

REGISTER OF ENTERPRISE AGREEMENTS

ENTERPRISE AGREEMENT NO: EA05/261

TITLE: **New England Trading Pty Limited Enterprise Agreement
2005**

I.R.C. NO: IRC5/3612

DATE APPROVED/COMMENCEMENT: 8 August 2005 / 8 August 2005

TERM: 36

**NEW AGREEMENT OR
VARIATION:** Replaces EA03/80.

GAZETTAL REFERENCE: 7 October 2005

DATE TERMINATED:

NUMBER OF PAGES: 26

COVERAGE/DESCRIPTION OF

EMPLOYEES: The agreement applies to all employees employed by New England Trading Pty Ltd, located at Dyke Point off Bourke Road, P.O. Box 70 Carrington NSW 2294, who fall within the coverage of the Joiners (State) Award, the Building Employees Mixed Industries (State) Award, the Metal, Engineering & Associated Industries (State) Award, the Engine Drivers, &c., General (State) Award and the Electricians, &c. (State) Award.

PARTIES: New England Trading Pty Ltd -&- Corey Alderson, David Allport, Michael Bailey, Richard Baker, Ronald Gordon Barber, Ross James Bennett, Brad Bessant, Darren Brewster, Mark Brooks, Michael Butters, Lea Carr, Darren Chapman, Scott Chapman, Jeff Coles, Mathew Collins, Alfred Connelly, Nicholas Cox, Jeffrey Crawford, Micheal John Cunningham, Dale Cupples, Stephen Darby, Greg Darr, Momir Dimitrijevic, Sean Glasby, Peter Hain, Arthur Hampson, Keith Hampson, Brett Harley, Shannon Hawes, Scott Kannar, Lincoln Larrigo, Mark Longbottom, Scott Mackersey, Allan McKewin, Barry McKewin, Brent Patterson, Joshua Power, Ken Price, Brad Reeves, Peter Robertson, Michael Ross, Kevin Skinner, Garry Stephens, Peter Stuhr, Brett Sykes, Jason Thomas, Paul Treadwell, Robert Trubody, John Walsham, Philip Watson, Alan Wilson, Arthur Wilson

NEW ENGLAND TRADING PTY LIMITED ENTERPRISE AGREEMENT 2005-2008

IT IS AGREED BY THE PARTIES AS FOLLOWS:

1. Title

This Agreement shall be known as the New England Trading Pty Limited Enterprise Agreement 2005 -2008.

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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:

1. 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;
2. To provide the means by which management and its employees can introduce flexibility at the workplace;
3. To provide an improved employment environment that encourages and rewards safe-working practices, environmental awareness, 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.
- 4.4 This Enterprise Agreement shall remain in place for the duration of the agreed term.

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 the terms and conditions of employment of the company's employees previously regulated by: New England Trading Pty Limited Enterprise Agreement 2002 - 2004. Employees otherwise would be entitled to coverage under the:

Joiners (State) Award

Building Employees Mixed Industries (State) Award

Metal, Engineering & Associated Industries (State) Award

Engine Drivers General (State) Award

Electricians & c. (State) Award

- 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 commencing on or after the date of agreement being signed by the Company and Employee Consultative Group. It will be then submitted to the New South Wales Industrial Relations Commission for approval and shall continue in force for three years from the agreement signing date unless terminated beforehand in accordance with S44 of the *Industrial Relations Act 1996*.

7. Objectives of the Agreement

- 7.1 The aim of this agreement is to enable NEW ENGLAND TRADING (the Company) to establish a common goal for the Company and its workforce in providing a quality product, on time and within budget to all customers of the Company.
- 7.2 In addition to the above, the agreement between the parties is intended to increase productivity and efficiency, and lead to our being able to provide better and more efficient service to our customers, thus creating better job opportunities and security for all concerned.
- 7.3 Furthermore, it will enable the Company to attract and retain quality service personnel in order to meet customer's demands and that members of the workforce will be committed to and take pride in the NEW ENGLAND TRADING culture and values.

