

# REGISTER OF ENTERPRISE AGREEMENTS

**ENTERPRISE AGREEMENT NO: EA01/81**

**TITLE: New England Trading Proprietary Limited Enterprise Agreement 2000**

**I.R.C. NO:** 2000/5083

**DATE APPROVED/COMMENCEMENT:** 10 November 2000

**TERM:** 24 months

**NEW AGREEMENT OR  
VARIATION:** New

**GAZETTAL REFERENCE:** 27 April 2001

**DATE TERMINATED:**

**NUMBER OF PAGES:** 39

**COVERAGE/DESCRIPTION OF**

**EMPLOYEES:** Applies to the company's employees whose conditions of employment were previously regulated by the Joiners (State) Award, the Building Employees Mixed Industries (State) Award, the Metal and Engineering Industry (New South Wales) Award and the Electricians (State) Award and any splinter awards of the above awards

**PARTIES:** New England Trading Pty Ltd -&- David Allport, Argent, D Brewster, J Coles, Arthur Hampson, D Harvey, T Hill, K Keast, Chae Larkin, Barry McKewin, David Smith, Peter Stuhr, Peter Winter

IT IS AGREED BY THE PARTIES AS FOLLOWS: -

1. **TITLE**

This Agreement shall be known as the New England Trading Proprietary Limited Enterprise Agreement 2000.

2. **ARRANGEMENT**

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### 3. INTENTION

This Agreement has been developed by representatives of the above company and its employees.

The objectives of this Agreement are to;

- To contribute to the long term improvement in the company's performance and so support the labour cost increases which are included in the Agreement;
- To provide the means by which management and its employees can introduce flexibility at the workplace;
- To provide an improved employment environment that encourages and rewards safe-working practices, high quality of work, self-improvement and which will provide increased job satisfaction and security of employment.

### 4. COMMITMENT

4.1 This Agreement was not entered into under duress by any party to it.

4.2 No employee's ordinary rate of pay shall be reduced as a result of this Agreement.

4.3 The parties agree not to pursue any extra claims against each other for the life of this Agreement.

### 5. PARTIES AND SCOPE

5.1 This Agreement will be binding on New England Trading Pty Limited (also known as the employer and the company) on the one hand and the employees of the company on the other.

5.2 This Agreement will regulate totally the terms and conditions of employment of the company's employees previously regulated by: the Clerical and Administrative (State) Award, New England Trading Proprietary Limited Enterprise Agreement 1997, and before the approval of that Agreement, by the:

- Joiners (State) Award
- Metal & Engineering Industry (New South Wales) Award
- Metal & Engineering Industry Remuneration (State) Award
- Building Employees Mixed Industries (State) Award
- Electricians & c. (State) Award
- Clerical and Administrative Employees (State) Award and any splinter Awards of the above Awards.

5.3 Where there is any inconsistency between this Agreement and the Award this Agreement shall prevail to the extent of the inconsistency.

## 6. TERM OF AGREEMENT

This Agreement shall come into effect from the beginning of the first full pay period to commencing on or after the date of approval by the New South Wales Industrial Relations Commission and shall continue in force for **two years** unless terminated beforehand in accordance with s44 of the Industrial Relations Act, 1996.

## 7. PRODUCTIVITY IMPROVEMENT & FLEXIBILITY

7.1 The parties are committed to cooperating positively to increase the efficiency, productivity, level of service and competitiveness of the enterprise to assure the continued profitability and viability of the company.

7.2 The parties are committed to seeking continuous improvement to provide more flexible working arrangements, improvement in the quality of working life, enhanced skills and job satisfaction and to enhance the career opportunities and job security of employees in the enterprise.

7.3 The parties agree that the working party or replacement consultative mechanism established in accordance with Clause 40 of this Agreement will continue to develop means of achieving the above aims.

7.4 An employee may be directed to carry out such duties and use such tools as may be required, which are within the limits of the employees skill, competence and training including but not limited by duties which are incidental and peripheral to the employee's main task or function.

7.5 An instruction issued by the employer or the employer's representative pursuant to subclause 7.4 above shall be consistent with the employer's responsibility to provide a healthy and safe working environment.

## 8. DEFINITIONS

8.1 "Casual Employee" means an employee who is paid and engaged as such.

8.2 "Commission" means the New South Wales Industrial Relations Commission.

8.3 "Confined Space" means a place where the dimensions or nature of which necessitate working in a cramped position or without sufficient ventilation.

8.4 "Employee" means a person employed under the terms and conditions of the Agreement.



Clerk Grade 1	<b>\$459.58</b>
Clerk Grade 2	<b>\$474.32</b>
Clerk Grade 3	<b>\$506.97</b>
Clerk Grade 4	<b>\$549.92</b>
Clerk Grade 5	<b>\$611.31</b>

Junior Clerk using a computer or working as a stenographer:

At 17 years of age	<b>\$225.39</b>
At 18 years of age	<b>\$277.53</b>
At 19 years of age	<b>\$317.36</b>
At 20 years of age	<b>\$374.76</b>

Junior Clerk working without computer use or as a stenographer:

Under 17 years of age	<b>\$176.92</b>
At 17 years of age	<b>\$221.62</b>
At 18 years of age	<b>\$271.48</b>
At 19 years of age	<b>\$307.91</b>
At 20 years of age	<b>\$362.33</b>



#### 9.1(b) Leading Hand

An employee specifically appointed to be a leading hand (as defined) and / or carry out administrative duties in addition to work within his or her trade shall be paid an additional **\$5.23** per day (equivalent to **\$26.15** per week) above the employee's own rate. The above rate includes the special rate detailed in clause 14.0.

9.2 The rates of pay set out in subclause 9.1(a) reflect the parties' agreement on the need for flexibility of jobs and duties in and between work areas, subject only to limitations imposed by individual skill levels. With that aim the parties agree that an employee engaged in any particular classification in this Agreement will be prepared to undertake the work and duties covered by other classifications in order to achieve real demonstrable gains in productivity efficiency and flexibility. On that basis the rates applicable to each classification are in general higher than those which would be payable pursuant to the relevant awards that cover a particular trade or occupation but for this Agreement.

9.3 The rates of pay set out in subclause 9.1(a) are inclusive of industry allowance and all work and expense related allowance other than those specifically provided for in this Agreement.

#### 9.4 RATES OF PAY - TRAINEE APPRENTICES

9.4(a) Trainee Apprentices shall be paid a percentage of the adult trade rate set out in subclause 9.1(a) in accordance with the table below:

Year of Apprenticeship	% of Adult Rate
1 <sup>st</sup> Year	42
2 <sup>nd</sup> Year	56
3 <sup>rd</sup> Year	73
4 <sup>th</sup> Year	85

9.4(b) Any person under 21 years of age entering a trade covered by this Agreement who has completed a pre apprenticeship course of 36 weeks conducted by the Department of Technical & Further Education shall serve a 33 month apprenticeship and the wage shall commence at the second year rate and continue for a period of nine months, at which time the apprentice shall be progressed to the third year rate.

## 9.5 ADJUSTMENT

9.5(a) The rates of pay and allowances set out in subclause 9.1(a), 9.1(b) and 9.4(a), 10, 11, 12, 13, 14, 16(c), 23.1, 35.2 and 38 shall be adjusted by an increase each 6 months from State approval of this Agreement by the sum of percentage increases in the Weighted Average 8 Capital Cities All Groups Consumer Price Index, published by the Australian Bureau of Statistics for the 2 consecutive quarters ending at the end of the quarter prior to the anniversary date or ending at the end of the quarter six months prior to the next anniversary as the case may be. Where there has been no increase or a decrease in the sum of the 2 quarters in the index, the rates will not be varied.

