

REGISTER OF ENTERPRISE AGREEMENTS

ENTERPRISE AGREEMENT NO: EA05/306

TITLE: Cement Australia Transport Employees (New South Wales) Agreement 2005

I.R.C. NO: IRC5/4742

DATE APPROVED/COMMENCEMENT: 30 September 2005/30 September 2005

TERM: 24

**NEW AGREEMENT OR
VARIATION:** Replaces EA03/110.

GAZETTAL REFERENCE: 16 December 2005

DATE TERMINATED:

NUMBER OF PAGES: 8

COVERAGE/DESCRIPTION OF

EMPLOYEES: The agreement applies to drivers employed by Cement Australia Pty Ltd at all NSW locations, (and such other location as are agreed from time to time between parties) who are engaged in the cartage of cement, fly ash and related products, who fall within the coverage of the Transport Industry - Mixed Enterprises Interim (State) Award.

PARTIES: Cement Australia Pty Limited -&- the Transport Workers' Union of New South Wales

CEMENT AUSTRALIA TRANSPORT EMPLOYEES (NEW SOUTH WALES) AGREEMENT 2005

1. Title

This agreement shall be known as the Cement Australia Transport Employees (New South Wales) Agreement 2005.

2. Arrangement

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Schedule

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3. Parties Bound

This agreement shall be binding upon Cement Australia ("the Company"), the employees of Cement Australia who are eligible to be engaged under the Transport Industry Mixed Enterprises (State) Award ("the Employees") and the Transport Workers Union of Australia, New South Wales Branch ("the Union").

4. Duration

This agreement shall operate from the date of certification by the New South Wales Industrial Relations Commission ("the Commission") and shall remain in force for a period of twenty four (24) months.

5. Scope and Application

This agreement shall supersede all previous agreements and arrangements either written or verbal.

The Transport Industry Mixed Enterprises (State) Award ("the award"), as varied from time to time, shall apply except as varied by this agreement. Where there is any inconsistency between the terms of the award and this agreement, the terms of the agreement shall take precedence.

This agreement shall cover drivers employed by the Company at all NSW locations, (and such other locations as are agreed from time to time between the parties) who are employed to undertake the cartage of cement, fly-ash and related products.

The parties hereby agree that this agreement is specific to the operation that it is designed to cover and shall not in any way indicate a general acceptance by the Company of its terms in any other operations of the Company, now or in the future.

6. The Work

The employees shall undertake the driving of the Company's vehicles in accordance with the reasonable directions of the Company.

The employees shall undertake minor repairs such as changing tail and running lights and be ready, willing and able to change tyres and perform similar non specialist maintenance tasks on the Company's vehicles (including trailers) or shall make note of the maintenance requirements of the Company's vehicles used by the employee in the course of his or her employment, and where such vehicle requires additional maintenance shall advise the Company accordingly.

The employee shall wash the Company's vehicles as reasonably required by the Company.

7. Duress

This agreement was reached between the parties without duress.

8. No Extra Claims

It is a term of this agreement that there shall be no further claims while this agreement is in force.

The rates contained in the Schedule are the total remuneration payable meaning that no other payments or allowances are payable unless provided for in this agreement. For the avoidance of any doubt it is noted that payments or allowances (including rostered days off) referred to in the Award and not referred to in this EBA are not payable, and that such payments or allowances have been taken into consideration by the parties in determining the rates of pay herein.

9. Rates of Pay

The base rates of pay for employees covered by this agreement shall be the rates contained in Table 1 of the Schedule, which shall not be less than those contained in the Award.

For the purposes of payment under this agreement wage rates shall be averaged over a year and shall have the following factored into an annualised amount:

- (i) The base rate
- (ii) Overtime for a 12 hour day (Mon-Fri) {i.e. after 7.6 ordinary time}
- (iii) 8 hours for Saturday when on Day Work {26 weeks out of 52}
- (iv) 30% Night Shift Allowance for 26 weeks out of 52 each year

- (v) Overtime calculated after 7.6 ordinary hours (Mon-Fri) {i.e. No RDO}
- (vi) Annual Leave Loading {i.e. paid in rates not when leave taken}
- (vii) Union Picnic Day

as contained in Table 2 of the Schedule.

(Note: No amount has been added into the rates for Annual Leave Loading because if leave was taken while on Night Shift a 30% loading has already been provided for and if leave is taken on Day Work the payment for the Saturday has already been provided for and these amounts exceed the amount of the loading referred to in the Award.)

The rates contained in the Schedule are the total remuneration payable meaning that no other payments or allowances are payable unless provided for in this agreement.

