation and other relevant legislation;
 - (ii) where there is an agreement to salary package, the agreement shall be in writing and made available to the employee;
 - (iii) the employee shall have access to details of the payments and transactions made on their behalf. Where such details are maintained electronically, the employee shall be provided with a printout of the relevant information, or if maintained manually, on request;
 - (iv) the employer has the right to vary or withdraw from a salary packaging agreement and/or withdraw from offering salary packaging in the event of changes to the operation of legislation that are detrimental to, or increase the costs of, salary packaging arrangements;
 - (v) prior to entering into any salary packaging agreements, the employee will be given the opportunity by the employer to seek independent advice in respect of salary package arrangements including advice from the union;
 - (vi) in the event that the employer withdraws from a salary packaging agreement, the individual employee's salary will revert to whichever is the higher of:
 - (1) the ordinary time rate of pay that applied to the employee prior to the commencement of the salary packaging agreement; or
 - (2) the applicable rate specified in Table 1, Rates of Pay of this Award.
 - (vii) notwithstanding any of the above arrangements, the employer or employee may cancel any salary packaging agreements by the giving of one month's notice of cancellation to the other party;
 - (viii) Superannuation Guarantee Contributions will be calculated with reference to the annual remuneration including allowances the employee would have been entitled to receive but for the salary packaging arrangement;
 - (ix) any payment including any allowances, penalty rates, overtime, payment for unused leave entitlements shall be calculated by reference to the annual remuneration including allowances which would have applied to the employee but for the salary packaging arrangement and payable during employment or on termination of employment or on death;
 - (x) unless there is agreement between the employer and the employee to the contrary, all salary packaging arrangements shall cease during any period

3. Payment on Termination and Adjustment of Salary for Teachers Who Commence Employment After the Pre-School Service Date and for Teachers Who Take Approved Leave Without Pay

3.1 This clause will apply:

- (a) in lieu of the corresponding provisions of the Annual Holidays Act, 1944; and
- (b) notwithstanding any other provisions in this award.

3.2 The provisions of this clause shall apply where:

- (a) a teacher's employment ceases;
- (b) a teacher commences employment after the Pre-School service date; or
- (c) where a teacher takes approved leave without pay;

and payments shall be made to such teachers by application of the formula prescribed by subclause 3.3 of this clause and, if relevant, by the application of the provisions of subclauses 3.5 and 3.6 of this clause in combination.

3.3 Calculation of Payments

- (a) Payments made pursuant to this clause shall be calculated in accordance with the following formula:

$$P = \frac{s \times c}{b} - d$$

Where:

- P is the payment due.
 - S is the total salary paid in respect of term weeks, or part thereof, since the anniversary of employment (or date of employment in circumstances where a teacher has been employed by the Pre-School for less than one year).
 - b is the number of term weeks, or part thereof, in the year.
 - c is the number of non-term weeks, or part thereof, in the year.
 - d is the salary paid in respect of non-term weeks, or part thereof, that have occurred since the anniversary of employment (or date of employment in circumstances where a teacher has been employed by the Pre-School for less than one year).
- (b) For the purpose of this clause:
 - (i) "Pre-School Service Date" means the usual commencement date of employment at a Pre-School for teachers who are to commence teaching on the first day of the first term.
 - (ii) "Teacher" means any teacher other than a casual teacher.

3.4 Termination of Employment

A teacher shall be entitled on termination of employment to a payment calculated in accordance with this clause.

3.5 Teachers Who Commence Employment After the Pre-School Service Date

Where a teacher commenced employment after the Pre-School Service Date in any Pre-School year and such employment is to continue into the next Pre-School year:

- (a) the teacher shall be paid at the conclusion of Term IV in the first calendar year of employment in accordance with this clause;
- (b) the anniversary of employment for the purposes of the calculation of payments under this clause shall in each succeeding year of employment be the Pre-School Service Date;

- (c) any period for which the teacher has not been paid by the operation of this subclause, shall be deemed to be leave without pay, and no salary or other payment other than payment under this clause shall be made.

3.6 Teachers Who Take Approved Leave Without Pay

Where a teacher takes leave without pay with the approval of his or her employer for a period which (in total) exceeds 20 pupil days in any year, he or she shall be paid salary calculated in accordance with this clause as follows:-

- (a) If the leave without pay commences and concludes in the same Pre-School year:-
 - (i) subject to subparagraph (ii) of this paragraph, the payment shall be calculated and made at the conclusion of Term IV of that Pre-School year; and
 - (ii) if the leave without pay commences on the day following the last teaching day of a term and concludes on the day preceding the first teaching day of a term in the same year, a payment shall be calculated and made:-
 - (A) at the commencement of the leave in respect of that year, and
 - (B) at the end of Term IV in accordance with paragraph (c) of this subclause.
- (b) If the leave without pay is to conclude in a Pre-School year following the Pre-School year in which the leave commenced:-
 - (i) at the commencement of the leave a payment shall be calculated and made in respect of the Pre-School year in which the leave commences, and
 - (ii) at the end of Term IV in the Pre-School year in which the leave concludes a payment shall be calculated and made in respect of that Pre-School year.
- (c) The payment to be made to a teacher at the conclusion of Term IV of a Pre-School year:
 - (i) pursuant to section (B) of subparagraph (ii) of paragraph (a) of this subclause;
 - (ii) or in circumstances where, with the agreement of the employer, a teacher who has been paid pursuant to subparagraph (i) of paragraph (b) of this subclause returns from leave during the Pre-School year in which the leave commenced,

shall be determined by:
 - (A) applying the formula in subclause 3.3 of this clause as if no payment had been made to the teacher pursuant to section (A) of subparagraph (ii) of paragraph (a) of this subclause or subparagraph (i) of paragraph (b) of this subclause; and
 - (B) deducting from that amount the amount paid to the teacher pursuant to section (A) of subparagraph (ii) of paragraph (a) of this subclause or subparagraph (i) of paragraph (b) of this subclause.
- (d) Notwithstanding the provisions of paragraph (a) of subclause 3.1 of this clause, a teacher shall not pursuant to this clause be paid an amount in respect of a year of employment which is less than the amount to which the teacher would otherwise be entitled under the provisions of the *Annual Holidays Act 1944*, in respect of a year of employment.

4. Annual Holiday Loading

- 4.1 Subject to subclause 4.6 of this clause, where a teacher other than a casual teacher, is given and takes his or her annual holiday commencing at the beginning of the Pre-School summer vacation each year he or she shall be paid an annual holiday loading calculated in accordance with this clause.
- 4.2 The loading shall be payable in addition to the pay payable to the teacher for the period of the Pre-School vacation.
- 4.3 The loading shall be calculated:-
- (a) in relation to such period of a teacher's annual holiday as is equal to the period of annual holiday to which the teacher is entitled for the time being under the Annual Holidays Act, 1944 at the end of each year of the teachers employment; where relevant,
 - (b) the period of annual leave calculated under subclause 4.6 of this clause.
- 4.4 The loading shall be the amount payable for the period specified in subclauses 4.3 or 4.6 of this clause at the rate of 17 1/2 per cent of the weekly equivalent of the teacher's annual salary.
- 4.5 For the purpose of this clause, "salary" shall mean the salary payable to the teacher at the first day of December of the year in which the loading is payable together with, where applicable, the allowance prescribed by paragraph (a) of subclause 5.1 of clause 5, Director's Allowance, but not including any other allowance or amount otherwise payable in addition to salary.

Provided:

Where subclause 4.6 of this clause applies, "salary" shall mean the salary (together with allowances payable as aforesaid) payable immediately prior to the payment made to the teacher pursuant to clause 3, Payment on Termination and Adjustment of Salary for Teachers Who Commence Employment After the Pre-School Service Date and for Teacher Who Take Approved Leave Without Pay, of this award.

- 4.6 Where a teacher receives a payment pursuant to the said clause 3, including the case where a teachers employment is terminated during the Pre-School year for a reason other than misconduct, he or she shall be entitled to be paid for that part of such fraction of the annual holiday loading he or she would be entitled to for the full Pre-School year as is equal to the fraction which the number of Pre-School weeks worked by him or her in that year bears to the number of weeks he or she would be normally required by the employer to work in a full Pre-School year.

5. Director's and Authorised Supervisor Allowance

5.1 Director's Allowance

- (a) A full-time teacher who is appointed as a Director as defined in Clause 1, Definitions, of this award shall be paid, in addition to the amounts payable pursuant to clause 2, Salaries, on a fortnightly basis, an allowance for a Director calculated by dividing the per annum rates set out in Table 2 - Director's Allowance, of Part B, Monetary Rates, by 26.07.
- (b) A part-time teacher who is appointed as a Director as defined in Clause 1, Definitions, shall be paid, in addition to the amounts payable pursuant to clause 2, Salaries, an allowance in accordance with Table 2 - Director's Allowance, a proportionate basis to the hours they work.
- (c) Any teacher required by the employer to act as Director for at least ten consecutive working days shall be paid for so doing at the rate prescribed for that position.
Provided that a teacher shall not be required to carry out such duties in an acting capacity for more than a full year except that a teacher may be required to carry out such duties for up to two full years where such a teacher is replacing a Director who is on leave for a specified period in excess of a full year.

5.2 Authorised Supervisor's Allowance

- (a) A full-time teacher who is an Authorised Supervisor as defined in clause 1, Definitions, shall be paid an allowance as set out below and shall be advised by the employer on appointment which allowance is to apply:
- (i) Where the licensee is involved in the operation of the service for an average of 20 hours or more per week or an average of 80 hours or more in a four week period and a Director is not employed, the Authorised Supervisor shall be paid, in addition to the amounts payable pursuant to clause 2, Salaries on a fortnightly basis an allowance by dividing the per annum rates set out in Table 4 - Authorised Supervisor's Allowance of Part B, Monetary Rates, by 26.07
 - (ii) Where the licensee is involved in the operation of the service for an average of less than 20 hours per week or an average of less than 80 hours over a four week period and a Director is not employed, the Authorised Supervisor shall be paid, in addition to the amounts payable pursuant to clause 2, Salaries on a fortnightly basis an allowance by dividing the per annum rates set out in Table 5 - Authorised Supervisors Allowance of Part B, Monetary Rates, by 26.07.
 - (iii) Where a Director is employed and is not the Authorised Supervisor, the Authorised Supervisor shall be paid in addition to the amounts payable pursuant to clause 2, Salaries on a fortnightly basis an allowance calculated by dividing the per annum rates set out in Table 4 - Authorised Supervisors Allowance.

Provided that a teacher appointed as an Authorised Supervisor who is not in receipt of the Directors Allowance, shall not be responsible for the day to day operation and management of the Early Childhood Services Centre.

- (b) Where a licensee proposes to change his/her hours of attendance which would result in a change in the entitlement of the allowance set out in Table 4 or 5 Authorised Supervisor's Allowance of Part B, Monetary Rates four weeks written notice will be given.
- (c) A part-time teacher who is appointed as an Authorised Supervisor, as defined in Clause 2, Definitions of this Award, shall be paid, in addition to the amounts payable pursuant to clause 3, Salaries of this Award, an allowance in accordance with Table 4 or 5 - Authorised Supervisor's Allowance on a proportionate basis to the hours they work.
- (d) Any teacher required by the employer to acts as Authorised Supervisor for at least ten consecutive working days shall be paid for so doing at the rate prescribed for that position.

Provided that a teacher shall not be required to carry out such duties in an acting capacity for more than a full year except that a teacher may be required to carry out such duties for up to two full years where such a teacher is replacing a Authorised Supervisor who is on leave for a specified period in excess of a full year.

It is not intended that Directors shall be displaced by the appointment of an Authorised Supervisor as a result of the operation of this clause.

6. Personal Leave

- 6.1 A full-time, temporary or part-time teacher shall be entitled to 15 days' leave with pay in the first year of service with the employer and 25 days' leave with pay in the second and subsequent continuous years of service with the same employer.

Provided during the first three months of service with an employer the period of leave shall not exceed five days. Following the completion of three months' service with an employer, the teacher shall be entitled to the balance of leave not taken up to maximum of 15 days in the first year of service.

6.2 The personal leave outlined in subclause 6.1 can be taken as:

- (a) Up to one day's leave on the date of the spouse's confinement or on the day on which she leaves hospital following a confinement; and/or
- (b) Up to one day's leave for the purpose of adopting a child; and/or
- (c)
 - (i) Up to three days' bereavement leave up to and including the day of the funeral, on the death within Australia of a member of the teacher's family or household (as defined in section (ii) of subparagraph (c) of subclause 6.7 1 of this clause). A teacher must notify the employer as soon as practicable of the intention to take bereavement leave and will provide, to the satisfaction of the employer, proof of death.

- (ii) Bereavement leave shall be available to the teacher in respect of the death of a person prescribed for the purposes of personal/carer's leave as set out in subclause 6.7(1)(c)(ii) of this clause, provided that for the purpose of bereavement leave, the teacher need not have been responsible for the care of the person concerned.

Provided that a teacher shall not be entitled to bereavement leave under this clause during any period in respect of which the teacher has been granted other leave.

- (iii) Provided that bereavement leave may be taken in conjunction with other leave available under paragraphs 6.7.1, 6.7.2, and 6.7.3, of subclause 6.7 of this clause. In determining such a request the employer will give consideration will be given to the circumstances of the teacher and the reasonable operational requirements of the employer; and/or

- (iv) Bereavement entitlements for casual teachers

- (1) Subject to the evidentiary and notice requirements in (i) casual teachers are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in (ii) of subparagraph (c) of subclause 6.7 1.
 - (2) The employer and the teacher shall agree on the period for which the teacher will be entitled to not be available to attend work. In the absence of agreement, the teacher is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual teacher is not entitled to any payment for the period of non-attendance
 - (3) An employer must not fail to re-engage a casual teacher because the teacher accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual teacher are otherwise not affected.

- (d) Up to one day's leave on the day of an examination of a course run by a recognised teaching institution undertaken by the teacher to further his or her early childhood teacher training; and/or
- (e) Personal Carer's leave in accordance with the provisions outlined in subclause 6.7 of this clause; and
- (f) Sick leave - a teacher may take all of their personal leave entitlement as sick leave provided that five days of their personal leave entitlement in every year is only used as sick leave.

6.3 The taking of leave outlined in subclause 6.2 of this clause shall be subject to the following conditions and limitations:

- (a) A teacher intending to take leave shall notify the employer at the earliest practicable opportunity and in any event prior to the commencement of the first activity for the day of:

- (i) inability to attend work; and
 - (ii) the reason for their inability to attend work; and
 - (iii) the estimated duration of the absence.
- (b) A teacher who fails to comply with the procedure outlined in paragraph (a) of this subclause shall not be entitled to paid leave unless they can satisfy the employer that they took all reasonable steps to notify the employer or were unable to take such steps.
- (c) To qualify for sick leave, a teacher may be required to provide evidence satisfactory to the employer that they were sick.
- (d) A teacher shall not be entitled to sick leave for any period in respect of which such teacher is entitled to workers compensation.
- 6.4 Notwithstanding the provisions of subclauses 6.1 and 6.2 of this clause, the personal leave entitlement of a part-time teacher and temporary teacher shall be in that proportion which the teacher's number of working hours in a full Pre-School week bears to the number of working hours which a full-time teacher at that Pre-School is normally required to work.
- 6.5 Untaken leave in the second year of service and thereafter shall accumulate up to a maximum of 120 days. Subject to the provisions of subclause 6.7, Personal Carer's Leave, such accumulated leave may only be taken as sick leave.
- 6.6 Transitional Arrangements

Notation: The following transitional arrangements will apply

- (a) Teachers employed prior to 18 October 1996 in accordance with the Teachers (Non-Government Pre-Schools) (State) Award published 15 July 1987 (245 I.G. 702), as varied, retained all full-pay sick leave accumulated in accordance with that award.
 - (b) All half-pay sick leave entitlements accumulated prior to 18 October 1996 in accordance with the said award were converted to half the number of days on full pay and added to the existing, full-pay, sick leave accumulation.
- 6.7 Personal Carer's Leave

6.7.1 Use of Sick Leave

- (a) A teacher, other than a casual teacher, with responsibilities in relation to a class of person set out in subclause 6.7.1(c)(ii) of this clause who needs the teacher's care and support, shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for in subclauses 6.1 and 6.2 of this clause, for absences to provide care and support, for such persons when they are ill or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.
- (b) The teacher shall, if required,
 - (i) 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 person, or
 - (ii) 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 teacher.

In normal circumstances, a teacher must not take carer's leave under this subclause where another person had taken leave to care for the same person.

(c) The entitlement to use sick leave in accordance with this subclause is subject to: -

(i) the teacher being responsible for the care of the person concerned; and

(ii) the person concerned being: -

a spouse of the teacher; or

a de facto spouse, who, in relation to a person, is 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; or

a child or an adult child (including an adopted child, a foster child or an ex nuptial child), parent (including foster parent and legal guardian), grandparent, grandchild or sibling of the teacher or spouse or de facto spouse of the teacher; or

a same sex partner who lives with the teacher as the de facto partner of that teacher on a bona fide domestic basis; or

a relative of the teacher who is a member of the same household, where for the purposes of this paragraph: -

1. "relative" means a person related by blood, marriage or affinity;

2. "affinity" means a relationship that one spouse because of marriage has to blood relatives or the other; and

3. "household" means a family group living in the same domestic dwelling

(d) A teacher shall, wherever practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and that person's relationship to the teacher, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the teacher to give prior notice of absence, the teacher shall notify the employer by telephone of such absence at the first opportunity on the day of absence.

Note: In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes the employer and teacher shall discuss appropriate arrangements which, as far as practicable, take account of the employer's and teacher's requirements.

Where the parties are unable to reach agreement the disputes procedure at clause 12 should be followed.

6.7.2 Unpaid Leave for Family Purpose

A teacher may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a member of a class of person set out in subclause 6.7.1(c)(ii) above who is ill or who requires care due to an unexpected emergency.

6.7.3 Personal Carers Entitlement for Casual Teachers

(a) Subject to the evidentiary and notice requirements in subclause 6.7.1(a) and 6.7.(b) of this clause, casual teachers are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subclause 6.7.1(c)(ii) of this clause who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.

- (b) The employer and the teacher shall agree on the period for which the teacher will be entitled to not be available to attend work. In the absence of agreement, the teacher is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual teacher is not entitled to any payment for the period of non-attendance.
- (c) An employer must not fail to re-engage a casual teacher because the teacher accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual teacher are otherwise not affected.

7. Miscellaneous

7.1 The normal duties of teachers shall include playground duties, sports duties and usual extra-curricular activities associated with a Pre-School.

7.2 Crib Break

Not more than thirty (30) minutes nor less than 20 minutes shall be allowed to teachers each day for a midday paid crib break. Such crib break shall be counted as time worked.

Provided however that a teacher may, by agreement with the employer, leave the premises or elect not to be on call during the crib break. Where a reasonable request has been made by the teacher, the employer shall give favourable consideration to any such request. During this time the teacher cannot be counted as part of the child/staff ratios under the *Children (Care and Protection) Act 1987*. Such time away from the premises or not on call shall not count as time worked nor shall any payment be made for such time.

However, if the teacher is called back to perform any duties within the centre or the break is interrupted for any reason the teacher shall be paid at time and a half for a minimum of 15 minutes and thereafter to the nearest quarter hour until an uninterrupted break or the balance of the break is taken.

Notation:

It is agreed between the parties that any agreement between the teacher and the employer concerning an unpaid crib-break must be genuine. For example, a teacher cannot be required by the employer to agree to an unpaid crib-break as a condition of ongoing employment. Any agreement should be recorded in writing and kept with pay records. It is agreed between the parties to the award that the IEU may apply to vary this provision during the nominal term of this award (while the employers retain the right to oppose the particular variation sought by the IEU) should the IEU be able to demonstrate that the clause is not operating as intended by the parties.

7.3 Professional Development, Training and Planning

- (a) Teachers are responsible for ensuring that they are aware of new developments in early childhood education. However, the parties recognise that continuing professional development of teachers is a joint responsibility of both the employer and the teacher.
- (b) The employer may request a teacher to attend any courses in non-term time or after hours relating to professional development, training and planning. The teacher cannot unreasonably refuse to attend such courses. Provided that a full-time teacher who receives no more than four weeks' annual leave in a year shall receive time in lieu for time actually spent at any courses outlined in this clause.
- (c) Teachers are responsible for ensuring that centres are ready for operation on the first day of each term.
- (d) Any dispute in relation to attendance shall be dealt with in accordance with clause 12, Disputes and Grievance Procedures.

7.4 First Aid Certificate

- (a) Teachers shall be required to obtain and maintain an approved first aid certificate.
- (b) Attendance at a first aid course shall be in the teacher's own time.

8. Other Leave

8.1 Long Service Leave

See the *Long Service Leave Act 1955*

8.2 Residential Study Leave

A teacher, who for the purposes of furthering his or her Early Childhood teacher training, enrolls in any course at a recognised University or recognised Teacher Training Institution shall be granted leave without pay for the purpose of attending any compulsory residential school which is a part of such course.

8.3 Parental Leave

8.3.1 Refer to the *Industrial Relations Act 1996* (NSW)

8.3.2 An employer must not fail to re-engage a regular casual teacher (see section 53(2) of the Act) because:

- (a) the teacher or teacher's spouse is pregnant; or
- (b) the teacher is or has been immediately absent on parental leave.

The rights of an employer in relation to engagement and re-engagement of casual teachers are not affected, other than in accordance with this clause.

8.3.3 Right to Request

- (a) A teacher entitled to parental leave may request the employer to allow the teacher:
 - (i) to extend the period of simultaneous unpaid parental leave use up to a maximum of eight weeks;
 - (ii) to extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;
 - (iii) to return from a period of parental leave on a part-time basis until the child reaches school age;to assist the teacher in reconciling work and parental responsibilities.
- (b) The employer shall consider the request having regard to the teacher's circumstances and, provided the request is genuinely based on the teacher'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.
- (c) Employee's request and the employer's decision to be in writing

The teacher's request and the employer's decision made under 8.3.3(a)(ii) and 8.3.3(a)(iii) must be recorded in writing.

(d) Request to Return to Work Part-Time

Where a teacher wishes to make a request under 8.3.3(a)(iii), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the teacher is due to return to work from parental leave.

8.3.4 Communication During Parental Leave

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

8.3.5 This variation shall take effect from 19 December 2005.

8.4 Jury Service

- (a) A full time or part time teacher required to attend for jury service during ordinary working hours shall be provided with paid leave for this purpose. The teacher shall be reimbursed by the employer an amount equal to the difference between the amount paid in respect of the teacher's attendance for such jury service and the amount of wage the teacher would have received in respect of the ordinary time he or she would have worked had he or she not been on jury service.
- (b) The teacher shall notify the employer as soon as possible of the date upon which he or she is required to attend for jury service. The teacher shall provide to the employer a copy of the summons to attend jury duty and a record of payments received as proof of attendance

9. Union Representatives

- 9.1 The employer shall permit the union representative in the Pre-School to post union notices relating to the holding of meetings on a staff room notice-board.
- 9.2 The union representative shall be permitted in working hours (other than time-tabled teaching hours) to interview the employer on union business. Such interview shall take place at a time and place convenient to both parties.
- 9.3 Meetings of union members who are employed at the Pre-School may be held on the Pre-School premises at times and places reasonably convenient to both union members and the employer.

10. Terms of Engagement and Information to be Provided to Teachers

10.1

- (a) The employer shall provide all full-time, part-time and temporary teachers with a letter of appointment on engagement stating the classification and rate of salary on appointment, the hours

of operation of the Centre, the teachers' entitlements as to personal leave, annual leave and long service leave, the procedure as to alteration of days of attendance and notice on termination.

- (b) The hours of attendance of a full-time teacher may be varied at the commencement of each calendar year or by giving four weeks' notice during term time or with the agreement of the teacher at any time provided that the total hours of attendance cannot be increased except by mutual agreement.
- (c) The normal hours of work and days of attendance of a part-time teacher may be varied at the commencement of each calendar year or by giving four weeks' notice during term time, provided that the days of attendance and normal hours of work may be varied or increased at any time by mutual agreement between the employer and the teacher.

10.2 The employer may, if the employer deems appropriate, provide a teacher of children with special needs with a letter of appointment which outlines the teacher's teaching load, days of attendance, and place of employment which may be varied throughout the period of engagement. Such variations would occur from term to term with not less than four weeks' notice or otherwise by agreement.

10.3 The employment of a teacher during the first three calendar months of employment shall be probationary if the employer has advised the teacher on or prior to the engagement that there is a probationary period. Either party may terminate the employment during this period by two weeks notice.