9.5(b) Any employee whose rate of pay at the date of registration of this Agreement is above the rate for the relevant classification set out in subclause 9.1(a) shall have the rate adjusted as follows:

9.5(b)(i) The amount by which the employee's rate exceeds the rate shown in clause 9.1(a) at the date of registration of this Agreement will remain fixed and will not be adjusted;

9.5(b)(ii) The remaining part of the employee's rate which equals the rate shown in subclause 9.1(a) will be adjusted in accordance with subclause 9.5(a) above.

9.5(b)(iii) The new rate of pay for the employee will be the sum of the fixed portion and the adjusted rate.

## 10. TOOL ALLOWANCE

All trades except painters -	<b>\$11.57</b> per week
Painters -	<b>\$4.87</b> per week
Adjusted by the method in clause 9.5.	



10.1 Provided that:

Where the company provides all the tools reasonably required by the tradesperson to perform all the functions of his or her employment, no tool allowance shall be payable. Further that in such cases:

10.2(a) an employee provided with tools shall not be responsible for the loss of such tools where the loss is outside the control of the employee;

10.2(b) an employee provided with tools of trade by the employer shall replace all or any tools of trade lost due to the negligence of the employee, provided that where the tools of trade are locked in a secure location provided by the employer, or at the employers premises, the employee shall not be held responsible for the loss.

10.3 Further provided that the company shall supply all power tools, special jigs and consumable tool parts.

11. LICENCE / REGISTRATION ALLOWANCE

Those employees in the classification of Electrician and Plumber who are licensed, will be paid Licence / Registration allowance Electrician \$24.87 per week, Plumber \$16.95 per week. This allowance shall be paid for all purposes of the Agreement. Adjusted by the method in clause 9.5.

12. CRANE & FORKLIFT ALLOWANCE

Payment of the allowance shall be made as follows:

- 12.(a) Holder of forklift certificate **\$0.53** per day
- 12.(b) Holder of crane certificate **\$1.57** per day  
If both certificates are held **\$2.10** per day
- 12.(c) When required to use the forklift **\$0.53** per day  
When required to use the crane **\$1.57** per day  
If both forklift and crane are used **\$2.10** per day



NOTE : The requirement to use is to be defined as when an employee is placed into the position of rigger or crane driver for 8 hours or more.

13. QUALITY ASSURANCE DUTIES

An employee who is required to carry out quality assurance / quality review functions as part thereof while so engaged shall be paid a rate of \$2.14 per day.



#### 14. SPECIAL RATES

14.1 Level one tradesperson - **\$3.14** per day. The rate shall only apply when an employee has achieved the following level of knowledge, experience and skill base:

14.1(a) The knowledge and skill to strip, repair, prepare, assemble, paint, out-fit furniture, doors and P.C. Items - to all types of modules that are available from the Department of School Education stock of demountable school buildings. The employee shall be capable of completing the work with limited supervision, to a standard acceptable to the N.S.W. Department of Public Works and Services specification and within the company's standard time.

14.1(b) The employee is to demonstrate a level of cooperation and leadership that could lead to future advancement.

14.1(c) The employee ideally should have at least 12 months experience in the repair of demountable school buildings.

14.1(d) The employee should have completed a 4 year apprenticeship and the appropriate technical training course.

#### 14.2 ASBESTOS & STRIPPING OUT

Employees engaged in the stripping out of demountable buildings or otherwise required to use materials containing asbestos or work in close proximity to employees using such materials shall be provided with and shall use all necessary safeguards as required by the appropriate Occupational Health Authority and where such safeguards include the mandatory wearing of protective equipment (ie combination overalls and breathing equipment or similar apparatus) such employee shall be paid **\$0.50** per hour extra whilst so engaged.

#### 15. MIXED FUNCTIONS

15.1 Except as provided for in subclause 15.2, an employee engaged for more than two hours during one day on duties carrying a higher rate than the employee's ordinary classification shall be paid the higher rate for such day. If for two hours or less during one day the employee shall be paid the higher rate for the time so worked.

An employee shall not be taken to be engaged on such duties unless the employee undertakes the full range of duties and responsibilities of the classification carrying the higher rate.

15.2 (a) When employees are employed on renovation or structural alterations to the employer's premises (which do not fall under the definition of maintenance), or away from the factory or yard on construction work (as defined), or fixing work on site (as defined), they shall be paid in accordance

with the rates, allowances and conditions as prescribed in clause 3, Rates of Pay, clause 4, Industry Allowance and Underground Allowance, clause 6, Inclement Weather, clause 12, Special Rates, clause 13, Multi-storey Allowance of Division I, clause 42, Rates of Pay, and clause 47, Multi-Storey Allowance of Division II - Apprentices, of the Building Tradesmen (State) Construction Award published 16 July 1975 and reprinted 23 May 1984 (233 I.G. 1371), as varied, and clause 6, Compensation for Travel Patterns, Mobility Requirements of Employees and the Nature of Employment in the Construction Work Covered by this Award, clause 8, Living Away from Home - Distant Work, of Division I, and clause 15, Compensation for Travel Patterns, Mobility Requirements of Employees and the Nature of Employment in the Construction Work Covered by this Award, and clause 17, Living Away from Home - Distant Work, of Division II, of the Building Tradesmen (State) Construction - 1996 Wage Adjustment Award published 18 April 1997 (297 I.G. 990).

15.2(b) An employee employed on work prescribed in subclause 15.2(a) herein on any part of the day shall be paid the wage rate as prescribed for the whole of that day. Where such entitlement occurs on three or more days in any pay week, such employee shall be paid the wage rate as prescribed for the whole of the week.

## 16. HOURS

16(a) The ordinary working hours shall be 152 hours over a work cycle not exceeding 28 consecutive days to be worked on the following basis:

16(a)(i) nine hours per day, Monday to Friday inclusive, between the hours of 6.30am to 4.00pm during daylight saving; 7.00am to 4.30pm throughout the rest of the year.

16(a)(ii) 1.4 hours of each day worked accruing as an entitlement to take 28 hours in each cycle as rostered time off paid for as though worked.

16(b) Should it be the employer's opinion that insufficient work is available, the arrangement set out in subclause (a) shall be terminated at the end of the then current 28 day cycle and ordinary hours shall be 38 per week over a cycle of 28 consecutive days, worked on the following basis:

16(b)(i) 8 hours per day Monday to Friday with 0.4 hours per day accruing as an entitlement to take one day in each cycle as a rostered day off paid for as though worked.

16(b)(ii) rostered days off may be taken by the employee on a day chosen by the employee subject to reasonable requirements of the employer that the employee be available to enable work schedules to be met.

16(c) When working under the rostering system prescribed at subclause (a) of this clause, employees shall be paid a Roster Allowance of \$13.71 per week.

16(d) Each day of paid leave taken (except a rostered time or a rostered day off) and any holiday prescribed in clause 21, Public Holidays and Holiday Work, occurring during any cycle of 28 days shall be regarded as a day worked for accrual purposes.

16(e) An employee who has not worked, or is not regarded by reason of paragraph (c) above as having worked, a completed 28 day cycle shall receive pro rata accrued entitlements for each day worked or regarded as having been worked in such cycle, payable for the rostered day off or, in the case of termination of employment, on termination.

16(f) Where for any reason an employee is unable to take accrued rostered time off, the employer may elect either to:

16(f)(i) pay penalty rates and provisions as prescribed for Saturday work in clause 19, Weekend Work for the time so accrued (but the employee shall not be entitled to a day off in lieu thereof); or

16(f)(ii) direct the employee to take such accrued time in conjunction with a period of annual leave (save that such time shall not be counted in calculation of any entitlement to Annual Leave Leading).