8. Enterprise Agreement 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 "Employee" means a person employed under the terms and conditions of the Agreement.
- 8.4 "Leading Hand" means an employee responsible for directing and / or supervising the work of other employees.
- 8.5 "Maintenance" means small carpentry, repair and renovation work.
- 8.6 "Operator of Explosive Powered Tools" means an employee qualified in accordance with the applicable laws and regulations to operate explosive powered tools.
- 8.7 "Prefabricated Building" means any building which is prefabricated in sections, modules or panels at a factory or yard prior to erection or siting in a permanent position, including buildings or sections supplied in kit form.
- 8.8 "Shop work" or "Factory work" means any work performed in a workshop or factory or yard not located as an on site construction project.
- 8.9 "The Act" means the Industrial Relations Act, 1996 as amended.
- 8.10 "Construction Work" when performed under this agreement shall include, without being limited to, the erection, ornamentation, repair, demolition, renovation and maintenance (except as provided by subclause 18.2 of clause 18, Mixed Functions) of buildings and/or structures, including the making, preparing, assembling or fixing of all woodwork and fittings in connection therewith, the making, preparing, assembling and fixing of any material necessitating the use of trade tools or machines, and the prefabricating of a building in an open yard, but shall exclude work done in a workshop or established factory or yard where amenities and administration are permanent fixtures.

9. Productivity Improvement & Flexibility

- 9.1 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.
- 9.2 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.

- 9.3 The parties agree that the working party or replacement consultative mechanism established in accordance with Clause 44 of this Agreement will continue to develop means of achieving the above aims.
- 9.4 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.
- 9.5 An instruction issued by the employer or the employer's representative pursuant to subclause 9.4 above shall be consistent with the employer's responsibility to provide a healthy and safe working environment.
- 9.6 Employees commit to productivity improvement in these workplace areas.

Commitment is required in these areas;

Timekeeping

Commitment to safety and environmental awareness in the workplace

Reduce absenteeism

Roster days - Management of roster by Company

Mobile phones are to be left in the lunchroom or bathhouse.

10. Occupational Health and Safety

The objective of Company management and employees is to continue to provide a safe working environment for all employees. To further enhance this objective, the Occupational Health & Safety Consultative Committee shall continue (in accordance with relevant legislation) in order to study, discuss and implement safe working methods and standards.

Items of safety equipment including hearing protection, optical aids and apparel shall be worn where directed and as required by relevant legislation.

1. The Company will supply three (3) sets of appropriate safety apparel and one pair (1) of appropriate safety foot ware to be replaced on the basis of fair wear and tear. It is the responsibility of the individual to launder such apparel and at all times present themselves clean and neat so as to enhance the Company's image. Within the first year of employment the Company will provide one (1) appropriate winter jacket or jumper type apparel to be replaced on the basis of fair wear and tear.
2. The Company has a compulsory eye protection policy. The Company when it requires an employee to have their prescription lens case hardened shall pay for the cost of such case hardening.
3. All new employees will be required to undergo a pre-employment medical by a Company appointed doctor and NEW ENGLAND TRADING Workshop Facility New South Wales site standard induction program. The company will be compensated for the cost of the medical by employees who leave within a 4-week period of their commencement with the company. This shall not apply to employees who are terminated by the company within this time period.
4. Further, in the interests of occupational health and safety, all site buildings including demountables shall be gazetted smoke-free zones.

11. Housekeeping and Workplace Hygiene

All employees will provide an undertaking to improve the overall housekeeping standards and to make a personal effort to maintain the shop, lunchroom, bathhouse and stores in a clean and tidy condition.

Crib room, messing facilities, showers and toilets are supplied for the employee's use and are to be used for the appropriate purpose. Satisfactory standards of hygiene are required at all times.

The company will maintain cleanliness of meal room, showers, and change room and toilet facilities in accordance with the NSW Factories, Shops and Industries Act.

Each employee will be personally responsible for maintaining the cleanliness of their work area and ensuring it is free from rubbish, off-cuts, swarf and scrap.

Completed work and work in progress will be stored in a safe manner and access walkways will be kept clear.

12. Rates of Pay

12.1 Except as elsewhere provided in this Agreement, the minimum rates payable to an adult employee (other than an apprentice) shall be the total for the rate identified in paragraph (1) for the respective classification, plus the allowances prescribed in paragraph (2) of this subclause, clause 12, 13, 14, 15, 16, 17, 26.1 and 42 of this Agreement, where applicable.