The foregoing shall not affect the right of the employer to dismiss any teacher summarily for incompetence, misrepresentation, neglect of duty or other misconduct.

Notation: It is strongly recommended that prior to terminating a teacher's employment under this clause an employer:

- (a) clearly identify to the teacher the problems they have with his or her employment; and
- (b) clearly outline their expectations as to how a teachers performance should improve, and
- (c) give a teacher a reasonable time frame to improve his or her behaviour.

10.4 Subject to subclause 10.3 of this clause, the employment of any teacher (other than a casual teacher) shall not be terminated without at least four Pre-School term weeks notice on either side or the payment of or forfeiture of four weeks' salary in lieu of notice. Provided that such four weeks' notice shall expire within the Pre-School term during which it is given, and shall expire either:-

- (a) at the end of the said Pre-School term, or
- (b) at least two weeks before the end of the said Pre-School term.

10.5 The foregoing shall not affect the right of the employer to dismiss summarily any teacher for incompetence, misrepresentation, neglect of duty or other misconduct.

10.6 Upon the termination of service of a teacher other than a casual teacher the employer shall provide a statement of service setting out the length of service, the age of children taught, the positions held and any special and/or additional duties performed by such teacher.

10.7

- (a) On termination of casual employment, the employer shall indicate on the teacher's service card (see Attachment A - Record of Casual Employment) the length of service with that employer.
- (b) Upon request, a casual teacher shall be supplied with a statement setting out the number of days of duty undertaken by the casual teacher during the period of his or her engagement provided such request is made during or on termination of the casual engagement.

10.8 Where an employer proposes either:

- (a) to make alterations to the Pre-School in which a teacher is employed, or
- (b) to transfer a teacher from the Pre-School in which the teacher is employed, which shall have the consequence that the provisions of this award will no longer apply to the teacher, the employer shall as soon as practicable in any case after a firm decision has been made, give the teacher notice of the change, and shall if the teacher so requests hold discussions
 - (i) with the teacher, or
 - (ii) with a representative of the teacher,as soon as practicable after making the decision and in any event not less than four weeks prior to the implementation of the decision.

10.9 Job Share

The parties recognise that job share involves the following principles:

- (a) Job share for all teachers shall mean dividing the one job so that job share teachers have equal responsibility or share responsibility.
- (b) The division of work has to be negotiated and mutually suitable to all parties.
- (c) Job share teachers are treated as part-time teachers and receive pro rata entitlements.
- (d) If a job share teacher is ill, or on annual leave or a rostered day off, then the other teacher may be offered the day(s) of work by the employer. This work, if accepted, is to be paid at ordinary rates in accordance with clause 2, Salaries.
- (e) If a job share teacher leaves the employment, the remaining teacher may be offered the residue of employment.

If the employer does not wish to offer the residue of employment or part thereof to the teacher, and the parties wish to continue the job share arrangement the employer may consult with the teacher about the implementation of a new arrangement, including the selection of a new teacher to fill the balance of the position. If the employer or the teacher does not propose to continue the job share arrangement the remaining teacher may be employed on a part-time basis.

- (f) Adequate opportunities for consultation between job share teachers will be provided by the employer.
- (g) The employer may determine the number of job share positions in any centre.

10.10 Redundancy

Refer to Part C of this award.

11. Procedure for Dealing With Job Performance Problems

It is recommended that employers follow the procedure outlined below when dealing with job performance related problems:

- (a) Where a problem(s) arises with respect to a teacher's performance of his/her duties the employer should discuss the problem with the teacher who will be given an opportunity to respond.

- (b) The employer should:-
- (i) clearly identify the problem;
 - (ii) clearly outline their expectations;
 - (iii) set a reasonable period of time for the problem to be rectified;
 - (iv) provide a review period at the end of the time period; and
 - (v) note the results of the meeting in a diary.
- (c) If the problem(s) continues to exist then a formal warning should be given to the teacher in writing or in the presence of a witness. The warning should set out:-
- (i) what aspects of the teacher's performance need to be improved;
 - (ii) what should be done to rectify the problem;
 - (iii) what assistance will be provided;
 - (iv) a specified period for review; and
 - (v) the action already taken by the employer and what further action may be taken if the performance problem is not rectified.

The employer should note the results of the meeting in a diary.

- (d) If the specified problem(s) are not rectified, the employer should give the teacher a final warning. This may be in writing or issued in the presence of a witness specifying the process already taken by the employer and the fact that if the performance of the teacher does not improve the employment of the teacher will be terminated. The employer should identify the performance problem(s), the employer's expectations, the steps required to rectify the problem(s) and a time period for review. The employer should note the results of the warning in a diary.
- (e) Where a teacher's performance improves as a result of a review period, the employer should notify the teacher that the period of review is completed and that the required improvement in the teacher's performance has been achieved.
- (f) The employer and teacher are entitled to have a witness present at any step in the process and may be represented by an industrial organisation of employees or an industrial organisation of employers.
- (g) An employer has a right to dismiss a teacher summarily for misrepresentation, neglect of duty or misconduct.
- (h) Nothing in this procedure shall be construed to override an employer's discretion to adopt a procedure other than contained in this clause. However, the employer should advise the teacher of any other procedure.

Nothing in this procedure shall be construed to remove the right of a teacher or employer to refer a dispute to the Industrial Relations Commission of New South Wales pursuant to the *Industrial Relations Act 1996*.

12. Disputes and Grievance Procedures

12.1 Procedures relating to grievances of individual teachers

- (a) The teacher shall notify (in writing or otherwise) the employer as to the substance of the grievance, request a meeting with the employer for bilateral discussions and state the remedy sought.
- (b) The grievance must initially be dealt with as close to its source as possible, with graduated steps for further discussion and resolution at higher levels of authority.
- (c) Reasonable time limits must be allowed for discussion at each level of authority.
- (d) At the conclusion of the discussion, the employer must provide a response to the teacher's grievance, if the matter has not been resolved, including reasons for not implementing any proposed remedy.
- (e) While a procedure is being followed, normal work must continue.
- (f) The teacher may be represented by an industrial organisation of employees.

12.2 Procedures relating to disputes etc. between employers and teachers

- (a) A question, dispute or difficulty must initially be dealt with as close to its source as possible, with graduated steps for further discussion and resolution at higher level of authority.
- (b) Reasonable time limits must be allowed for discussion at each level of authority.
- (c) While a procedure is being followed, normal work must continue.
- (d) The employer may be represented by an industrial organisation of employers and the teachers may be represented by an industrial organisation of employees for the purposes of each procedure.

13. Savings Clause and Leave Reserved

- 13.1 A teacher's conditions of employment, other than those provided in this award, shall not be altered as a consequence of the introduction of this award.
- 13.2 Leave is reserved to the New South Wales Independent Education Union to apply in relation to procedures relating to child protection.

14. Superannuation

14.1 Definitions

For the purpose of this clause:

- (a) "Basic earnings" shall mean:
 - (i) the rate of salary prescribed from time to time by this award,
 - (ii) the amount of any allowance prescribed from time to time including the allowance payable to a Director and any shift loading which may be payable pursuant to this award.
- (b) "Teacher" means a teacher, Director or authorised supervisor and includes a casual, part-time, or temporary teacher.
- (c) "HESTA" means the Health Employees Superannuation Trust Australia, established by Trust Deed Articles on 30 July 1987.
- (d) "ASSET" means the Australian Superannuation Savings Employment Trust constituted by a Deed made 14 October 1987.

14.2 Fund

- (a) For the purposes of this clause, contributions made by employers in accordance with the provisions of subclause 14.3 of this clause shall be as follows:
 - (i) the employer shall offer each teacher a choice between HESTA or ASSET;
 - (ii) the teacher shall nominate the fund into which contributions shall be made.
- (b) Each employer shall become a participating employer in HESTA and/or ASSET in accordance with the choice of teachers of the employer.
- (c) Each employer shall become party to HESTA or ASSET upon the acceptance of the respective Trustee of a Deed of Adoption, duly signed and executed by each employer and the respective Trustee.
- (d) A teacher shall become eligible to join HESTA or ASSET in accordance with the following:
 - (i) in the case of a teacher who is employed at 1 July 1988, from the beginning of the first pay period commencing on or after 1 July 1988, and
 - (ii) in the case of a teacher employed after 1 July 1988, from the beginning of the first pay period commencing on or after the teachers date of engagement.

14.3 Benefits

- (a) Except as provided in paragraphs (c) and (d) of this subclause, each employer shall, in respect of each teacher employed by it, pay contributions to the respective Trustee at the rate of 3% of the teacher's basic earnings.
- (b) Contributions shall be paid at intervals and in accordance with the procedures and subject to the requirements of the respective Fund.
- (c) An employer shall not be required to make contributions pursuant to this clause in respect of a teacher in respect of a period when that teacher is absent from his or her employment without pay.
- (d) Part-time and Casual Teachers

An employer shall pay contributions pursuant to this clause in respect of a part-time teacher employed by it if the basic earnings of the teacher exceed \$200 for that calendar month.

An employer shall pay contributions pursuant to this clause in respect of a casual teacher employed by it for any calendar month in which the basic earnings of the teacher exceed \$200 for that calendar month.
- (e) Where a new teacher commences in employment, the employer shall advise the teacher in writing of the teacher's entitlements under this clause and of the action to be taken by the teacher to obtain the benefit of those entitlements.
- (f) Notwithstanding the date upon which a teacher signs an Application Form, contributions in accordance with paragraph (a) of this subclause shall be made from the date when the teacher became eligible for membership

14.4 Records

The employer shall retain all records relating to the calculation of payments due to the Fund(s) in respect of each teacher and such records shall be retained for a period of six years.

14.5 Exemptions

Employers of teachers who are eligible to become contributors to the following Superannuation Funds or any schemes replacing such Funds shall be exempt from the provisions of this clause:

State Superannuation Fund

State Public Service Superannuation Scheme

Public Authorities Superannuation Scheme

- 14.6 Leave is reserved to the Employers' Federation of New South Wales to vary this clause following the decisions of the Full Commission in the Nurses Superannuation Case Matter No. IRC 883, 884 and 995 of 1994.

15. Enterprise Consultation

Enterprises covered by this award shall establish a consultative mechanism and procedures appropriate to their size, structure and needs for consultation and negotiation on matters affecting their efficiency and productivity.

16. Labour Flexibility

- (a) An employer may direct a teacher to carry out such duties as are within the limits of the teachers skill, competence and training provided that such duties are not designed to promote deskilling.
- (b) An employer may direct a teacher to carry out such duties and use such tools and equipment as may be required provided that the teacher has been properly trained in the use of such tools and equipment.

Any direction issued by an employer pursuant to subclauses (a) and (b) of this clause shall be consistent with the employer's responsibilities to provide a safe and healthy working environment.

17. Anti-Discrimination

- 17.1 It is the intention of the parties bound by this award to seek to achieve the objective of section 3(f) of the *Industrial Relations Act 1996* to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.
- 17.2 It follows that, in fulfilling their obligations under the dispute resolution procedure prescribed by this award that parties have obligations to take all reasonable steps to ensure that the operations of this award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the award, which, by its terms or operation, has a direct or indirect discriminatory effect.
- 17.3 Under the *Anti Discrimination Act 1977*, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- 17.4 Nothing in this clause is to be taken to affect:
- (a) any conduct or act which is specifically exempt for anti discrimination legislation;
 - (b) offering or providing junior rates of pay to persons under 21 years of age;
 - (c) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
 - (d) a party to this award from pursuing matters of unlawful discrimination on any State or federal jurisdiction.

- 17.5 This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.

NOTES

- (a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
- (b) Section 56(d) of the *Anti-Discrimination Act 1977* provides:
- "Nothing in this Act affects ... any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion."

18. Settlement of Award

- 18.1 This award is made by consent as a settlement of the claims made by the Independent Education Union of NSW & ACT ("the IEU") in Matter Nos. 789 & 790 of 2005.
- 18.2 It is a term of this award that the IEU will not pursue any improvements in wages or conditions of employment, including any increases arising from the general increases given by the federal or state industrial tribunals, or the proposed Fair Pay Commission that arise during the term of this Award.

19. Area, Incidence and Duration

- 19.1 This award shall apply to all teachers employed in Pre-Schools licensed as child care centres under the *Children (Care and Protection) Act 1987*, and all teachers employed in Early Intervention Services where the hours and conditions of work of such teachers approximate those hours and conditions of work of a teacher in a recognised school, excepting:
- (a) Teachers of music or other individual arts who are remunerated on an individual fee basis; and
- (b) Members of a recognised religious teaching order and/or Clerks in Holy Orders, and/or Ministers of Religion (including a Minister-teacher or a Missionary-teacher who is a member of the Seventh Day Adventist Church and who teaches in a school operated by a local Conference of the Australasian Division of the Seventh Day Adventist Church) provided that application may be made on behalf of any such member to be included within the scope of this award; and
- (c) Employees of all city, municipal, shire and county Pre-Schools; and
- (d) Employees within the jurisdiction of the Independent Schools and Colleges, General Staff &c (State) Conciliation Committee and the Kindergartens &c (State) Conciliation Committee; and
- (e) Persons employed in Pre-Schools conducted by the KU Children's Services; and
- (f) Teachers covered by the Teachers (Catholic Early Childhood Service Centres and Pre-Schools) (State) Award made on 1 July 2005 as varied; and
- (g) Teachers covered by the Teachers (Independent Schools) (State) Award published on 17 June 2005 (351 I.G 76)
- 19.2 This award rescinds and replaces the Teachers (Non Government Pre-Schools) (State) Award published 9 August 2004 (335 I.G 788) and award review published on 27 May 2005 (351 I.G 451).
- 19.3 This award shall take effect from 23 January 2006 provided that increases in rates of pay and allowances shall be effective from the first full pay period on or after 23 January 2006.
- 19.4 This award shall remain in force until 31 December 2008.

PART B**MONETARY RATES****Table 1 - Rates of Pay**

The following minimum annual salaries shall apply from the beginning of the first full pay period commencing on or after the date specified in each column:

Classification/ Incremental Salary Step	23 January 2006 (4.5%)* per annum \$	23 January 2007 (4.5%)* per annum \$	23 January 2008 (4.5%)* per annum \$
Step 1	31,758	33,125	34,493
Step 2	35,182	36,697	38,212
Step 3	36,972	38,564	40,156
Step 4	38,905	40,581	42,256
Step 5	40,691	42,444	44,196
Step 6	42,543	44,375	46,207
Step 7	44,599	46,519	48,440
Step 8	45,722	47,691	49,660
Step 9	46,835	48,852	50,868
Step 10	48,098	50,169	52,241
Three Years Trained Teachers			
Step 1	36,591	38,166	39,742
Step 2	38,452	40,108	41,763
Step 3	40,461	42,204	43,946
Step 4	42,318	44,141	45,963
Step 5	44,245	46,151	48,056
Step 6	46,381	48,379	50,376
Step 7	47,552	49,599	51,647
Step 8	48,704	50,802	52,899
Step 9	50,648	52,829	55,010
Step 10	52,670	54,938	57,206
Step 11	54,093	56,423	58,752
Four Years Trained Teachers			
Step 1	38,905	40,581	42,256
Step 2	41,317	43,096	44,876
Step 3	43,639	45,518	47,398
Step 4	46,216	48,206	50,197
Step 5	48,610	50,704	52,797
Step 6	50,648	52,829	55,010
Step 7	52,670	54,938	57,206
Step 8	54,954	57,321	59,687
Step 9	57,153	59,614	62,075

Table 2 - Director's Allowance

The following minimum annual allowances shall apply from the beginning of the first full pay period commencing on or after the date specified in each column:

Units	23 January 2006 (5%)* per annum \$	23 January 2007 (4.5%)* per annum \$	23 January 2008 (4%)* per annum \$
1	4,267	4,450	4,613
2	5,210	5,433	5,631

3	6,502	6,781	7,029
4	8,123	8,471	8,780

* Each increase is calculated by adding the percentage (as indicated in the above table) to the corresponding rate applying immediately prior to the making of this award.

Table. 3 - Other Rates and Allowances

Item. No.	Clause No.	Brief Description	Amount \$
1	3.4(a)	Travel Allowance - use of teachers own vehicle	0.51 per km

Table 4 - Authorised Supervisor's Allowance (Clause 4.2(i))

Units	23 January 2006 (5%)* per annum \$	23 January 2007 (4.5%)* per annum \$	23 January 2008 (4%)* per annum \$
1	1,387	1,446	1,499
2	1,693	1,766	1,830
3	2,117	2,208	2,289
4	2,646	2,759	2,860

* Each increase is calculated by adding the percentage (as indicated in the above table) to the corresponding rate applying immediately prior to the making of this award.

Table 5 - Authorised Supervisor Allowance (Clause 4.2(ii))

Units	23 January 2006 (5%)* per annum \$	23 January 2007 (4.5%)* per annum \$	23 January 2008 (4%)* per annum \$
1	2,775	2,894	3,000
2	3,386	3,531	3,660
3	4,234	4,415	4,576
4	5,291	5,518	5,720

* Each increase is calculated by adding the percentage (as indicated in the above table) to the corresponding rate applying immediately prior to the making of this award.

PART C

REDUNDANCY

1. Redundancy

- 1.1 These provisions shall apply in respect of full-time and part-time teachers.
- 1.2 This clause shall only apply to employers who employ 15 or more employees immediately prior to the termination of employment of teachers.
- 1.3 Notwithstanding anything contained elsewhere in this award, the provisions of this part shall not apply to teachers with less than one year's continuous service and the general obligation on employers shall be no more than to give such teachers an indication of the impending redundancy at the first reasonable opportunity, and to take such steps as may be reasonable to facilitate the obtaining by the teachers of suitable alternative employment.

- 1.4 Notwithstanding anything contained elsewhere in this award, this clause shall not apply where employment is terminated as a consequence of conduct that justifies instant dismissal, including malingering, inefficiency or neglect of duty, or in the case of casual teachers, apprentices or teachers engaged for a specific period of time or for a specified task or tasks or where employment is terminated due to the ordinary and customary turnover of labour.

2. Employers Duty to Notify and Discuss

- 2.1 Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on teachers, the employer shall notify the teachers who may be affected by the proposed changes and the union to which they belong.
- 2.2 The employer shall discuss with the teachers affected and the union to which they belong the introduction of such changes and the likely effect on the teachers and the measures taken to avert or mitigate the adverse effects of such changes.
- 2.3 'Significant effects' include termination of employment, major changes in the composition, operation or size of the employers workforce or in the skills required, the elimination or diminution of job opportunities, promotion opportunities or job tenure, the alteration of hours of work, the need for retraining or transfer of teachers to other work or locations and the restructuring of jobs.

3. Discussions Before Terminations

- 3.1 Where an employer has made a definite decision that the employer no longer wishes the job the teacher has been doing done by anyone and that decision may lead to the termination of employment, the employer shall hold discussions with the teachers directly affected and with the union to which they belong.
- 3.2 The discussions shall take place as soon as is practicable after the employer has made a definite decision which will invoke the provision of subclause 3.1 of this clause and shall cover, inter alia, any reasons for the proposed terminations, measures to avoid or minimise the terminations and measures to mitigate any adverse effects of any termination of the teachers concerned.
- 3.3 For the purposes of the discussion the employer shall, as soon as practicable, provide to the teachers concerned and the union to which they belong, all relevant information about the proposed terminations including the reasons for the proposed terminations, the number and categories of employees likely to be affected, and the number of employees normally employed and the period over which the terminations are likely to be carried out. Provided that any employer shall not be required to disclose confidential information the disclosure of which would adversely affect the employer.

4. Notice for Changes in Production, Program, Organisation Or Structure

- 4.1 This subclause sets out the notice provisions to be applied to terminations by the employer for reasons arising from 'production', 'program', 'organisation' or 'structure' in accordance with clause 2 of this Part.

- 4.1.1 In order to terminate the employment of a teacher the employer shall give to the teacher the following notice:

Period of Continuous Service	Period of Notice
Less than 1 year	1 week
1 year and less than 3 years	2 weeks
3 years and less than 5 years	3 weeks
5 years and over	4 weeks

- 4.1.2 In addition to the notice above, teachers over 45 years of age at the time of the giving of the notice with not less than two years continuous service, shall be entitled to an additional week's notice.

4.1.3 Payment in lieu of the notice above shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

4.2 Notice For Technological Change

This paragraph sets out the notice provisions to be applied to terminations by the employer for reasons arising from 'technology' in accordance with clause 2 of this part.

4.2.1 In order to terminate the employment of a teacher the employer shall give to the teacher 3 months notice of termination.

4.2.2 Payment in lieu of the notice above shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

4.2.3 The period of notice required by this subclause to be given shall be deemed to be service with the employer for the purposes of the *Long Service Leave Act 1955*, the *Annual Holidays Act 1944*, or any Act amending or replacing either of these Acts.

4.3 Time Off During the Notice Period

4.3.1 During the period of notice of termination given by the employer a teacher shall be allowed up to one day's time off without loss of pay during each week of notice, to a maximum of five weeks, for the purposes of seeking other employment.

4.3.2 If a teacher has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the teacher shall, at the request of the employer, be required to produce proof of attendance at an interview or the teacher shall not receive payment for the time absent.

4.4 Teacher Leaving During the Notice Period

If the employment of a teacher is terminated (other than for misconduct) before the notice period expires, the teacher shall be entitled to the same benefits and payments under this clause had the teacher remained with the employer until the expiry of such notice. Provided that in such circumstances the teacher shall not be entitled to payment in lieu of notice.

4.5 Statement of employment

The employer shall, upon receipt of a request from a teacher whose employment has been terminated, provide to the teacher a written statement specifying the period of the teachers employment and the classification of or the type of work performed by the teacher.

4.6 Notice to Centrelink

Where a decision has been made to terminate teachers, the employer shall notify Centrelink thereof as soon as possible giving relevant information including the number and categories of the employees likely to be affected and the period over which the terminations are intended to be carried out.

4.7 Department of Social Security Employment Separation Certificate

The employer shall, upon receipt of a request from a teacher whose employment has been terminated, provide to the teacher an 'Employment Separation Certificate' in the form required by the Department of Social Security.

4.8 Transfer to Lower Paid Duties

Where a teacher is transferred to lower paid duties for reasons set out in clause 2 of this part, the teacher shall be entitled to the same period of notice of transfer as the teacher would have been entitled to if the teachers employment had been terminated, and the employer may at the employer's option make payment in lieu thereof of an amount equal to the difference between the former ordinary time rate of pay and the new ordinary time rate for the number of weeks of notice still owing.

5. Severance Pay

5.1 Where a teacher is to be terminated pursuant to clause 4 of this part, subject to further order of the Industrial Relations Commission of New South Wales, the employer shall pay the following severance pay in respect of a continuous period of service:

5.1.1 If a teacher is under 45 years of age, the employer shall pay in accordance with the following scale:

Years of Service	Under 45 Years of Age Entitlement
Less than 1 year	Nil
1 year and less than 2 years	4 weeks
2 years and less than 3 years	7 weeks
3 years and less than 4 years	10 weeks
4 years and less than 5 years	12 weeks
5 years and less than 6 years	14 weeks
6 years and over	16 weeks

5.1.2 Where a teacher is 45 years old or over, the entitlement shall be in accordance with the following scale:

Years of Service	45 Years of Age and Over Entitlement
Less than 1 year	Nil
1 year and less than 2 years	5 weeks
2 years and less than 3 years	8.75 weeks
3 years and less than 4 years	12.5 weeks
4 years and less than 5 years	15 weeks
5 years and less than 6 years	17.5 weeks
6 years and over	20 weeks

5.1.3 'Weeks Pay' means the all purpose rate of pay for the teacher concerned at the date of termination, and shall include, in addition to the ordinary rate of pay, over award payments, shift penalties and allowances provided for in the relevant award.

5.1.4 Where a teacher is subject to a reduction of working hours of 6 or more hours per fortnight, the reduction will be treated as a partial redundancy. A pro rata payment will be made in accordance with the severance payments set out in paragraphs 5.1.1 and 5.1.2 above.

5.2 Incapacity to Pay

Subject to an application by the employer and further order of the Industrial Relations Commission, an employer may pay a lesser amount (or no amount) of severance pay than that contained in subclause 5.1. The Commission shall have regard to such financial and other resources of the employer concerned as the Commission thinks relevant, and the probable effect paying the amount of severance pay in subclause 5.1 above will have on the employer.

5.3 Alternative Employment

Subject to an application by the employer and further order of the Industrial Relations Commission, an employer may pay a lesser amount (or no amount) of severance pay than that contained in subclause 5.1 if the employer obtains acceptable alternative employment for a teacher.