## 17. REST PERIODS, MEALS & CRIB TIMES

17.1 There shall be a cessation of work and of working time for the purpose of a meal on each day of not less than 30 minutes to be taken no less than 4 hours and no later than 6 hours after the commencement of work. Existing arrangements may be varied by agreement between employer and employees.

17.2 There shall be allowed, without deduction of pay, a rest period of 10 minutes between 9.00am and 11.00am with an additional 5 minutes to allow employees to move from and return to the job.

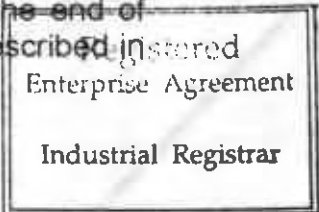
17.3 When an employee is required to work overtime after the usual ceasing time for the day or shift for two hours or more and employee shall be allowed to take, without deduction of pay, a crib time of 20 minutes in duration immediately after such ceasing time and thereafter, after each four hours of continuous work the employee shall be allowed to take also, without deduction of pay, a crib time of 30 minutes in duration. In the event of an employee remaining at work after the usual ceasing time without taking the crib time of 20 minutes and continuing at work for a period of two hours or more, the employee shall be regarded as having worked 20 minutes more than the time worked and be paid accordingly.

17.4 Where shift work comprises three continuous and consecutive shifts of eight hours each per day, inclusive of time worked for accrual purposes as prescribed in clause 16, Hours and clause 20, Shift Work, a crib time of 20 minutes in duration shall be allowed without deduction of pay in each shift.

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such crib time being in lieu of any other rest period of cessation of work elsewhere prescribed by this Agreement.

17.5 For the purposes of this clause "usual ceasing time" is at the end of ordinary hours inclusive of time worked for accrual purposes as prescribed in clauses 16 and 20.



**18. OVERTIME AND SPECIAL TIME**

18.1 All time worked beyond the ordinary time of work, inclusive of time worked for accrual purposes as prescribed in clause 16, Hours shall be paid at the rate of one and a half ordinary rates for the first two hours thereof and at double time thereafter.

18.2 An employee recalled to work overtime after leaving the employer's premises (whether notified before or after leaving the premises) shall be paid for a minimum of 3 hours' work at the appropriate rates for each time the employee is so recalled; provided that, except in the case of unforeseen circumstances arising, the employee shall not be required to work the full three hours if the job he was recalled to perform is completed within a shorter period.

This subclause shall not apply in cases where it is customary for an employee to return to the employer's premises to perform a specific job outside the ordinary working hours or where the overtime is continuous (subject to a reasonable meal break) with the completion or commencement of ordinary working time.

18.3 If an employee requires an employee to work during the time prescribed by clause 17, Rest Periods, Meal and Crib Times, of this Agreement for cessation of work for the purpose of a meal, the employer shall allow the employee whatever time is necessary to make up the prescribed time of cessation and the employee shall be paid at the rate of double time for the period worked between the prescribed time of cessation and the beginning of the time allowed in substitution for the prescribed cessation time; provided, however, that the employer shall not be bound to pay in addition for the time allowed in substitution for the prescribed cessation time; and provided also that if the cessation time is shortened at the request of the employee to the minimum 30 minutes prescribed in clause 17 of this Agreement or to any other extent (not being less than 30 minutes) the employer shall not be required to pay more than the ordinary rates pay for the time worked as a result of such shortening, but such time shall form part of the ordinary working time of the day.

18.4 Overtime work performed by shift workers employed on the second or third shifts on a day when two or three shifts are worked shall be paid for at twice the ordinary rates of payment.

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

shall, except in an emergency, work or be required to work overtime or shift work at times which would prevent attendance at technical school, as required by any statute, award or regulation applicable to the employee.

18.6 When an employee, after having worked overtime and / or a shift for which the employee has not been regularly rostered, finishes work at time when reasonable means of transport are not available, the employer shall provide the employee with conveyance to the employee's home or to the nearest public transport.

18.7 An employee who works so much overtime

18.7(a)(i) between the termination of the employee's ordinary work day or shift and the commencement of the employee's ordinary work in the next day or shift that the employee has not at least ten consecutive hours off duty between these times;

18.7(a)(ii) or on Saturday, Sundays and holidays, not being ordinary working days or on a rostered day off, without having had ten consecutive hours off duty in the twenty four hours preceding the employee's next ordinary day or shift shall, subject to this subclause, be released after the completion of such overtime until the employee has had ten hours off duty without loss of pay for ordinary working time occurring during such absence.

18.7(b) If on the instruction of the employer, such an employee resumes or continues work without having had such ten consecutive hours off duty the employee shall be paid at double rates until the employee is released from duty for such period and the employee shall then be entitled to be absent until the employee has had ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

18.7(c) The provisions of this subclause shall apply in the case of shift workers as if eight hours were substituted for the ten when overtime is worked:

18.7(c)(i) For the purpose of changing shift rosters; or

18.7(c)(ii) Where a shift worker does not report for duty and a shift worker is required to replace such shift worker; or

18.7(c)(iii) Where a shift is worked by arrangement between the employees themselves.

18.8 An employer may require an employee to work reasonable overtime at overtime rates and such employee shall work overtime in accordance with such requirement except as provided for in subclause 18.5.

18.9 An employee who has worked continuously (except for meal or crib times allowed by this Agreement) for 20 hours shall not be required to continue at or recommence work for at least 12 hours.



19. **WEEKEND WORK**

19.1 Overtime work on Saturday shall be paid for at the rate of time and a half for the first two hours and double time thereafter, provided that all time after noon on Saturday will be paid at the rate of double time.

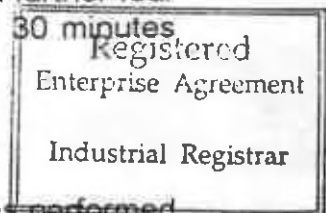
19.2 All time worked on Sunday shall be paid for at the rate of double time.

19.3 An employee required to work overtime on a Saturday or on a Sunday shall be afforded and paid for at least three hours work on a Saturday or four hours work on a Sunday at the appropriate rate.

19.4 An employee working overtime on a Saturday or on a Sunday shall be allowed without deduction of pay, a rest period of ten minutes.

19.5 An employee working overtime on a Saturday or working on a Sunday shall be allowed a paid crib break of 20 minutes after 4 hours work, to be paid for at the ordinary rate of pay but this provision shall not prevent any arrangements being made for taking of a 30 minute meal period, the time in addition to the paid 20 minutes which shall be paid at the ordinary rates of pay.

In the event of an employee being required to work in excess of a further four hours, the employee shall be allowed to take a paid crib time of 30 minutes which shall be paid at the ordinary rate of pay.



20. **SHIFT WORK**

20.1 Except as otherwise prescribed in this clause, where work is performed in shifts the following conditions shall apply;

For the purpose of this clause:

"Afternoon Shift" means a shift finishing after 9.00pm and at or before 11.00pm.

"Night Shift" means a shift finishing after 11.00pm and at or before 7.00am.

"Early morning Shift" means a shift finishing after 12.30pm and before 2.00pm.

"Early afternoon Shift" means a shift finishing after 7.30pm and at or before 9.00pm.

Other than work on Saturday, Sunday or holiday, the rate of pay for afternoon or night shift shall be time and a half and the rate for early morning and early

afternoon shift shall be time and a quarter, provided that the employee is employed continuously for five shifts Monday to Friday in any week. The observance of a holiday in any week shall not be regarded as a break in continuity for the purpose of this subclause.

20.2 An employee who is employed for less than five consecutive shifts Monday to Friday shall be paid for each day the employee works of any of the shifts referred to in subclause 20.1 at the rate of time and a half for the first two hours and double time thereafter provided that when a job finishes after proceeding on shift work for more than one week, or the employee terminates their services during the week, the employee shall be paid at the rate specified in subclause 20.1 hereof for the time actually worked.