12.1.1 Classification Rate per Week in Dollars were applicable the rate includes Tool Allowance.

Joiner		\$645.19
Boilermaker		\$609.13
Electrician		\$609.13
Plumber		\$637.56
Painter		\$596.39
Crane Driver	(Special Class)	\$632.24
Crane Driver/Rigger	(Licensed)	\$577.98
Labourer - Skilled		\$591.06
Labourer		\$555.38

12.1.2 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 \$6.03 per day (equivalent to \$30.15 per week) above the employee's own rate, such an employee shall not be expected to supervise more 8 other employees.

12.2 The rates of pay set out in subclause 12.1.1 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.

12.3 The rates of pay set out in subclause 12.1.1 are inclusive of industry allowance and all work and expense related allowance other than those specifically provided for in this Agreement.

12.4 RATES OF PAY - TRAINEE APPRENTICES

12.4.1 Trainee Apprentices shall be paid a percentage of the adult trade rate set out in subclause 12.1.1 in accordance with the table below:

Year of Apprenticeship	% of Adult Rate
1st Year	42
2nd Year	56
3rd Year	75
4th Year	88

12.4.2 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.

12.5 RATES OF PAY - MATURE AGE APPRENTICES

12.5.1 Mature Age Apprentices shall be paid a percentage of the adult trade rate set out in subclause 12.1.1 in accordance with the table below:

Year of Apprenticeship	% of Adult Rate
1st Year	65
2nd Year	78
3rd Year	90

12.5.2 Any person over 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.

12.6 COMPETENCY BASED TRAINING

The parties to this agreement will develop a system of competency based training for non-trade and trade employees during the term of this agreement.

The system shall be suited to the needs of the enterprise and shall conform with recognised national standards of training.

12.7 ADJUSTMENT

12.7.1 The rates of pay and allowances set out in subclause 12.1.1, 12.2.1, 13, 14, 15, 16, 17, 26.1 and 42 shall be adjusted by an increase each 6 months from State approval of this Agreement by the 1.5%. The first payment shall be made on 1 November 2005, followed by payments of 1.5% on 1 May 2006, 1 November 2006, 1 May 2007, 1 November 2007, 1 May 2008. Increases to the rates of pay and allowances will be cumulative.

12.8 BONUS PAYMENT

Further once the Industrial Commission has ratified the agreement. A once only payment of 1% of the employees annual base rate as defined by clause 12.1.1,12.1.2,13,14,15,16 and 17.1 will be paid.

13. Tool Allowance

Were applicable the Tool Allowances for all employees are included in the hourly rates.

14. Licence / Registration Allowance

Those employees in the classification of Electrician and Plumber who are licensed, will be paid Licence / Registration allowance Electrician \$29.18 per week, Plumber \$37.80 per week. This allowance shall be paid for all purposes of the Agreement. Adjusted by the method in clause 12.7.1.

15. Crane & Forklift Allowance

Payment of the allowance shall be made as follows:

15.1

Holder of forklift certificate	\$0.61 per day
Holder of crane certificate	\$1.76 per day

15.2

When required to use the forklift	\$0.61 per day
When required to use the crane	\$1.76 per day

NOTE: The requirement to use is to be defined as when an employee is placed into the position of forklift or crane driver for 4 hours or more.

16. 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 \$2.38 per day.

17. Special Rates

17.1 Level one employee - \$3.60 per day. The rate shall only apply when an employee has achieved the following level of knowledge, experience and skill base:

17.1.1 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.

17.1.2 The employee is to demonstrate a level of cooperation and leadership that could lead to future advancement.

17.1.3 The employee ideally should have at least 12 months experience in the refurbishment of Department of Education Demountable School Buildings, further at the expiry of the twelve (12) months management is to advise the employee of his progress and make an assessment so as to advise the employee of any reason why he should not be afforded the special rate.

17.2 HAZARDOUS SUBSTANCES

17.2.1 BONDED ASBESTOS & STRIPPING OUT

Employees engaged in the stripping out of demountable buildings or otherwise required to use materials containing bonded 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 \$0.59 per hour extra whilst so engaged.

17.2.2 WASHING WINDOWS

Employees engaged in initial cleaning of windows which require the use of hazardous substances 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, breathing equipment or similar apparatus) such employee shall be paid \$0.59 per hour extra whilst so engaged in the process.

This does not include cleaning windows with non-hazardous substances.

18. Mixed Functions

- 18.1 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.