The annualised amount shall be paid on a monthly basis on the 15th of each month (15 days ahead and 15 days in arrears {depending on number of days in each month}). Should the 15th fall on a weekend or a public holiday then payment shall be made on the Friday before the 15th.

Payment shall be by Electronic Funds Transfer (EFT).

10. Review of Rates

The rates applicable for the periods of this agreement are laid out in Schedule 1 and Schedule 2.

11. The Increase of 3% Applicable for the Period 2004/2005 will be paid in Arrears Effective from 17 April 2004 to 17 April 2005. (I.E. Back Payed). Hours of Work

- (a) Hours of Work

Apart from no more than 3 times per calendar month and within the limits of legal driving hours, the nominal hours of work shall be 12 hours per day Monday to Friday

It is the intent of this agreement to allow give and take on the hours of work and in unforeseen circumstances employees may be expected to work more than the nominal hours, within the limits of legal driving hours.

The Company will not require employees remain at work for a full twelve (12) hours if the work has been finished (refer 11 (c))

The Company will set flexible start times after consultation with the relevant employees, taking into account customer requirements.

- (b) Rostering

There shall be 2 drivers for each truck (i.e. day shift and night shift). Employees shall be required to work 26 weeks of night shift each year {i.e. 26 out of 52 or ½} and 26 weeks of day work.

Employees shall arrange with the other driver of their truck, a rotation pattern between day work and night work between themselves (eg rotating each week, fortnight or month).

If the employees can not reach agreement on the rotation pattern then they shall consult their manager who will decide the rotation method or make other appropriate arrangements.

- (c) No Work Available

If there is no work available or there is no further work for the day then employees may be allowed to finish work early.

Any decision to allow employees to finish early is at the Company's discretion. The Allocator is to advise employees when they are finished and employees are required to notify the Allocator when finishing, under all circumstances.

Once employees have been advised that they have finished for the day and subsequently leave the site it shall be taken that the employee has finished for the day, whether they have worked a full shift or not.

(d) Saturday Work

When rostered on Day Work employees are required to the Saturday at the end of the Day Work week (i.e. Mon-Sat).

12. Annual Leave

Annual Leave shall be paid at the rate contained in Table 2 of the Schedule and no Loading shall be applicable, as the Loading has been incorporated into the monthly payment.

When an employee on Day Work takes Annual Leave which includes the Friday, the employee shall not be required to work on the Saturday. The Saturday will not affect or reduce the employees leave accrual.

13. Sick Leave/Carer's Leave Or Other Non Specified Leave

Sick Leave and Carer's Leave shall be paid at the rate contained in Table 2 of the Schedule and entitlements shall be in accordance with the Award.

Sick Leave in excess of the entitlements contained in the Award will be deducted from the employees salary at the daily rate contained in Table 2 of the Schedule.

14. Long Service Leave

Long Service Leave shall be paid at the rate contained in Table 2 of the Schedule and entitlements shall be in accordance with the Award.

15. Other Leave

Unpaid Leave may be granted at the Company's discretion and shall be considered on a case by case basis.

16. Sale, Acquisition, Transmission Or Transfer of the Business Accruals of Leave Entitlements

- a. In respect to the sale, transmission or transfer of a business to the Company and the transfer of the employee from such business in which continuity of service would be deemed to exist between the business and the Company then any new employee of the Company coming from such purchased, transmitted or transferred business shall have transferred to him or her, his or her agreed leave entitlements as at the date of the transfer or transmission.
 - i. In respect to any such new employee of the Company all future entitlements of leave as provided in clauses 12, 13, 14, and 15 shall accrue in accordance with these clauses. Any accrual acquired, transmitted or transferred in accordance with paragraph (a) above shall be added to any accrual under this paragraph.

17. Superannuation

Calculation for Superannuation purposes will be on the employee's monthly payment as contained in Table 2 of the Schedule and shall to be paid into the Company Superannuation Fund at least each calendar quarter, unless otherwise required by legislation.

18. Workers Compensation

Workers Compensation shall be calculated on the basis of employees being paid in accordance with Table 2 of the Schedule.

19. Casual Employees

No clause of this agreement shall be applicable to casual employees of the Company. All conditions of employment (other than remuneration) for casual employees are to be in accordance with the Award. Remuneration for casual employees shall be in accordance with Table 3 of the Schedule.

20. Uniforms and Personal Appearance

All employees are required to wear a Company uniform and ensure that they are of a neat, clean and tidy appearance whilst at work and representing the Company.

Uniforms (including safety footwear) will be supplied by the Company and will be replaced on a fair wear and tear basis.

21. Company Policies

Employees are required to comply with and abide by the Policies and Procedures of the Company.

22. Health, Safety & Environment

It is a condition of employment that employees comply with their obligations under the Health and Safety laws and abide by the Company's policies, procedures and requirements to ensure a safe working environment for all employees, customers and the general public.

Employees shall follow and abide by the policies and procedures of customers to ensure a safe working environment. If any employee is unsure of particular policies and procedures then they shall ask the Company to clarify these.

23. Disputes Procedure

Subject to the *Industrial Relations Act* 1996, any dispute shall be dealt with in the following manner:

- (a) In the event of an industrial dispute, the employee shall attempt to resolve the matter with the Transport Team Leader .
- (b) If the matter can not be resolved then the representative of the Union on the job and the Transport Team Leader shall attempt to resolve the matter(s) in issue in the first place.
- (b) In the event of failure to resolve the dispute at job level the matter shall be the subject of discussions between an organiser of the Union and the Transport Operations Manager.
- (c) Should the dispute still remain unresolved the Secretary of the Union or his or her representative will confer with senior management.
- (d) In the event of no agreement being reached at this stage, the dispute will be referred to the Industrial Commission of New South Wales for resolution.

All work shall continue at the direction of the employer while these negotiations are taking place.

24. Performance Requirements

The Company will consult with Drivers in relation to setting of agreed key performance indicators for the work.

25. Termination

Nothing contained in this agreement shall be construed to limit the Company's right to terminate or discipline an employee.

26. Redundancy

Where an employee covered by this agreement is made redundant, the following scale will apply;

- a. one months notice (or the equivalent pay at the discretion of the Company in lieu of notice);
- b. redundancy pay at the rate of three weeks ordinary pay for each completed year of service to a maximum of fifty two (52) weeks inclusive of the notice period.

27. Higher Duties

Employees will only be paid for performing higher duties if these duties are performed for at least five (5) days in any calendar month, then payment for the higher duties shall be paid for an entire month.

28. Anti-Discrimination

- (1) It is the intention of the parties to this agreement to seek to achieve the object in section 3(f) of the *Industrial Relations Act 1996* to prevent and eliminate discrimination (as defined in the Act) in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity and age.

Paragraph 2 only applies where the agreement contains a dispute resolution procedure:

It follows that in fulfilling their obligations under the dispute resolution procedure set out in 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 provision of the agreement which, by its terms or operation, has a direct or indirect discriminatory effect.

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

Nothing in this clause is to be taken to affect:

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

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.

29. Confidential Information

For the purpose of this clause "Confidential Information: means:

- a) All confidential, non-public or proprietary information relating to the Company and its customers; and

- b) All confidential, non-public or proprietary information concerning the Company or its marketing, technology, products or production innovations and any information concerning its customers, but excludes information which is in or becomes part of the public domain other than through breach of this Agreement.

Employees will take all action necessary to maintain the confidential nature of Confidential Information provided or obtained by them.

30. Training

Employees shall complete training in Company time, as required by the Company and at the Company’s cost, including training to meet customer requirements or to satisfy or improve Company standards.

Signed for and on behalf of Cement Australia:

Date 23.6.05

Date

Signed for and on behalf of the Cement Australia Employees:

Yard Representatives

Date

Date 6.7.05

Transport Workers Union

Date 28.6.05

Date 28.6.05

SCHEDULE

Table 1

Base Rates

Base Rate Grade	Per Week	
	7	8
2003/2004	\$584.50	\$626.00
2004/2005	\$602.04	\$644.78
2005/2006	\$632.14	\$677.02
2005/2007	\$663.75	\$710.87

Table 2

Annualised Rates

Grade	7	8
2003/2004 Base		
Day	\$277.93	\$297.67
Week	\$1,389.67	\$1,488.33
Month	\$6,021.89	\$6,449.45
Annual	\$72,262.66	\$77,393.37

Grade	7	8
2004/2005 Increase		3%
Day	\$286.27	\$306.60
Week	\$1,431.36	\$1,532.98
Month	\$6,202.55	\$6,642.93
Annual	\$74,430.54	\$79,715.17

Grade	7	8
2005/2006 Increase		5%
Day	\$300.58	\$321.93
Week	\$1,502.93	\$1,609.63
Month	\$6,512.68	\$6,975.08
Annual	\$78,152.07	\$83,700.93

Grade	7	8
2005/2006 Increase		5%
Day	\$315.61	\$338.03
Week	\$1,578.08	\$1,690.11
Month	\$6,838.31	\$7,323.83
Annual	\$82,059.67	\$87,885.98

Table 3

Casual Rates

Grade	7	8
Hour		
Day	\$	\$