20.3(a) The ordinary hours of both afternoon and night shift shall be eight hours daily inclusive of meal breaks. Provided that where shift work comprises three continuous and consecutive shifts of eight hours each per day, a crib time of twenty minutes in duration shall be allowed without deduction of pay in each shift, such crib time being in lieu of any other rest period or cessation of work elsewhere prescribed by this Agreement.

Employees on shift work shall accrue 0.4 of one hour for each eight-hour Shifts worked to allow one complete shift to be taken off as a paid shift for every twenty-shift cycle. This twentieth shift shall be paid for at the appropriate shift rate as prescribed by this clause.

Paid leave taken during any cycle of four weeks and public holidays as prescribed by clause 21, Public Holidays and Holiday Work, shall be regarded as shifts worked for accrual purposes.

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Except as provided above, employees not working a complete four-week cycle shall be paid accrued pro rata entitlements for each shift worked on the programmed shift off or, in the case of termination of employment on termination.

The employer and employees shall agree in writing upon arrangements for rostered paid days off during the twenty-day cycle or for accumulation of accrued days to be taken at or before the end of the particular contract provided that such accumulation shall be limited to no more than five such accrued days and when taken, the days shall be regarded as days worked for accrual purposes in the particular twenty shift cycle.

Once such days have been rostered they shall be taken as paid days off provided that where an employer, for emergency reasons requires an employee to work on the employee's rostered day off, then by agreement between the employer and employee the rostered day shall be taken on another day; or if this is impracticable or no agreement can be reached, the employee shall be paid, in addition to the employee's accrued entitlement, the penalty rates prescribed in subclause 20.7 herein.

20.3(b) For the purpose of this clause an employee shall not be required

to work for more than five hours without a meal break.

20.4 An employee shall be given at least 48 hours' notice of a requirement to work shift work.

20.5 The hours for shift workers when fixed, shall not be altered except for breakdowns or other causes beyond the control of the employer, provided that notice of such alteration shall be given to the employee not later than ceasing time of the previous shift.

20.6 For all work performed on a Saturday, Sunday or holiday, the provisions of clause 18, Overtime and Special Time, clause 19, Weekend Work and 21, Public Holidays and Holiday Work, shall be applicable in lieu of the rate prescribed in this clause.

20.7 Work in excess of shift hours, Monday to Friday, other than Holidays shall be paid at double time, provided that these rates shall be based in each case on ordinary rates.

20.7 Shift work hours shall be worked between Monday to Friday Inclusive provided that an ordinary night shift commencing before, and extending beyond midnight Friday, shall be regarded as a Friday shift.

20.8 The variations to this clause shall not apply so as to reduce the rates of pay and/or conditions of work of any employee.

## 21. PUBLIC HOLIDAYS AND HOLIDAY WORK

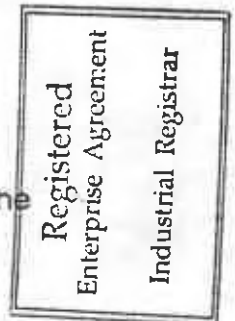
21.1 An employee, other than a casual employee (as defined) shall be entitled to the following holidays without deduction of pay. Provided that if any other day be by a State Act of Parliament or State Proclamation substituted for any of the said holidays, the day so substituted shall be observed.

New Year's Day; Australia Day; Good Friday; Easter Monday; Anzac Day; Queen's Birthday; Eight Hour Day or Labour Day; Christmas Day; Boxing Day or such other day as is generally observed in the Newcastle area as a substitute for any of the said days respectively.

21.2 In addition to the holidays prescribed in 21.1 of this clause employees shall be entitled to the following additional public holidays:

(a) New England Trading Social Day. The date of which shall be set by agreement between the employer and employees, save that if no agreement can be reached, the holiday shall be the day after the New Year's Day or substitute public holiday as the case may require.

(b) Newcastle Show Day, as gazetted in the New South Wales Government Gazette, when that day occurs on an





employee's ordinary working day.

21.3 Where an additional public holiday is proclaimed or gazetted by the authority of the Commonwealth Government or of the State Government and such proclaimed or gazetted holiday is to be observed generally by persons throughout the State or in the locality of Newcastle, or when such a proclaimed or gazetted day is, by any required judicial or administrative order, to be so observed, then such day shall be deemed to be a holiday, for the purposes of this agreement for employees of the company. Provided that an employee shall not be entitled to the benefit of more than one holiday upon such occasion.

21.4 All work performed on any of the holidays prescribed in this clause or substituted in lieu thereof, shall be paid for at the rate of double time and a half. An employee required to work on a holiday shall be afforded at least four hours work or paid for four hours at the appropriate rate.

21.5 An employee shall not be entitled to receive payment for such public holidays unless the employee has worked as required by the employer the working day immediately before and the working day immediately after such a holiday, or is absent with the permission of the employer or is absent with reasonable cause. Absences arising by termination of employment by the employee shall be reasonable cause.

21.6 All work performed on the day after Good Friday shall be paid for at the rate of double time and a half. An employee required to work on the Saturday following Good Friday shall be afforded at least four hours work or paid for four hours at the appropriate rate.

## 22. FARES AND TRAVELLING TIME

Where an employee is required to carry out construction work as defined, such employee shall be paid the fares and travelling allowance as per the provisions of clause 15, Compensation for Travel Patterns, Mobility Requirements of Employees and the Nature of Employment in the Construction Work Covered by this Award, of the Building Tradesmen (State) Construction Award published 16 July 1975 and reprinted 23 May 1984 (233 I.G. 1371), as varied, and clause 6, Compensation for Travel Patterns, Mobility Requirement of Employees and the Nature of Employment in the Construction Work Covered by this Award, of the Building Tradesmen (State) Construction - 1996 Wages Adjustment Award published 18 April 1997 (297 I.G. 990).

## 23. MEAL ALLOWANCE

23.1 An employee required to work overtime for at least one and a half hours after working ordinary hours shall be paid by the employer an amount of \$7.92 to meet the cost of a meal.

23.2 The amount prescribed in subclause 23.1 shall be adjusted at the same time and in the same manner as prescribed under Clause 9.5

#### 24. **CASUAL EMPLOYMENT**

Casual employees as defined may be employed under the terms of this Agreement subject to this clause.

24.1 Engagement shall be by the hour with a minimum daily engagement of 7.6 hours.

24.2 Termination of employment shall be by one hour's notice or by the payment or forfeiture, as the case may be, of the remainder of the day's wages or one hour's pay, whichever amount is greater.

24.3 An employee shall not be employed as a casual employee for more than twelve weeks in any twelve months, provided however, that such period may be extended to meet the following circumstances:

- (a) exceptional work demands;
- (b) relieving an employee who is on extended leave or workers compensation.

24.4 For each ordinary hour worked, a casual employee shall be paid the hourly equivalent of the appropriate weekly wage prescribed by this award for the class of work performed plus an additional 20 per cent of that hour rate. Such loading is in lieu of annual leave, public holidays not worked, sick leave, and bereavement leave, prescribed for other employees under this Agreement.

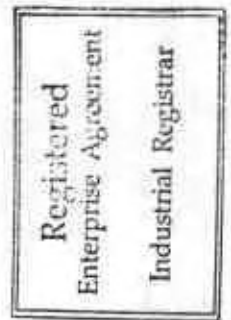
#### 25. **PART-TIME EMPLOYMENT**

25.1 Before establishing part-time employment the company shall consult with the company's employees at least 10 days before any such arrangement is implemented.

25.2 An employee may be engaged by the week for 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 hours per week.

25.3 An employee so engaged shall be paid per hour one thirty-eighth of the weekly rate prescribed by clause 9 for the classification in which the employee is engaged

25.4 An employee engaged on a part-time basis shall be entitled to all other benefits available to full-time employees arising under this award on a proportional basis depending on the number of ordinary regular hours worked per week.