19. Hours

- 19.1 The ordinary working hours shall be 152 hours over a work cycle not exceeding 28 consecutive days to be worked on the following basis:
- 19.2 Eight (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.
- 19.3 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 ensure work schedules are met.
- 19.4 The employee may only accrue rostered days up to two days after which, the employer may instruct the employee to take rostered time at employees' discretion.
- 19.5 For an employee to select a time for taking rostered leave the employee must give two (2) ordinary days written notice to the employer. The selected rostered leave time shall only be approved if normal production can be maintained.
- 19.6 The normal span of hours shall be between 6.00 am and 6.00 pm. Where the Company and the employees agree the span of hours can be varied to 5.00am to 5.00pm during Summer.

20. Rest Periods, Meals & Crib Times

- 20.1 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.
- 20.2 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.
- 20.3 When an employee is required to work overtime after the usual ceasing time for the day or shift for more than two hours 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 more than two hours, the employee shall be regarded as having worked 20 minutes more than the time worked and be paid accordingly.
- 20.4 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 19, Hours and clause 23, Shift Work, a crib time of 20 minutes in duration shall be allowed without deduction of pay in each shift, such crib time being in lieu of any other rest period of cessation of work elsewhere prescribed by this Agreement.
- 20.5 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 19 and 23.

21. Overtime and Special Time

- 21.1 Overtime payment rates shall be inclusive of allowances.

- 21.2 All time worked beyond the ordinary time of work, inclusive of time worked for accrual purposes as prescribed in clause 19, 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.
- 21.3 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.

- 21.4 If the employer requires an employee to work during the time prescribed by clause 20, 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 20 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.
- 21.5 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.
- 21.6 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.
- 21.7 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.
- 21.8 An employee who works so much overtime
- 21.8.1.1 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;
 - 21.8.1.2 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.
- 21.8.2 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.

21.8.3 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:

21.8.3.1 For the purpose of changing shift rosters; or

21.8.3.2 Where a shift worker does not report for duty and day worker or a shift worker is required to replace such shift worker; or

21.8.3.3 Where a shift is worked by arrangement between the employees themselves.

21.9 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 21.5.

21.10 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.

22. Weekend Work

22.1 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.

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

22.3 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.

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

22.5 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.

23. Shift Work

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

For the purpose of this clause:

Other than work on Saturday, Sunday or holiday, Afternoon Shift will be defined as follows; "Afternoon Shift" means a shift commencing after 12.00pm and finishing at or before 11.00pm and shall attract a 15% allowance calculated on the employees gross ordinary times earnings provided that the employee is employed continuously for five shifts Monday to Friday in any week.

Other than work on Saturday, Sunday or holiday, Night Shift will be defined as follows; "Night Shift" means a shift commencing after 9.00pm and finishing at or before 7.00am and shall attract a 25% allowance calculated on the employees gross ordinary times earnings 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.

- 23.2 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 23.1 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 23.1 hereof for the time actually worked.
- 23.3 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 24, Public Holidays and Holiday Work, shall be regarded as shifts worked for accrual purposes.
- 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.
- Rostered days off will be arranged per clause 19.2 above.
- 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 23.7 herein for a Saturday.
- 23.4 For the purpose of this clause an employee shall not be required to work for more than five hours without a meal break.
- 23.5 An employee shall be given at least 48 hours' notice of a requirement to work shift work.
- 23.6 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.
- 23.7 For all work performed on a Saturday, Sunday or holiday, the provisions of clause 21, Overtime and Special Time, clause 22, Weekend Work and 24, Public Holidays and Holiday Work, shall be applicable in lieu of the rate prescribed in this clause.
- 23.8 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.
- 23.9 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.
- 23.10 The variations to this clause shall not apply so as to reduce the rates of pay and/or conditions of work of any employee.

24. Public Holidays and Holiday Work

- 24.1 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.

- 24.2 In addition to the holidays prescribed in 24.1 of this clause employees shall be entitled to the following additional public holidays:
- (a) New England Trading Social Day 2004. 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) Early finish Christmas Close down - The normal working day prior to the Christmas close down shall finish two (2) hours early. The two (2) hours not worked shall be paid as normal time.
- 24.3 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.
- 24.4 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.
- 24.5 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.
- 24.6 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.