ATTACHMENT A**Casual Teachers/Directors Record Of Casual Employment To Be Maintained By Teacher**

1. Name:
2. Number of years of training:
3. Name of qualification:
4. Year of attainment of this qualification:

Period of engagement (from date to date)	No. of days/hours worked in total, classification, years trained and step	Name, address and telephone number of Centre	Signed by Centre Director (signature, date and name)

SCHEDULE A**Award and Variations Incorporated**

Clause	Award/Variation Serial No.	Date of Publication	Date of Taking Effect	Industrial Gazette	
				Vol	Page
Award	B7001	22 October 1999	19 March 1999	311	666

SCHEDULE B**Changes Made on Review**

Date of Effect: June 14, 2001

(1) Provisions Modified:

Award	Clause	Previous form of clause last Published at:	
		Vol.	Page
Teachers (Non Government Pre-Schools) (State) Award	1	311	666
Teachers (Non Government Pre-Schools) (State) Award	3	311	670
Teachers (Non Government Pre-Schools) (State) Award	7	311	676
Teachers (Non Government Pre-Schools) (State) Award	18	311	685
Teachers (Non Government Pre-Schools) (State) Award	Part B	311	686

(2) Provisions Removed:

	Clause	Previous form of clause last Published at:	
		Vol.	Page
Teachers (Non Government Pre-Schools) (State) Award	3.7 (b)	311	672
Teachers (Non Government Pre-Schools) (State) Award	18.1(e)	311	685

Rescinded Obsolete Awards Related to this Award :

Award	Clause	Previous form of clause last Published at:	
		Vol.	Page

F. L. WRIGHT *J, President.*

Printed by the authority of the Industrial Registrar.

TEACHERS (NON-GOVERNMENT EARLY CHILDHOOD SERVICE CENTRES OTHER THAN PRE-SCHOOLS) (STATE) AWARD 2006

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by New South Wales Independent Education Union, Industrial Organisation of Employees.

(No. IRC 789 of 2005)

Before The Honourable Justice Wright, President

23 January 2006

AWARD

Arrangement

PART A

Clause No.	Subject Matter
1.	Definitions
2.	Salaries
3.	Shift and Penalty Loadings
4.	Director's and Authorised Supervisor's Allowance
5.	Annual Leave and Public Holidays
6.	Annual Holiday Loading
7.	Personal Leave
8.	Hours of Work
9.	Overtime and Time In Lieu
10.	Miscellaneous
11.	Other Leave
12.	Union Representatives
13.	Terms of Engagement and Information to be Provided to Teachers
14.	Procedure for Dealing with Job Performance Problems
15.	Disputes and Grievance Procedures
16.	Anti-Discrimination
17.	Savings Clause and Leave Reserved
18.	Settlement of Award
19.	Superannuation
20.	Enterprise Consultation
21.	Labour Flexibility
22.	Area, Incidence and Duration

PART B

Monetary Rates

Table 1 - Rates of Pay

Table 2 - Director's Allowances

Table 3 - Other Rates and Allowances

Table 4 - Authorised Supervisor's Allowance (Clause 4.2(i))

Table 5 - Authorised Supervisor's Allowance (Clause 4.2(ii))

PART C

Redundancy

Attachment A - Casual Teachers/Directors Record of Casual Employment to be maintained by Teacher

Attachment B - Early and/or Late Shift Agreement between the Employer and the Teacher

1. Definitions

For the purposes of this award, except for subclause (c) or (x) of this clause and clause 4, Director's and Authorised Supervisor's Allowance, all reference to teachers in this award shall include Director or Authorised Supervisor, and:

- (a) "Teacher" means any person employed as such in an ECS Centre as defined in subclause (d) of this clause, holding Early Childhood qualifications as defined in subclauses (p), (q), (r) and (s) of this clause.
 - (i) "Full-time Teacher" means any teacher other than a casual, temporary, or part-time teacher.
 - (ii) "Part-time Teacher" means any teacher who is engaged to work regularly and not more than 0.8 of the normal hours which a full-time teacher at the Centre is required to work provided that a part-time teacher may work up to 0.9 of the normal hours of a full-time teacher if he or she is entitled to a preparation session equivalent to 0.1 of a teachers normal hours. Provided further that a part-time teacher employed as at 31 January 1990 shall not be required by that employer to work in excess of 0.8 of the normal hours of a full-time teacher.
 - (iii) "Temporary Teacher" means a teacher employed to work full-time or part-time for a specified period which is not more than a full Centre year but not less than 20 days. Provided that a teacher may be employed for a specific period in excess of a full year but not more than two full years where such a teacher is replacing a teacher who is on leave for a specified period in excess of a full year.
 - (iv) "Casual Teacher" means a teacher engaged as required by an employer for up to 20 working days in any one period of employment. Provided that the period may be extended as required by the employer if the employer has been notified that the permanent teacher will be absent beyond the 20 day period.
- (b) "Centre Year" means the number of weeks for which a particular ECS Centre is open over the course of a calendar year.
- (c) "Director" means the teacher who is responsible for the day to day operation and management of the Early Childhood Services Centre as defined in subclause (d) of this clause, holding Early Childhood qualifications as defined in subclauses (p), (q), (r) and (s) of this clause.
- (d) "Early Childhood Services (ECS) Centre" means an establishment which provides child care and/or educational development programmes and/or services for children under school age and shall include early intervention services, long day care centres and multi-purpose centres. It shall not include a Recognised School or Pre-School. For the purposes of this clause:
 - (i) "Early Intervention Service" means a service which provides individual programmes for developmentally delayed or disabled children, or children at risk of being developmentally delayed or disabled, aged 0-6 years, aimed at providing assistance to the child and his or her family in the areas of physical, emotional, social and educational needs;
 - (ii) "Long Day Care Centre" means a child care establishment which usually provides services over a period of approximately eight hours or more each day for approximately 48 weeks or more during the year;
 - (iii) "Multi-Purpose Centre" means a child care establishment which usually provides the services of a long day care centre, together with the services of a full day care centre and/or a sessional care centre.

- (e) "Pre-School" means a kindergarten, day school or nursery school and shall include:
- (i) "A Full Day Care Centre" which means a child care establishment which does not operate on a sessional basis, but which usually operates during hours and terms which approximate those of a recognised school.
 - (ii) "A Sessional Care Centre" which means a child care establishment which operates on the basis of morning and/or afternoon sessions and which usually operates during hours and terms which approximate those of a recognised school.
- (f) "Unit" means a group or class of children which does not at any one time exceed 25 children, but which need not necessarily consist of the same children at all times.
- (g) "Shift" means a daily period of work in an ECS Centre and shall be either:
- (i) "afternoon shift" which means any shift finishing after 6.30 pm and at or before midnight; or
 - (ii) "night shift" which means any shift finishing subsequent to midnight and at or before 8.00 am or any shift commencing at or after midnight and before 5.00 am; or
 - (iii) "early morning shift" which means any shift commencing at or after 5.00 am and before 6.30 am; or
 - (iv) "night shift, non-rotating" which shall mean any shift system in which night shifts are worked which do not rotate or alternate with another shift so as to give the teacher at least one third of his or her working time off night shift in each roster cycle; or
 - (v) "Saturday shift" which means any shift worked on Saturday.
- (h) "Infants Department" means Kindergarten, Grades 1 and 2 in a recognised school.
- (i) "Recognised School" means a school registered under the provisions of the Education Act 1990.
- (j) "Recognised Teacher Training Institution" means an Australian College of Advanced Education, Australian Teachers College or Australian Institute of Education recognised by the Tertiary Education Commission.
- (k) "Recognised University" means an Australian University which is recognised by the Tertiary Education Commission.
- (l) "Graduate" means a teacher who holds specialist B. Ed (Early Childhood) from a Recognised University or Recognised Teacher Training Institution.
- (m) "Category UG2 Level" means a course of study leading to a Category UG2 Diploma Award as described in Statement No. 1, Nomenclature and Guidelines for Awards in Advanced Education, August 1972 (as amended), issued by the Australian Council on Awards in Advanced Education, and recognised by the said Council for inclusion in the National Register of Awards in Advanced Education.
- (n) "Category PGI Level" means a course of study leading to a Category PGI Graduate Diploma (at the 19.1 level) as described in Statement No. 1, Nomenclature and Guidelines for Awards in Advanced Education, August 1972 (as amended), issued by the Australian Council on Awards in Advanced Education, and recognised by the said Council for inclusion in the National Register of Awards in Advanced Education.
- (o) "Equivalent Qualifications or Equivalent Course" means a qualification or course as the case may be which the employer and the teacher agree as being equivalent to the qualification or course prescribed by the clause in question in this award, or which the Conciliation Committee determines as being so equivalent.

- (p) "Two Years Trained Teacher" means:
- (i) A teacher who has satisfactorily completed a two year full-time course of study in Early Childhood Education at a Recognised Teacher Training Institution; or
 - (ii) A teacher who was employed as a Two Years Trained Teacher as at 1 February 1991; or
 - (iii) A teacher who has acquired other equivalent qualifications.
- (q) "Three Years Trained Teacher" means:
- (i) A teacher who has satisfactorily completed a Three Years full-time course of study in Early Childhood Education at a Recognised Teacher Training Institution; or
 - (ii) A teacher who, in addition to satisfying the requirements for classification as a Two Years Trained Teacher, has satisfactorily completed a course of study in Early Childhood Education at Category UG2 level; or
 - (iii) A teacher who was employed as a Three Years Trained Teacher as at 22 April 1986; or
 - (iv) A teacher who has acquired other equivalent qualifications; or
 - (v) A three year Primary School trained teacher who has been recognised as equivalent by the New South Wales Department of Community Services.
- (r) "Four Years Trained Teacher" means:
- (i) A teacher who is a graduate holding B. Ed (Early Childhood) (four years full-time course); or
 - (ii) A teacher who is a graduate and who holds a Diploma in Early Childhood Education from a recognised University or Recognised Teacher Training Institution; or
 - (iii) A teacher who has, in addition to satisfying the requirements for classification as a Three Years Trained Teacher, satisfactorily completed a course of study in Early Childhood Education at Category PGI Level; or
 - (iv) A teacher who was employed as a Four Years Trained Teacher as at 22 April, 1986; or
 - (v) A teacher who has acquired other equivalent qualifications; or
 - (vi) A four year Primary School trained teacher who has been recognised as equivalent by the New South Wales Department of Community Services.
- (s) "All Other Teachers" means a teacher whose qualifications and experience in Early Childhood Education do not qualify that teacher for classification as a Two Years, Three Years or Four Years Trained Teacher.
- (t) "Multi-Purpose Centre" means an establishment which provides child care and educational development programs and services for children and may include services of an Early Childhood Service Centre together with the services of a Pre-School, occasional care, outside of school care or vacation care.
- (u) "Occasional Care" means services that provide short-term care to parents.
- (v) "Outside School Care" means services that provide care for school age children before and after normal school hours.
- "Vacation Care" means services that provide care for school aged children during non-term time.

- (w) "Authorised Supervisor" means a teacher who is appointed as Authorised Supervisor under the *Children and Young Person (Care and Protection) Act 1988* or its replacement, that is, as the person who is authorised under the Act to have the overall supervision of the provision of the child care service to which it relates and who is not appointed as a Director.

2. Salaries

2.1 The minimum fortnightly salary payable to full-time teachers shall, subject to the other provisions of this award, be calculated by dividing the per annum rates as set out in Table 1 - Rates of Pay, of Part B, Monetary Rates, by 26.07.

(a) All Other Teachers

A person who is classified as a teacher on this scale shall complete three years of service on Step 1 of the scale before progressing to Step 2 of the scale, and shall progress according to normal years of service thereafter.

(b) Two Years Trained Teachers

(i) A Two Years Trained Teacher shall commence on Step 1 of the scale and progress according to normal years of service to Step 8 of the scale. A Two Years Trained Teacher who, without satisfying additional academic requirements, completes three years of service on the rate prescribed for Step 8 of the scale shall progress to Step 9 of the scale.

(ii) A Two Years Trained Teacher who, by further study satisfactorily completes the equivalent of one third of a degree course in Early Childhood Studies, shall be paid an additional increment with retention of normal incremental date and shall thereafter progress in accordance with normal years of service to Step 9 of the scale.

(c) Three Years Trained Teachers

(i) A Three Years Trained Teacher shall commence on Step 1 of the scale and progress according to normal years of service to Step 11 of the scale.

(ii) A Three Years Trained Teacher who, as at 1 February 1991, has completed eight or more years of full-time service, or its part-time equivalent, shall progress to Step 9 of the scale with retention of normal incremental date, and shall thereafter progress according to normal years of service to Step 11 of the scale.

(iii) A Three Years Trained Teacher being paid on Steps 1 to 10 of the scale who, by further study satisfactorily completes the equivalent of one third of degree course, shall receive a salary advance of one increment with retention of incremental date and shall thereafter progress in accordance with normal years of service to Step 11 of the scale.

(d) Four Years Trained Teachers

(i) A Four Years Trained Teacher shall commence on Step 1 of the scale and progress according to normal years of service to Step 9 of the scale.

(ii) A Four Years Trained Teacher who, as at 1 February 1991, has completed eight or more years of full-time service, or its part-time equivalent, shall progress to Step 9 of the scale with retention of normal incremental date.

2.2 Part-Time and Temporary Teachers

- (a) A part-time teacher, including a temporary part-time teacher, shall be paid at the same rate as a full-time teacher with the corresponding classification, but in that proportion which the teachers normal working hours bear to the hours which a full-time teacher at that ECS Centre is normally

required to work. For the purpose of this calculation, the normal working hours of a full-time teacher shall be not greater than 38 hours per week (see clause 8, Hours of Work).

- (b) The days of attendance and normal hours of work of a part-time teacher may be varied at the commencement of each calendar year or by giving four weeks' notice during the year. Provided that the days of attendance and the normal hours of work may be varied or increased at any time by mutual agreement between the employer and the teacher. Such agreement will not be unreasonably withheld by either party.
- (c) A temporary full-time teacher shall be paid at the same rate as that prescribed for a full-time teacher with the corresponding classification.

2.3 Casual Teachers

The salary payable to a casual teacher shall be a daily, half daily, or quarter daily rate, plus 20% of such rate, which shall be calculated as follows:

- (a) The appropriate rate prescribed by subclause 2.1 of this clause, in accordance with years of full-time service, shall be divided by 26.07 to provide a fortnightly rate, provided that the maximum rate shall be as follows:

All Other Teachers	Third Step
Two Years Trained	Fourth Step
Three Years Trained	Fourth Step
Four Years Trained	Fourth Step

- (b) The fortnightly rate thus obtained shall then be divided by:

- (i) 10, to obtain a daily rate of pay; or
- (ii) 20, to obtain a half daily rate of pay; or
- (iii) 40, to obtain a quarter daily rate of pay.

and the amount thus obtained shall then be increased by 20% of such amount.

- (c) The amount obtained by the operation of paragraphs (a) and (b) of this subclause is exclusive of the pro rata payment to which the teacher is entitled under the *Annual Holidays Act, 1944*.

2.4 Travelling Expenses

- (a) Where a teacher is required to use his or her vehicle in connection with the teachers employment other than for journeys between home and the place of employment, the teacher shall be paid an allowance per kilometre of travel, as set out in Item 1 of Table 3 - Other Rates and Allowances of Part B, Monetary Rates.
- (b) Travelling and other out of pocket expenses reasonably incurred by a teacher in the course of duties required by the employer shall be reimbursed by the employer.

2.5 Calculation of Service

- (a) For the purpose of this clause, any teacher if required by the employer so to do, shall upon engagement establish to the satisfaction of the employer, the length of his or her teaching service in any Pre-school, ECS Centre, Multi-Purpose Centre or in early childhood education services for children up to eight years of age, or in the Infants Department of Schools registered or certified under the appropriate legislation in other States or Territories of the Commonwealth of Australia, and that period so established shall be taken to be the length of such service for the purpose of that employment.

- (b) For the purpose of this clause, a period of service other than service within paragraph (a), shall be counted as service in accordance with the following principles:
 - (i) A period of service as a lecturer in early childhood education or child development, as a child development officer, or as a Family Day Care Co-ordinator or equivalent shall be recognised as service.
 - (ii) A period of service as a carer in the child care industry, including service as a Family Day Care carer (as recognised under State Government Regulations), a Child Care Certificate worker or equivalent shall be recognised as service at the rate of one increment for each complete three years so engaged to a maximum of four increments.
- (c) For the purpose of calculating service:
 - (i) Any employment as a full-time employee (including employment as a temporary full-time employee) as referred to in paragraphs (a) and (b) of this subclause shall be counted as service.
 - (ii) The amount of service of a part-time teacher (including a temporary part-time teacher) shall be calculated by reference to the ratio which the number of hours taught by the teacher in any year bears to the normal number of days worked by a full-time teacher at that ECS Centre in the same year, PROVIDED that a period of part-time service in terms of paragraph (b) of this subclause shall count as service in the proportion that the part-time employment bore to full-time employment in that occupation.
 - (iii) The amount of service of a casual teacher shall be calculated by reference to the ratio which the number of days (or equivalent) worked by the teacher in any year bears to the normal number of days worked by a full-time teacher at that ECS Centre in the same year, provided that only casual service performed in the preceding four years shall be included in determining incremental progression.
 - (iv) Provided also that the salary incremental date of any teacher who has taken leave without pay may be altered by adding the period of such leave without pay to the salary incremental date applicable to that teacher prior to the leave without pay.

2.6 Re-Classification

The transfer to a higher salary scale of a teacher who has completed a course of training which makes the teacher eligible to be so transferred and the progression of such teacher through the salary steps on that higher salary scale shall be effected as follows:-

- (a) A teacher seeking such transfer shall make application in writing to the employer and shall attach to such application documentary evidence establishing that he or she has had or will have conferred on him or her the diploma, degree or equivalent recognition of the completion of the course of training which makes him or her eligible to be so transferred.
- (b) Where an application is made under paragraph (a) above which establishes that a teacher is eligible to be transferred to a higher salary scale, such transfer shall take effect:
 - (i) From the beginning of the first pay period to commence on or after the date of completion of formal course requirements. Provided that the application for transfer is received by the employer no later than four months after the conferral of the diploma, degree or equivalent recognition of the completion of such course of training; or
 - (ii) Where the application for transfer is not received by the employer within the time specified in subparagraph (i) of this paragraph, from the beginning of the first pay period to commence on or after the date on which the employer receives such application.

- (c) A teacher who has completed a course of training entitling the teacher to transfer to a higher salary scale pursuant to this subclause shall, for the purpose of advancing through the steps on the higher salary scale to which the teacher has been so transferred, retain the teacher's normal salary incremental date.

Provided that if the transfer of the teacher to the higher salary scale coincides with the teachers normal salary incremental date, the increment shall be applied prior to the teacher being transferred to the higher salary scale.

- (d) A teacher shall be transferred to the higher salary scale on the following basis:
- (i) A Two, Three or Four Years Trained Teacher shall be transferred to the salary step on the higher salary scale which shall be determined by the teachers years of service on the lower scale.
- (ii) A teacher classified on the All Other Teachers scale shall be transferred to the salary step on the new salary scale which shall be determined as follows:
- (1) A teacher classified on the 1st or 2nd incremental step on the old scale shall be transferred to the 1st step on the new scale.
- (2) A teacher classified on the 3rd or 4th incremental step on the old scale shall be transferred to the 2nd step on the new scale.
- (3) A teacher classified on the 5th incremental step on the old scale shall be transferred to the 3rd step on the new scale.
- (e) The transfer to a higher salary scale of a teacher who has acquired a qualification (other than the completion of a course of training) which makes the teacher eligible to be so transferred, and the progression of such teacher through the steps on that higher salary scale shall be effected in accordance with the provisions of paragraphs (a), (b), (c) and (d) of this subclause.

2.7 Payment of Any Monies

- (a) The salary payable to any teacher pursuant to this clause, shall be payable fortnightly or half monthly by either cash, cheque or Electronic Funds Transfer into an account nominated by the teacher. Casual teachers may, by mutual agreement, be paid in the same manner as full-time teachers.
- (b) The rates of pay in this award include the adjustments payable under the State Wage Case 2001. These adjustments may be offset against:
- (i) any equivalent over-award payments; and/or
- (ii) award wage increases since 29 May 1991 other than safety net, State Wage Case, and minimum rates adjustments.
- (c) For the purposes of implementation of increases from a State Wage Case, a half-monthly pay period shall be deemed to commence on the first date occurring after the operative date of any increase in salaries given under the State Wage Case decision, calculated by fortnightly periods commencing on the 31 January, 1977.
- (d) Where the pay day for a half-monthly pay period falls on a Saturday, Sunday or public holiday, salaries shall be paid on the day not being a Saturday, Sunday or public holiday immediately preceding the said pay day.

2.8 Overpayments

Where excess payments are made in circumstances which were not apparent or could not reasonably have been expected to be detected by the teacher, the relevant parties shall seek agreement on the matter of the overpayment including, when necessary and appropriate, discussion between the New South Wales Independent Education Union and relevant employer representatives.

2.9 Salary Packaging

- (a) Where agreed between the employer and a full-time or part-time employee, an employer may offer salary packaging in respect of the employees annual remuneration including allowances. Neither the employer nor the employee may be compelled to enter into a salary packaging agreement.
- (b) Salary packaging shall mean that the employee will have part of their annual remuneration including allowances packaged into a fringe benefit which does not constitute a direct payment to the employee but is payable to a bona fide third party.
- (c) The terms and conditions of such a package shall not, when viewed objectively, be less favourable than the entitlements otherwise available under this award and shall be subject to the following provisions:
 - (i) the employer shall ensure that the structure of any agreed remuneration package complies with taxation and other relevant legislation;
 - (ii) where there is an agreement to salary package, the agreement shall be in writing and made available to the employee;
 - (iii) the employee shall have access to details of the payments and transactions made on their behalf. Where such details are maintained electronically, the employee shall be provided with a printout of the relevant information, or if maintained manually, on request;
 - (iv) the employer has the right to vary or withdraw from a salary packaging agreement and/or withdraw from offering salary packaging in the event of changes to the operation of legislation that are detrimental to, or increase the costs of, salary packaging arrangements;
 - (v) prior to entering into any salary packaging agreements, the employee will be given the opportunity by the employer to seek independent advice in respect of salary package arrangements including advice from the union;
 - (vi) in the event that the employer withdraws from a salary packaging agreement, the individual employee's salary will revert to whichever is the higher of:
 - (1) the ordinary time rate of pay that applied to the employee prior to the commencement of the salary packaging agreement; or
 - (2) the applicable rate specified in Table 1, Rates of Pay of this Award.
 - (vii) notwithstanding any of the above arrangements, the employer or employee may cancel any salary packaging agreements by the giving of one month's notice of cancellation to the other party;
 - (viii) Superannuation Guarantee Contributions will be calculated with reference to the annual remuneration including allowances the employee would have been entitled to receive but for the salary packaging arrangement;
 - (ix) Any payment including any allowances, penalty rates, overtime, payment for unused leave entitlements shall be calculated by reference to the annual remuneration including allowances which would have applied to the employee but for the salary packaging

arrangement and payable during employment or on termination of employment or on death;

- (x) unless there is agreement between the employer and the employee to the contrary, all salary packaging arrangements shall cease during any period of leave without pay, including periods of unpaid sick leave.

3. Shift and Penalty Loadings

3.1 For the purposes of calculating only the loadings provided for in this subclause:

- (a) a weekly rate of pay shall be obtained by dividing the teacher's annual salary, including all applicable allowances, by 52.14;
- (b) a daily rate of pay shall be obtained by dividing the weekly rate as provided for in paragraph (a) of this subclause, by 5.

Provided that the rate of pay for a casual teacher shall be first calculated according to subclause 2.3 of clause 2, Salaries.

3.2 In addition to the annual rate of salary and applicable allowances provided for in this award, a loading shall be payable to teachers required to perform shift work which is in accordance with the following rates:

- | | | |
|-----|---|--------|
| (a) | early morning shift | 10%, |
| (b) | afternoon shift | 15%, |
| (c) | night shift, rotating with day or afternoon shift | 17.5%, |
| (d) | night shift, non-rotating | 30%, |
| (e) | Saturday | 25% |

of the weekly or daily rate of pay.

3.3 Notwithstanding subclause 3.2, an employer may reach agreement with a teacher to allow for flexible work arrangements which could have the effect that shift loadings will not be payable for shifts commencing at or after 5.00 am and before 6.30 am or later and ending no later than 8.00 pm. Any such agreement shall be made in accordance with Attachment B of this award, a copy of which shall be kept with the pay records.