25.5 A part-time employee who works in excess of the hours fixed under the contract of employment shall be paid overtime in accordance with clause 18, Overtime and Special Time, of this Agreement.

25.6 Employees already employed by the company may by agreement with the company change from full-time to part-time work, and such employee's conditions of employment shall be subject to this clause during any period of part-time employment.

25.7 Such an employee shall have the right to return to the position held immediately before commencing part-time employment, and any period of part-time work shall not break the employee's continuity of employment.

25.8 A former full-time employee transferring to part-time employment in accordance with this clause shall be paid for and take any annual leave accrued in respect of a period of full-time employment as provided for under this agreement as if the employee were working full-time in his or her former position.

25.9 A full-time employee is to be paid and take any annual leave accrued during a period of part-time employment under this clause as if the employee were working part-time in the position held immediately before recommencing full-time work, save that by agreement between the company and the employee the period over which such leave is taken may be shortened to the extent necessary for the employee to receive pay at the employee's current full-time rate.

25.10 An employee working part-time under this clause is to have sick leave entitlements converted into hours, and when this entitlement is used the employee is to be debited for the ordinary hours that the employee would have worked during the period of absence.

## 26. PAYMENT OF WAGES

26.1 All wages due shall be paid and be available not later than the time of cessation of ordinary hours of work on Thursday of each working week. Provided that in any week in which a public holiday falls on a Thursday or a Friday mutually acceptable alternative arrangements shall be made.

26.2 All rates, allowances and other monies shall be paid by direct credit to the account of an approved financial institution as agreed between the employer and the employee.

26.3 Subject to subclause 26.1 an employee who, due to circumstances within the company's control, does not receive his/her wages due by the cessation of ordinary hours of work on the Thursday of each week shall be paid in waiting time at overtime rates, with a minimum of a quarter of an hour, until such time as the wages are paid, up to a maximum payment of eight hours.

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## 27. TERMINATION OF EMPLOYMENT

27.1 Employees, except casual employees, shall be engaged by the week.

27.2 The employment of an employee, except a casual employee, may be terminated by the employer giving one weeks' notice, or by payment or forfeiture, as the case may be, of one weeks' wages in lieu of notice.

27.3 Nothing in this clause shall affect the right of an employer to dismiss an employee without notice for refusal of duty or wilful misconduct. Including but not limited to malingering, inefficiency, neglect of duty, fighting and theft.

## 28. REDUNDANCY

### 28(A) Application

28(A)(i) This clause shall apply to both full-time and part-time employees.

28(A)(ii) Notwithstanding anything contained elsewhere in this Agreement, this clause shall not apply to employees with less than one year's continuous service and the general obligation on employers shall be no more than to give such employees 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 employees of suitable alternative employment.

28(A)(iii) Notwithstanding anything contained elsewhere in this Agreement, 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 employees, apprentices or employees 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.

### 28(B) Introduction of Change

28(B)(i) Employer's duty to notify -

28(B)(i)(a) 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 employees, the employer shall notify the employees who may be affected by the proposed changes and the consultative committee.

28(B)(i)(b) Significant effects include termination of employment, major changes in the composition, operation or size of

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the employer'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 employees to other work or locations and the restructuring of jobs.

Provided that where this Agreement makes provision for alteration of any of the matters referred to herein, an alteration shall be deemed not to have significant effect.

28(B)(ii) Employer's duty to discuss change -

28(B)(ii)(a) The employer shall discuss with the employees affected and the consultative committee, inter alia, the introduction of the changes referred to in subclause (i) of this clause, the effects the changes are likely to have on employees and 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 the consultative committee in relation to the changes.

28(B)(ii)(b) The discussion shall commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in paragraph (i) of this subclause.

28(B)(ii)(c) For the purpose of such discussion, the employer shall provide to the employees concerned, and the consultative committee, all relevant information about the changes, including the nature of the changes proposed, the expected effect of the changes on employees and any other matters likely to affect employees, provided that any employer shall not be required to disclose confidential information the disclosure of which would adversely affect the employer.

28(C) Redundancy

28(C)(i) Discussions before terminations -

28(C)(i)(a) Where an employer has made a definite decision that the employer no longer wishes the job the employee has been doing to be done by anyone pursuant to subparagraph (a) of paragraph (i) of subclause (B) of this clause, and that decision may lead to the termination of employment, the employer shall hold discussions with the employees directly affected and with the consultative committee.

28(C)(i)(b) The discussions shall take place as soon as is practicable after the employer has made a definite decision which will invoke the provision of subparagraph (a) of this paragraph 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 on the employees concerned.

28(C)(i)(c) For the purposes of the discussions the employer shall, as soon as practicable, provide to the employees concerned, and the consultative committee, 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.

## 28(D) Termination of Employment

28(D)(i) Notice for changes in production, programme, organisation or structure - This paragraph sets out the notice provisions to be applied to terminations by the employer for reasons arising from production, programme, organisation or structure in accordance with subparagraph (a) of paragraph (i) of subclause (B) of this clause.

28(D)(i)(a) In order to terminate the employment of an employee, the employer shall give to the employee 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

28(D)(i)(b) In addition to the notice above, employees 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.

28(D)(i)(c) 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.

28(D)(ii) 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 subparagraph (a) of paragraph (i) of the said subclause (B).

28(D)(ii)(a) In order to terminate the employment of an employee the employer shall give to the employee three months notice of termination.

28(D)(ii)(b) Payment in lieu of the notice above shall be made if the appropriate notice period is not given. Provided that employment

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may be terminated by part of the period of notice specified and part payment in lieu thereof.

28(D)(ii)(c) 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.

28(D)(iii) Time off during the notice period -

28(D)(iii)(a) During the period of notice of termination given by the employer, an employee 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 purpose of seeking other employment.

28(D)(iii)(b) If the employee has been allowed leave for more than one day during the notice period for the purpose of seeking other employment, the employee shall, at the request of the employer, be required to produce proof of attendance at an interview or the employee shall not receive payment for the time absent.

28(D)(iv) Employee leaving during the notice period - If the employment of an employee is terminated (other than for misconduct) before the notice period expires, the employee shall be entitled to the same benefits and payments under this clause as those to which the employee would have been entitled had the employee remained with the employer until the expiry of such notice. Provided that, in such circumstances, the employee shall not be entitled to payment in lieu of notice.

28(D)(v) Statement of employment - The employer shall, upon receipt of a request from an employee whose employment has been terminated, provide to the employee a written statement specifying the period of the employee's employment and the classification of or the type of work performed by the employee.

28(D)(vi) Notice to Centrelink - Where a decision has been made to terminate employees, the employer shall notify the 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.

28(D)(vii) Centrelink Employment Separation Certificate - The employer shall, upon receipt of a request from an employee whose employment has been terminated, provide to the employee an Employment Separation Certificate in the form required by the Centrelink.

28(D)(viii) Transfer to lower paid duties - Where an employee is transferred to lower paid duties for reasons set out in subclause (B) of this clause, the employee shall be entitled to the same period of notice of transfer as the employee would have been entitled to if the employee'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 rates for the number of weeks of notice still owing.