25. Fares and Travelling Time

- 25.1 When an employee, after reporting to the usual place of work, is required to perform work at another place the employee shall be paid all fares and travelling time incurred. When an employee is required to report for work at a place other than the usual place of work the employee shall be paid all fares reasonably incurred in excess of those the employee normally would incur attending at the usual place of work and shall be paid all travelling time in excess of that taken to reach the usual place of work.

26. Meal Allowance

- 26.1 An employee required to work overtime for more than two hours after working ordinary hours shall be paid by the employer an amount of \$10.35 to meet the cost of a meal.
- 26.2 The amount prescribed in subclause 26.1 shall be adjusted at the same time and in the same manner as prescribed under Clause 12.6.

27. Casual Employment

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

- 27.1 Engagement shall be by the hour with a minimum daily engagement of 7.6 hours.
- 27.2 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.

- 27.3 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.
- 27.4 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 25 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.

28. Part Time Employment

- 28.1 Before establishing part-time employment the company shall consult with the company's employees at least 10 days before any such arrangement is implemented.
- 28.2 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.
- 28.3 An employee so engaged shall be paid per hour one thirty- eighth of the weekly rate prescribed by clause 12 for the classification in which the employee is engaged
- 28.4 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.
- 28.5 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 21, Overtime and Special Time, of this Agreement.
- 28.6 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.
- 28.7 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.
- 28.8 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.
- 28.9 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.
- 28.10 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.

29. Payment of Wages

- 29.1 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.

- 29.2 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.
- 29.3 Subject to subclause 31.1 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.

30. Superannuation

The Company will provide Superannuation payment contributions in line with "ordinary times earning" which is the legislative requirements. The Superannuation funds will be delivered into Nationwide Superannuation Fund.

31. Termination of Employment

- 31.1 Employees, except casual employees, shall be engaged by the week.
- 31.2 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.
- 31.3 Nothing in this clause shall affect the right of an employer to dismiss an employee providing the company follows the appropriate disciplinary legislated policy. Including but not limited to malingering, inefficiency, neglect of duty, fighting and theft.

32. Redundancy

32.1 Application

- 32.1.1 This clause shall apply to both full-time and part-time employees.
- 32.1.2 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.
- 32.1.3 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.

32.2 Introduction of Change

32.2.1 Employer's duty to notify -

- 32.2.1.1 Where an employer has made a definite decision to introduce major changes in production, program, organization, 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.
- 32.2.1.2 Significant effects include termination of employment, major changes in the composition, operation or size of 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.

- 32.2.2 Employer's duty to discuss change -
- 32.2.3 The employer shall discuss with the employees affected and the consultative committee, inter alia, the introduction of the changes referred to in subclause 1 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.
- 32.2.4 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 1 of this subclause.
- 32.2.5 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.

32.3 Redundancy

- 32.3.1 Discussions before terminations -
- 32.3.2 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 1 of paragraph 1 of subclause 2 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.
- 32.3.3 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 1 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.
- 32.3.4 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.

32.4 Termination of Employment

- 32.4.1 Notice for changes in production, programme, organization or structure - This paragraph sets out the notice provisions to be applied to terminations by the employer for reasons arising from production, programme, organization or structure in accordance with subparagraph (a) of paragraph 1 of subclause 2 of this clause.
 - 32.4.1.1 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
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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

32.4.1.2 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.

32.4.1.3 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.

32.4.2 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 subparagraph 1 of paragraph 1 of the said subclause 2.

32.4.2.1 In order to terminate the employment of an employee the employer shall give to the employee three months notice of termination.

32.4.2.2 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.

32.4.2.3 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.

32.4.3 Time off during the notice period -

32.4.3.1 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.

32.4.3.2 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.

32.4.4 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.

32.4.5 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.

32.4.6 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.

32.4.7 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.

32.4.8 Transfer to lower paid duties - Where an employee is transferred to lower paid duties for reasons set out in subclause 2 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.

32.5 Severance Pay

32.5.1 Where the employment of an employee is to be terminated pursuant to subclause 35.4 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:

32.5.2 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	2 weeks
2 years and less than 3 years	5 weeks
3 years and less than 4 years	8 weeks
4 years and less than 5 years	12 weeks
5 years and less than 6 years	15 weeks
6 years and over	18 weeks

32.5.2.1 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	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	18.75 weeks
6 years and over	22.5 weeks

32.5.3 "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 13, Tool Allowance, clause 14, Licence / Registration Allowance, clause 15, Crane & Forklift Allowance, clause 16, Quality Assurance Duties and subclause 17.1 of Special Rates.