The parties to the award agree to review the operation of this subclause six months after the making of this award.

3.4 A teacher may be required to attend for work on Saturdays in accordance with the following provisions:

- (a) a teacher shall be employed for a minimum of three hours;
- (b) no teacher employed by an employer as at the date of making of this award shall be required to work on Saturday although he or she may be invited to work;
- (c) a teacher employed by an employer after the date of making of this award who is required to work on Saturday shall be advised in writing prior to appointment of such requirement and of the regular days of work which shall be worked by such teacher.

4. Director's and Authorised Supervisor's Allowance

4.1 Director's Allowance

- (a) A full-time teacher who is appointed as a Director as defined in clause 1, Definitions, shall be paid, in addition to the amounts payable pursuant to clause 2, Salaries, on a fortnightly basis, an allowance for a Director calculated by dividing the per annum rates set out in Table 2 - Directors' Allowance, of Part B, Monetary Rates, by 26.07.
- (b) A part-time teacher who is appointed as a Director as defined in Clause 1, Definitions of this award, shall be paid, in addition to the amounts payable pursuant to clause 2, Salaries of this award, an allowance in accordance with Table 2 - Director's Allowance, a proportionate basis to the hours they work.
- (c) Any teacher required by the employer to act as Director for at least ten consecutive working days shall be paid for so doing at the rate prescribed for that position.

Provided that a teacher shall not be required to carry out such duties in an acting capacity for more than a full year except that a teacher may be required to carry out such duties for up to two full years where such a teacher is replacing a Director who is on leave for a specified period in excess of a full year.

4.2 Authorised Supervisor's Allowance

- (a) A full time teacher who is an Authorised Supervisor as defined in clause 2 shall be paid an allowance as set out below and shall be advised by the employer on appointment which allowance is to apply:
 - (i) Where the licensee is involved in the operation of the service for an average of 20 hours or more per week or an average of 80 hours or more in a four week period and a Director is not employed, the Authorised Supervisor shall be paid, in addition to the amounts payable pursuant to clause 2, Salaries on a fortnightly basis an allowance by dividing the per annum rates set out in Table 4 - Authorised Supervisor's Allowance of Part B, Monetary Rates, by 26.07.

Where the licensee is involved in the operation of the service for an average of less than 20 hours per week or an average of less than 80 hours over a four week period and a Director is not employed, the Authorised Supervisor shall be paid, in addition to the amounts payable pursuant to clause 2, Salaries on a fortnightly basis an allowance by dividing the per annum rates set out in Table 5 - Authorised Supervisors Allowance of Part B, Monetary Rates, by 26.07.

Where a Director is employed and is not the Authorised Supervisor, the Authorised Supervisor shall be paid in addition to the amounts payable pursuant to clause 2, Salaries on a fortnightly basis an allowance calculated by dividing the per annum rates set out in the applicable Table 4 - Authorised Supervisors Allowance.

Provided that a teacher appointed as an Authorised Supervisor who is not in receipt of the Directors Allowance, shall not be responsible for the day to day operation and management of the Early Childhood Services Centre.

- (b) Where a licensee proposes to change his/her hours of attendance which would result in a change in the entitlement of the allowance set out in Table 4 or 5 Authorised Supervisor's Allowance of Part B, Monetary Rates four weeks written notice will be given.
- (c) A part-time teacher who is appointed as an Authorised Supervisor, as defined in Clause 1, Definitions of this award, shall be paid, in addition to the amounts payable pursuant to clause 2, Salaries of this award, an allowance in accordance with Table 4 or 5 - Authorised Supervisor's Allowance on a proportionate basis to the hours they work.

- (d) Any teacher required by the employer to act as Authorised Supervisor for at least ten consecutive working days shall be paid for so doing at the rate prescribed for that position.

Provided that a teacher shall not be required to carry out such duties in an acting capacity for more than a full year except that a teacher may be required to carry out such duties for up to two full years where such a teacher is replacing a Authorised Supervisor who is on leave for a specified period in excess of a full year.

- (e) It is not intended that Directors shall be displaced by the appointment of an Authorised Supervisor as a result of the operation of this clause.

5. Annual Leave and Public Holidays

5.1 Annual Leave

- (a) A teacher, on completion of 12 months' continuous service, shall be entitled to a minimum of four weeks leave of absence on full pay.
- (b) See *Annual Holidays Act 1944*.

5.2 Public Holidays

- (a) The following days shall be holidays for the purposes of the award: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Eight Hour Day, Christmas Day and Boxing Day. All days proclaimed as public holidays for the State shall be holidays, provided that any day proclaimed as a holiday for the State for a special purpose but observed throughout the State on different days also shall be a holiday.
- (b) Where a teacher is required to work on a holiday he or she shall be paid in addition to the teacher's ordinary rate of pay at the rate of one and a half times for the time so worked.

6. Annual Holiday Loading

- 6.1 Subject to subclause 6.6 hereof, where a teacher other than a casual teacher, is given and takes his or her annual holiday each year he or she shall be paid an annual holiday loading calculated in accordance with this clause.
- 6.2 The loading shall be payable in addition to the pay payable to the teacher for the period of the annual holiday.
- 6.3 The loading shall be calculated in relation to such period of a teacher's annual holiday as is equal to the period of annual holiday to which the teacher is entitled for the time being under the *Annual Holidays Act 1944* at the end of each year of the teacher's employment.
- 6.4 The loading shall be the amount payable for the period specified in subclause 6.3 of this clause at the rate of 17.5% of the weekly equivalent of the teacher's annual salary.
- 6.5 For the purpose of this clause, "salary" shall mean the salary payable to the teacher at the first day of the month in which the loading is payable together with, where applicable, the allowance prescribed by subclause 4.1 of clause 4, Director's Allowance, but not including any other allowance or amount otherwise payable in addition to salary.
- 6.6 This clause extends to a teacher who is given and takes an annual holiday and who would have worked as a shift worker if he or she had not been on holiday, provided that if the amount to which the teacher would have been entitled by way of shift work allowances and weekend penalty rates for the ordinary time (not including time on a public or special holiday) which the teacher would have worked during the period of the holiday exceeds the loading calculated in accordance with this clause, then that amount shall be paid to the teacher in lieu of the loading.

6.7

- (a) Where the employment of a teacher is terminated for a cause other than misconduct and at the time of the termination the teacher has not been given and has not taken the whole of an annual holiday to which the teacher became entitled, the teacher shall be paid a loading calculated in accordance with subclause 6.4, of this clause, for the period not taken.
- (b) Except as provided in paragraph (a), of this subclause, no loading is payable on the termination of a teachers employment.

7. Personal Leave

- 7.1 A full-time, temporary or part-time teacher shall be entitled to 15 days' personal leave with pay in the first year of service with the employer and 25 days' personal leave with pay in the second and subsequent years of continuous service with the same employer.

During the first three months of service with an employer the period of personal leave shall not exceed five days. Following the completion of three months service with an employer, the teacher shall be entitled to the balance of personal leave not taken up to the maximum of 15 days in the first year of service.

- 7.2 The personal leave set out in subclause 7.1 of this clause may be taken as:

- (a) Up to one day's leave on the date of the spouse's confinement or on the day on which she leaves hospital following a confinement; and/or
- (b) Up to one day's leave for the purpose of adopting a child; and/or
- (c)

- (i) Up to three days' bereavement leave up to and including the day of the funeral, on the death within Australia of a member of the teacher's family or household (as defined in section (ii) of subparagraph (c) of subclause 7.71 of this clause). A teacher must notify the employer as soon as practicable of the intention to take bereavement leave and will provide, to the satisfaction of the employer, proof of death.
- (ii) Bereavement leave shall be available to the teacher in respect of the death of a person prescribed for the purposes of personal/carer's leave as set out in subclause 7.7.1(c)(ii) of this clause, provided that for the purpose of bereavement leave, the teacher need not have been responsible for the care of the person concerned.

Provided that a teacher shall not be entitled to bereavement leave under this clause during any period in respect of which the teacher has been granted other leave.

- (iii) Provided that bereavement leave may be taken in conjunction with other leave available under paragraphs 7.7.1, 7.7.2, 7.7.3, 7.7.4, 7.7.5, 7.7.6 and 7.7.7 of subclause 7.7 of this clause. In determining such a request the employer will give consideration will be given to the circumstances of the teacher and the reasonable operational requirements of the employer; and/or
- (iv) Bereavement entitlements for casual teachers
 - (a) Subject to the evidentiary and notice requirements in (i) casual teachers are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in (ii) of subparagraph (c) of subclause 7.7 1.
 - (b) The employer and the teacher shall agree on the period for which the teacher will be entitled to not be available to attend work. In the absence of agreement, the

teacher is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual teacher is not entitled to any payment for the period of non-attendance

- (c) An employer must not fail to re-engage a casual teacher because the teacher accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual teacher are otherwise not affected.
- (d) Up to one day's leave on the day of an examination of a course run by a recognised teaching institution undertaken by the teacher to further his or her early childhood teacher training; and/or
- (e) Personal/Carer's leave in accordance with the provision outlined in subclause 7.7 of this clause; and
- (f) Sick leave - Subject to subclause 7.7 of this clause, a teacher may take all of their personal leave entitlement as sick leave provided that five days of their personal leave entitlement in each year of service is only used as sick leave.

7.3 The taking of leave outlined in subclause 7.2 of this clause shall be subject to the following conditions and limitations:

- (a) A teacher intending to take leave shall notify the employer at the earliest practicable opportunity and in any event prior to the commencement of the first activity for the day of their:
 - (i) inability to attend work;
 - (ii) the reason for their inability to attend work; and
 - (iii) the estimated duration of the absence.
- (b) A teacher who fails to comply with the procedure outlined in paragraph (a) of this clause shall not be entitled to paid leave unless they can satisfy the employer that they took all reasonable steps to notify the employer or were unable to take such steps.
- (c) To qualify for sick leave, a teacher may be required to provide evidence satisfactory to the employer that they were sick.
- (d) A teacher shall not be entitled to sick leave for any period in respect of which such teacher is entitled to workers' compensation.

7.4 Notwithstanding the provisions of subclauses 7.1 and 7.2 of this clause, the personal leave entitlement of a part-time teacher and temporary teacher shall be in that proportion which the teacher's number of working hours in a full ECS Centre week bears to the number of working hours which a full-time teacher at that ECS Centre is normally required to work.

7.5 Untaken leave in the second year of service and thereafter shall accumulate up to a maximum of 120 days. Subject to the provisions of subclause 7.7 of this clause, such accumulated leave may only be taken as sick leave.

7.6 Transitional Arrangements

The following transitional arrangements will apply:

- (a) Teachers employed prior to 18 October 1996 in accordance with the Teachers (Non-Government Early Childhood Service Centres Other Than Pre-Schools) (State) Award published 1 March 1996 (290 I.G. 1246), as varied, retained all full-pay sick leave accumulated in accordance with that award.

- (b) All half-pay sick leave entitlements accumulated prior to 18 October 1996 in accordance with the said award were converted to half the number of days on full pay and added to the existing, full-pay, sick leave accumulation.

7.7 Personal/Carer's Leave

7.7.1 Use of Sick Leave

- (a) A teacher, other than a casual teacher, with responsibilities in relation to a class of person set out in subclause 7.7.1(c)(ii) of this clause who needs the teacher's care and support, shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for in subclauses 7.1 and 7.2 of this clause, for absences to provide care and support, for such persons when they are ill or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.
- (b) The teacher shall, if required,
- (i) 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 person, or
 - (ii) 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 teacher.

In normal circumstances, a teacher must not take carer's leave under this subclause where another person had taken leave to care for the same person.

- (c) The entitlement to use sick leave in accordance with this subclause is subject to: -
- (i) the teacher being responsible for the care of the person concerned; and
 - (ii) the person concerned being: -
 - (1) a spouse of the teacher; or
 - (2) a de facto spouse, who, in relation to a person, is 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 bono fide domestic basis although not legally married to that person; or
 - (3) a child or an adult child (including an adopted child, a foster child or an ex nuptial child), parent (including foster parent and legal guardian), grandparent, grandchild or sibling of the teacher or spouse or defacto spouse of the teacher; or
 - (4) a same sex partner who lives with the teacher as the de facto partner of that teacher on a bona fide domestic basis; or
 - (5) a relative of the teacher who is a member of the same household, where for the purposes of this paragraph: -

"relative" means a person related by blood, marriage of affinity;

"affinity" means a relationship that one spouse because of marriage has to blood relatives or the other; and

"household" means a family group living in the same domestic dwelling

- (d) A teacher shall, wherever practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and that person's relationship to the teacher, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the teacher to give prior notice of absence, the teacher shall notify the employer by telephone of such absence at the first opportunity on the day of absence.

Note: In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes the employer and teacher shall discuss appropriate arrangements which, as far as practicable, take account of the employer's and teacher's requirements.

Where the parties are unable to reach agreement the disputes procedure at clause 15 should be followed.

7.7.2 Unpaid Leave for Family Purpose

A teacher may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a member of a class of person set out in subclause 7.7.1(c)(ii) above who is ill or who requires care due to an unexpected emergency.

7.7.3 Annual Leave

- (a) A teacher may elect with the consent of the employer to take annual leave not exceeding ten days in single day periods or part thereof, in any calendar year at a time or times agreed by the parties.
- (b) Access to annual leave, as prescribed in paragraph 7.7.3(a) above, shall be exclusive of any shutdown period provided for elsewhere under this award.
- (c) A teacher 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.
- (d) A teacher may elect with the employers agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.

7.7.4 Time Off in Lieu of Payment for Overtime

- (a) For the purpose only of providing care and support for a person in accordance with clause 7.7.1(c)(ii) above, and despite the provisions of Clause 9.3 the following provisions shall apply.
- (b) A teacher may elect, with consent of the employer, to take time off in lieu of payment for overtime at a time or times agreed with the employer within twelve (12) months of the said election.
- (c) 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.
- (d) If, having elected to take time as leave in accordance with paragraph 7.7.4(a) above, the leave is not taken for whatever reason, payment for time accrued at overtime rates shall be made at the expiry of the twelve (12) month period or on termination.
- (e) Where election is made in accordance with paragraph 7.7.4, the teacher shall be paid overtime rates in accordance with the award.

7.7.5 Make-up Time

- (a) A teacher may elect, with the consent of the employer, to work "make-up time", under which the teacher takes time off ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in the award, at the ordinary rate of pay.

- (b) A teacher on shift work may elect, with the consent of the employer, to work "make-up time" (under which the teacher 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.

7.7.6 Rostered Days Off

- (a) A teacher may elect, with the consent of the employer, to take a rostered day off at any time.
- (b) A teacher may elect, with the consent of the employer, to take rostered days off in part day amounts.
- (c) A teacher 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 at a time mutually agreed between the employer and teacher, or subject to reasonable notice by the teacher or the employer.
- (d) This subclause is subject to the employer informing each union which is both party to the award and which has members employed at the particular enterprise of its intention to introduce an enterprise system of RDO flexibility, an providing a reasonable opportunity for the union(s) to participate in negotiations.

7.7.7 Personal Carers Entitlement for Casual Teachers

- (a) Subject to the evidentiary and notice requirements in subclause 7.7.1(a) and 7.7.(b) of this clause, casual teachers are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subclause 7.7.1(c)(ii) of this clause who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.
- (b) The employer and the teacher shall agree on the period for which the teacher will be entitled to not be available to attend work. In the absence of agreement, the teacher is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual teacher is not entitled to any payment for the period of non-attendance.
- (c) An employer must not fail to re-engage a casual teacher because the teacher accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual teacher are otherwise not affected.

8. Hours of Work

- 8.1 The ordinary hours of work, inclusive of crib breaks shall be an average of 38 hours per week.
- 8.2 The ordinary hours of work for all teachers may be worked between the hours of 6.30 am and 6.30 pm, on any five days Monday to Saturday and subject to subclause 8.6, shall not exceed eight hours duration.
- 8.3 The method of implementation of the 38 hour week shall be by way of:
 - (a) a 19 day month;
 - (b) accumulation;
 - (c) by teachers working more than eight ordinary hours one or more days during the work cycle.
- 8.4 Method of Implementation of the 19 day month
 - (a) By agreement between the teacher and the employer, the teacher may fix one work day off in each four week cycle as a rostered day off to the extent to which they are accrued pursuant to paragraph (b).

- (b) Accrual
- (i) A teacher shall accrue one rostered day off for each 20 days of service, one day of which is to be included in the annual leave entitlement.
 - (ii) Each day of paid leave taken including each public holiday and the annual holiday (but not including long service leave nor periods of service in non-term time) shall be regarded as a day worked for accrual purposes.
 - (iii) Notwithstanding the provisions of subparagraph (i) of this paragraph, a teacher shall be entitled to no more than 12 paid rostered days off in any 12 months of consecutive employment.
 - (iv) A teacher who has not worked a complete four week cycle in order to accrue a rostered day off shall be paid a proportionate payment for each day worked in that cycle equivalent to:

$$\frac{P}{200}$$
 where P is the fortnightly salary payable to the teacher. A teacher shall be entitled to be paid on termination of employment for rostered days off which have been accumulated but not taken or entitlements pursuant to this paragraph at the rate of pay on the date of termination.
 - (v) A teacher shall not be entitled to sick leave in respect of illness whilst on a rostered day off. In the event of a rostered day off falling on a public holiday, the teacher and the employer shall agree on an alternative day off as a substitute.

8.5 Method of Implementation of Accumulation

In lieu of the provision contained in paragraph (a) of subclause 8.4 of this clause, a teacher may choose to accrue sufficient rostered days off to enable such days to be taken as a block of not more than 12 days at any one time in any 12 months of consecutive employment.

8.6 Method of Implementation of teachers working more than eight ordinary hours one or more days during the work cycle

- (a) In lieu of the provisions contained in subclauses 8.4 and 8.5 of this clause, the employer and teacher(s) may agree that the 38 hour week shall be implemented on one of the following bases:
 - (i) by the teacher(s) working three 10 hour shifts and one 8 hour shift per week; or
 - (ii) by the teacher(s) working four 9.5 hour shifts per week; or
 - (iii) any other shift arrangement whereby a teacher works no more than 10 hours per day or 38 hours per week.
- (b) Prior to implementing a shift pursuant to paragraph (a) of this subclause, the employer shall:
 - (i) consult with the teacher(s) and their representative if requested as to the appropriateness of the proposed shift arrangement;
 - (ii) reach an agreement with the teacher to trial the proposed shift arrangement for six weeks;
 - (iii) record such consultation and agreement in writing, signed by each party.
- (c) After the six week trial period the employer and the teacher or teachers (and their representatives if requested) will consult again and the employer may introduce the shift which has been trailed.

- (d) If the teacher agrees to work a shift longer than eight (8) hours the teacher shall receive an additional paid crib break of 10 minutes which shall be taken at a time convenient to the employer.
- (e) Any dispute in relation to the operation of this subclause shall be dealt with pursuant to clause 15, Disputes and Grievance Procedures.

8.7 Part-time, Casual and Temporary Teachers

- (a) Nothing in this clause shall entitle a teacher who works less than 38 hours per week (inclusive of crib breaks) to accumulate rostered days off pursuant to this clause, and a teacher's conditions of employment shall not be downgraded as a consequence of this variation.
- (b) Temporary Teachers (other than Part-Time Teachers)

A temporary teacher, other than a part-time teacher, shall by agreement with the employer, and according to the period of the employment of the teacher, be entitled to either:

- (i) accumulate rostered days off in accordance with clause 8.4 of this clause; or
- (ii) be paid an additional loading of 5% pursuant to this clause in lieu of an entitlement to rostered days off.

8.8 Establishments Operating 41 to 47 Weeks Per Annum

Where an ECS Centre operates from 41 to 47 weeks per annum and a teacher receives in consequence more than four weeks paid leave per annum, then the teacher shall accrue rostered days off to a maximum of seven days in any 12 months of consecutive employment and any days accrued in excess of seven days in any 12 months period of employment shall be deemed to be subsumed into the period of paid leave in excess of four weeks.

9. Overtime and Time in Lieu

- 9.1 All hours required by the employer to be worked outside the ordinary hours of work prescribed by clause 8 Hours of Work, including where a teacher is required to stay back to supervise children who have not been picked up or to cover staff absences but excluding the normal preparation and programming duties of a teacher, shall be paid at the rate of time and one half for the first two hours and double time thereafter. Provided that teachers may be required to attend up to a maximum of two hours per month and directors up to four hours per month where such time involves parental meetings, staff meetings and other duties not including the supervision of children without any payment being due. Part-time teachers may be required to attend such meetings outside of ordinary hours on a pro rata basis.
- 9.2 Provided that part-time employees who agree to work in excess of their normal hours shall be paid at ordinary time for up to eight hours provided that the additional time worked is during ordinary hours of operation of the ECS centre. No part-time employee shall be required to work for longer than 8 (eight) hours in any day without payment of overtime. Any additional hours shall be paid at overtime rates as per clause 9.1.
- 9.3 Time Off in Lieu of Overtime
 - (a) By agreement between the teacher and the employer, a teacher may take time off in lieu of payment for overtime.
 - (b) Overtime taken as time off during ordinary hours shall be taken at the ordinary time rate, that is an hour off for each hour worked.
 - (c) An employer shall, if requested by a teacher, provide payment at the rate provided for in subclause 9.1, for any overtime worked where such time has not been taken within four weeks of accrual. Notwithstanding anything contained elsewhere in this clause, on notice from the

employer a teacher must elect within six months of accrual, whether to take overtime worked as an overtime payment or as time off work at the ordinary rate of pay.

10. Miscellaneous

10.1 Crib Break

Not more than 30 minutes nor less than 20 minutes shall be allowed to teachers each day for a midday paid crib break. Such crib break shall be counted as time worked.

Provided however that a teacher may, by agreement with the employer, leave the premises or elect not to be on call during the crib break. Where a reasonable request has been made by the teacher, the employer shall give favourable consideration to any such request. During this time the teacher cannot be counted as part of the child/staff ratios under the Children (Care and Protection) Act 1987. Such time away from the premises or not on call shall not count as time worked nor shall any payment be made for such time.

However if the teacher is called back to perform any duties within the centre or the break is interrupted for any reason the teacher shall be paid at time and a half for a minimum of 15 minutes and thereafter to the nearest quarter hour until an uninterrupted break or the balance of the break is taken.

Notation:

It is agreed between the parties that any agreement between the teacher and the employer concerning an unpaid crib-break must be genuine. For example, a teacher cannot be required by the employer to agree to an unpaid crib-break as a condition of on-going employment. Any agreement should be recorded in writing and kept with pay records. It is agreed between the parties to the award that the IEU may apply to vary this provision during the nominal term of this award (while the employers retain the right to oppose the particular variation sought by the IEU) should the IEU be able to demonstrate that the clause is not operating as intended by the parties.

10.2 Professional Development, Training and Planning:

- (a) Teachers are responsible for ensuring that they are aware of new developments in early childhood education. However, the parties recognise that continuing professional development of teachers is a joint responsibility of both the employer and the teacher.
- (b) The employer may request a teacher to attend any courses in non-term time or after hours relating to professional development, training and planning. The teacher cannot unreasonably refuse to attend such courses, provided that a full-time teacher who receives no more than four weeks' annual leave in a calendar year shall receive time in lieu for time spent at any courses outlined in this clause.
- (c) Any dispute in relation to attendance shall be dealt with in accordance with clause 15, Disputes and Grievance Procedures.

10.3 First Aid Certificate

- (a) Teachers shall be required to obtain and maintain an approved first aid certificate.
- (b) Teachers will be granted paid leave to attend a first aid course, or when a first aid course is in the teacher's own time, teachers will receive time in lieu at ordinary rates for course attendance time.

11. Other Leave

11.1 Long Service Leave

See the *Long Service Leave Act 1955*

11.2 Residential Study Leave

A teacher who, for the purposes of furthering his or her Early Childhood teacher training, enrolls in any course at a recognised University or recognised Teacher Training Institution shall be granted leave without pay for the purpose of attending any compulsory residential school which is a part of such course.

11.3 Parental Leave

11.3.1 Refer to the *Industrial Relations Act 1996 (NSW)*. The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996 (NSW)*.

11.3.2 An employer must not fail to re-engage a regular casual teacher (see section 53(2) of the Act) because:

- (a) the teacher or teacher's spouse is pregnant; or
- (b) the teacher is or has been immediately absent on parental leave.

The rights of an employer in relation to engagement and re-engagement of casual teachers are not affected, other than in accordance with this clause.

11.3.3 Right to request

(a) A teacher entitled to parental leave may request the employer to allow the teacher:

- (i) to extend the period of simultaneous unpaid parental leave use up to a maximum of eight weeks;
- (ii) to extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;
- (iii) to return from a period of parental leave on a part-time basis until the child reaches school age;

to assist the teacher in reconciling work and parental responsibilities.

(b) The employer shall consider the request having regard to the teacher's circumstances and, provided the request is genuinely based on the teacher'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.

(c) Employee's request and the employer's decision to be in writing

The teacher's request and the employer's decision made under 11.3.3(a)(ii) and 11.3.3(a)(iii) must be recorded in writing.

(d) Request to return to work part-time

Where a teacher wishes to make a request under 11.3.3(a)(iii), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the teacher is due to return to work from parental leave.

11.3.4 Communication during parental leave

(a) Where a teacher 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:

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

11.3.5 This variation shall take effect from 19 December 2005.

11.4 Jury Service

- (a) A full time or part time teacher required to attend for jury service during ordinary working hours shall be provided with paid leave for this purpose. The teacher shall be reimbursed by the employer an amount equal to the difference between the amount paid in respect of the teacher's attendance for such jury service and the amount of wage the teacher would have received in respect of the ordinary time he or she would have worked had he or she not been on jury service.
- (b) The teacher shall notify the employer as soon as possible of the date upon which he or she is required to attend for jury service. The teacher shall provide to the employer a copy of the summons to attend jury duty and a record of payments received as proof of attendance.

12. Union Representatives

- 12.1 The employer shall permit the union representative in the ECS Centre to post union notices relating to the holding of meetings on a staff room noticeboard.
- 12.2 The union representative shall be permitted in working hours to interview the employer on union business. Such interview shall take place at a time and place convenient to both parties.
- 12.3 Meetings of union members who are employed at the ECS Centre may be held on the premises at times and places reasonably convenient to both union members and the employer.

13. Terms of Engagement and Information to be

Provided to Teachers

- 13.1 The employer shall provide all full-time, part-time and temporary teachers with a letter of appointment on engagement stating the classification and rate of salary on appointment, the hours of operation of the Centre, the teacher's entitlements to personal leave, annual leave and long service leave, the procedure as to alteration of days of attendance and notice on termination.
- 13.2 The employer may, if the employer deems appropriate, provide a teacher of children with special needs with a letter of appointment which outlines the teacher's teaching load, days of attendance, and place of employment which may be varied throughout the period of engagement. Such variations would occur from time to time and with not less than four weeks notice or otherwise by agreement.
- 13.3 The employment of a teacher during the first three calendar months of employment shall be probationary if the employer has advised the teacher on or prior to the engagement that there is a probationary period. Either party may terminate the employment during this period by two weeks notice.

Notation - It is strongly recommended that prior to terminating a teachers employment under this clause an employer:

- (i) clearly identify to the teacher the problems they have with his or her employment;
- (ii) clearly outline their expectations as to how the teacher's performance should improve; and
- (iii) give the teacher a reasonable time frame to improve his or her behaviour.

13.4 Subject to subclause 13.3 of this clause, the employment of any teacher (other than a casual teacher) shall not be terminated without at least four weeks notice on either side or the payment of or forfeiture of four weeks salary in lieu of notice.

13.5 Nothing in this clause shall affect the right of the employer to dismiss summarily any teacher for incompetence, misrepresentation, neglect of duty or other misconduct.

13.6 Upon the termination of service of a teacher other than a casual teacher the employer shall provide a statement of service setting out the length of service, the age of children taught, the positions held and any special and/or additional duties performed by such teacher.

13.7

- (a) On termination of casual employment, the employer shall indicate on the teacher's service card (see Attachment A - Record of Casual Employment) the length of service with that employer.
- (b) Upon request, a casual teacher shall be supplied with a statement setting out the number of days of duty undertaken by the casual teacher during the period of his or her engagement provided that such request is made during or on termination of the casual engagement.

13.8 Where an employer proposes either:

- (a) to make alterations to the type of services provided by the ECS Centre in which a teacher is employed; or
- (b) to transfer a teacher from the ECS Centre in which the teacher is employed

which shall have the consequence that the provisions of this Award will no longer apply to the teacher, the employer shall as soon as practicable in any case after a firm decision has been made, give the teacher notice of the change and shall, if the teacher so requests, hold discussions:

- (i) with the teacher; or
- (ii) with a representative of the teacher,

as soon as practicable after making the decision and in any event not less than four weeks prior to the implementation of the decision.

13.9 Job Share

The parties recognise that job share involves the following principles:

- (a) Job share for teachers shall mean dividing the one job so that job share teachers have equal responsibility or share responsibility.
- (b) The division of work has to be negotiated and mutually suitable to all parties.
- (c) Job share teachers are treated as part-time teachers and receive pro rata entitlements.

- (d) If a job share teacher is ill, or on annual leave or a rostered day off, then the other teacher may be offered the day(s) of work by the employer. This work, if accepted, is to be paid at ordinary rates in accordance with clause 2, Salaries.
- (e) If a job share teacher leaves the employment, the remaining teacher may be offered the residue of employment.

If the employer does not wish to offer the residue of employment or part thereof to the teacher, and the parties wish to continue the job share arrangement the employer may consult with the teacher about the implementation of a new arrangement, including the selection of a new teacher to fill the balance of the position. If the employer or the teacher does not propose to continue the job share arrangement the remaining teacher may be employed on a part-time basis.

- (f) Adequate opportunities for consultation between job share teachers will be provided by the employer.
- (g) The employer may determine the number of job share positions in any centre.

13.10 Redundancy

Refer to Part C of this award.

14. Procedure for Dealing With Job Performance Problems

It is recommended that employers follow the procedure outlined below when dealing with job performance related problems:

- (a) Where a problem arises with respect to a teacher's performance of his/her duties the employer should discuss the problem with the teacher who will be given an opportunity to respond.
- (b) The employer should:
 - (i) clearly identify the problem;
 - (ii) clearly outline their expectations;
 - (iii) set a reasonable period of time for the problem to be rectified;
 - (iv) provide a review period at the end of the time period; and
 - (v) note the results of the meeting in a diary.
- (c) If the problem continues to exist then a formal warning should be given to the teacher in writing or in the presence of a witness. The warning should set out:
 - (i) what aspects of the teacher's performance needs to be improved;
 - (ii) what should be done to rectify the problem;
 - (iii) what assistance will be provided;
 - (iv) a specified period for review; and
 - (v) the action already taken by the employer and what further action may be taken if the performance problem is not rectified.

The employer should note the results of the meeting in a diary.

- (d) If the specified problem(s) are not rectified, the employer should give the teacher a final warning. This may be in writing or issued in the presence of a witness specifying the process already taken by the employer and the fact that if the performance of the teacher does not improve the employment of the teacher will be terminated. The employer should identify the performance problem(s), the employer's expectations, the steps required to rectify the problems and a time period for review. The employer should note the results of the warning in a diary.
- (e) Where a teacher's performance improves as a result of a review period, the employer should notify the teacher that the period of review is completed and that the required improvement in the teacher's performance has been achieved.
- (f) The employer and teacher are entitled to have a witness present at any step in the process and may be represented by an industrial organisation of employees or an industrial organisation of employers.
- (g) An employer has a right to dismiss a teacher summarily for misrepresentation, neglect of duty or misconduct.
- (h) Nothing in this procedure shall be construed to override an employer's discretion to adopt a procedure other than contained in this clause. However, the employer shall advise the teacher of any other procedure.
- (i) Nothing in this procedure shall be construed to remove the right of a teacher or employer to refer a dispute to the Industrial Relations Commission of New South Wales pursuant to the *Industrial Relations Act 1996*.

15. Disputes and Grievance Procedures

15.1 Procedures relating to grievances of individual teachers

- (a) The teacher is required to notify (in writing or otherwise) the employer as to the substance of the grievance, request a meeting with the employer for bilateral discussions and state the remedy sought.
- (b) The grievance must initially be dealt with as close to its source as possible, with graduated steps for further discussion and resolution at higher levels of authority.
- (c) Reasonable time limits must be allowed for discussion at each level of authority.
- (d) At the conclusion of the discussion, the employer must provide a response to the teacher's grievance, if the matter has not been resolved, including reasons for not implementing any proposed remedy.
- (e) While a procedure is being followed, normal work must continue.
- (f) The teacher may be represented by an industrial organisation of employees.

15.2 Procedures relating to disputes, etc. between employers and their teachers

- (a) A question, dispute or difficulty must initially be dealt with as close to its source as possible, with graduated steps for further discussion and resolution at higher level of authority.
- (b) Reasonable time limits must be allowed for discussion at each level of authority.
- (c) While a procedure is being followed, normal work must continue.
- (d) The employer may be represented by an industrial organisation of employers and the teachers may be represented by an industrial organisation of employees for the purposes of each procedure.

16. Anti-Discrimination

- 16.1 It is the intention of the parties bound by this award to seek to achieve the object in section 3(f) of the *Industrial Relations Act 1996* to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.
- 16.2 It follows that in fulfilling their obligation under the dispute resolution procedure prescribed by this award the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the award which, by its terms or operation, has a direct or indirect discriminatory effect.
- 16.3 Under the *Anti-Discrimination Act 1977*, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- 16.4 Nothing in this clause is to be taken to affect:
- (a) any conduct or act which is specifically exempted from anti-discrimination legislation;
 - (b) offering or providing junior rates of pay to persons under 21 years of age;
 - (c) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
 - (d) a party to this award from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.
- 16.5 This clause does not create legal rights or obligations in addition to those imposed upon the parties by legislation referred to in this clause.

NOTES

- (a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
- (b) Section 56(d) of the *Anti-Discrimination Act 1977* provides:

"Nothing in this Act affects...any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion".

17. Savings Clause and Leave Reserved

- 17.1 A teacher's conditions of employment, other than those provided in this award, shall not be altered as a consequence of the introduction of this award.
- 17.2 Leave is reserved to the New South Wales Independent Education Union to apply in respect of procedures relating to child protection.

18. Settlement of Award

- 18.1 This award is made by consent as a settlement of the claims made by the Independent Education Union of NSW & ACT ("the IEU") in Matter Nos. 789 & 790 of 2005.
- 18.2 It is a term of this award that the IEU will not pursue any improvements in wages or conditions of employment, including any increases arising from the general increases given by the federal or state industrial tribunals, or the proposed Fair Pay Commission that arise during the term of this Award.

19. Superannuation

19.1 Definitions

For the purpose of this clause:

- (a) "Basic earnings" shall mean:
 - (i) the rate of salary prescribed from time to time by this award;
 - (ii) the amount of any allowance prescribed from time to time including the allowance payable to a Director and any shift loading which may be payable pursuant to this award.
- (b) "Teacher" means a teacher, Director or Authorised Supervisor, and includes a casual, part-time, or temporary teacher.
- (c) "HESTA" means the Health Employees Superannuation Trust Australia, established by Trust Deed Articles on 30 July 1987.
- (d) "ASSET" means the Australian Superannuation Savings Employment Trust constituted by deed made 14 October 1987.

19.2 Fund

- (a) For the purposes of this clause contributions made by employers in accordance with the provisions of subclause 18.3 of this clause shall be as follows:
 - (i) the employer shall offer each teacher a choice between HESTA or ASSET;
 - (ii) the teacher shall nominate the fund into which contributions shall be made.
- (b) Each employer shall become a participating employer in HESTA and/or ASSET in accordance with the choice of teachers of the employer.
- (c) Each employer shall become party to HESTA or ASSET upon the acceptance of the respective Trustee of a Deed of Adoption, duly signed and executed by each employer and the respective Trustee.
- (d) A teacher shall become eligible to join HESTA or ASSET in accordance with the following:
 - (i) in the case of a teacher who is employed at 1 July 1988, from the beginning of the first pay period commencing on or after 1 July 1988; and
 - (ii) in the case of a teacher employed after 1 July 1988, from the beginning of the first pay period commencing on or after the teacher's date of engagement.

19.3 Benefits

- (a) Except as provided in paragraphs (c) and (d) of this subclause, each employer shall, in respect of each teacher employed by it, pay contributions to the respective Trustee at the rate of 3% of the teacher's basic earnings.
- (b) Contributions shall be paid at intervals and in accordance with the procedures and subject to the requirements of the respective Fund.
- (c) An employer shall not be required to make contributions pursuant to this clause in respect of a teacher in respect of a period when that teacher is absent from his or her employment without pay.

(d) Part-time and Casual Teachers

An employer shall pay contributions pursuant to this clause in respect of a part-time teacher employed by it if the basic earnings of the teacher exceed \$200 for that calendar month.

An employer shall pay contributions pursuant to this clause in respect of a casual teacher employed by it for any calendar month in which the basic earnings of the teacher exceed \$200 for that calendar month.

(e) Where a new teacher commences in employment, the employer shall advise the teacher in writing of the teacher's entitlements under this clause and of the action to be taken by the teacher to obtain the benefit of those entitlements.

(f) Notwithstanding the date upon which a teacher signs an Application Form, contributions in accordance with paragraph (a) of this subclause shall be made from the date when the teacher became eligible for membership.

19.4 Records

The employer shall retain all records relating to the calculation of payments due to the Fund(s) in respect of each teacher and such records shall be retained for a period of six years.

19.5 Exemptions

Employers of teachers who are eligible to become contributors to the following superannuation funds or any scheme/s replacing such funds shall be exempt from the provisions of this clause:

State Superannuation Fund

State Public Service Superannuation Scheme

Public Authorities Superannuation Scheme

19.6 Leave is reserved to the Employers' Federation of New South Wales to vary this clause following the decisions of the Full Commission in the Nurses Superannuation Case Matter Nos. IRC 883, 884 and 995 of 1994.

20. Enterprise Consultation

Enterprises covered by this award shall establish a consultative mechanism and procedures appropriate to their size, structure and needs for consultation and negotiation on matters affecting their efficiency and productivity.

21. Labour Flexibility

- (a) An employer may direct a teacher to carry out such duties as are within the limits of the teacher's skill, competence and training provided that such duties are not designed to promote deskilling.
- (b) An employer may direct a teacher to carry out such duties and use such tools and equipment as may be required, provided that the teacher has been properly trained in the use of such tools and equipment.
- (c) Any direction issued by an employer pursuant to subclauses (a) and (b) of this clause shall be consistent with the employer's responsibilities to provide a safe and healthy working environment.

22. Area, Incidence and Duration

22.1 This award shall apply to all teachers employed in ECS centres as defined in subclause (d) of clause 1, Definitions, of this award excepting:

- (a) Teachers of music or other individual arts who are remunerated on an individual fee basis; and

- (b) Members of a recognised religious teaching order and/or Clerks in Holy Orders, and/or Ministers of Religion (including a Minister-teacher or a Missionary-teacher who is a member of the Seventh Day Adventist Church and who teaches in a school operated by a local Conference of the Australasian Division of the Seventh Day Adventist Church), provided that application may be made on behalf of any such member to be included within the scope of this award; and
- (c) Employees of all city, municipal, shire and county child care centres; and
- (d) Employees within the jurisdiction of the Independent Schools and Colleges, General Staff &c (State) Conciliation Committee and Kindergartens &c (State) Conciliation Committee; and
- (e) Teachers and directors employed by the KU Children's Services and Sydney Day Nursery and Nursery Schools Association; and
- (f) Teachers employed in a licensed child care centre operated by or on behalf of any recognised independent school or special school registered under the provisions of the Education Reform Act 1990, in the State, including the independent schools listed below:
- Kincoppal Rose Bay
- Rosebank College
- Stella Maris College
- St Vincent's College; and
- (g) Teachers covered by the Teachers (Catholic Early Childhood Service Centres and Pre-Schools) (State) Award made on 1 July 2005; and
- (h) Teachers employed in an Early Intervention Service whose hours and conditions of work approximate those hours and conditions of a teacher employed in a recognised school.
- 22.2 This award rescinds and replaces the Teachers (Non-Government Early Childhood Service Centres Other Than Pre-Schools) (State) Award published 9 August 2002 (335 I.G. 756).
- 22.3 This award shall take effect from 23 January 2006 provided that the increases in rates of pay and allowances shall be effective from the first full pay period on or after 23 January 2006.
- 22.4 This award shall remain in force until 31 December 2008.

PART B

MONETARY RATES

Table 1 - Rates of Pay

The following minimum annual salaries shall apply from the beginning of the first full pay period specified in each column respectively:

Classification/ Incremental Salary Step	Current per annum \$	23 January 2006 (4.5%)* per annum \$	23 January 2007 (4.5%)* per annum \$	23 January 2008 (4.5%)* per annum \$
All Other Teachers				
Step 1	28,984	30,288	31,593	32,897
Step 2	29,681	31,017	32,352	33,688
Step 3	30,466	31,837	33,208	34,579
Step 4	31,559	32,979	34,399	35,819

Step 5	32,891	34,371	35,851	37,331
Two Years Trained Teachers				
Step 1	31,604	33,026	34,448	35,871
Step 2	35,012	36,588	38,163	39,739
Step 3	36,796	38,452	40,108	41,763
Step 4	38,718	40,460	42,203	43,945
Step 5	40,496	42,318	44,141	45,963
Step 6	42,340	44,245	46,151	48,056
Step 7	44,384	46,381	48,379	50,376
Step 8	45,504	47,552	49,599	51,647
Step 9	46,606	48,703	50,801	52,898
Three Years Trained Teachers				
Step 1	36,413	38,052	39,690	41,329
Step 2	38,267	39,989	41,711	43,433
Step 3	40,268	42,080	43,892	45,704
Step 4	42,115	44,010	45,905	47,801
Step 5	44,033	46,014	47,996	49,977
Step 6	46,162	48,239	50,317	52,394
Step 7	47,323	49,453	51,582	53,712
Step 8	48,474	50,655	52,837	55,018
Step 9	50,405	52,673	54,941	57,210
Step 1 0	52,420	54,779	57,138	59,497
Step 11	53,833	56,255	58,678	61,100
Four Years Trained Teachers				
Step 1	38,719	40,461	42,204	43,946
Step 2	41,118	42,968	44,819	46,669
Step 3	43,430	45,384	47,339	49,293
Step 4	45,995	48,065	50,135	52,204
Step 5	48,379	50,556	52,733	54,910
Step 6	50,405	52,673	54,941	57,210
Step 7	52,420	54,779	57,138	59,497
Step 8	54,691	57,152	59,613	62,074
Step 9	56,878	59,438	61,997	64,557

* Each 4.5% increase is calculated by adding 4.5% of the corresponding rate applying immediately prior to the making of this award.

Table 2 - Director's Allowance

Units	23 January 2006 (5%)* per annum \$	23 January 2007 (4.5%)* per annum \$	23 January 2008 (4%)* per annum \$
1	4,267	4,450	4,613
2	5,210	5,433	5,631
3	6,502	6,781	7,029
4	8,123	8,471	8,780

* Each increase is calculated by adding the percentage (as indicated in the above table) to the corresponding rate applying immediately prior to the making of this award.

Table 3 - Other Rates and Allowances

Item No.	Clause No.	Brief Description	Amount \$
1	3.4(a)	Travel Allowance - use of teacher's own vehicle	0.51 per km

Table 4 - Authorised Supervisor's Allowance (Clause 4.2(i))

Units	Current per annum \$	23 January 2006 (5%)* per annum \$	23 January 2007 (4.5%)* per annum \$	23 January 2008 (4%)* per annum \$
1	1,321	1,387	1,446	1,499
2	1,612	1,693	1,766	1,830
3	2,016	2,117	2,208	2,289
4	2,520	2,646	2,759	2,860

* Each increase is calculated by adding the percentage (as indicated in the above table) to the corresponding rate applying immediately prior to the making of this award.

Table 5 - Authorised Supervisor Allowance (Clause 4.2(ii))

Units	Current per annum \$	23 January 2006 (5%)* per annum \$	23 January 2007 (4.5%)* per annum \$	23 January 2008 (4%)* per annum \$
1	2,643	2,775	2,894	3,000
2	3,225	3,386	3,531	3,660
3	4,032	4,234	4,415	4,576
4	5,039	5,291	5,518	5,720

* Each increase is calculated by adding the percentage (as indicated in the above table) to the corresponding rate applying immediately prior to the making of this award.

PART C

1. Redundancy

- 1.1 This Part shall apply in respect of full-time and part-time teachers.
- 1.2 This Part shall only apply to employers who employ 15 or more employees immediately prior to the termination of employment of teachers.
- 1.3 Notwithstanding anything contained elsewhere in this award, the provisions of this part shall not apply to teachers with less than one year's continuous service and the general obligation on employers shall be no more than to give such teachers an indication of the impending redundancy at the first reasonable opportunity, and to take such steps as may be reasonable to facilitate the obtaining by the teachers of suitable alternative employment.
- 1.4 This Part shall not apply where employment is terminated as a consequence of conduct that justifies instant dismissal, including malingering, inefficiency or neglect of duty, or in the case of casual teachers or teachers engaged for a specific period of time or for a specified task or tasks or where employment is terminated due to the ordinary and customary turnover of labour.

2. Employers Duty to Notify and Discuss

- 2.1 Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on teachers, the employer shall notify the teachers who may be affected by the proposed changes and the union to which they belong.
- 2.2 The employer shall discuss with the teachers affected and the union to which they belong the introduction of such changes and the likely effect on the employees and the measures taken to avert or mitigate the adverse effects of such changes.

- 2.3 'Significant effects' include termination of employment, major changes in the composition, operation or size of the employers workforce or in the skills required, the elimination or diminution of job opportunities, promotion opportunities or job tenure, the alteration of hours of work, the need for retraining or transfer of teachers to other work or locations and the restructuring of jobs.

3. Discussions Before Terminations

- 3.1 Where an employer has made a definite decision that the employer no longer wishes the job the teacher has been doing done by anyone and that decision may lead to the termination of employment, the employer shall hold discussions with the teachers directly affected and with the union to which they belong.
- 3.2 The discussions shall take place as soon as is practicable after the employer has made a definite decision which will invoke the provision of subclause 3.1 of this clause and shall cover, inter alia, any reasons for the proposed terminations, measures to avoid or minimise the terminations and measures to mitigate any adverse effects of any termination of the teachers concerned.
- 3.3 For the purposes of the discussion the employer shall, as soon as practicable, provide to the teachers concerned and the union to which they belong, all relevant information about the proposed terminations including the reasons for the proposed terminations, the number and categories of employees likely to be affected, and the number of employees normally employed and the period over which the terminations are likely to be carried out. Provided that any employer shall not be required to disclose confidential information, the disclosure of which would adversely affect the employer.

4. Notice for Changes in Production, Program, Organisation Or Structure

- 4.1 This subclause sets out the notice provisions to be applied to terminations by the employer for reasons arising from 'production', 'program', 'organisation' or 'structure' in accordance with clause 2 of this Part.

- 4.1.1 In order to terminate the employment of a teacher the employer shall give to the teacher the following notice:

Period of continuous service	Period of Notice
Less than 1 year	1 week
1 year and less than 3 years	2 weeks
3 years and less than 5 years	3 weeks
5 years and over	4 weeks

- 4.1.2 In addition to the notice above, teachers over 45 years of age at the time of the giving of the notice with not less than two years continuous service, shall be entitled to an additional week's notice.
- 4.1.3 Payment in lieu of the notice above shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

- 4.2 Notice for Technological Change

This paragraph sets out the notice provisions to be applied to terminations by the employer for reasons arising from 'technology' in accordance with clause 2 of this part.

- 4.2.1 In order to terminate the employment of a teacher the employer shall give to the teacher 3 months notice of termination.
- 4.2.2 Payment in lieu of the notice above shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

4.2.3 The period of notice required by this subclause to be given shall be deemed to be *service with the employer for the purposes of the Long Service Leave Act 1955, the Annual Holidays Act 1944, or any Act amending or replacing either of these Acts.*

4.3 Time off during the notice period

4.3.1 During the period of notice of termination given by the employer a teacher shall be allowed up to one day's time off without loss of pay during each week of notice, to a maximum of five weeks, for the purposes of seeking other employment.

4.3.2 If the teacher has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the teacher shall, at the request of the employer, be required to produce proof of attendance at an interview or the teacher shall not receive payment for the time absent.

4.4 Teacher leaving during the notice period

If the employment of a teacher is terminated (other than for misconduct) before the notice period expires, the teacher shall be entitled to the same benefits and payments under this clause had the teacher remained with the employer until the expiry of such notice. Provided that in such circumstances the teacher shall not be entitled to payment in lieu of notice.

4.5 Statement of employment

The employer shall, upon receipt of a request from a teacher whose employment has been terminated, provide to the teacher a written statement specifying the period of the teacher's employment and the classification of or the type of work performed by the teacher.

4.6 Notice to Centrelink

Where a decision has been made to terminate teachers, the employer shall notify Centrelink thereof as soon as possible giving relevant information including the number and categories of the teachers likely to be affected and the period over which the terminations are intended to be carried out.

4.7 Department of Social Security Employment Separation Certificate

The employer shall, upon receipt of a request from a teacher whose employment has been terminated, provide to the teacher an 'Employment Separation Certificate' in the form required by the Department of Social Security.

4.8 Transfer to lower paid duties

Where a teacher is transferred to lower paid duties for reasons set out in clause 2 of this part, the teacher shall be entitled to the same period of notice of transfer as the teacher would have been entitled to if the teacher's employment had been terminated, and the employer may at the employer's option make payment in lieu thereof of an amount equal to the difference between the former ordinary time rate of pay and the new ordinary time rate for the number of weeks of notice still owing.

5. Severance Pay

5.1 Where a teacher is to be terminated pursuant to clause 4 of this part, subject to further order of the Industrial Relations Commission of New South Wales, the employer shall pay the following severance pay in respect of a continuous period of service:

- 5.1.1 If a teacher is under 45 years of age, the employer shall pay in accordance with the following scale:

Years of Service	Under 45 Years of Age Entitlement
Less than 1 year	Nil
1 year and less than 2 years	4 weeks
2 years and less than 3 years	7 weeks
3 years and less than 4 years	10 weeks
4 years and less than 5 years	12 weeks
5 years and less than 6 years	14 weeks
6 years and over	16 weeks

- 5.1.2 Where a teacher is 45 years old or over, the entitlement shall be in accordance with the following scale:

Years of Service	Under 45 Years of Age Entitlement
Less than 1 year	Nil
1 year and less than 2 years	5 weeks
2 years and less than 3 years	8.75 weeks
3 years and less than 4 years	12.5 weeks
4 years and less than 5 years	15 weeks
5 years and less than 6 years	17.5 weeks
6 years and over	20 weeks

- 5.1.3 'Weeks Pay' means the all purpose rate of pay for the teacher concerned at the date of termination, and shall include, in addition to the ordinary rate of pay, over award payments, shift penalties and allowances provided for in the relevant award.

- 5.1.4 Where a teacher is subject to a reduction of working hours of 6 or more hours per fortnight, the reduction will be treated as a partial redundancy. A pro rata payment will be made in accordance with the severance payments set out in paragraphs 5.1.1 and 5.1.2 above.

5.2 Incapacity to Pay

Subject to an application by the employer and further order of the Industrial Relations Commission, an employer may pay a lesser amount (or no amount) of severance pay than that contained in subclause 5.1.

The Commission shall have regard to such financial and other resources of the employer concerned as the Commission thinks relevant, and the probable effect paying the amount of severance pay in subclause 5.1 above will have on the employer.

5.3 Alternative Employment

Subject to an application by the employer and further order of the Industrial Relations Commission, an employer may pay a lesser amount (or no amount) of severance pay than that contained in subclause 5.1 if the employer obtains acceptable alternative employment for a teacher.

ATTACHMENT A

This attachment is to be used in accordance with clause 12.7 of this Award.

Casual Teachers/Directors Record Of Casual Employment To Be Maintained By Teacher

1. Name:
2. Number of years of training:

3. Name of qualification:
4. Year of attainment of this qualification:

Period of engagement (from date to date)	No. of days/hours worked in total, classification, years trained and step	Name, address and telephone number of Centre	Signed by Centre Director (signature, date and name)

ATTACHMENT B

EARLY AND/OR LATE SHIFT AGREEMENT BETWEEN THE EMPLOYER AND THE TEACHER

This attachment is to give effect to an agreement reached pursuant to clause 3.3 of this Award.

This agreement has the effect that shift loadings do not apply to certain early and/or late shifts as set out below and in the award.

1. This document records an agreement reached pursuant to Clause 8.4 - Hours Of Work and Clause 3.3 - Shift Penalty Loadings, and is signed by the employer and the teacher as certifying that the arrangement outlined hereunder was an agreed arrangement between the parties.
2. The following arrangement is made pursuant to Clause 8.3 - Hours of Work and Clause 3.3 - Shift Penalty Loadings of the Teachers (Non-Government Early Childhood Service Centres Other Than Pre-Schools) (State) Award, and it shall apply unless rescinded by the parties by agreement.
3. It is agreed between the Employer and the Teacher that the arrangement for extended daily ordinary hours of work which are outlined below and/or which are described in the attached rosters shall hereafter apply to the teacher and clause 3.3 shall apply so that the shift loadings referred to in Clause 3.2 are not applicable to these shifts in the circumstances.

Commencing and finishing time of shift to be worked by teacher

Any Other Benefits Agreed:

4. This agreement shall take effect from the beginning of the first full pay period to commence on or after
5. The teacher agrees that the employer provided a draft copy of this agreement and notified him/her of the right to seek advice or representation from a representative (including the Union) seven (7) days prior to entering into this agreement.

6. Signed on Behalf of an Authorised Representative of the Employer:

(Date)

7. Signed By the Teacher:

(Date)

F. L. WRIGHT J, *President*

Printed by the authority of the Industrial Registrar.

SYDNEY WATER AWARD 2004

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Sydney Water Corporation Limited.

(No. IRC 6549 of 2005)

Before The Honourable Justice Boland

17 March 2006

VARIATION

1. Delete clause 15, Called to Work After Hours, from the Index of the award published 13 January 2006 (356 I.G. 1) and insert in lieu thereof the following:

15. Work After Hours (Other Than Planned Overtime)

2. Delete clause 15, Called to Work After Hours, and insert in lieu thereof the following:

15. Work After Hours (Other Than Planned Overtime)

15.1 GENERAL

- (a) Any time worked by an employee in accordance with this clause will not contribute toward the calculation of that employee's ordinary hours.
- (b) This clause will not apply to those employees listed as ineligible to receive overtime payments under Clause 14 (Overtime).
- (c) No payment shall be made under this clause where the Employee is not in the required degree of readiness to respond to a call to duty.

15.2 PHYSICAL CALL OUT

- (a) This subclause shall apply where an Employee is:
 - (i) Recalled to perform unplanned work after leaving the Employer's premises; and
 - (ii) Such recall occurs after the Employee's usual ceasing time and before 6am; and
 - (iii) The Employee is required to travel to a Sydney Water site/location to attend to the matter being the subject of the call-out ("a Physical Call out").
- (b) Employees physically called back to work after the usual ceasing time and before 6.00 a.m. on the next working day will be paid a minimum of four (4) hours at the appropriate overtime rates.
- (c) Any further call outs within the four (4) hour period set by the first call are covered by the initial four (4) hour payment.
- (d) Call outs after the initial four (4) hours are paid at the appropriate overtime rate for the actual time of the call out.
- (e) Payment will be calculated from the time the employees leave home to attend the call out until they return. However time spent travelling does not constitute work for the purposes of Clause 13 - Rest Breaks.

15.3 REMOTE ACCESS WORK

- (a) This subclause shall apply where an Employee is:
 - (i) Required to perform unplanned work after leaving the Employer's premises; and
 - (ii) Such requirement occurs after the usual ceasing time and before 6am; and
 - (iii) The Employee is not required to travel to a Sydney Water site/location but attends to the matter by accessing a Sydney Water electronic information system ("Remote Access Work").
- (b) This subclause shall only apply where the Employee has the approval of their line manager, or other authorised representative of the Employer, to perform such work.
- (c) An employee required to work overtime on remote access work shall be paid:
 - (i) a minimum of 2 hours at overtime rates for the first remote access work job received in a standby period.
 - (ii) a minimum of 1 hour at overtime rates for jobs received after the initial 2 hour period.
- (d) Any further remote access work required within the payment period set by each call shall not attract any additional payment.
- (e) No meal allowances are payable when performing Remote Access Work.
- (f) Where a job initially received as remote access work job is found to require attendance at the work site, the minimum payment for remote access work will not apply. The minimum payment for physical callout will apply from the time the job was initially received.

3. Delete subclause 16.5 Overtime, of clause 16, Stand-By and insert in lieu thereof the following:

16.5 OVERTIME

Any overtime worked whilst on stand-by will be paid in accordance with the provisions of the Clause 14 (Overtime) or Clause 15 (Work After Hours (Other Than Planned Overtime)) as appropriate, and will be in addition to any standing by payment.

- 4. Subclauses 15.1 and 15.2 will operate on or from 17 March 2006.
- 5. Subclause 15.3 will be varied as at 17 March 2006 but the provision 15.3 will not apply until on or from 17 September 2006.
- 6. The variation and subclause 16.5 will operate on or from 17 March 2006.

R. P. BOLAND *J.*

(625)

SERIAL C4542

**SCHOOL SUPPORT STAFF (ARCHDIOCESE OF SYDNEY,
DIOCESES OF BROKEN BAY AND PARRAMATTA) (STATE)
AWARD 2005**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by New South Wales Independent Education Union, Industrial Organisation of Employees.

(No. IRC 1230 of 2006)

Before The Honourable Justice Schmidt

10 March 2006

VARIATION

1. Insert in numerical order in the Arrangement of the award published 17 February 2006 (357 I.G. 78), the following new clause number and subject matter:

- 4A. Secure Employment
- (i) Objective of this clause
 - (ii) Casual Conversion
 - (iii) Occupational Health and Safety
 - (iv) Disputes Regarding the Application of this Clause

2. Insert after clause 4.8, Anti Discrimination, the following new clause:

4A. Secure Employment

- (i) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (ii) Casual Conversion

- (a) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (b) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (c) Any casual employee who has a right to elect under paragraph (ii)(a), upon receiving notice under paragraph (ii)(b) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert

an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (d) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (e) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (f) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (ii)(c), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (ii)(c), discuss and agree upon:
 - (1) whether the employee will convert to full-time or part-time employment; and
 - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (g) Following an agreement being reached pursuant to paragraph (f), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
 - (h) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (iii) Occupational Health and Safety
- (a) For the purposes of this subclause, the following definitions shall apply:
 - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
 - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
 - (b) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
 - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
 - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
 - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (c) Nothing in this subclause (iii) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (iv) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (v) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 1st March 2006.

M. SCHMIDTJ

Printed by the authority of the Industrial Registrar.

LOCAL GOVERNMENT (STATE) AWARD 2004

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by New South Wales Local Government, Clerical, Administrative, Energy, Airlines & Utilities Union, Industrial Organisation of Employees.

(No. IRC 1305 of 2006)

Before Commissioner Tabbaa

10 March 2006

VARIATION

1. Insert after subclause 32C, of clause 32, Occupational Health and Safety, of the award published 22 April 2005 (350 I.G. 471), the following new subclause:
 - D. Labour Hire and Contract Businesses
 - (i) For the purposes of this subclause, the following definitions shall apply:
 - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to a council for the purpose of such staff performing work or services for that other council.
 - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by a council to provide a specified service or services or to produce a specific outcome or result for that council which might otherwise have been carried out by that council's own employees.
 - (ii) Any Council which engages a labour hire business and/or a contract business to perform work wholly or partially on the Council's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
 - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
 - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
 - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
 - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
 - (iii) Nothing in this subclause D is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
 - (iv) Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.

- (v) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the Apprenticeship and Traineeship Act 2001 (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
2. Insert after subclause (xiii), of clause 40, Area Incidence and Duration, the following new subclause:
- (xiv) Clause 32D (Occupational Health and Safety: Labour Hire and Contract Businesses) shall take effect from 1 March 2006.
3. This variation shall take effect from the 1st March 2006.

I. TABBAA, Commissioner

Printed by the authority of the Industrial Registrar.

SYDNEY WATER AWARD 2004

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Australin Services Union of N.S.W.

(No. IRC 1278 of 2006)

Commissioner Tabbaa

10 March 2006

VARIATION

1. Insert after paragraph 4.2 (i), of clause 4, Contract of Employment, of the award published 13 January 2006 (356 I.G. 1), the following new paragraph:

4.2.1 Secure Employment

(a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

(b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph 8.2.1, upon receiving notice under paragraph 8.2.2 or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.

- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph 8.2.3, the employer and employee shall, in accordance with this paragraph, and subject to paragraph 8.2.3, discuss and agree upon:
- (1) whether the employee will convert to full-time or part-time employment; and
 - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph 8.2.6, the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.

(c) Occupational Health and Safety

- (i) For the purposes of this subclause, the following definitions shall apply:
- (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
 - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
 - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;

- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
 - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause 8.3 is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
2. This variation shall take effect from the 1st March 2006.

I. TABBAA, Commissioner.

Printed by the authority of the Industrial Registrar.

HUNTER WATER CORPORATION EMPLOYEES STATE) AWARD 1999

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Australian Services Union of N.S.W., Industrial Organisation of Employees.

(No. IRC 1282 of 2006)

Before The Honourable Mr Deputy President Harrison

10 March 2006

VARIATION

1. Insert after paragraph (i) (11) of clause G4, Casual and Part-Time Employment, of the award published 29 April 2005 (350 I.G. 673), the following new subclause:

(12) Secure Employment

(a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

(b) Casual Conversion

- (i) A casual employee engaged The Hunter Water Corporation on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.

- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
 - (1) whether the employee will convert to full-time or part-time employment; and
 - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.

(c) Occupational Health and Safety

- (i) For the purposes of this subclause, the following definitions shall apply:
 - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
 - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
 - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
 - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
 - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
2. This variation shall take effect from the 1st March 2006.

R. W. HARRISON D.P.

Printed by the authority of the Industrial Registrar.

(4236)

SERIAL C4450

**CROWN EMPLOYEES WAGES STAFF (RATES OF PAY) AWARD
2005**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Zoological Parks Board of New South Wales.

(No. IRC 814 of 2006)

Before Mr Deputy President Sams

3 March 2006

VARIATION

1. Insert in the first paragraph in clause 13, Area, Incidence and Duration after the words "Division of Analytical Laboratories" of the award published 31 March 2006 (358 I.G. 747) the following:

"and will not apply to employees covered by the Zoological Parks Board of New South Wales Wages Employees' Award."

2. This variation shall take effect from 3 March 2006.

P. J. SAMSD.P.

Printed by the authority of the Industrial Registrar.

DIVISIONS OF GENERAL PRACTICE (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Health Services Union, Industrial Organisation of Employees.

(No. IRC 520 of 2006)

Before The Honourable Justice Wright, President

13 February 2006

VARIATION

1. Delete clause 16, Bereavement Leave, of the award published 6 May 2005 (350 I.G. 972), as varied, and insert in lieu thereof the following:

16. Bereavement Leave

An employee shall on production of satisfactory evidence be entitled -

- (a) On the death of a partner, father, mother, brother, sister, child, step-child, mother-in-law or father-in-law, grand-parent, grand-child, next of kin, or close friend - to leave on full salary for a period not exceeding five (5) days.
- (b) For the purpose of this clause the word "partner" shall include a person who lives with, and is in a relationship with the employee, i.e. including a de facto relationship.
- (c) Bereavement entitlements for casual employees
 - (i) Subject to the evidentiary and notice requirements in Clause 16 casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in Clause 16(a).
 - (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. The casual employee is 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 engage a casual employee are otherwise not affected.

2. Delete clause 22, Parental Leave, and insert in lieu thereof the following:

22. 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 purpose of this clause "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 eighteen 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 spouse of the employee or a child who has previously lived continuously with the employee for a period of six months or more.

(b) Basic entitlement

- (i) After at least fifty-two weeks continuous service, parents are entitled to a combined total of 52 weeks parental leave on a shared basis in relation to the birth or adoption of their child. For females, maternity leave (up to four weeks of which are paid) may be taken and for males, Paternity leave may be taken. Adoption leave may be taken in the case of adoption.

Except for the four weeks paid maternity leave entitlement, all parental leave is unpaid.

- (ii) Parental leave is to be available to only one parent at a time, except that both parents may simultaneously access the leave in the following circumstances:

for maternity and paternity leave, an unbroken period of one week at the time of the birth of the child;

for adoption leave, an unbroken period of up to three weeks at the time of the placement of the child.

(c) Maternity leave

- (i) Notice

An employee will provide to the employer at least ten (10) weeks in advance of the expected date of commencement of parental leave:

- (a) a certificate from a registered medical practitioner stating that she is pregnant and the expected date of confinement;
- (b) written notification of the date on which she proposes to commence maternity leave, and the period of leave to be taken; and
- (c) a statutory declaration stating particulars of any period of paternity leave sought or taken by her spouse.

- (ii) Date of Commencement

Subject to subclause (b), paragraph (i), and unless agreed otherwise between the employer and employee, an employee may commence parental leave at any time within six weeks immediately prior to the expected date of the birth.

- (iii) Evidence of fitness

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.

- (iv) Special maternity leave

Where the pregnancy of an employee terminates after 28 weeks and the employee has not commenced maternity leave, the employee may take unpaid special maternity leave of such period as a registered medical practitioner certifies as necessary, except that where an employee is suffering from an illness not related to the direct consequences of the birth, an employee may be entitled to paid sick leave in lieu of, or in addition to, special maternity leave.

- (v) Where leave is granted under subclause 22 (c) (iv), during the period of leave an employee may return to work at any time, as agreed between the employer and the employee, provided that time does not exceed four weeks from the recommencement date desired by the employee.

(vi) Illness Associated With Pregnancy

If, because of an illness associated with her pregnancy, an employee is unable to continue to work then she can elect to use any available paid leave (sick, annual and/or long service leave) or to take sick leave without pay.

Where an employee is entitled to paid maternity leave but because of illness is on sick, annual, or long service leave prior to the birth, such leave ceases two weeks prior to the expected date of birth. The employee then commences maternity leave with the normal provisions applying.

(vii) Effect of Premature Birth on Maternity Leave

An employee who gives birth prematurely, and prior to proceeding on maternity leave, shall be treated as being on maternity leave from the date leave is commenced to have the child. Should an employee return to duty during the period of paid maternity leave, such paid leave ceases from the date duties are resumed.

(viii) Paid maternity leave

Eligible employees are entitled to paid maternity leave as follows:

- (a) An employee is entitled to four weeks at the ordinary rate of pay from the date maternity leave commences.
- (b) paid maternity leave may be paid on a normal fortnightly basis or in advance.

(ix) Further Pregnancy while on Maternity Leave

Where an employee becomes pregnant whilst on maternity leave, a further period of maternity leave may be granted. Should this second period of maternity leave commence during the currency of the existing period of maternity leave, then any residual maternity leave from the existing entitlement lapses.

(d) Paternity leave

(i) Notice

An employee will provide to the employer at least ten weeks prior to each proposed period of paternity leave

- (i) a certificate from a registered medical practitioner which names his partner, states that she is pregnant and the expected date of confinement, or states the date on which the birth took place; and
- (ii) written notification of the dates on which he proposes to start and finish the period of paternity leave; and
- (iii) a statutory declaration stating:
 - (a) he will take that period of paternity leave to become the primary care - giver of a child; and
 - (b) particulars of any period of maternity leave sought or taken by his spouse.

(e) Adoption leave

(i) Notice

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 the child takes place earlier.

Before commencing adoption leave, an employee will provide the employer with a statutory declaration stating:

- (a) the employee is seeking adoption leave to become the primary care-giver of the child;
- (b) particulars of any period of adoption leave sought or taken by the employee's spouse.

(ii) Confirmation

The employer may require an employee to provide confirmation from the appropriate government authority of the placement.

(iii) Non-continuance

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.

(f) Variation of period of parental leave

Unless otherwise agreed between the employer and employee, an employee may apply to their employer to change the period of parental leave on one occasion. Any such change is to be notified at least four weeks prior to the commencement of the changed arrangements.

(g) Parental leave and other entitlements

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

(h) Transfer to a safe job

- (i) 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 salary rate and on the conditions attaching to that job until the commencement of maternity leave.

The position to which the employee is transferred under these circumstances must be as close as possible in status and salary to her substantive position.

- (ii) If the transfer to a safe job is not practicable, the employee may elect, or the employer may require the employee, to commence maternity leave.

(i) Return to work after a period of parental leave

- (i) An employee will notify their intention to return to work after a period of parental leave at least four weeks prior to the expiration of the leave

- (ii) An employee will be entitled to the position they held immediately before proceeding on parental leave. In the case of an employee transferred to a safe job pursuant to subclause (h), the employee will be entitled to return to the position they held immediately before such transfer.
- (iii) 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 comparable in status and salary to that of their former position.

(j) Replacement employees

- (i) A replacement employee is an employee specifically engaged or temporarily promoted or transferred as a result of an employee proceeding on parental leave.
- (ii) A replacement employee will be informed of the temporary nature of the employment and of the rights of the employee who is being replaced.

(k) Effect of Parental Leave on Accrual of Leave, Increments, etc.

When the employee has resumed duties, any period of full-pay leave is counted in full for the accrual of annual or long service leave except in the case of employees who have completed ten years service, the period of unpaid parental leave does not count as service for long service leave purposes. Where the employee has completed ten years service the period of unpaid parental leave shall count as service provided such leave does not exceed six months.

(l) Return for Less than Full-Hours

An employee, on application to the employer, may be entitled to return to duty for less than the full time hours they previously worked.

Such return to work is to be according to the following principles:

the period is to be limited to 12 months, after which full-time duties must be resumed;

the employee is to make an application for return to part time work. This application should be made as early as possible to enable the employer to make suitable staffing arrangements. At least four weeks' notice must be given;

the quantum of part time work to be allowed to individual employees is to be at the discretion and convenience of the employer.

salary and other conditions of employment are to be adjusted on a basis proportionate to the employee's full-time hours of work.

(m) Liability for Superannuation Contributions

During a period of unpaid parental leave neither the employer nor the employee will be required to meet any superannuation liability.

(n) Part Time Employees

Part-time employees as defined in subclause 10(b) of this award are covered by this clause.

(o) Casual Employees

An employer must not fail to re-engage a regular casual employee (see section 53(2) of the *Industrial Relations Act 1996* (NSW)) because:

- (1) the employee or employee's spouse is pregnant; or

- (2) the employee is or has been immediately absent on parental leave.

The rights of an employer in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.

(p) Right to request

- (i) An employee entitled to parental leave may request the employer to allow the employee:

- (A) to extend the period of simultaneous unpaid parental leave use up to a maximum of eight weeks;
- (B) to extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;
- (C) 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.

- (iii) Employee's request and the employer's decision to be in writing

The employee's request and the employer's decision made under clause 22 must be recorded in writing.

- (iv) Request to return to work part-time

Where an employee wishes to make a request under clause 22 such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

(q) 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:

- (A) 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
- (B) 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 or other contact details which might affect the employer's capacity to comply with Clause 38.

- (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 paragraph (a).

3. Delete clause 23, Personal /Carer's Leave, and insert in lieu thereof the following:

23. Personal/Carer's Leave

- (a) From the date of this Award, employees can utilise Personal/Carer's leave to meet family activities and community service responsibilities. This could include a need to respond to an emergency situation, for example:

the illness of a relative;

where a child carer is unable to look after their charge;

a household emergency which requires the employee's presence at home; or

where an employee is unable to attend work because of adverse weather conditions which either prevent attendance or threaten life or property.

It could also be used in the event of planned absences or where some advance notice is given, for example:

to accompany a relative to a medical appointment where there is no element of emergency;

parent/teacher meetings;

education week activities;

to meet elder-care requirements of a relative.

The definition of "family" or "relative" for the purposes of this Award shall be:

- (i) any person to whom the person is related by blood, marriage, affinity (eg: de-facto), or adoption; or
- (ii) any person who is wholly dependent on, or a member of the household of, the person.

Leave for other family and community service requirements may be granted to employees at the discretion of the designated manager.

- (b) The maximum amount of Personal/Carer's leave on full pay, which may be granted is five (5) days in each year of service. Such leave shall not accumulate from year to year.
- (c) Where employees have exhausted paid Personal/Carer's Leave they have the option of using the undermentioned types of leave:
- (i) Sick Leave
- (ii) Annual leave;
- (iii) Long service leave.

Note: In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes the employer and employee shall discuss appropriate arrangements which, as far as practicable, take account of the employer's and employee's requirements.

Where the parties are unable to reach agreement the disputes procedure at Clause 38 should be followed.

- (d) Personal Carers Entitlement for casual employees
- (a) Subject to the evidentiary and notice requirements casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in Clause 23(a) who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.
 - (b) 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. The casual employee is not entitled to any payment for the period of non-attendance.
 - (c) 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.
4. This variation shall take effect on and from 19 December 2005.

F. L. WRIGHT J, *President*

Printed by the authority of the Industrial Registrar.

(334)

SERIAL C4556

**SPASTIC CENTRE OF NEW SOUTH WALES ENTERPRISE (STATE)
AWARD, THE**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Health Services Union, Industrial Organisation of Employees.

(No. IRC 519 of 2006)

Before The Honourable Justice Wright, President

13 February 2006

VARIATION

1. Delete clause 7, Casual Employees, of the award published 7 November 2003 (341 I.G. 945), as varied, and insert in lieu thereof the following:

7. Casual Employees

- (i) A casual employee is an employee who is engaged on an hourly basis, otherwise than as a permanent part-time or full-time employee and shall only be employed in circumstances where another employee is absent. Casuals will be paid one thirty-eighth (1/38th) of the appropriate rate as prescribed in clause 3, Salaries and Wages, plus a loading of 10% for work carried out during (8am-6pm Mon to Fri) and 25% loading for work carried out during (6pm-8am Mon to Fri and weekend shifts) with a minimum payment of two (2) hours for each engagement.
- (ii) Casual employees who are required to work on a public holiday, in lieu of the loading prescribed in subclause (i) of this clause, shall be paid a loading of 150 %.
- (iii) Casual employees shall not be entitled to the provisions of clause 4, Hours, clause 10, Overtime, except subclause viii (b), clause 14, Public Holidays, and clause 18, Sick Leave.
- (iv) Casual employees are entitled to pro rata payment in lieu of annual leave in accordance with the *Annual Holidays Act 1944*.
- (v) Personal Carers Entitlement for casual employees
- (a) Subject to the evidentiary and notice requirements in Clauses 20(i)(b) and 20(i)(d) casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in Clause 20(i)(c)(2) who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.
- (b) 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. The casual employee is not entitled to any payment for the period of non-attendance.
- (c) 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.
- (vi) Bereavement entitlements for casual employees
- (a) Subject to the evidentiary and notice requirements in Clause 19(ii)(a)(2) casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in Clause 20(i)(c)(2).

- (b) 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. The casual employee is not entitled to any payment for the period of non-attendance
- (c) 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 engage a casual employee are otherwise not affected.

2. Delete clause 20, State Personal/Carer's Leave, and insert in lieu thereof the following:

20. State Personal/Carer's Leave

(i) Use of Sick Leave

- (a) An employee other than a casual employee, with responsibilities in relation to a class of person set out in (c) who needs the employee's care and support shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement provided for by clause 18, Sick Leave, for absences to provide care and support for such persons when they are ill or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.
- (b) The employee shall, if required:
 - (1) 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 person. In normal circumstances, an employee must not take carer's leave under this subclause where another person has taken leave to care for the same person, or
 - (2) 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.
- (c) The entitlement to use sick leave in accordance with this subclause is subject to:
 - (1) the employee being responsible for the care of the person concerned; and
 - (2) the person concerned being
 - (A) a spouse of the employee, or
 - (B) a de facto spouse who, in relation to a person, is 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, or
 - (C) a child or an adult child (including an adopted child, a step child, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee, or
 - (D) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis, or
 - (E) a relative of the employee who is a member of the same household where for the purposes of this paragraph:

"relative" means a person related by blood, marriage or affinity

“affinity” means a relationship that one spouse because of marriage has to blood relatives of the other, and

“household” means a family group living in the same domestic dwelling.

- (d) An employee shall, wherever practicable, give The Centre notice prior to the absence of the intention to take leave, the name of the person requiring care and that person’s relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify The Centre by telephone of such absence at the first opportunity on the day of absence.

Note: In the unlikely event that more than 10 days sick leave in any year is to be used for caring purposes the employer and employee shall discuss appropriate arrangements which, as far as practicable, take account of the employer’s and employee’s requirements.

Where the parties are unable to reach agreement the disputes procedure at Clause 29 should be followed.

(ii) Unpaid Leave for Family Purpose

An employee may elect, with the consent of The Centre, to take unpaid leave for the purpose of providing care and support to a member of a class of person set out in subparagraph (ii) of paragraph (c) above who is ill or who require care due to an unexpected emergency.

(iii) Annual Leave

- (a) An employee may elect with the consent of the employer, subject to the *Annual Holidays Act 1944*, to take annual leave not exceeding ten days in single-day periods or part thereof in any calendar year at a time or times agreed by the parties.
- (b) Access to annual leave, as prescribed in paragraph (a) of this subclause shall be exclusive of any shutdown period provided for elsewhere under this award.
- (c) 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.
- (d) An employee may elect with the employers agreement to take annual leave at any time within a period of 24 months from the date at which it falls due

(iv) Time Off in Lieu of Payment for Overtime

- (a) For the purpose of providing care and support for a person in accordance with subclause (i) of this clause, and the provision of clause 10, Overtime, the following provision shall apply.
- (b) An employee may elect, with the consent of The Centre, to take time off in lieu of payment for overtime at a time or times agreed with the employer within twelve (12) months of the said election.
- (c) 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.
- (d) If, having elected to take time as leave in accordance with paragraph (a) above the leave is not taken for whatever reason, payment for time accrued at overtime rates shall be made at the expiry of the twelve (12) month period or on termination.
- (e) Where no election is made in accordance with the said paragraph (a) the employee shall be paid overtime rates in accordance with this award.

- (v) Make-up Time
 - (a) An employee may elect, with the consent of The Centre, to work “make up time”, under which the employee takes time off ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in the award, at the ordinary rate of pay.
 - (b) An employee on shift work may elect, with the consent of The Centre, 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.
 - (vi) Accumulated Days Off
 - (a) An employee may elect, with the consent of The Centre, to take an accumulated day off at any time.
 - (b) An employee may elect, with the consent of The Centre, to take accumulated days off in part day amounts.
 - (c) An employee may elect, with the consent of The Centre, to accrue some or all accumulated days off for the purpose of creating a bank to be drawn upon at a time mutually agreed between the employer and employee or subject to reasonable notice by the employee or the employer.
3. Delete clause 22, Parental Leave, and insert in lieu thereof the following:

22. Parental Leave

- (i) All employees are entitled to parental leave in accordance with the provisions of the *Industrial Relations Act 1996*.
- (ii)
 - (a) Full-time employees and permanent part-time employees are eligible for paid parental leave in accordance with the following provisions:
 - (b) Permanent employees are eligible for paid parental leave when they have completed at least three (3) years of continuous service.
 - (c) Employees who are eligible for paid parental leave are entitled to such leave as follows:
 - (1) Paid Component of Parental Leave:
 - (A) Paid Maternity Leave - an eligible employee is entitled to four weeks paid maternity leave at ordinary pay from the date the maternity leave commences. In addition, an eligible employee will receive one week’s leave at ordinary pay for four (4) consecutive fortnights, on returning to their normal duties.

Maternity leave may commence up to nine weeks prior to the expected date of birth. It is not compulsory for an employee to take this period off work. However, if an employee decides to work during this period, it is subject to the employee being able to satisfactorily perform the full range of normal duties.
 - (B) Paid Paternity Leave - an eligible employee is entitled to one week paid paternity leave in any one year at ordinary pay, which must commence within four weeks of the birth of the child (Eligible employees will be as defined in the *Industrial Relations Act 1996*.)
 - (C) Paid Adoption Leave - an eligible employee is entitled to paid adoption leave of four weeks from and including the date of taking custody of the child. In addition,

an eligible employee will receive one week's leave at ordinary pay for four (4) consecutive fortnights, on returning to their normal duties.

- (D) Such leave may be paid:
- (i) on a normal fortnightly or monthly basis;
 - (ii) in advance in a lump sum for the first four (4) weeks of entitlement;
 - (iii) for the first four (4) weeks of entitlement at the rate of half pay over a period of eight (8) weeks on a regular fortnightly basis for maternity or adoption leave.

Annual and/or long service leave credits can be combined with periods of maternity leave or adoption leave on half pay to enable an employee to remain on full pay for that period.

- (2) Unpaid Component of Parental Leave:
- (A) Unpaid Maternity Leave - An employee is entitled to a further period of unpaid maternity leave of not more than forty-eight (48) weeks.
 - (B) Unpaid Paternity Leave - An employee is entitled to a further period of unpaid paternity leave of not more than three (3) weeks, to be taken in conjunction with a period of paid paternity leave, unless otherwise agreed by the employer and employee.
 - (C) Unpaid Adoption Leave - An employee is entitled to unpaid adoption leave as follows:
 - (i) where the child is under the age of twelve (12) months - a period of not more than forty-eight (48) weeks from date of taking custody;
 - (ii) where the child is over the age of twelve (12) months - a period of up to forty-eight (48) weeks, such period to be agreed upon by both the employee and the employer.
 - (iii) an employee who has once met the conditions for paid maternity leave and paid adoption leave will not be required to again work the three (3) years continuous service in order to qualify for a further period of maternity leave, unless:
 - (a) there has been a break in service where the employee has been re-employed or re-appointed after a resignation, medical retirement or after her services have been otherwise dispensed with: or retirement or after her services have been otherwise dispensed with; or
 - (b) the employee has completed a period of leave without pay of more than forty (40) weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay or leave without pay associated with an illness of injury compensable under the *Workers' Compensation Act*.
 - (D) An employee who intends to proceed on maternity or paternity leave should formally notify the employer of such intention as early as possible, so that arrangements associated with the absence can be made. Written notice of not less than eight (8) weeks prior to the commencement of the leave should accordingly be

- given. This notice must include a medical certificate stating the expected date of birth and should also indicate the period of leave desired.
- (E) In the case of notification of intention to take adoption leave, due to the fact that an employee may be given little notice of the date of taking custody of a child, employees who believe that, in the reasonably near future, they will take custody of a child, should formally notify their employer as early as practicable of the intention to take adoption leave. This will allow arrangements associated with the adoption leave to be made.
 - (F) After commencing maternity leave or adoption leave, an employee may vary the period of her maternity leave or adoption leave, once, without the consent of the employer and otherwise, with the consent of the employer. A minimum of four (4) weeks' notice must be given, although an employer may accept less notice if convenient.
 - (G) Any person who occupies the position of an employee on parental leave must be informed that the employee has the right to return to her former position. Additionally, since an employee also has the right to vary the period of her maternity leave or adoption leave, offers of temporary employment should be in writing, stating clearly the temporary nature of the contract of employment. The duration of employment should also be set down clearly, to a fixed date or until the employee elects to return to duty, whichever occurs first.
 - (H) When an employee has resumed duties, any period of full pay leave is counted in full for the accrual of annual and long service leave and any period of maternity leave or adoption leave on half pay is taken into account to the extent of one-half thereof when determining the accrual of annual and long service leave.
 - (I) Except in the case of employees who have completed ten (10) years service, the period of parental leave without pay does not count as service for long service leave purposes. Where the employee has completed ten (10) years service the period of parental leave without pay shall count as service for long service leave purposes provided such leave does not exceed six (6) months.
 - (J) Parental leave without pay does not count as service for incremental purposes. Periods of parental leave on full pay and at half pay are to be regarded as service for incremental progression on a pro-rata basis.
 - (K) Where public holidays occur during a period of paid parental leave, payment is at the rate of parental leave received, that is the public holidays occurring in a period of full pay parental leave are paid at the full rate and those occurring during a period of half pay leave are paid at the half rate.
 - (L) If because of an illness associated with her pregnancy an employee is unable to continue to work then she can elect to use any available paid leave (sick, annual and/or long service leave) or to take sick leave without pay.
 - (M) Where an employee is entitled to paid maternity leave, but because of illness, is on sick, recreation, long service leave, or sick leave without pay prior to the birth, such leave ceases four (4) weeks prior to the expected date of the birth. The employee then commences maternity leave with the normal provisions applying.
 - (N) Where, because of an illness or risk associated with her pregnancy, an employee cannot carry out the duties of her position, an employer is obliged, as far as practicable, to provide employment in some other position that she is able to satisfactorily perform. A position to which an employee is transferred under these circumstances must be as close as possible in status and salary to her substantive position.

- (O) In the event of a miscarriage any absence from work is to be covered by the current sick leave provisions.
- (P) In the case of stillbirth, an employee may elect to take sick leave, subject to the production of a medical certificate, or maternity leave. She may resume duty at any time provided she produces a doctor's certificate as to her fitness.
- (Q) An employee who gives birth prematurely, and prior to proceeding on maternity leave shall be treated as being on maternity leave from the date leave is commenced to have the child. Should an employee return to duty during the period of paid maternity leave, such paid leave ceases from the date duties are resumed.
- (R) An employee returning from parental leave has the right to resume their former position. Where this position no longer exists the employee is entitled to be placed in a position nearest in status and salary to that of her former position and for which the employee is capable or qualified.
- (S) Employees may make application to their employer to return to duty for less than the full-time hours they previously worked.
 - (1) Employees who return to work under this arrangement will be paid a pro-rata amount of the additional four (4) weeks paid maternity or adoption leave at ordinary pay as set out in clause (ii) (c) (1) (A).
- (T) Where an employee becomes pregnant while on maternity leave, a further period of unpaid maternity leave shall be granted. Should this second period of maternity leave commence during the currency of the existing period of maternity leave, then any residual maternity leave from the existing entitlement lapses.

A permanent employee who has returned to work after parental leave, must complete at least one (1) year of continuous service prior to the expected date of birth or prior to the date of taking custody of the child before they can again become eligible for paid parental leave.

(iii) An employer must not fail to re-engage a regular casual employee (see section 53(2) of the *Industrial Relations Act 1996* (NSW)) because:

- (a) the employee or employee's spouse is pregnant; or
- (b) the employee is or has been immediately absent on parental leave.

The rights of an employer in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.

(iv) Right to request

- (a) An employee entitled to parental leave may request the employer to allow the employee:
 - (1) to extend the period of simultaneous unpaid parental leave use up to a maximum of eight weeks;
 - (2) to extend the period of unpaid parental leave for 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.

- (b) 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.
- (c) Employee's request and the employer's decision to be in writing
- The employee's request and the employer's decision made under Clause 22 must be recorded in writing.
- (d) Request to return to work part-time
- Where an employee wishes to make a request under Clause 22 such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.
- (v) Communication during parental leave
- (a) 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.
- (b) 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 or other contact details which might affect the employer's capacity to comply with Clause 22.
- (c) 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 paragraph (a).
4. This variation shall take effect on and from 19 December 2005.

F. L. WRIGHT J, *President*

SOCIAL AND COMMUNITY SERVICES EMPLOYEES (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Australian Services Union of N.S.W., Industrial Organisation of Employees.

(No. IRC 1276 of 2006)

Before Commissioner Tabbaa

15 March 2006

VARIATION

1. Delete clause 1, Index, of the award published 2 August 2002 (3357 I.G. 559), and inset in lieu thereof the following:

1. Index

Clause No.	Subject Matter
------------	----------------

PART I - INDEX, DEFINITIONS

- | | |
|----|-------------|
| 1. | Index |
| 2. | Definitions |

PART II - ENGAGEMENT OF EMPLOYEES

- | | |
|----|----------------------|
| 3. | Terms of Engagement |
| 4. | Full-Time Employees |
| 5. | Part-Time Employees |
| 6. | Fixed Term Employees |
| 7. | Casual Employees |
| 8. | Live-in Employee |
| 9. | Traineeships |

PART III - HOURS OF WORK

- | | |
|-----|------------------------------------|
| 10. | Secure Employment |
| 11. | Hours of Work |
| 12. | Overtime |
| 13. | Time Off in Lieu of Overtime |
| 14. | Call Back |
| 15. | Shift Work |
| 16. | Roster of Hours |
| 17. | Excursions |
| 18. | Meal Breaks |
| 19. | Breaks Between Shifts and Overtime |

PART IV - CLASSIFICATIONS, EXEMPTIONS, EXCLUSIONS, WAGES AND SUPERANNUATION

- | | |
|-----|--|
| 20. | Classifications, Exemptions and Exclusions |
| 21. | Translation |
| 22. | Rates of Pay |
| 23. | Regrading and Classification Committee |
| 24. | Incremental Placement and Advancement |

25. Higher Duties
26. Superannuation
27. Payment of Wages
28. Salary Packaging
29. Time and Pay Records
30. State Wage Case

PART V - ALLOWANCES, EXPENSES AND AMENITIES

31. Sleepover Allowance
32. First Aid Allowance
33. On Call Allowance
34. Motor Vehicle Allowance
35. Expenses
36. Amenities

PART VI - LEAVE

37. Sick Leave
38. Annual Leave
39. Annual Leave Loading
40. Long Service Leave
41. Calculation of Continuous Service
42. Public Holidays
43. Personal/Carer's Leave
44. Bereavement Leave
45. Parental Leave
46. Leave Without Pay
47. Jury Service

PART VII - GRIEVANCE AND DISPUTES SETTLING PROCEDURE, TERMINATION AND ORGANISATIONAL CHANGE AND REDUNDANCY

48. Grievance and Dispute Settling Procedure
49. Termination of Employment
50. Organisational Change and Redundancy

PART VIII - MISCELLANEOUS PROVISIONS

51. Occupational Health and Safety
52. Protective Clothing and Safety Equipment
53. Anti-Discrimination
54. Employees' Indemnity
55. Posting of Award
56. Union Notices
57. Right of Entry
58. Labour Flexibility
59. General Savings
60. Area, Incidence and Duration

PART IX - MONETARY RATES

- Table 1 - Rates of Pay
Table 2 - Allowances
Table 3 - Translations

2. Insert after clause 9, Traineeships, the following new clause:

10. Secure Employment

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
- (1) whether the employee will convert to full-time or part-time employment; and
 - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the

same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

(vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

(viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.

(c) Occupational Health and Safety

(i) For the purposes of this subclause, the following definitions shall apply:

(1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.

(2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.

(ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):

(1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

(2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;

(3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and

(4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.

(iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.

(d) Disputes Regarding the Application of this Clause

Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.

(e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

3. Renumber the clauses in the body of the award to reflect clause 1, Index.
4. This variation shall take effect from the 7 March 2006.

I. TABBAA, Commissioner

Printed by the authority of the Industrial Registrar.

STATE TRANSIT AUTHORITY OF NEW SOUTH WALES FERRIES (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Sydney Ferries Corporation.

(No. IRC 342 of 2006)

Before The Honourable Justice Wright, President

3 February 2006

VARIATION

1. Insert in numerical order in clause 1, Arrangement of the award published 26 November 2004 (347 I.G. 505), the following new clause number and subject matter:

24A. Parental Leave

2. Delete subclause 2.4, of clause 2, Definitions, and insert in lieu thereof the following:

2.4 "Employer" means Sydney Ferries Corporation and the State Transit Authority of New South Wales."

3. Delete paragraph 23.3.1, of clause 23, Personal/Carer's Leave, and insert in lieu thereof the following:

23.3.1 An employee may elect with the consent of the Employer, subject to the *Annual Holidays Act* 1944, to take annual leave not exceeding ten days in single day periods or part thereof, in any calendar year at a time or times agreed by the parties."

4. Insert after paragraph 23.3.3, of the said clause 23, the following new paragraph:

23.3.4 An employee may elect with the employers agreement to take annual leave at any time within a period of 24 months from the date at which it falls due."

5. Insert after subclause 23.6, of the said clause 23, the following new subclause:

23.7 Personal Carers Entitlement for casual employees

23.7.1 Subject to the evidentiary and notice requirements in subclauses 23.1.2 and 23.1.4 casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed for the purposes in subclause 23.1.3 of this clause who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.

23.7.2 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. The casual employee is not entitled to any payment for the period of non-attendance.

23.7.3 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."

6. Insert after subclause 24.5, of clause 24, Bereavement Leave, the following new subclause:

24.6 Bereavement entitlements for casual employees

24.6.1 Subject to the evidentiary and notice requirements in sub-clause 24.2 casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in subclause 23.1.3 of Clause 23.1 Personal/Carers Leave

24.6.2 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. The casual employee is not entitled to any payment for the period of non-attendance

24.6.3 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 engage a casual employee are otherwise not affected."

7. Insert after clause 24, Bereavement Leave, the following new clause:

24A. Parental Leave

- (1) The following provisions shall apply in addition to those set out in the Part 4 of the *Industrial Relations Act 1996* (NSW).
- (2) An employer must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:
- (a) the employee or employee's spouse is pregnant; or
 - (b) the employee is or has been immediately absent on parental leave.

The rights of an employer in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.

- (3) Right to request
- (a) An employee entitled to parental leave may request the employer to allow the employee:
 - (i) to extend the period of simultaneous unpaid parental leave use up to a maximum of eight weeks;
 - (ii) to extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;
 - (iii) 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.
 - (b) 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.
 - (c) Employee's request and the employer's decision to be in writing

The employee's request and the employer's decision made under 3(a)(ii) and 3(a)(iii) must be recorded in writing.

(d) Request to return to work part-time

Where an employee wishes to make a request under 3(a)(iii), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

(4) Communication during parental leave

(a) 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:

(i) 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

(ii) 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.

(b) 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.

(c) 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 paragraph (a)."

8. This variation shall take effect on and from 19 December 2005.

F. L. WRIGHT J, *President*

Printed by the authority of the Industrial Registrar.

CROWN EMPLOYEES (NSW FIRE BRIGADES RETAINED FIREFIGHTING STAFF) AWARD 2005

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Public Employment Office.

(No. IRC 373 of 2006)

Before The Honourable Justice Wright, President

8 March 2006

VARIATION

1. Delete subclause 13.6, of clause 16, Parental Leave, of the award published 15 July 2005 (352 I.G. 424), and insert in lieu thereof the following:

13.6 Simultaneous taking of Parental Leave

Subject to subclause 13.20.1.1, 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:

13.6.1 For maternity and paternity leave, an unbroken period of up to one week at the time of the birth of the child;

13.6.2 For adoption leave, an unbroken period of up to three weeks at the time of the placement of the child.

2. Delete paragraph 13.10.2, of the said clause 13, and insert in lieu thereof the following:

13.10.2 Subject to the provisions of subclause 13.20, an employee may extend the period of parental leave at any time with the agreement of the Commissioner. The period of leave can be extended by such an agreement beyond the maximum period of leave authorised by this clause.

3. Insert after subclause 13.19 of the said clause 13, the following new subclauses:

13.20 Right to request

13.20.1 An employee entitled to parental leave may request the employer to allow the employee:

13.20.1.1 to extend the period of simultaneous parental leave up to a maximum of eight weeks;

13.20.1.2 to extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;

to assist the employee in reconciling work and parental responsibilities.

13.20.2 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.

- 13.20.3 Employee's request and the employer's decision to be in writing:
- The employee's request and the employer's decision made under 13.20.1.1 and 13.20.1.2 must be recorded in writing.
- 13.21 Communication during parental leave
- 13.21.1 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:
- 13.21.1.1 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
- 13.21.1.2 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.
- 13.21.2 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 and whether the employee intends to return to work.
- 13.21.3 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 paragraph 13.21.1.
4. Delete paragraph 14.3.1, of clause 14, Personal Carers Leave, and insert in lieu thereof the following:
- 14.3.1 An employee may elect, with the consent of the employer to take annual leave not exceeding ten days in single-day periods, or part thereof, in any calendar year at a time or times agreed by the parties.
5. Insert after paragraph 14.3.1, of the said clause 14, the following new paragraph:
- 14.3.2 An employee may elect with the employers agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.
6. This variation shall take effect on and from 19 December 2005.

F. L. WRIGHT J, *President*

CROWN EMPLOYEES (NSW FIRE BRIGADES FIREFIGHTING STAFF) AWARD 2005

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Public Employment Office.

(No. IRC 372 of 2006)

Before The Honourable Justice Wright, President

8 March 2006

VARIATION

1. Delete subclause 21.6, of clause 21, Parental Leave, of the award published 8 July 2005 (352 I.G. 270), and insert in lieu thereof the following:

21.6 Simultaneous taking of Parental Leave

Subject to subclause 21.20.1.1, 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:

21.6.1 For maternity and paternity leave, an unbroken period of up to one week at the time of the birth of the child;

21.6.2 For adoption leave, an unbroken period of up to three weeks at the time of the placement of the child.

2. Delete paragraph 21.10.2, of the said clause 21, and insert in lieu thereof the following:

21.10.2 Subject to the provisions of subclause 21.20, an employee may extend the period of parental leave at any time with the agreement of the Commissioner. The period of leave can be extended by such an agreement beyond the maximum period of leave authorised by this clause.

3. Insert after subclause 21.19, of the said clause 21, the following new subclauses:

21.20 Right to request

21.20.1 An employee entitled to parental leave may request the employer to allow the employee:

21.20.1.1 to extend the period of simultaneous parental leave up to a maximum of eight weeks;

21.20.1.2 to extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;

to assist the employee in reconciling work and parental responsibilities.

21.20.2 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.

21.20.3 Employee's request and the employer's decision to be in writing:

The employee's request and the employer's decision made under 21.20.1.1 and 21.20.1.2 must be recorded in writing.

21.21 Communication during parental leave

21.21.1 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:

21.21.1.1 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

21.21.1.2 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.

21.21.2 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 and whether the employee intends to return to work.

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 paragraph 21.21.1.

4. This variation shall take effect on and from 19 December 2005.

F. L. WRIGHT J, *President*

Printed by the authority of the Industrial Registrar.

**NEW SOUTH WALES LOTTERIES CORPORATION (SALARIES,
ALLOWANCES AND CONDITIONS OF EMPLOYMENT) 2004
AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales, Industrial Organisation of Employees.

(No. IRC 1286 of 2006)

Before The Honourable Justice Schmidt

17 March 2006

VARIATION

1. Delete subclause 9.5, of clause 9, Categories of Employment, of the award published 23 December 2005 (355 I.G. 636), and insert in lieu thereof the following:

9.5 Secure Employment

(a) Objective of this Clause

The objective of this clause is for the Corporation to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the Corporation's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full time or part time employees,

(b) Casual Conversion

- (i) A casual employee engaged by the Corporation on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full time employment or part time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) The Corporation shall give the employee notice in writing of the provisions of this subclause within four weeks of the employee having attained such a period of six months. However, the employee retains his or her right of election under this subclause if the Corporation fails to comply with this notice.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full time or part time employment, and within four weeks of receiving such notice from the employee, the Corporation shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through Clause 34 Grievance and Dispute Resolution of this award.
- (iv) Any casual employee who does not, within four weeks of receiving written notice from the Corporation, elect to convert his or her ongoing contract of employment to full time employment or part time employment will be deemed to have elected against any such conversion.

- (v) Once a casual employee has elected to become and been converted to a full time employee or a part time employee, the employee may only revert to casual employment by written agreement with the Corporation.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full time or part time employment in accordance with paragraph (b)(iii), the Corporation and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
 - (a) whether the employee will convert to full time or part time employment; and
 - (b) if it is agreed that the employee will become a part time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part time employment provisions of this award pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW)

Provided that an employee who has worked on a full time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full time employment and an employee who has worked on a part time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the Corporation and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full time or part time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full time or part time employment, it shall be dealt with as far as practicable and with expedition through Clause 34 Grievance and Dispute Resolution of this award.
 - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
 - (a) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
 - (b) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
 - (ii) The Corporation when engaging a labour hire business and/or a contract business to perform work wholly or partially on the Corporation's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
 - (a) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

- (b) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
 - (c) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees: and
 - (d) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to Clause 34 Grievance and Dispute Resolution of this Award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

M. SCHMIDT J.

(001)

SERIAL C4594

BUILDING AND CONSTRUCTION INDUSTRY (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Construction, Forestry, Mining and Energy Union (New South Wales Branch) , Industrial Organisation of Employees.

(No. IRC 1269 of 2006)

Before The Honourable Justice Kavanagh

14 March 2006

VARIATION

1. Insert in numerical order in clause 2, Arrangement, of the award published 31 August 2001 (327 I.G. 279), the following new clause number and subject matter:

12.4.9. Occupational Health and Safety for employees of labour hire employers

2. Insert after subclause 12.8, of clause 12, Employer And Employee Duties, the following new subclause:

12.4.9 Occupational Health and Safety for employees of labour hire employers

- (i) For the purposes of this subclause, the following definitions shall apply:

- (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
- (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.

- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):

- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
- (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.

(iii) Nothing in this subclause is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.

(iv) Disputes Regarding the Application of this Clause

Where a dispute arises as to the application or implementation of this sub clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.

(v) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

3. This variation shall take effect from the beginning of the first pay period to commence on or after 14th March, 2006.

T. M. KAVANAGH J.

Printed by the authority of the Industrial Registrar.

BUILDING EMPLOYEES MIXED INDUSTRIES (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Construction, Forestry, Mining and Energy Union (New South Wales Branch) , Industrial Organisation of Employees.

(No. IRC 1269 of 2006)

Before The Honourable Justice Kavanagh

14 March 2006

VARIATION

1. Insert after subclause 24.7, of clause 24, Protection of Employees, of the award published 16 November 2001 (329 I.G. 577), the following new subclause:

24.8 Occupational Health and Safety for employees of labour hire employers

- (i) For the purposes of this subclause, the following definitions shall apply:
- (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
 - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
 - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
 - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
 - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.

(iv) Disputes Regarding the Application of this Clause

Where a dispute arises as to the application or implementation of this sub clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.

(v) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

3. This variation shall take effect from the beginning of the first pay period to commence on or after 14th March, 2006.

T. M. KAVANAGH J.

Printed by the authority of the Industrial Registrar.

JOINERS (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Construction, Forestry, Mining and Energy Union (New South Wales Branch) , Industrial Organisation of Employees.

(No. IRC 1269 of 2006)

Before The Honourable Justice Kavanagh

14 March 2006

VARIATION

1. Insert in clause 37, Protection of Employees, of the award published 26 October 2001 (328 I.G. 1142), the following new subclause:

37.1 Occupational Health and Safety for employees of labour hire employers

- (i) For the purposes of this subclause, the following definitions shall apply:
 - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
 - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
 - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
 - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
 - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
 - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.

(iv) Disputes Regarding the Application of this Clause

Where a dispute arises as to the application or implementation of this sub clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.

(v) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

3. This variation shall take effect from the beginning of the first pay period to commence on or after 14th March, 2006.

T. M. KAVANAGH J.

Printed by the authority of the Industrial Registrar.

PLANT, &c., OPERATORS ON CONSTRUCTION (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Construction, Forestry, Mining and Energy Union (New South Wales Branch), Industrial Organisation of Employees.

(No. IRC 1269 of 2006)

Before The Honourable Justice Kavanagh

14 March 2006

VARIATION

1. Insert in clause 1, Arrangement, of the award published 16 November 2001 (329 I.G. 625), the following new clause number and subject matter and renumber the existing clause 46, Area, Incidence and Duration, to read as clause 47.

46. Occupational Health And Safety For Employees Of
Labour Hire Employers

47. Area, Incidence and Duration

2. Insert after clause 45, Traineeships, the following new clause:

46. Occupational Health and Safety for Employees of Labour Hire Employers

46.1 Occupational Health and Safety for employees of labour hire employers

- (i) For the purposes of this subclause, the following definitions shall apply:

- (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.

- (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.

- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):

- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;

- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and

- (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
 - (iii) Nothing in this subclause is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
 - (iv) Disputes Regarding the Application of this Clause

Where a dispute arises as to the application or implementation of this sub clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
 - (v) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the beginning of the first pay period to commence on or after 14th March, 2006.

T. M. KAVANAGH J.

Printed by the authority of the Industrial Registrar.

(084)

SERIAL C4599

BUILDING CRANE DRIVERS (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Construction, Forestry, Mining and Energy Union (New South Wales Branch) , Industrial Organisation of Employees.

(No. IRC 1269 of 2006)

Before The Honourable Justice Kavanagh

14 March 2006

VARIATION

1. Insert in clause 1, Arrangement, of the award published 22 April 2005 (350 I.G. 345), the following new clause number and subject matter and renumber the existing clause 26, Leave Reserved and clause 27, Area, Incidence and Duration , to read as clause 27 and 28 respectively.

- 26. Occupational Health And Safety For Employees Of Labour Hire Employers
- 27. Leave Reserved
- 28. Area, Incidence and Duration

2. Insert after clause 25, Miscellaneous, the following new clause and renumber the existing clause 26, Leave Reserved and clause 27, Area, Incidence and Duration , to read as clause 27 and 28 respectively:

26. Occupational Health and Safety for Employees of Labour Hire Employers:**26.1 Occupational Health and Safety for employees of labour hire employers**

- (i) For the purposes of this subclause, the following definitions shall apply:

- (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
- (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.

- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):

- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and

- (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
 - (iii) Nothing in this subclause is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
 - (iv) Disputes Regarding the Application of this Clause

Where a dispute arises as to the application or implementation of this sub clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
 - (v) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the beginning of the first pay period to commence on or after 14th March, 2006.

T. M. KAVANAGHJ

Printed by the authority of the Industrial Registrar.

(301)

SERIAL C4600**ENGINE DRIVERS, &c., GENERAL (STATE) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Construction, Forestry, Mining and Energy Union (New South Wales Branch) , Industrial Organisation of Employees.

(No. IRC 1269 of 2006)

Before The Honourable Justice Kavanagh

14 March 2006

VARIATION

1. Insert after clause 17, Casual Labour, in clause 2, Arrangement, of the award published 2 November 2001 (329 I.G. 164), the following new clause number and subject matter:

17A. Secure Employment

2. Insert after clause 17, Casual Labour, the following new clause:

17A. Secure Employment

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.

- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
 - (1) whether the employee will convert to full-time or part-time employment; and
 - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with the clause 16 Part-Time Employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW)

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
 - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
 - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
 - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
 - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
 - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
 - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;

- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
 - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the beginning of the first pay period to commence on or after 14th March, 2006.

T. M. KAVANAGHJ

Printed by the authority of the Industrial Registrar.

CROWN EMPLOYEES (SKILLED TRADES) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Zoological Parks Board of New South Wales.

(No. IRC 816 of 2006)

Before Mr Deputy President Sams

3 March 2006

VARIATION

1. Delete subclause 33.1, of clause 33, Area, Incidence and Duration, of the award published 13 August 2004 (345 I.G. 779), and insert in lieu thereof the following:
 - 33.1 This award shall apply to all employees of the classes specified in clause 3, Rates of Pay, of this Award in the employment of the New South Wales Ambulance Board, Roads and Traffic Authority of NSW and Government organisations to which the Public Sector Employment and Management Act 2002 applies, other than those referred to hereunder. It shall not apply to employees covered by the Sydney Harbour Bridge Employees Award, nor to those employed by the Roads and Traffic Authority, Department of Public Works and Services in Broken Hill, or those employed by the Zoological Parks Board of New South Wales
2. This variation shall take effect from the first full pay period to commence on or after 3 March 2006.

P. J. SAMS *D.P.*

Printed by the authority of the Industrial Registrar.

CROWN EMPLOYEES (SKILLED TRADES) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Construction, Forestry, Mining and Energy Union (New South Wales Branch) , Industrial Organisation of Employees.

(No. IRC 1269 of 2006)

Before The Honourable Justice Kavanagh

14 March 2006

VARIATION

1. Insert in the Arrangement, of the award published 22 June 2001 (325 I.G. 749), the following new clause number and subject matter and renumber the existing clause 33, Area, Incidence and Duration, to read as clause 34.

33. Occupational Health and Safety for Employees of
Labour Hire Employers

34. Area, Incidence and Duration

2. Insert after clause 32, Deduction of Union Membership Fees, the following new clause:

33. Occupational Health and Safety for Employees of Labour Hire Employers

- (i) For the purposes of this subclause, the following definitions shall apply:

- (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.

- (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.

- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):

- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;

- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and

- (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.

- (iii) Nothing in this subclause is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
 - (iv) Disputes Regarding the Application of this Clause

Where a dispute arises as to the application or implementation of this sub clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
 - (v) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the beginning of the first pay period to commence on or after 14th March, 2006.

T. M. KAVANAGH J.

Printed by the authority of the Industrial Registrar.

(537)

SERIAL C4602

PLASTERERS, SHOP HANDS AND CASTERS (STATE) CONSOLIDATED AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Construction, Forestry, Mining and Energy Union (New South Wales Branch) , Industrial Organisation of Employees.

(No. IRC 1269 of 2006)

Before The Honourable Justice Kavanagh

14 March 2006

VARIATION

1. Insert after clause 3, Wages, in the Index of the award published 22 April 2005 (350 I.G.331), the following new clause number and subject matter:

3A. Secure Employment

2. Insert after clause 3, Wages, the following new clause:

3A. Secure Employment

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
 - (1) whether the employee will convert to full-time or part-time employment; and
 - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with the clause 16 Part-Time Employment provisions of this award;

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
 - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety

- (i) For the purposes of this subclause, the following definitions shall apply:
 - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
 - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
 - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
 - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;

- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
 - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the beginning of the first pay period to commence on or after 14th March, 2006.

T. M. KAVANAGH J.

Printed by the authority of the Industrial Registrar.

(357)

SERIAL C4603

GOVERNMENT RAILWAYS (BUILDING TRADES CONSTRUCTION STAFF) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Construction, Forestry, Mining and Energy Union (New South Wales Branch) , Industrial Organisation of Employees.

(No. IRC 1269 of 2006)

Before The Honourable Justice Kavanagh

14 March 2006

VARIATION

1. Delete the Arrangement in the award published 13 May 2005 (350 I.G. 1070), and insert in lieu thereof the following:

Clause No.	Subject Matter
1.	Anti-Discrimination
2.	Definitions
3.	Terms of Employment
4.	Hours
5.	Overtime
6.	Rates of Wages, Tool and Special Allowances
7.	Charge Hands
7A.	Annual Leave Loading
8.	Special Rates
9.	Saturday Work
10.	Sunday Work
10A.	Picnic Day
11.	Travelling Time and Fares
12.	Distant Jobs
13.	Inducement Allowances
14.	Sick Leave
15.	Payment of Wages
16.	Amenities
17.	Clothing and Tools
18.	Union Notices
19.	Notation
20.	Leave Reserved
21.	Personal/Carer's Leave Clause
22.	Dispute Settlement Procedure
23.	Redundancy
24.	Occupational Health And Safety For Employees Of Labour Hire Employers
25.	Area, Incidence and Duration

2. Renumber the clauses in the body of the award to reflect the new Arrangement.
3. Insert after clause 23, Redundancy, the following new clause:

24. Occupational Health and Safety for Employees of Labour Hire Employers

- 24.1 Occupational Health and Safety for employees of labour hire employers

- (i) For the purposes of this subclause, the following definitions shall apply:
- (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
 - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- (ii) The employer engaging a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
 - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
 - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
 - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (iv) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (v) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
4. This variation shall take effect from the beginning of the first pay period to commence on or after 14th March, 2006.

T. M. KAVANAGHJ

GOVERNMENT RAILWAYS (BUILDING TRADES MAINTENANCE STAFF) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Construction, Forestry, Mining and Energy Union (New South Wales Branch) , Industrial Organisation of Employees.

(No. IRC 1269 of 2006)

Before The Honourable Justice Kavanagh

14 March 2006

VARIATION

1. Delete the Arrangement in the award published 13 May 2005 (350 I.G. 1052), and insert in lieu thereof the following:

Clause No.	Subject Matter
1.	Anti-Discrimination
2.	Definitions
3.	Hours
4.	Overtime
5.	Rates of Wages, Tool and Special Allowances
5A.	No Extra Claims
6.	Leading Hands
7.	Special Rates
7A.	Annual Leave Loading
8.	Saturday Work
9.	Sunday Work
10.	Night and/or Shift Work
11.	Travelling Time
12.	Home Passes
13.	Living Allowances
14.	Inducement Allowance
15.	Sharpening Tools
16.	Picnic Day
17.	Tool Lockers or Boxes
18.	Damage to Clothing or Tools
19.	Union Notices
20.	Notation
21.	Terms of Employment
22.	Leave Reserved
23.	Personal/Carer's Leave
24.	Sick Leave
25.	Dispute Resolution Procedure
26.	Redundancy
27.	Occupational Health And Safety For Employees Of Labour Hire Employers
28.	Area, Incidence and Duration

2. Renumber the clauses in the body of the award to reflect the new Arrangement.
3. Insert after clause 26, Redundancy, the following new clause:

27. Occupational Health and Safety for Employees of Labour Hire Employers

27.1 Occupational Health and Safety for employees of labour hire employers

- (i) For the purposes of this subclause, the following definitions shall apply:
- (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
 - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- (ii) The employer engaging a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
 - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
 - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
 - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (iv) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this sub clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (v) This sub clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

4. This variation shall take effect from the beginning of the first pay period to commence on or after 14th March, 2006.

T. M. KAVANAGH *J.*

Printed by the authority of the Industrial Registrar.

GLASS WORKERS (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Construction, Forestry, Mining and Energy Union (New South Wales Branch) , Industrial Organisation of Employees.

(No. IRC 1269 of 2006)

Before The Honourable Justice Kavanagh

14 March 2006

VARIATION

1. Insert after paragraph (3)(L), of clause 21, General Conditions, of the award published 20 April 2001 (324 I.G. 84), the following new paragraph and renumber the existing paragraph 21(3)(m) to read as 21(3)(n).

21(3)(m) Occupational Health and Safety

- (i) For the purposes of this subclause, the following definitions shall apply:
- (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
 - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
 - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
 - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
 - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.

(iv) Disputes Regarding the Application of this Clause

Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.

(v) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

3. This variation shall take effect from the 14 March 2006.

T. M. KAVANAGH J.

Printed by the authority of the Industrial Registrar.

**CROWN EMPLOYEES (PUBLIC SERVICE CONDITIONS OF
EMPLOYMENT) REVIEWED AWARD 2006**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Erratum to Serial C4395 published 10 March 2006.

(357 I.G. 1108)

(No. IRC 4139 of 2005 and 344 of 2006)

ERRATUM

1. Delete section 72 (h)(2) (i) (5), of clause 72, Parental Leave, and substitute the following:
 - (5) A staff member intending to request to return from maternity, adoption or other parent leave on a part time basis or seek an additional period of leave of up to 12 months must notify the Department Head in writing as soon as practicable and preferably before beginning maternity, adoption or other parental leave. If the notification is not given before commencing such leave, it may be given at any time up to 4 weeks before the proposed return on a part time basis, or later if the Department Head agrees.

G. M. GRIMSON *Industrial Registrar.*

Printed by the authority of the Industrial Registrar.

SERIAL C4622

**ENTERPRISE AGREEMENTS APPROVED BY THE INDUSTRIAL
RELATIONS COMMISSION**(Published pursuant to s.45(2) of the *Industrial Relations Act 1996*)**EA06/170 - O'Donnell Griffin (NSW) Installations Division Enterprise Agreement 2005-2008**

Made Between: O'Donnell Griffin -&- the Electrical Trades Union of Australia, New South Wales Branch.

New/Variation: Replaces EA04/48

Approval and Commencement Date: Approved and commenced 17 February 2006.

Description of Employees: The agreement applies to all employees employed by the Installations Division of O'Donnell Griffin located at 38 South Street, Rydalmere NSW 2116, who fall within the coverage of the Electrical, Electronic and Communications Contracting Industry (State) Award.

Nominal Term: 31 Months.

EA06/171 - Boral Roofing Wyee Enterprise Agreement 2006

Made Between: Boral Montoro Pty Limited -&- The Federated Brick, Tile and Pottery Industrial Union of Australia, New South Wales Branch.

New/Variation: Replaces EA04/24.

Approval and Commencement Date: Approved 23 March 2006 and commenced 17 February 2006.

Description of Employees: The agreement applies to all employees of employed by Boral Montoro Pty Limited, Level 39, 50 Bridge Street, Sydney NSW 2000, at the company's Wyee site who are engaged in or in connection with the production of roofing tiles and accessories, who fall within the coverage of the Roofing Tile Makers (State) Award.

Nominal Term: 36 Months.

EA06/172 - Pacific Brands - Minto Distribution Centre and Ancillary Warehouses Agreement 2005

Made Between: Bonds Industries Ltd -&- the National Union of Workers, New South Wales Branch.

New/Variation: Replaces EA04/102.

Approval and Commencement Date: Approved 22 March 2006 and commenced 1 October 2005.

Description of Employees: The agreement applies to employees employed by the Bonds Distribution Centre Located at the Minto and any other finished goods warehouse operated by Bonds in New South Wales, who fall within the coverage of the Storemen and Packers General (State) Award.

Nominal Term: 36 Months.

EA06/173 - Chubb Fire (Major) Contracting Division Electricians (Sydney) Pty Ltd Construction Enterprise Bargaining Agreement 2005-2008

Made Between: Chubb Fire -&- the Electrical Trades Union of Australia, New South Wales Branch.

New/Variation: New.

Approval and Commencement Date: Approved and commenced 15 March 2006.

Description of Employees: The agreement applies to all Division employees employed by Chubb Fire, Sydney Projects Division located at Unit 5, Silvwater Road, Silverwater NSW 2128, who are engaged upon work within the County of Cumberland, who fall within the coverage of the Electrical, Electronic and Communications Contracting Industry (State) Award.

Nominal Term: 31 Months.

EA06/174 - Southern Region Lifesaver Rescue Helicopter Enterprise Agreement 2005

Made Between: Southern Region SLSA Helicopter Rescue Service Pty Ltd -&- The Australian Workers' Union, New South Wales .

New/Variation: Replaces EA02/198.

Approval and Commencement Date: Approved and commenced 24 March 2006.

Description of Employees: Applies to all employees employed by Southern Region SLSA Helicopter Rescue Service Pty Limited, located at Surf House, 1 Notts Avenue, Bondi NSW 2026, who are engaged in piloting, crewing and maintaining the helicopters, but does not cover clerical and managerial employees.

Nominal Term: 27 Months.

EA06/175 - Country Energy Managers and Specialists Enterprise Agreement 2005

Made Between: Country Energy -&- the New South Wales Local Government, Clerical, Administrative, Energy, Airlines & Utilities Union, The Association of Professional Engineers, Scientists and Managers, Australia (NSW Branch).

New/Variation: New.

Approval and Commencement Date: Approved 24 March 2006 and commenced 1 July 2005.

Description of Employees: The agreement applies to all employees employed by Country Energy located at Queanbeyan NSW 2620, who are engaged in middle management and specialists roles, who fall within the coverage of the Country Energy Enterprise Award 2005.

Nominal Term: 36 Months.

EA06/176 - Country Energy Service Delivery Area Managers Enterprise Agreement 2006

Made Between: Country Energy -&- the Electrical Trades Union of Australia, New South Wales Branch, New South Wales Local Government, Clerical, Administrative, Energy, Airlines & Utilities Union.

New/Variation: New.

Approval and Commencement Date: Approved and commenced 24 March 2006.

Description of Employees: The agreement applies to all employees employed by Country Energy who are engaged as Area Managers (Service Delivery) performing the duties and functions as designated by Country Energy, who fall within the coverage of the Country Energy Enterprise Award 2005.

Nominal Term: 36 Months.

EA06/177 - Red Australia Equipment Newcastle Branch Agreement 2005-2008

Made Between: Red Australia Equipment Pty Ltd -&- the Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union, New South Wales Branch.

New/Variation: Replaces EA03/225.

Approval and Commencement Date: Approved and commenced 24 March 2006.

Description of Employees: The agreement applies to all employees employed by Red Australia Equipment Pty Ltd., located at Lot 66 Ayrshire Crescent, Sandgate NSW 2304, in respect of the Newcastle, OneSteel and Gosford operations, engaged in the business and electrical and mechanical repair, who fall within the coverage of the Metal, Engineering and Associated Industries (State) Award.

Nominal Term: 24 Months.

EA06/178 - Diverse Data Communication (NSW) - Construction Enterprise Agreement 2005-2008

Made Between: Diverse Data Communications (NSW) -&- the Electrical Trades Union of Australia, New South Wales Branch.

New/Variation: Replaces EA04/58.

Approval and Commencement Date: Approved and commenced 24 March 2006.

Description of Employees: The agreement applies to all employees employed by Diverse Data Communications (NSW) located at Unit 28/38-46 South Street, Rydalmere NSW 2116, who are engaged in the Installations Division, who fall within the coverage of the Electrical, Electronic and Communications Contracting Industry (State) Award.

Nominal Term: 31 Months.

EA06/179 - Nestle Purina Petcare Blayney (State) Enterprise Agreement 2006-2008

Made Between: Nestle Purina Pet Care -&- the National Union of Workers, New South Wales Branch.

New/Variation: New.

Approval and Commencement Date: Approved 3 March 2006 and commenced 1 January 2006.

Description of Employees: The agreement applies to all employees of Nestle Purina Petcare located at Jarman Crescent, Blayney NSW 2799, who fall within the coverage of the Nestle Purina Petcare, Blayney (State) Enterprise Award.

Nominal Term: 36 Months.

Printed by the authority of the Industrial Registrar.