**28(E) Severance Pay**

28(E)(i) Where the employment of an employee is to be terminated pursuant to subclause (D) of this clause, subject to further order of the Commission, the employer shall pay the following severance pay in respect of a continuous period of service:

28(E)(i)(a) If an employee 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	1 weeks
2 years and less than 3 years	3 weeks
3 years and less than 4 years	6 weeks
4 years and less than 5 years	9 weeks
5 years and less than 6 years	13 weeks
6 years and over	17 weeks

28(E)(i)(b) Where an employee is 45 years of age 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	1.25 weeks
2 years and less than 3 years	3.75 weeks
3 years and less than 4 years	7.5 weeks
4 years and less than 5 years	11.25 weeks
5 years and less than 6 years	16.25 weeks
6 years and over	21.25 weeks

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28(E)(i)(c) "Week's pay" means the all-purpose rate of pay for the employee concerned at the date of termination and shall include, in addition to the ordinary rate of pay, over award payments, shift penalties and allowances paid in accordance with clause 10, Tool Allowance, clause 11, licence / Registration Allowance, clause 12, Crane & Forklift Allowance, clause 13, Quality Assurance Duties and subclause 14.1 of Special Rates.

28(E)(ii) Incapacity to Pay - Subject to an application by the employer and further order of the Commission, an employer may pay a lesser



amount (or no amount) of severance pay than that contained in paragraph (i) of this subclause.

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 the said paragraph (i) will have on the employer.

28(E)(iii) Alternative Employment - Subject to an application by the employer and further order of the Commission, an employer may pay a lesser amount (or no amount) of severance pay than that contained in the said paragraph (i), if the employer obtains acceptable alternative employment for an employee.

#### 28(F) Savings Clause

Nothing in this clause shall be construed so as to require the reduction or alteration of more advantageous benefits or conditions which an employee may be entitled to under any existing redundancy arrangement, taken as a whole, between the union and any employer bound by this Agreement.

## 29. ANNUAL LEAVE

### 29.1 Period of Leave

Subject to the provisions of Sub-Clauses 29.2, 29.4 and 29.5 of this clause, a period of twenty-eight (28) consecutive days, exclusive of any public holidays occurring during the period, shall be given and taken as leave annually to all employees, other than casual employees, after twelve (12) months' continuous service (less the period of annual leave) with an employer.

Provided that where a rostered day off, as prescribed in clause 16, Hours, or 20, Shift Work, falls during the period annual leave is taken, payment of accrued entitlements for such day shall be made in addition to annual leave payments prescribed in subclause 29.7(b) herein.

### 29.2 Method of Taking Leave

Either twenty-eight (28) consecutive days, or two separate periods of not less than seven (7) consecutive days in all cases exclusive of any public holidays occurring therein, or if the worker and the employer so agree, in either two, three or four separate periods and not otherwise, shall be given and taken within six (6) months from the date when the right to annual leave accrued.

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**29.3 Leave Allowed Before Due Date**

(a) The employer may allow an employee to take annual leave prior to the employee's right thereto. In such circumstances, the qualifying period of further annual leave shall not commence until the expiration of twelve (12) months in respect of which the leave so allowed was taken.

(b) Where the employer has allowed an employee to take annual leave pursuant to Sub Clause 29.3(a) hereof and the employee's services are terminated (by whatsoever cause) prior to the employee completing the twelve (12) months continuous service for which leave was allowed in advance, the employer may for each complete week of the qualifying period of twelve (12) months not served by the employee, deduct from whatever remuneration is payable upon the termination of the employment one-fifty-second of the amount of wages paid on account of the annual leave.

**29.4 Proportionate Leave on Termination**

Where an employee has given five (5) working days or more continuous service, inclusive of any day off as prescribed by clause 16, Hours and 20, Shiftwork (excluding overtime), and either leaves employment or employment is terminated by the employer the employee shall be paid one-twelfth of an ordinary week's wages in respect of each completed five (5) working days of continuous service with the company for which leave has not been granted or paid for in accordance with this Agreement



**29.5 Broken Service**

Where an employee breaks continuity of service by an absence from work for any reason other than a reason set out in 29.6 hereof, the amount of leave to which the employee would have been entitled under 29.1 hereof shall be reduced by one-forty-eighth for each week or part thereof during which any such absence occurs and the amount of payment in lieu of leave to which the employee would have been entitled under 29.4 hereof shall be reduced by one-twelfth of a week's pay for each week or part thereof during which any such absence occurs.

Provided, however, that no reduction shall be made in respect of any absence unless the employer informs the employee in writing of the employers intention to do so within fourteen (14) days of the termination of the absence.

**29.6 Calculation of Continuous Service**

For the purpose of this Clause, service shall be deemed to be continuous notwithstanding an employee's absence from work

for any of the following reasons:

- (a) Illness or accident up to maximum of four (4) weeks after the expiration of paid sick leave;
- (b) Bereavement leave;
- (c) Jury service;
- (d) Injury received during the course of employment and up to a maximum of twenty-six (26) weeks for which workers' compensation was received.
- (e) Where called up for military service of up to three (3) months in any qualifying periods;
- (f) Long service leave;
- (g) Any reason satisfactory to the employer or in the event of dispute, to the Commission.

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Provided that the reason shall not be deemed satisfactory unless the employee has informed the employer within twenty-four (24) hours of the time when the employee was due to attend for work or as soon as practicable thereafter of the reason for the absence and probable duration thereof.

#### 29.7 Payment for Period of Leave

- (a) Each employee, before going on leave, shall be paid in advance the wages which would ordinarily accrue to the employee during the currency of the leave.

#### Annual Leave Loading

- (b) In addition to the payment prescribed in paragraph (a) hereof, an employee shall received during a period of annual leave a loading of 17.5 per cent calculated on the rates, loadings, and allowances prescribed by clauses 9, Rates of Pay, 10 Tool Allowance and 11, Licence / Registration Allowance and leading hand rates as prescribed by Clause 9 if applicable. The loading prescribed above shall also apply to proportionate leave on lawful termination.

#### 29.8 Service Under Previous Award or Agreement

- (a) For the purpose of calculating annual leave, the service of the employee prior to the operative date of this Agreement shall be taken into account but an employee shall not be entitled to leave (or payment in lieu thereof)

for any period in respect of which leave (or payment in lieu thereof) has been allowed or made under any previous award or agreement.

(b) Subject to paragraph (a) of this subclause, an employee's entitlement to annual leave under the terms of a previous award shall be preserved as at the operative date of this agreement and shall become the employee's entitlement under the terms of this agreement, save that accruals of annual leave after the operative date of this agreement shall be in accordance with subclause 29.1 of this clause.

#### 29.9 Annual Close Down

Notwithstanding anything contained in this Agreement, the employer when giving any leave in conjunction with the Christmas-New Year holidays may, at the employer's option, either:

(a) stand off without pay during the period of leave any employee who has not yet qualified under 29.1 hereof; or

(b) stand off without pay during the period of leave any employee who has not qualified under 29.1 hereof and pay (up to the period of leave then given ) at a rate of one-twelfth of an ordinary week's wages in respect of each 38 hours continuous service (excluding over-time).

Provided that where the employer at its option decides to close down the establishment at the Christmas-New Year period for the purpose of giving the whole of the annual leave due to all, or the majority of the employees then qualified for such leave, the employer shall give at least two (2) months' notice to the employees of the employer's intention to do so.

#### 29.10 Commencement of Leave - Distant Jobs

If an employee is still engaged on a distant job when annual leave is granted and the employee returns to the place of engagement, or if employed prior to going to country work the place regarded as the headquarters, by the first reasonable means of transport, the employee's annual leave shall commence on the first full working day following the employee's return to such place of engagement or headquarters as the case may be before or after the commencement of this Agreement.

### 30. SICK LEAVE

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30.1(a) An employee other than a casual employee (as defined) who is absent from his/her work on account of personal illness or on account of injury by accident, other than that covered by workers' compensation, shall be entitled to leave of absence without deduction of pay, subject to the following conditions and limitations:

30.1(a)(i) He/she shall, within 24 hours of the commencement of such absence, inform the employer of his/her inability to attend for duty and as far as practicable, state the nature of the injury or illness and the estimated duration of the absence.