32.5.4 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 1 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 1 will have on the employer.

32.5.5 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 1, if the employer obtains acceptable alternative employment for an employee.

32.6 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.

33. Annual Leave

33.1 Period of Leave

Subject to the provisions of Sub-Clauses 33.2, 33.4 and 33.5 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 19, Hours, or 23, Shift Work, falls during period annual leave is taken, payment of accrued entitlements for such day shall be made in addition to annual leave payments prescribed in subclause 33.7.2 herein.

33.2 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.

33.3 Leave Allowed Before Due Date

33.3.1 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.

33.3.2 Where the employer has allowed an employee to take annual leave pursuant to Sub Clause 32.3.1. 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.

33.4 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 19, Hours and 23, 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

33.5 Broken Service

Where an employee breaks continuity of service by an absence from work for any reason other than a reason set out in 33.6 hereof, the amount of leave to which the employee would have been entitled under 33.1 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 33.4 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.

33.6 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:

33.6.1 Illness or accident up to maximum of four (4) weeks after the expiration of paid sick leave;

33.6.2 Bereavement leave;

33.6.3 Jury service;

33.6.4 Injury received during the course of employment and up to a maximum of twenty-six (26) weeks for which workers' compensation was received.

33.6.5 Where called up for military service of up to three (3) months in any qualifying periods;

33.6.6 Long service leave;

33.6.7 Any reason satisfactory to the employer or in the event of dispute, to the Commission.

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.

33.7 Payment for Period of Leave

33.7.1 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

33.7.2 In addition to the payment prescribed in paragraph (1) 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 12, Rates of Pay, 13 Tool Allowance and 14, Licence / Registration Allowance and leading hand rates as prescribed by Clause 12 if applicable. The loading prescribed above shall also apply to proportionate leave on lawful termination.

33.8 Service under Previous Award or Agreement

33.8.1 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.

33.8.2 Subject to paragraph 1 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 33.1 of this clause.

33.9 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:

- 33.9.1 Stand off without pay during the period of leave any employee who has not yet qualified under 33.1 hereof; or
- 33.9.2 Stand off without pay during the period of leave any employee who has not qualified under 33.1 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.

33.10 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.

34 SICK LEAVE

34.1.1 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:

34.1.1.1 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.

34.1.1.2 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.

34.1.1.3 An employee during his/her first year of employment with an employer shall be entitled to sick leave entitlement at the rate of one day at the beginning of each calendar month for the first ten months of his/her first year of employment.

34.1.1.4 An employee who has completed one year of continuous employment shall be credited with a further ten days' sick leave entitlement at the beginning of his/her second and each subsequent year, this shall commence on the anniversary of engagement.

34.1.2 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 four 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 34.1.1.2.

34.1.3 Sick leave with an employer shall accumulate from year to year so that any balance of the period specified in 34.1.1 of this clause, which in any 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 year, without diminution of the sick leave prescribed in respect to that year.

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

35. State Personal / Carer's Leave Case - August 1996

35.1 Use of Sick Leave -

35.1.1 An employee, other than a casual employee, with responsibilities in relation to a class of person set out in subparagraph 2 of paragraph 3 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 34, 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.

35.1.2 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. 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.

35.1.3 The entitlement to use sick leave in accordance with this subclause is subject to:

35.1.3.1 The employee being responsible for the care of the person concerned; and

35.1.3.2 The person concerned being:

35.1.3.2.1 A spouse of the employee; or

35.1.3.2.2 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 bona fide domestic basis although not legally married to that person; or

35.1.3.2.3 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

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

35.1.3.2.5 A relative of the employee who is a member of the same household where, for the purposes of this subparagraph:

35.1.3.2.5.1 "Relative" means a person related by blood, marriage or affinity;

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

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

35.1.3.2.5.4 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.

35.2 Unpaid Leave for Family Purpose -

35.2.1 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 paragraph (3) of subclause 35.1 of this clause, who is ill.

35.3 Annual Leave -

35.3.1 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.

35.3.2 Access to annual leave, as prescribed in paragraph 1 of this subclause, shall be exclusive of any shutdown period provided for elsewhere under this award.

35.3.3 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.

35.4 Time Off in Lieu of Payment for Overtime -

35.4.1 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.

35.4.2 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.