30.1(a)(ii) He/she shall prove to the satisfaction of his/her employer (or, in the event of dispute, the Commission) that he/she was unable, on account of such illness or injury, to attend for duty on the day or days for which sick leave is claimed.

30.1(a)(iii) An employee during his/her first financial year of employment with an employer shall accumulate a sick leave entitlement at the rate of one day at the beginning of each of the first ten calendar months of his/her first financial year of employment.

Provided that an employee who commenced employment subsequent to 1<sup>st</sup> February in the financial year shall be entitled to a minimum of five days paid sick leave taken as time off by taking future entitlements that would otherwise accrue at the beginning of the next financial year. These payments shall be deducted from any payment due at termination should the employee terminate prior to the beginning of the next financial year.

30.1(b) In the case of an employee who claims to be allowed paid sick leave in accordance with this clause for an absence of one day only, such employee, if in the year he/she has already been allowed paid sick leave on two occasions for one day only, shall not be entitled to payment for the day claimed unless he/she produces to the employer a certificate of a duly qualified medical practitioner that, in the medical practitioner's opinion, the employee was unable to attend for duty on account of personal illness or injury. Provided that an employer may agree to accept from the employee a statutory declaration stating that the employee was unable to attend for duty on account of personal illness or injury, in lieu of a medical certificate. Nothing in this subclause shall limit the employer's rights under 30.1(a)(ii).

30.1(c) Sick leave with an employer shall accumulate from financial year to financial year so that any balance of the period specified in 30.1(a)(iii), which in any financial year has not been allowed to an employee by that employer as paid sick leave may be claimed by the employee and, subject to the conditions herein prescribed, shall be allowed by that employer in a subsequent financial year, without diminution of the sick leave prescribed in respect to that financial year.



Provided that sick leave which accumulates pursuant to this subclause shall be available to the employee for a period of ten years but for no longer from the end of the year in which it accrues.

30.1(d) Paying out untaken sick leave entitlements in cash shall be allowed as long as it is done according to the following:

30.1(d)(i) The employee may elect to have a portion of their sick leave paid out in cash or preserve it.

30.1(d)(ii) The paying out of sick leave entitlements will only occur on the last pay day of the financial year.

30.1(d)(iii) In the case of an employee who has been continuously employed for the whole financial year, they will have been credited 10 days at the beginning of the financial year and they may cash out any untaken balance over 5 days sick leave. If this employee has taken 5 or more sick leave days during the financial year then nothing will be available to cash out. An employee can only cash out the untaken portion of their sick leave entitlement which exceeds 50 % of the whole financial year's sick leave entitlement. A maximum of 5 days will be paid out in any financial year. The untaken sick leave balance which is equal or less than 50 % of the full financial years entitlement must be accumulated.

Example: - 10 days sick leave credited at 1<sup>st</sup> of July. Sick leave taken during the financial year results in the following combinations:

Sick Leave Taken	Sick Leave able to be cashed out	Sick Leave Accumulated
0	5	5
1	4	5
2	3	5
3	2	5
4	1	5
5	0	5
6	0	4
7	0	3
8	0	2
9	0	1
10	0	0



30.1(d)(iv) An employee who has commenced employment subsequent to the beginning of September of the financial year shall consequently have less than 10 sick leave days credited to them for that financial year. These employees will be entitled to cash out the untaken balance of sick leave entitlement for that financial year which exceeds 50 % of the sick leave entitlement for that financial year.

Example: - An employee's entitlement will be based on the number of calender months that began since he/she commenced till the end of the

financial year. For employees who began in July or August or on September 1<sup>st</sup>, see the example above.

Where an employee commenced after 1<sup>st</sup> September and before 1<sup>st</sup> October the maximum allowable sick leave entitlement is 9 days and maximum cash out is 4.5 days. If 4.5 days or less sick leave is taken, the amount accumulated is 4.5 days.

Where an employee commenced after 1<sup>st</sup> October and before 1<sup>st</sup> November the maximum allowable sick leave entitlement is 8 days and maximum cash out is 4 days. If 4 days or less sick leave is taken, the amount accumulated is 4 days.

Where an employee commenced after 1<sup>st</sup> November and before 1<sup>st</sup> December the maximum allowable sick leave entitlement is 7 days and maximum cash out is 3.5 days. If 3.5 days or less sick leave is taken, the amount accumulated is 3.5 days.

Where an employee commenced after 1<sup>st</sup> December and before 1<sup>st</sup> January the maximum allowable sick leave entitlement is 6 days and maximum cash out is 3 days. If 3 days or less sick leave is taken, the amount accumulated is 3 days.

Where an employee commenced after 1<sup>st</sup> January and before 1<sup>st</sup> February the maximum allowable sick leave entitlement is 5 days and maximum cash out is 2.5 days. If 2.5 days or less sick leave is taken, the amount accumulated is 2.5 days.

Where an employee commenced after 1<sup>st</sup> February and before 1<sup>st</sup> March the maximum allowable sick leave entitlement is 4 days and maximum cash out is 2 days. If 2 days or less sick leave is taken, the amount accumulated is 2 days.

Where an employee commenced after 1<sup>st</sup> March and before 1<sup>st</sup> April the maximum allowable sick leave entitlement is 3 days and maximum cash out is 1.5 days. If 1.5 days or less sick leave is taken, the amount accumulated is 1.5 days.

Where an employee commenced after 1<sup>st</sup> April and before 1<sup>st</sup> May the maximum allowable sick leave entitlement is 2 days and maximum cash out is 1 day. If 1 day or less sick leave is taken, the amount accumulated is 1 day.

Where an employee commenced after 1<sup>st</sup> May and before 1<sup>st</sup> June the maximum allowable sick leave entitlement is 1 day and maximum cash out is .5 days. If .5 day or less sick leave is taken, the amount accumulated is .5 day.

Where an employee commenced after 1<sup>st</sup> June and before 1<sup>st</sup> July there is no sick leave entitlement which can be cashed out and nothing accrues.

31. **STATE PERSONAL / CARER'S LEAVE CASE - AUGUST 1996**

31.1 Use of Sick Leave -

(a) An employee, other than a casual employee, with responsibilities in relation to a class of person set out in subparagraph (ii) of paragraph (c) of this subclause, 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 30, 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.

(b) 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.

(c) The entitlement to use sick leave in accordance with this subclause 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 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

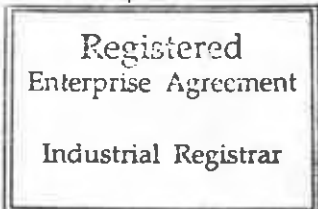
(d) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or

(e) a relative of the employee who is a member of the same household where, for the purposes of this subparagraph:

(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.

### 31.2 Unpaid Leave for Family Purpose -

(a) 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 (ii) of paragraph (c) of subclause 31.1 of this clause, who is ill.

### 31.3 Annual Leave -

(a) An employee may elect, with the consent of the employer and 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.

(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.

### 31.4 Time Off in Lieu of Payment for Overtime -

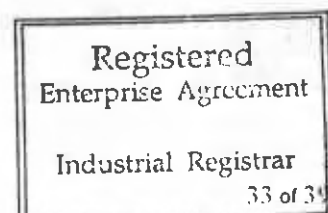
(a) An employee may elect, with the consent of the employer, to take time off in lieu of payment for overtime at a time or times agreed with the employer within 12 months of the said election.

(b) 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.

(c) If, having elected to take time as leave in accordance with paragraph (a) 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 on termination.

(d) Where no election is made in accordance with the said paragraph (a), the employee shall be paid overtime rates in accordance with the award.

### 31.5 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.

#### 31.6 Rostered Days Off -

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

(b) An employee may elect, with the consent of the employer, to take rostered days off in part-day amounts.

(c) 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 employer and employee, or subject to reasonable notice by the employee 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, and providing a reasonable opportunity for the union(s) to participate in negotiations.

#### 32. BEREAVEMENT LEAVE

32.1 An employee, other than a casual employee, shall be entitled to up to two days bereavement leave without deduction of pay, up to and including the day of the funeral, on each occasion of the death in Australia of a person prescribed in subclause 32.3 of this clause. Provided that, with the consent of the employer, which consent shall not be unreasonably withheld, an employee shall, in addition to this entitlement to paid bereavement leave, be entitled to reasonable unpaid bereavement leave up to ten working days in respect of the death within Australia or overseas of a person to whom this clause applies.

32.2 The employee 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.

32.3 Bereavement 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 subparagraph (ii) of paragraph (c) of subclause 31.1 of clause 31, State personal/Carer's leave Case - August 1996, provided that, for the purpose of bereavement leave, the employee need not have been responsible for the

care of the person concerned.

32.4 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.

32.5 Bereavement leave may be taken in conjunction with other leave available under subclauses 31.2, 31.3, 31.4, 31.5 and 31.6 of the said clause 31. 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. LONG SERVICE LEAVE

See *Building & Construction Industry Long Service Leave Payments Act, 1986*, and/or the *Long Service Leave Act, 1955*.

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### 34. JURY SERVICE

An employee required to attend for jury service shall be entitled to have his/her pay made up by the employer to equal the employee's ordinary pay as for eight hours per day (inclusive of accrued entitlements prescribed by clause 16, Hours or 20, Shift Work) plus fares whilst meeting this requirement. The employee shall give to the employer proof of his/her attendance and the amount received in respect of such jury duty.

### 35. COMPENSATION FOR CLOTHES AND TOOLS

35.1 An employee whose clothes, spectacles, hearing aids or tools have been accidentally spoilt by acid, sulphur or other deleterious substances, shall be paid such amount to cover the loss thereby suffered as may be agreed upon with the company or, in default of agreement, the dispute settlement procedures in clause 41 shall be utilised.

35.2(a) An employee shall be reimbursed by the company to a maximum of **\$1098.00** for loss of tools or clothes by fire or breaking and entering whilst securely stored at the company's direction in a room or building on the company's premises, job or workshop or in a lock-up or if the tools are accidentally lost over water or if tools are lost or stolen during an employee's absence after leaving the job because of injury or illness or if the tools are being transported by the employee at the employers direction. Provided that an employee transporting their own tools shall take all reasonable care to protect those tools and prevent theft or loss.

35.2(b) Where an employee is absent from work because of illness or accident and has advised the employer in accordance with clause 30, Sick Leave, the employer shall ensure that the employee's tools are securely stored during his/her absence.

35.3 Provided that for the purpose of this Clause

- (a) Only tools used by the employee in the course of employment shall be covered by this Clause;
- (b) The employee shall, if requested to do so, furnish the employer with a list of tools so used;
- (c) Reimbursement shall be at the current replacement value of new tools of the same or comparable quality;
- (c) The employee shall report any theft to the police prior to making claim on the employer for replacement of stolen tools.

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## 36. PROTECTION OF EMPLOYEES

36.1 After an employee has completed three months employment, the company shall provide all necessary protective clothing and safety footwear, which items shall be replaced on a needs basis. Where there is any dispute as to whether an item needs to be replaced the dispute shall be submitted to the first-aid officer whose decision on the matter shall be final.

36.2 This agreement shall not override the obligations of the company to comply with the provisions of the Factories, Shops and Industries Act 1962 or the Construction Safety Act 1912.

## 37. AMENITIES

37.1 The company shall provide reasonably accessible boiling water at meal times and rest periods and cool clean drinking water shall be provided at all times in a reasonably accessible place.

37.2 Provided that this agreement shall not apply in respect of any other area of amenities subject to the legislation listed in Clause 36, Protection of Employees.

## 38. FIRST AID

An employee who is a qualified first aid person and is appointed by the employer to carry out first aid duties in addition to their usual duties shall be paid an additional rate of \$6.60 per week.

39. **RIGHT TO DEDUCT PAY**

The employer may deduct payment for any day or part thereof upon which an employee cannot be usefully employed because of any strike by or participation in any strike by members of the union; or because of any strike by members of the union employed by the employer; or because of any strike by or participation in any strike by any other union, organisation or association or by any branch thereof; or by any members thereof who are employed by the employer; or because of any stoppage of work for any cause, including breakdown of machinery or failure or lack of power, for which cause the employer is not responsible.

40. **CONSULTATIVE MECHANISM**

40.1 A formal consultative mechanism will be established which shall include representatives of both employer and employees, the form of which (including the numbers of representatives of each party) shall be agreed between the parties. The consultative body shall be called the "Consultative Committee".

40.2 The objectives of this mechanism shall be to provide a forum for discussion and, as far as possible and necessary, resolution of:

- (i) any matters which, under the terms of this Agreement, are to be discussed between employer and employees;
- (ii) positive steps to increase the efficiency and productivity of the enterprise in accordance with Clause 7 of this Agreement;
- (iii) in accordance with Clause 41, Settlement of Disputes of this Agreement any disputes between employee and employer;
- (iv) any other matters which, by mutual agreement, the parties wish to be dealt with in that forum.

40.3 The consultative mechanism established under this clause shall establish and have control of its own procedures, save that decisions shall be arrived at by consensus and not by majority vote, and shall be in the form of recommendations to the employer.

41. **SETTLEMENT OF DISPUTES**

Any dispute or claim as to wages and/or conditions of employment of any employee bound by the provisions of this Agreement shall be settled in the following manner:

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(a) Where any claim, dispute or grievance arises at any place of work the aggrieved employee shall raise the matter with the immediate supervisor or foreperson.

(b) If the matter is unresolved it shall be referred to the Consultative Committee which shall discuss the matter as soon as possible.

(c) If the matter remains unresolved it may then be referred, if the Consultative Committee so resolves, to the Branch/State Secretary of the union/s (where applicable) to be dealt with at that employer or employee representative level.

(d) In the event that the Committee decide not to refer the matter to the Union or if after such referral the matter remains unresolved, it shall be referred to the Industrial Relations Commission for resolution.

(e) Without prejudicing either party as to final settlement, normal work shall continue throughout the above procedures save and except for issues of genuine safety.

(f) The above procedures are established and agreed to between the parties in order to minimise the effects of industrial disputes and is entered into as a measure and commitment to this effect without limiting the rights of either.

#### 42. POSTING OF AGREEMENT

An up-to-date copy of this Agreement shall be posted and kept posted by the company in a prominent place on the company's premises accessible to the employees.

#### 43. ANTI-DISCRIMINATION

43.1 It is the intention of the parties bound by this Agreement 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 and age.

43.2 It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this Agreement the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this Agreement 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 provisions of the Agreement which, by its terms or operation, has a direct or indirect discriminatory effect.

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43.3 Under the Anti-Discrimination Act, 1977, it is unlawful to victimise an employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.

43.4 Nothing in this clause is to be taken to affect:

43.4(a) any conduct or act which is specifically exempted from anti-discrimination legislation;

43.4(b) offering or providing junior rates of pay to persons under 21 years of age;

43.4(c) any act or practice of a body established to propagate religion which is exempt under section 56(d) of the *Anti-Discrimination Act, 1977*;

43.4(d) a party to this Agreement from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.

43.5 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".

#### 44. AGED OR INFIRM WORKERS

Any application for the payment of wages at a lower rate than prescribed in this Agreement to an employee who is unable to earn a wage at the minimum rate shall be made to the Industrial Registrar for determination in accordance with section 125 of the *Industrial Relations Act, 1996*.

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