35.4.3 If, having elected to take time as leave in accordance with paragraph 1 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.

35.4.4 Where no election is made in accordance with the said paragraph 1, the employee shall be paid overtime rates in accordance with the agreement.

35.5 Make-up Time -

35.5.1 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.

35.5.2 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.

35.6 Rostered Days Off -

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

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

35.6.3 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.

36. Bereavement Leave

36.1 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 36.3 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.

- 36.2 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.
- 36.3 Bereavement leave shall be available to the employee in respect of the death of a person prescribed for the purposes of personal/carer's leave as set out in subparagraph 2 of paragraph 3 of subclause 35.1 of clause 35, 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.
- 36.4 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.
- 36.5 Bereavement leave may be taken in conjunction with other leave available under subclauses 35.2, 35.3, 35.4, 35.5 and 35.6 of the said clause 35. In determining such a request, the employer will give consideration to the circumstances of the employee and the reasonable operational requirements of the business.

37. Long Service Leave

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

38. 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 19, Hours or 23, 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.

39. Compensation for Clothes and Tools

- 39.1 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 44 shall be utilised.

- 39.1.1 An employee shall be reimbursed by the company to a maximum of \$1315.00 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.

The maximum figure nominated in clause 39.1.1 shall be adjusted in accordance with Clause 12.6 - Adjustments.

- 39.1.2 Where an employee is absent from work because of illness or accident and has advised the employer in accordance with clause 34, Sick Leave, the employer shall ensure that the employee's tools are securely stored during his/her absence.

- 39.2 Provided that for the purpose of this Clause

- 39.2.1 Only tools used by the employee in the course of employment shall be covered by this Clause;

39.2.2 The employee shall, if requested to do so, furnish the employer with a list of tools so used;

39.2.3 Reimbursement shall be at the current replacement value of new tools of the same or comparable quality;

39.2.4 The employee shall report any theft to the police prior to making claim on the employer for replacement of stolen tools.

40. Protection of Employees

40.1 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 Chairman of the Safety Committee whose decision on the matter shall be final.

40.2 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 *Occupational Health and Safety Act 2000*.

41. Amenities

41.1 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.

41.2 Provided that this agreement shall not apply in respect of any other area of amenities subject to the legislation listed in Clause 40, Protection of Employees.

42. 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 \$7.36 per week.

43. 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, organization 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.

44. Consultative Mechanism

44.1 A formal consultative mechanism will be established which shall include representatives of 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".

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

44.2.1 Any matters which, under the terms of this Agreement, are to be discussed between employer and employees;

44.2.2 Positive steps to increase the efficiency and productivity of the enterprise in accordance with Clause 7 of this Agreement;

44.2.3 In accordance with Clause 45, Settlement of Disputes of this Agreement any disputes between employee and employer;

44.2.4 Any other matters which, by mutual agreement, the parties wish to be dealt with in that forum.

44.3 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.

45. 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:

- 45.1 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.
- 45.2 If the matter is unresolved it shall be referred to the Consultative Committee which shall discuss the matter as soon as possible.
- 45.3 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.
- 45.4 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.
- 45.5 Without prejudicing either party as to final settlement, normal work shall continue throughout the above procedures save and except for issues of genuine safety.
- 45.6 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.

46. 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.

47. Anti-Discrimination

- 47.1 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, age and responsibilities as a carer.
- 47.2 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.
- 47.3 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.
- 47.4 Nothing in this clause is to be taken to affect:
 - 47.4.1 Any conduct or act which is specifically exempted from anti-discrimination legislation;
 - 47.4.2 Offering or providing junior rates of pay to persons less than 21 years of age;

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

47.4.4 A party to this Agreement from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.

47.5 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".

48. 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*.

49. Conclusion of Enterprise Agreement Period

At the conclusion of the enterprise agreement period, should the enterprise bargaining process not be satisfactory agreed and completed at the expiry date of enterprise agreement, the conditions of the existing agreement will roll over until such time as the new enterprise agreement is formalised.

NEW ENGLAND TRADING ENTERPRISE AGREEMENT 2005-2008

Date:

Signed for and on behalf of :

In the presence of:

New England Trading Pty Ltd

Name:

Print:

Classification

General Manager

Signed by the Employee Consultative Committee:

Name:

Print:

Classification:

Name:

Print:

Classification

Name:

Print:

Classification: