



NEW SOUTH WALES
INDUSTRIAL GAZETTE

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NEW SOUTH WALES

INDUSTRIAL GAZETTE

Printed by the authority of the Industrial Registrar

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[†]These Presidential members are also Judicial members of the Industrial Relations Commission of New South Wales in Court Session, established as a superior court of record pursuant to section 152 of the *Industrial Relations Act 1996*.

INDUSTRIAL REGISTRAR

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DEPUTY INDUSTRIAL REGISTRAR

Mr A. G. MUSGRAVE

WESTFIELD DESIGN AND CONSTRUCTION PTY LTD KOTARA REDEVELOPMENT PROJECT AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Notification under section 130 by Newcastle Trades Hall Council, Industrial Organisation of Employees, of a dispute.

(No. IRC 1275 of 2006)

Before The Honourable Mr Deputy President Harrison

10 August 2006

AWARD

Clause No.	Subject Matter
1.	Title
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1. Title

- 1.1 This Award shall be known as the Westfield Design and Construction Pty Ltd Kotara Redevelopment Project Award.

2. Parties to the Award

- 2.1 The Parties to this Award are those listed in Annexure A.

3. Objectives

- 3.1 The Parties agree to continue to develop and implement the following objectives in respect of the following key areas on the Project:
- a. Increase efficiency and productivity;
 - b. Implementation of forms of work organisation which encourage the use and acquisition of skills and continual learning;
 - c. Continued development of communication processes which facilitate participation by the Employer, Employees and Unions;
 - d. Introduction of new technology and associated change to enhance productivity;
 - e. Improved quality of work;
 - f. Increased scope of sub-contract work packages to promote genuine skills enhancement and acquisition by Employees;
 - g. Provision of a career structure for all Employees based on skills, competencies and increased job satisfaction;
 - h. Provision of high standards of occupational health & safety on the Project;
 - i. Improved impact of the Project on the environment;
 - j. Implementation of this Award, and compliance with all relevant statutory provisions;
 - k. Elimination of unproductive time;
 - l. Improved compliance by subcontractors with any applicable industrial instruments and legislation;
 - m. Improved conditions for Employees working on the Project;
 - n. Increased leisure time for Employees by eliminating excessive hours of work;
 - o. Enhancing job opportunities for persons who have a legal right to work including persons who wish to take on apprenticeships or traineeships;
 - q. The adherence to dispute settlement procedures;
 - r. Minimize the impact of any industrial action on the Project that may arise out of the negotiation or renegotiation of subcontractors' industrial agreements.

4. Definitions

- 4.1 "Award" means Westfield Design and Construction Pty Ltd Kotara Redevelopment Project Award.
- 4.2 "Employer Name" means Westfield Design and Construction Pty Ltd.
- 4.3 "Employee" means a person engaged by the Employer and who performs work on the Project.
- 4.4 "Employer" means Westfield Design and Construction Pty Ltd
- 4.5 "Enterprise Agreement" means an agreement lodged under the *Workplace Relations Act 1996* (Cth) or approved under the *Industrial Relations Act (NSW)*.

- 4.6 "EHS&R" means Environment, Health, Safety and Rehabilitation.
- 4.7 "Environment Health Safety and Rehabilitation Policy" means either of the plan or policy devised and implemented by the Project Manager for the Project (as amended from time to time).
- 4.8 "Parties" means the Employer, and the Unions referred to in Annexure A.
- 4.9 "Practical Completion" means the completion of the Project where the building is fit for occupancy and/or purpose as determined by Westfield Design & Construction Pty Ltd's client.
- 4.10 "Project" means the construction works contracted to Westfield Design & Construction Pty Ltd for the currently proposed redevelopment of the Kotara Shopping Centre.
- 4.11 "Project Manager" means the Project Manager (Delivery) for the Project appointed by Westfield Design and Construction Pty Ltd from time to time or his nominated representative.
- 4.12 "Safety Committee" means the site Safety Committee formed under the *Occupational Health and Safety Act (NSW)* 2000.
- 4.13 "Unions" means each of the Unions listed in Part 2 of Annexure A.

5. Application

- 5.1 This Award will apply to work done on the Project by the Employees for the period the Employer engages the Employees to work on the Project.
- 5.2 This Award shall in no way create a claim for flow-on of site wages rates and conditions provided for in this Award to Employees engaged in off-site manufacturing, fabrication or other industries, associated with Contractors and or Sub-Contractors involved with the Project.
- 5.3 This Award is generally intended to supplement and co-exist within the terms of any existing Enterprise Agreements and Awards and its primary purpose is to provide a framework for the Employer, the Newcastle Trades Hall Council and the Unions, to manage issues on the Project in a proactive and responsible manner.
- 5.4 It is recognised that this Award is not intended to extend the traditional coverage of the Union Parties nor is it intended to cover works not within the scope of works given to Westfield Design & Construction by their client.

6. Duration

- 6.1 This Award shall operate on and from 17 March 2006 until Practical Completion.

7. Industry Standards

7.1 Superannuation and Redundancy

- a. The Parties acknowledge that a contribution of \$115.00 week or 9% of ordinary time earnings (whichever is the greater) will be made on behalf of Employees to the superannuation fund nominated in the relevant industrial instrument being CBUS; NESS; STA, TWU, EISS or other schemes approved by the Parties.

The minimum payment made for superannuation for apprentices / trainees working on the Project shall be \$50.00 per week.

- b. The Employer will make a contribution on behalf of Employees of \$71.00 per week into ACIRT or MERT or other schemes approved by the Parties. The Employer shall make a contribution of no less than \$46.00 per week for Employees who are apprentices/trainees working on the Project.

7.2 Top Up/24 Hour Income Protection Insurance

The Employer will provide Workers Compensation Top-Up/24 Hour Income Accident Insurance with the UPLUS scheme, Chiffley Electrical Top Up or other similar schemes, which are approved by the Parties to this Award.

8. Project Productivity Allowance

- 8.1 Westfield Design and Construction Pty Ltd shall pay to Employees (except as provided by Clause 8.2) and subject to the application of this Award, a Project productivity allowance of \$2.00 per hour. This allowance will be paid on an hours worked basis only, and will not attract any premium or penalty.

Further, the Project Productivity Allowance referred to in this clause is not intended to affect any allowances otherwise payable under a Building Award or Enterprise Agreement as defined in Clause 4.5.

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

9.1 Induction

- a. All Employees must attend an EHS&R site induction course which complies with the OH&S Regulation 2001 (NSW) on commencement of engagement on site.

9.2 Environment, Health and Safety Plans

- a. The Employer must submit an Environment, Health Safety And Rehabilitation Management plan. This plan should include evidence of:
- i. risk assessment of their works;
 - ii. hazard identification, prevention and control;
 - iii. planning and re-planning for a safe working environment;
 - iv. industry and trade specific induction of Employees;
 - v. monitoring performance and improvement of work methods;
 - vi. reporting of all incidents/accidents;
 - vii. compliance verification; and
 - viii. regular EHS&R meetings, inspections and audits of the Project.

9.3 The Safety Committee

The Safety Committee will be properly constituted with an agreed constitution. All members of the Safety Committee will undertake agreed Occupational Health and Safety training with Comet or other accredited WorkCover Authority providers.

9.4 Safety Procedures

- a. The Parties acknowledge and agree that all Parties are committed to safe working procedures.
- b. If the Project Manager or the Safety Committee is of the opinion that an Employee or the Employer has committed a serious breach of either the Environment Health Safety and Rehabilitation Policy or the relevant Safety Management Plan (or any other agreed safe working procedures), the Project Manager (or the Project Manager on recommendation from the Safety Committee) will implement disciplinary action.

- c. The Parties agree that in the event that an unsafe condition exists, work is to continue in all areas not affected by that condition and the Employer may direct Employees to move to a safe place of work. No Employee will be required to work in any unsafe area or situation. No Employee will leave the Project subject to Clause 10 of this Award.

9.5 OH&S Industry Induction

No Employee will be permitted to start work on site unless he/she has completed the WorkCover NSW Accredited OH&S Industry Induction Course.

9.6 Formwork Safety

All Employees engaged on the erection or dismantling of formwork will have the relevant WorkCover Formwork Certificate of Competency. Where an Employee does not have a Certificate of Competency, Comet or another WorkCover Authority accredited provider will be contacted to assess the qualifications of the relevant Employee. Further, all work shall fully comply with AS 3610 Formwork for Concrete.

9.7 Temporary Power/Testing and Tagging

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

9.8 Smoke Free Zones

The Parties agree in an effort to minimise the affects and discomfort caused by smoking that Westfield Shopping Centres and the Accommodation, Amenity and Site Office areas shall be strictly non-smoking zones.

9.9 First Aid

First aid requirements shall be maintained in accordance with the relevant Legislation and Regulations applying to the *Occupational Health and Safety Act 2000*.

9.10 Crane Safety

No mobile crane will be allowed on the Project site unless it has been certified by Cranesafe Australia (New South Wales). Such cranes will be required to display their current Cranesafe inspection label and RTA registration.

10. Site Amenities

- 10.1 Amenities on the Project will comply at least with the provisions of the WorkCover Amenities Code of Practice as well as having reference to industry standards.

11. Hoist Operation

- 11.1 The Parties agree that where the personnel hoist(s) provided on the Project cease(s) to work or break(s) down, as a temporary measure Employees will be required to access their relevant work areas subject to safety considerations including safe access via stairs provided. Under these circumstances, and in consultation with the site Safety Committee and/or site Union delegate, Employees will be expected to access their relevant work areas without unreasonable restriction.

12. Dispute Resolution

One of the aims of this Award is to eliminate lost time in the event of a dispute and to achieve prompt resolution of any dispute.

12.1 Employer Specific Disputes

In the event of a dispute or issue occurring specifically between the Employer and its Employees or their representative Union, the following procedure will be adopted:

- a. Discussion between those directly affected;
- b. Discussion between site management representatives of the Employer and the Union delegate;
- c. Discussion between site management representatives of the Employer and the Union organiser;
- d. Discussion between senior management of the Employer, Westfield Design and Construction Pty Ltd Project Manager and the appropriate Union official;
- e. Discussion between the Secretary of the relevant Union (or nominee) and Westfield Design and Construction Pty Ltd Project Manager (or nominee);
- f. If the dispute is not resolved after step (e), Parties to the Award may notify the dispute to the Industrial Relations Commission of New South Wales, and request that the Industrial Relations Commission of New South Wales resolve the dispute pursuant to its powers set out in the *Industrial Relations Act 1996* (NSW);
- g. Work shall continue without interruption or dislocation during discussion and negotiations concerning the dispute.

12.2 Project Wide Disputes

In the event of a dispute or issue affecting more than one employer occurring, the following procedure will be adopted:

- a. Discussion between those directly affected;
- b. Discussion between site management representatives Westfield Design & Construction Pty Ltd and the Union delegate;
- c. Discussion between site management representatives of Westfield Design & Construction Pty Ltd and the Union organiser;
- d. Discussion between senior management of Westfield Design & Construction Pty Ltd and the appropriate Union official;
- e. Discussion between the Secretary of the relevant Union (or nominee) and Westfield Design & Construction Pty Ltd Project Manager (or nominee);
- f. If the dispute is not resolved after step (e), Parties to the Award may notify the dispute to the Industrial Relations Commission of New South Wales, and request that the Industrial Relations Commission of New South Wales resolve the dispute pursuant to its powers set out in the *Industrial Relations Act 1996* (NSW);
- g. Work shall continue without interruption or dislocation during discussion and negotiations concerning the dispute.

12.3 Demarcation Disputes

In the event that a dispute or issue arises which cannot be resolved between the relevant Unions, the Unions agree to the following dispute settling procedure:

- a. Work shall continue without interruption or dislocation during discussion and resolution of disputes;

- b. Discussion between the Newcastle Trades Hall Council and the Unions to try to resolve the dispute;
- c. If the dispute is not resolved after step (ii), either Union may notify the dispute to the Industrial Relations Commission of New South Wales and request that the Industrial Relations Commission of New South Wales resolve the dispute pursuant to its powers set out in the *Industrial Relations Act 1996* (NSW).

13. Subcontractors' industrial instruments

- 13.1 Where there is an inconsistency between any of the provisions in clauses 9, 10, 11 and 12 and the provisions contained in an industrial instrument (within the meaning of that expression given by the *Building and Construction Industry Improvement Act 2005* (Cth)) covering the employment of a person other than an Employee who is performing work on the Project, the former provision will not operate to the extent of that inconsistency.

14. Productivity Initiatives

14.1 Learning Initiatives

The Employer is committed to skill enhancement and workplace reform while working on the Project.

14.2 Inclement Weather

- a. The Parties to this Award will collectively proceed towards the minimisation of lost time due to inclement weather.
- b. Further, the Parties are bound to adopt the following principles with regard to inclement weather and idle time created by inclement weather:
 - i. Adoption of a reasonable approach regarding what constitutes inclement weather;
 - ii. Employees shall accept transfer to an area or site not affected by inclement weather if, in the opinion of the Parties, useful work is available in that area or site and that work is within the scope of the Employee's skill, competence and training consistent with the relevant classification structures (provided that the Employer shall provide transport to such unaffected area where necessary);
 - iii. Where the initiatives described in (ii) above are not possible, the use of non-productive time may be used for activities such as relevant and meaningful skill development; production/upgrade of skill modules; presentation and participation in learning; planning and reprogramming of the Project;
 - iv. All Parties are committed to an early resumption of work following any cessation of work due to inclement weather;
 - v. The Parties agree the practice of "one out, all out" will not occur;
 - vi. If it is necessary to walk through inclement areas in order to make areas safe, appropriate protection will be provided;
 - vii. If it is necessary to walk through inclement areas in order to get to agreed working areas, appropriate protection will be provided;
 - viii. Should a portion of the Project be affected by inclement weather, all other Employees not so affected shall continue working regardless of the fact that some Employees may not be gainfully employed due to inclement weather.

14.3 Rostered Days Off

- a. Subject to Clause 30 a procedure for the implementation of Rostered Days Off (RDOs) will be agreed on the Project. The purpose of this roster is to:
 - i. increase the quality of working life for Employees;
 - ii. increase the productivity of the Project; and
 - iii. increased flexibility for the Project.
- b. The Parties agree that the taking of RDO's may be altered in order to improve productivity by exercising a more flexible arrangement in respect of Employees taking a RDO being distributed during the twenty (20) day work cycle. This will enable the Project to work productively on those days scheduled as industry rostered days off.

The banking of RDO's (to a maximum of five (5) days) may also be undertaken by the agreement so as to include for peak production times;
- c. A roster of RDO's will be prepared, following consultation with the workforce and Parties to the Award;
- d. Records of each Employee's RDO accruals will be recorded on the Employees pay slip and copies made available to the Employee, the Employee's delegate or Union official upon request. It is acknowledged that different arrangements in relation to the banking of RDO's may apply to members of the CEPU;
- e. Where agreement is reached to substitute an alternative day for the programmed RDO all provisions of the Award shall apply as if such day were the programmed RDO and the originally programmed RDO shall be regarded as a normal working day.

14.4 Maximising Working Time

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

14.5 Hours of Work

The ordinary hours of work shall be 8 hours per shift between 6.00am and 6.00pm Monday to Friday. Upon agreement being reached between the Employer, Employee and relevant Union, the ordinary hours work may be varied so as to commence from 5.00am with consequent meal and finishing times adjusted during the application of daylight saving time.

Should a system of shift work be implemented on the site, the provisions of the Building and Construction Industry (State) Award shall form the minimum standards applicable for the site. Should any other applicable industrial instrument provide a more generous entitlement for any class of employee, the employee shall receive the more generous entitlement.

14.6 Site Drug and Alcohol Policy

Under no circumstances will any Employee affected by alcohol or any drug be permitted to work on the Project.

Further, the Parties agree that no alcohol will be permitted on the construction site and reference to the Building Trade Group of Unions Drug and Alcohol policy will be made in the resolution of any related issues.

14.7 Immigration Compliance

- a. The Parties are committed to compliance with Australian immigration laws so as to ensure maximum work opportunities for unemployed permanent residents and Australian citizens.
- b. Employers will be advised by Westfield Design & Construction Pty Ltd of the importance of immigration compliance. Where there is concern that illegal immigrants are being engaged by an employer on the Project, Westfield Design & Construction will act decisively to ensure compliance.
- c. The Employer is required prior to Employees commencing work on-site to check the legal right of Employees to work. The authorization form attached to this Award as per Annexure B will assist in providing evidence of the Employee's legal status.

15. Long Service Compliance

- 15.1 If applicable, and in accordance with the *NSW Building and Construction Industry Long Service Leave Act*, no Employee will be engaged on site unless he or she is a worker registered with the NSW Long Service Payments Corporation.

16. Commitment to No Further Claims

- 16.1 The Parties acknowledge that an important ingredient of sound employee relations on a construction Project is stability and predictability. They have therefore devoted considerable time to examining the nature and scope of the Project, its particular features and circumstances and the issues, which require discussion and resolution between the Parties.

- a. No Extra Claims

As a result of this approach the Parties agree that they will not pursue any extra claims in respect of matters covered by this Award (including but not limited to any clause for a disability allowance) during the term of this Award.

- b. No Precedent

The Parties agree not to use this Award as a precedent and that this Award will in no way create a claim for flow-on of on-site wage rates and conditions.

17. Single Bargaining Unit

- 17.1 This Award was negotiated by Newcastle Trades Hall Council on behalf of the Unions, and by Westfield Design & Construction Pty Ltd.

18. Union Rights

The Parties to this Award acknowledge the right of Employees to be active Union members and respect the right of the Union to organise and recruit Employees. The Parties to this Award also acknowledge that good communication between the Union official, the delegate and its members is an important mechanism in assisting the Parties to resolve grievances and disputes in a timely fashion.

18.1 Visiting Union Officials

- a. Union officials (party to this Award) when arriving onsite, shall call at the site office and introduce themselves to a Management representative of the Employer, prior to pursuing their Union duties.
- b. Union officials shall produce their right of entry permits, if required, and observe the relevant Building Awards, the *Occupational Health and Safety Act* and Regulations, and other statutory/legislative obligations for entry to the site.

- c. Union officials with the appropriate credentials shall be entitled to inspect all such wage records, other payment records and related documentation necessary to ensure that the Employer is observing the terms and conditions of this Award.
- d. All such wages books and other payment records shall be made available within 48 hours on site or at another convenient, appropriate place, provided notice is given to the Employer and the Project Manager by the Union.
- e. Such inspections shall not take place unless there is a suspected breach of this Award, other appropriate Building Awards, Enterprise Awards, the *Industrial Relations Act 1996* (NSW), or other Employer Statutory requirements.

18.2 Workplace Delegates

In this clause the expression "delegate" means an Employee who is the accredited representative of the Union at the Employer's work place, and if there is more than one delegate in respect of the workforce of the Employer then the expression "delegate" means each and every such delegate so accredited by the Union in relation to the Employer's workforce.

- a. Rights of the Delegate
 - i. The Parties acknowledge it is the sole right of the Union and its members to elect the delegate for each work site, who shall be recognised as the authorised representative of the Union at the site.
 - ii. Subject to the application of Part 9 Division 9 of the *Workplace Relations Act 1996* and section 42 of the *Building and Construction Industry Improvement Act 2005*, the delegate shall have the right to approach or be approached by any Employee of the Employer to discuss industrial matters with that Employee during normal working hours.
 - iii. Subject to the application of Part 9 Division 9 of the *Workplace Relations Act 1996* and section 42 of the *Building and Construction Industry Improvement Act 2005*, the delegate shall have the right to communicate with members of the Union in relation to industrial matters without impediment by the Employer. Without limiting the usual meaning of the expression "impediment", this provision applies to the following conduct by an Employer:
 - moving a delegate to a workplace or work situation which prevents or significantly impedes communication with members;
 - changing a delegate's shifts or rosters so that communication with workers is prevented or significantly impeded;
 - disrupting duly organised meetings.
 - iv. The delegate shall be entitled to represent members in relation to industrial matters at the workplace, and without limiting the generality of that entitlement is entitled to be involved in representing members:
 - at all stages in the negotiation and implementation of Enterprise Awards or Awards or other industrial instruments;
 - the introduction of new technology and other forms of workplace change;
 - Career path, reclassification, training issues; and to initiate discussions and negotiations on any other matters affecting the employment of members;
 - Ensuring that workers on site are paid their correct wages, allowances and other lawful entitlements;

To check with relevant industry schemes so as to ensure that superannuation, long service leave and redundancy has been paid on time.

- v. Subject to the application of Part 9 Division 9 of the *Workplace Relations Act* 1996 and section 42 of the *Building and Construction Industry Improvement Act* 2005, in order to assist the delegate to effectively discharge his or her duties and responsibilities, the delegate shall be afforded the following rights:

the right to reasonable communication with other delegates, Union officials and management in relation to industrial matters, where such communication cannot be dealt with or concluded during normal breaks in work;

paid time off work to attend relevant Union training courses/forums;

up to 10 days paid time off to attend meetings of delegates in the industry, as authorized by the relevant Union.

- vi. The Employer of a delegate shall provide to the delegate the following:

a lockable cabinet for the keeping of records;

a lockable notice board for the placement of Union notices at the discretion of the delegate;

where practicable, i.e. on large sites, a Union office;

where a Union office room is not practicable, access to a meeting room;

use of the telephone for legitimate Union business;

from existing resources, and when required access to:

a word-processor, typewriter, or secretarial support at the workplace;

to personal computers (PC), CD ROM and E-mail and the Internet at the workplace;

a photocopier or facsimile machine.

- vii. Subject to the application of Part 9 Division 9 of the *Workplace Relations Act* 1996 and section 42 of the *Building and Construction Industry Improvement Act* 2005, there shall be no deduction to wages where the Union requires a delegate to attend any Court or Industrial Tribunal proceedings relating to Industrial matters at the workplace.

18.3 Union Membership

Subject to the application of Part 9 Division 9 of the *Workplace Relations Act* 1996 and section 42 of the *Building and Construction Industry Improvement Act* 2005, properly accredited officials and workplace representatives of the Union shall have the right, in accordance with law, to be provided with appropriate access to Employees to promote the benefits of Union membership.

To assist in this process the Employer shall:

- a. If requested by the Employee in writing, provide payroll deduction services for Union fees. Such fees shall be remitted to the Union on a monthly basis with enough information supplied to enable the Union to carry out a reconciliation;
- b. Provide the Union with access to talk to new Employees;

- c. Ensure that all supervisors are trained in the provisions of the Project Award.

19. Australian Content

- 19.1 The Project Manager shall endeavour to maximise Australian content in materials and construction equipment on the Project where practical and feasible.

20. Protective Clothing

- 20.1 The Employer will provide the Employees with legally produced Australian made protective clothing and footwear on the following basis:

- a. Safety Footwear

Appropriate safety footwear shall be supplied on commencement if not already provided, to all persons engaged on site and will be replaced on a fair wear and tear provided they are produced to the Employer as evidence.

- b. Clothing

Two sets of protective clothing (Combination of bib and brace or shorts, trousers and shirts) will be supplied to all persons after accumulated engagement on site of 152 hours or more and will be replaced once per calendar year as a result of fair wear and tear and are produced to the Employer as evidence.

- c. Jackets

Each person, after accumulated employment on site of 152 hours shall be eligible to be issued with warm bluey jacket or equivalent, which will be replaced once per calendar year on a fair wear and tear basis.

- 20.2 In circumstances where any Employee(s) is transferred to the Project from another Project where an issue of equivalent clothing was made, then such Employee shall not be entitled to an issue to this Project until the expiry of the calendar year or on a fair wear and tear basis.
- 20.3 The Employer will consult with the Newcastle Trades Hall Council/to be provided with a list of Australian manufacturers who do not use illegal or exploited labour in the manufacturing of their work clothes.
- 20.4 Employees who receive from the Employer an issue and replacement of equivalent clothing and/or safety footwear as part of the Employer's policy or relevant industrial instrument shall not be entitled to the provisions of this clause.
- 20.5 Notwithstanding anything else contained in this clause all Transport Employees/Contractors will be supplied with Safety Footwear, 1 set of Clothing and 1 Jacket prior to the commencement of work at the site. However the Company does not need to supply the above if the said Employee/Contractor has been issued with the clothing by the Principal Contractor within the previous twelve (12) months and the Principal Contractor can substantiate that fact.

21. Workers Compensation and Insurance Cover

- 21.1 The Employer must ensure that all persons that they engage to work on the Project are covered by workers compensation insurance.
- 21.2 The Employer and its Employees must comply with the following steps to ensure expedited payment of workers compensation:
 - a. All Employees will report injuries to the Project first aider and their supervisor at the earliest possible time after the injury;

- b. All Employees will comply with the requirements for making a workers compensation claim, including the provision of a WorkCover medical certificate, at the earliest possible time after the injury. This information will also be supplied to the Project first aid officer, and the Employee's supervisor;
 - c. In cases where the Employee is unable to comply with the above, the Employer will assist in fulfilling requirements for making a claim.
- 21.3 The Employer must ensure that it is aware of and will abide by Sections 63 to 69 of the *Workers Injury Management and Workers Compensation Act 1998*, which provide that:
- a. The Employer shall keep a register of injuries/site accident book in a readily accessible place on site;
 - b. All Employees must enter in the register any injury received by the Employee. The Employer must be notified of all injuries on site immediately. The Employer must notify the insurer within 48 hours of a significant injury;
 - c. The Employer who receives a claim for compensation, must within seven (7) days of receipt, forward the claim or documentation, to their insurer;
 - d. The Employer who receives a request from their insurer for further specified information must within seven (7) days after receipt of the request, furnish the insurer with the information as is in the possession of the Employer or reasonably obtained by the Employer;
 - e. The Employer who has received compensation money from an insurer shall forward such money to the person entitled to the compensation within three (3) working days.
- 21.4 Where there has been a serious incident and/or accident which has resulted in a serious injury or loss of life the Employer shall notify the relevant Union immediately.
- 21.5 The Employer will also complete the relevant accident notification form and send it to WorkCover.

22. Apprentices

- 22.1 As part of the Employer's commitment to industrial training, a ratio of one apprentice/trainee to every five tradesperson within the Employer's workforce is to be maintained.

23. Training and Workplace Reform

- 23.1 The Parties are committed to achieving improvements in productivity and innovation through cooperation and reform. The Employer is expected to demonstrate their commitment to develop a more highly skilled workforce by providing its Employees with career opportunities through appropriate access to training and removing any barriers to the use of skills acquired.

24. Accidental Death Cover

- 24.1 In addition to other payments provided by this Award, Westfield Design & Construction Pty Ltd will pay a \$25,000 mortality payment, to the family or other nominated beneficiaries of any worker who dies as a result of a site accident or injury, or on their normal journey to and from the site.
- 24.2 This payment shall be in addition to any other entitlement that might be paid to the family or beneficiaries as a consequence of the death of the Employee.

25. Anti-Discrimination

- 25.1 It is the intention of the Parties bound by this Award to seek to achieve the object in section 3(f) of the *Industrial Relations Act 1996* to prevent and eliminate discrimination in the workplace.

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

26. Personal/Carers Leave

- 26.1 Use of Sick Leave
- a. An Employee, other than a casual Employee, with responsibilities in relation to a class of person set out in clause 27.1 (c)(ii) 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, for absences to provide care and support, for such persons when they are ill. Such leave may be taken for part of a single day.
 - b. The Employee shall, if required, establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person. In normal circumstances, an Employee must not take carer's leave under this subclause where another person has taken leave to care for the same person.
 - c. The entitlement to use sick leave in accordance with this subclause is subject to:
 - i. the Employee being responsible for the care of the person concerned; and
 - ii. the person concerned being:

a spouse of the Employee; or

a de facto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or

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

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

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

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

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

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

- d. An Employee shall, wherever practicable, give the 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.

26.2 Unpaid Leave for Family Purpose

- a. An Employee may elect, with the consent of the Employer, to take unpaid leave for the purpose of providing care and support to a member of a class of person set out in 26.1 (c)(ii) above who is ill.

26.3 Annual Leave

- a. An Employee may elect with the consent of the Employer, subject to the *Annual Holidays Act* 1944 (NSW), to take annual leave not exceeding five days in single day periods or part thereof, in any calendar year at a time or times agreed by the Parties;
- b. Access to annual leave, as prescribed in paragraph 26.3(a) above, shall be exclusive of any shutdown period provided for elsewhere under this Award;
- c. An Employee and Employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken.

26.4 Time-off in Lieu of Payment for Overtime

- a. An Employee may elect, with the consent of the Employer, to take time-off in lieu of payment for overtime at a time or times agreed with the Employer within twelve (12) months of the said election.
- b. Overtime taken as time off during ordinary time hours shall be taken at the ordinary time rate, that is an hour for each hour worked.
- c. If, having elected to take time as leave in according with paragraph 26.4(a) above, the leave is not taken for whatever reason, payment for time accrued at overtime rates shall be made at the expiry of the twelve (12) month period or on termination.
- d. Where no election is made in accordance with paragraph 26.4(a), the Employee shall be paid overtime rates in accordance with the Award.

26.5 Make-up Time

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

- b. An Employee on shift work may elect, with the consent of the Employer, to work "make up time" (under which the Employee takes time off ordinary hours and works those hours at a later time at a later time), at the shift work rate, which would have been applicable to the hours taken off.

26.6 Rostered days off

- a. An Employee may elect, with the consent of the Employer, to take a rostered day off at any time.
- b. An Employee may elect, with the consent of the Employer, to take rostered days off in part day amounts.
- c. An Employee may elect, with the consent of the Employer, to accrue some or all-rostered days off for the purpose of creating a bank to be drawn upon at a time mutually agreed between the Employer and Employee, or subject to reasonable notice by the Employee or the Employer.
- d. This subclause is subject to the Employer informing each Union which is both party to the Award and which has members employed at the particular enterprise of its intention to introduce an enterprise system of RDO flexibility, and providing a reasonable opportunity for the Unions to participate in negotiations.

27. Project Calendar

- 27.1 For the purposes of this Award the Parties agree a calendar will be adopted for the Project. The calendar will be produced with a view to maximising quality leisure time off for all Employees. Accordingly the Parties agree that on the following weekends (as set out in the Calendar), no work shall be carried out.
- 27.2 Provided, however, where there is an emergency or special client need, work can be undertaken on the weekends and adjacent RDO's as set out below, subject to the agreement of the appropriate Union secretary or his/her nominee. In such circumstances reasonable notice (where possible), shall also be given to the Union secretary.
- 27.3 Site Calendar 2006/2007

The Parties shall agree to a Project Site Calendar for 2006 consistent with the Industry calendar between the Parties and the MBA. The site calendar shall follow the same principles as those established for previous site calendars on the Tuggerah Shoppingtown Project.

28. Annexure A (Parties)

28.1 Part 1

Employer:

Westfield Design & Construction Pty Ltd.

28.2 Part 2

Unions:

Newcastle Trades Hall Council.

Construction Forestry Mining Energy Union (New South Wales) Branch

The New South Wales Plumbers and Gasfitters Employees' Union

Electrical Trades Union of Australia (NSW Branch)

Transport Workers Union (TWU)

Automotive Food Metals Engineering Printing & Kindred Industries Union (also known as AMWU).

29. Annexure B

Authority to obtain details of work rights from DIMA

Employee Details
(As specified in passport or other identify document)

Family Name:

Given Name(s):

Other Name(s) used (eg maiden name)

Date of Birth: _____

Nationality: _____

Passport Number: _____

Visa Number: _____

Visa Expiry Date: _____

I authorise the Department of Immigration and Multicultural Affairs (DIMA) to release the details of my work rights status (that is, my entitlement to work legally in Australia) to the employer/labour supplier named on this form.

I understand that these details are held by DIMA on departmental files and computer systems. I also understand that the employers/labour supplier will use this information for the purpose of establishing my legal entitlement to work in Australia, and for no other purpose.

Employer/Labour Supplier Details

Business Name:

Business Street Address

Type of Business

Name of Contact Person:

Telephone: _____

Fax: _____

Note that the employee's work rights status will be sent directly to the fax number given below. Please ensure that this number is correct.

Employee Signature:

The completed form should be faxed to
1800 505 550

Date: _____

If all details match with our records, the employee's work rights status will be faxed to you within one working day.

R. W. HARRISON *D.P.*

Printed by the authority of the Industrial Registrar.

INTEGRATED STEEL MILL SERVICES PTY LTD ON SITE BLUESCOPE AND COATED PRODUCTS PORT KEMBLA ENTERPRISE AWARD 2005-2008

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by South Coast Equipment Pty Ltd.

(No. IRC 1624 of 2006)

Before Mr Deputy President Grayson

23 March 2006

AWARD

Arrangement

Clause No.	Subject Matter
1.0	Introduction
1.1	Title
1.2	Parties Bound
1.3	Memorandum Of Understanding
1.4	Duress
1.5	Commencement and Term of the Award
1.6	No Extra Claims
2.0	Employment Conditions
2.1	Contract of Employment
2.2	Probationary Period
2.3	Types of Employment
2.4	Payment of Wages
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2.6	Requirement to Work in Accordance with the needs of the Business
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3.0	Hours of Work
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- 5.1 Annual Leave
- 5.2 Annual Leave Loading
- 5.3 Public Holidays
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 - 6.1 Objectives of Discipline Policy
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 - 6.3 Stages of Discipline
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- 7.0 Training and flexibility
 - 7.1 Training Provisions
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- 8.0 Occupational Health and Safety
 - 8.1 Anti Discrimination
- 9.0 Dispute Settlement Procedures
- 10.0 Essential Services Dispensation
- 11.0 Payroll Deduction of Union Membership

1. Introduction

1.1 Title

This Award shall be known as the Integrated Steel Mill Services Pty Ltd - On Site Bluescope & Coated Products Port Kembla Enterprise Award 2005-2008 ('the Award').

1.2 Parties Bound:

This Agreement binds the following parties:

- (a) Integrated Steel Mill Services Proprietary Limited at its operations located within the Bluescope Steel Port Kembla Steelworks, Port Kembla; ('the Company');
- (b) The Australian Workers' Union, New South Wales Branch, ('the Union'); and
- (c) All employees of the Company at Port Kembla in the classifications contained herein ('the Employees').

1.3 Memorandum of Understanding

The purpose of the Award is to demonstrate from the outset the Company's:

- 1. Commitment to ensuring the success of the Company;

2. Commitment to the people who make up the Company, the Employees; and
3. Commitment to the business relationship with Bluescope Steel, and its impact on the community and the environment.

The objective of the Award is to:

- (a) Define the terms and conditions under which all Parties are to work and operate;
- (b) Clarify and ensure that all the Parties involved have a clear understanding of the terms and conditions from the outset; and
- (c) Gain the commitment, agreement and signed approval to the terms and conditions as per the Award.

It will be the objective of the parties to create a work environment at the Company's operations which will encourage and support a highly skilled, committed and fully flexible workforce, based on team work and employee development as priorities in achieving the success of the business and a positive direction for the future. Changes needed to achieve best business practice and client satisfaction will be discussed and negotiated by consultation with the Employees.

The Employees should be trained to be multi-skilled in a range of tasks and to flexibly change jobs, not only to meet the requirements of the Company, but also to provide more satisfying and meaningful jobs to the Employees.

1.4 Duress

The Award has not been entered into under duress from any parties associated with it.

1.5 Commencement and Term of the Award

The Award shall come into force from 1st July 2005, and shall apply for a period of three (3) years from that date. The parties agree that negotiations on a new Award will be initiated within six (6) months of the termination of the Award.

1.6 No Extra Claims

No party shall pursue any extra claims, award or over award, for the duration of the Award.

2. Employment Conditions

2.1 Contract of Employment

2.1.1 The obligations of the Company and the Employees to the Company's customers and their employees must be respected. The Employees' actions should not adversely affect the Company's customers.

2.1.2 It is a term and condition of employment and of the rights applying under this agreement that an employee:

- (a) Utilises the skills and knowledge that the employee possesses without reservation within the employee's core skill area.
- (b) Will be encouraged to participate in training and be accredited in work skills and knowledge to become a flexible member of the work team;
- (c) In the case of a Shift Worker or Twelve Hour Shift Worker, they continue work until relieved by a counterpart on the incoming shift or if his relief is absent continues to work to a maximum of 16 hours until the Company is able to make suitable arrangements to cover the position. Should the off going worker have prior commitments then the

- Company will use its best endeavours to accommodate these. It is recognised that there are occasions when it is not possible for the worker to continue to work.
- (d) Notifies the Company if unable to work:-
 - i. At least one hour before the commencement of the rostered shift;
 - ii. Of the reason for the absence if work related; and
 - iii. The anticipated duration of absence.
 - (e) Observes regulations published by the Company and its customers to provide an orderly and safe workplace, including keeping the workplace and equipment in a clean and safe condition.
 - (f) Wears Company supplied clothing without alteration and in accordance with Clause 2.7 of the Award.
 - (g) Complies with the Disputes Settlement Procedure (Clause 9 of the Award) at all times.
 - (h) Work to shiftwork systems as required by the Company that are consistent with current agreed procedures and practice or such patterns as may be agreed to and signed off by the Company and the majority of Employees involved, unless stated otherwise in the Award.
 - (i) Completes all relevant documentation pertaining to the job as required by the Company. This will include but will not be limited to equipment pre start check sheets, time sheets, relevant safety documentation and other documentation by consultation.

2.1.3 Utilisation Of Skills

- (a) Employees shall be employed to carry out such duties as may be directed by the Company from time to time subject to the limits of their skill and competence, training and approved procedures.
- (b) Any direction given by the Company shall be consistent with the Company's obligations under the *Occupational Health and Safety Act 2000* (NSW) and shall be carried out as such by the employee.

2.1.4 The following items assist both the Company and the Employee to obtain the best value for each other:

- (a) Customer-focused: Know their customers' business and respond to this in ways that ensure their work group can meet those needs.
- (b) Attuned to the business needs: Know the requirements of the various work groups and respond with a maintenance programme that attains their needs.
- (c) Suitable training: People who are prepared to be trained in various roles inside and outside their main role.
- (d) Flexibility: Operators who, while carrying out their primary role within the organisation, are willing to use other skills to keep the business going.
- (e) It is recognised that the primary role of operators in the Company is the efficient operation in the BOS and upkeep of the Company's plant and equipment. The use of their operator skills enables the Company to maintain production to satisfy customers in a particular work area when an operator shortfall occurs in their work groups.
- (f) Proactive: Respond quickly and before equipment breaks, wherever possible. Keep in mind the needs of production. Partner with operational areas. Be a constructive member of

work area teams. Help the business reduce its costs. Recognise that operation improvements and changes are an ongoing necessity of the business, to allow it to remain competitive.

2.2 Probationary Period

- (a) New permanent employees shall be required to complete a probationary period of three (3) months service.
- (b) The Company will always have the right to terminate an employee for serious breach of rules or policies in consultation with the Union.

2.3 Types of Employment:

2.3.1 The Award governs the terms and conditions of employment of all employees of the Company at Port Kembla in the classifications contained herein, as follows:

- (a) Permanent or Permanent Part Time Employees, whose employment shall be on a weekly basis; or
- (b) Casual Employees, whose employment shall be on an hourly basis.

2.3.2 Part Time Employment -

Part time Employees may be engaged to the needs of the business on an ongoing basis for a period of between 15 hours per week but less than 38 hours per week. Part-time Employees will be eligible for the entitlements provided in this Award on a pro rata basis. If work practices are to be substantially changed due to this practice, there shall be consultation between parties.

2.3.3 Casual Employees

- (a) A casual employee is one engaged for a minimum period of (1) day and paid as such. A minimum of (4) hrs per day will apply where work is not available due to reasons beyond the control of the employer. The engagement of a casual may be terminated at any time upon one hours notice or by payment in lieu. Employees engaged as casuals for a continuous period of six (6) weeks will be entitled to full time employment and shall be advised in writing of such by the company. A casual employee shall not be employed for more than six (6) continuously. Consultation and agreement may extend this period of engagement with employee representatives
- (b) Casual employees working ordinary time shall be paid 1/38th of the weekly wage, prescribed in clause of the award, for each hour worked. A casual employee shall not be entitled to any leave, public holidays, notice or severance benefits contained in this agreement but shall receive in lieu an all-purpose loading of 25% of the ordinary time.

2.3.4 Fixed Term Employee -

A Fixed Term Employee means an Employee who is engaged and paid as a full time employee on a weekly basis for a defined period of employment.

- (a) At the time of engagement a Fixed Term Employee will be notified in writing whether the engagement is on a casual basis.

2.3.5 During any terms of employment Casual and Fixed Term Employees will be subject to regular performance appraisals and may be terminated due to poor or unacceptable performance.

2.4 Payment of Wages

- (a) The Employees will be paid weekly by means of Electronic Funds Transfer into a nominated Bank or Credit Union account.
- (b) Funds shall be deposited into the Employees' accounts by Thursday of the relevant week except in circumstances beyond the Company's control.
- (c) Prior to or on the nominated payday, the Employees will be provided with written advice detailing hours worked, all monies earned and all deductions taken on behalf of the Employee and any other information as may be considered relevant.
- (d) Out-of-Shift scheduled work and pay adjustments will be made within the following week of notification and approval.
- (e) In addition the employees will determine the most appropriate method of pays. Either, average weekly wage plus overtime worked or paid only for hours worked plus any overtime.

2.5 Clothing Issue

2.5.1 The Company recognises the need to supply employees with a suitable uniform to meet the safety standards of the workplace and Government Legislation.

2.5.2 Personal Protective Safety Clothing shall be issued as required, to meet relevant Departmental Personal Protective Equipment Policies.

2.5.3 New Employees shall be provided with the following Personal Protective Safety Clothing as a minimum:

- 1 Four pairs of socks;
- 2 Four shirts;
- 3 Four pairs of trousers; and
- 4 One coat or two jumpers;

2.5.4 The ongoing allocation of Personal Protective Safety Clothing to be worn by the Employee shall operate under a points system. The points allocated to each item of Safety Clothing are as follows:

- 1 Overalls Cotton Drill Navy 2
- 2 Shirts Cotton Drill Navy 1
- 3 Flannel 1
- 4 Trousers Cotton Drill Navy 1
- 5 Jackets Cotton Drill Navy 2
- 6 Bluey Jnr. Navy 4
- 7 Sweat Shirt Blue 2
- 8 Socks 0.5

For BOS employees only -

- 1 Overalls Cotton Drill Navy 2
- 2 Shirts Cotton Drill Navy 1
- 3 Flannel Navy 1
- 4 Wool Navy 1
- 5 Trousers Cotton Drill Navy 1
- 6 Wool Navy 1
- 7 Jackets Cotton Drill Navy 2
- 8 Bluey Jnr. Navy 4
- 9 Sweat Shirt Blue 2
- 10 Socks 0.5
- 11 T-Shirt Wool Navy 1

The agreed number of annual points for the terms of this Award is 14.

- 2.5.5 The issue of work appropriate Safety Footwear will be on a needs/replacement basis.
- 2.5.6 The issue of this Safety Clothing is an obligation on the Employee that such clothes will be correctly worn during employment in the Company's operations. If the Employee presents for work without appropriate clothing they may be stood down until their next shift or the next day. Repeated occurrences may be grounds for disciplinary action.

2.6 Requirement to Work in Accordance With the Needs of the Enterprise

For the purpose of meeting the needs of the enterprise, the Company may require the Employee to work a reasonable amount of overtime, including work on Sundays and holidays at the rate prescribed by the Award and unless reasonable excuse exists, the Employees shall work in accordance with such requirement.

2.7 Security Of Employment

- 2.7.1 The Company may implement changes to work practices, procedures and systems as a result of technological developments or innovative ideas that will improve efficiency, productivity, profitability and safety. In such circumstances, the Company will discuss with and keep the Employees and Union informed of proposed changes.
- 2.7.2 The Company reserves the right to design and redesign the structure and the functions of the jobs in consultation with the Employees and Union, as the needs of the Company change. In the event of a dispute between the parties, the matter will be dealt with in accordance with the Dispute Settlement Procedure Clause (9).

2.8 Introduction of Change

- 2.8.1 The parties to this agreement accept that prior to the company requiring to make any significant change to the normal conditions of employment they will consult with the union. Where the parties are unable to agree on the change the disputes procedure will be followed.

2.9 Termination Of Employment

2.9.1 Notice for changes in production, program, organisation or structure

This paragraph sets out the notice provisions to be given to employees who are terminated by the Company for reasons arising from changes to production, program, organisation or structure, and which result in the Significant Effects in paragraph 2.10 of the Award.

- (a) In order to terminate the employment of an Employee, the Company shall give to the Employee the following notice:

Period of Continuous Service	Period of Notice
Less than 1 year	1 week
1 year and less than 3 years	2 weeks
3 years and less than 5 years	3 weeks
5 years and over	4 weeks

- (b) In addition to the notice above, the Employees over 45 years of age at the time of the giving of the notice, with not less than two (2) years' continuous service, shall be entitled to an additional week's notice.
- (c) Payment in lieu of the notice above shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

2.9.2 Notice for Technological Change -

This paragraph sets out the notice provisions to be given to employees who are terminated by the Company for reasons arising from technology, and which result in the Significant Effects in paragraph 2.10 of the Award.

- (a) In order to terminate the employment of an Employee, the Company shall give the Employee one (1) month's notice of termination.
- (b) 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.
- (c) The period of notice required by this subclause to be given shall be deemed to be service with the Company 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.

2.9.3 Time Off During the Notice Period -

- (a) During the period of notice of termination given by the Company, the Employee shall be allowed up to one (1) day's time off without loss of pay during each week of notice, to a maximum of five (5) weeks, for the purpose of seeking other employment.
- (b) If the Employee has been allowed paid leave for more than one (1) day during the notice period for the purpose of seeking other employment, the Employee shall, at the request of the Company, be required to produce proof of attendance at an interview or the Employee shall not receive payment for the time absent.

2.9.4 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 had the Employee remained with the Company until the expiry of such notice. Provided that in such circumstances the Employee shall not be entitled to payment in lieu of notice.

2.9.5 Statement of Employment - The Company 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 type of work performed by the Employee.

2.9.6 Notice to Centrelink - Where a decision has been made to terminate Employees, the Company shall notify Centrelink 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.

2.10 Severance Payment

2.10.1 This provision only applies to employees who are terminated in accordance with paragraphs 2.10 and 2.11 of the Award, and who have had more than twelve (12) months of continuous service with the Company.

2.10.2 In addition to any payment of notice, pursuant to Clause 2.11 of the Award, an Employee who more than twelve (12) months of continuous service with the Company; the Employee is entitled to severance payments calculated pursuant to paragraphs (a) or (b):

- (a) If an Employee is under 45 years of age, the Company shall pay in accordance with the following scale:

Years of Service	Under 45yrs - Entitlement
1 year and less than 2 years	4 weeks
2 years and less than 3 years	7 weeks
3 years and less than 4 years	10 weeks
4 years and less than 5 years	12 weeks
5 years and less than 6 years	14 weeks
6 years and less than 7 years	16 weeks

- (b) Where an Employee is 45 years old or over, the entitlement shall be in accordance with the following scale:

Years of Service	Over 45 yrs - Entitlement
1 year and less than 2 years	5 weeks
2 years and less than 3 years	8.75 weeks
3 years and less than 4 years	12.5 weeks
4 years and less than 5 years	15 weeks
5 years and less than 6 years	17.5 weeks
6 years and less than 7 years	20 weeks

3. Hours of Work

The parties intend that there will be minimum disruption to operational efficiency between efficiency between shift changes.

The Employees shall commence and complete their hours of work at their actual workplace within the Company's operations.

All wash up time shall be taken at the expiry of the employee's normal work hours.

3.1 Ordinary Working Hours

- (a) For "Day Workers", ordinary working hours shall be an average of thirty eight (38) hours per 5-day week over the full cycle of the relevant work roster.
- (b) "Shift Workers" means any employee working a scheduled pattern outside of ordinary day hours in accordance with 3.3.1 of the Award. Shift Workers may work fixed, rotating or alternating shift patterns on a one, two or three shift system.
- (c) Twelve Hour Shift Workers are employees Shift Workers working a twelve-hour rostered shift of continuous basis, in accordance with Clause 3.4 of the Award.

3.2 Day Shift Employees

- (a) Start and Finish Times

The starting and finishing times of ordinary work and shifts shall be determined by the Company taking into account the needs of the client and may be varied following consultation with the Union with adequate notice to Employees.

- (b) Meal Breaks

On each day worked, Monday to Friday inclusive, thirty five minutes is allowed to Day Workers for an unpaid meal break

An employee shall not be required to work more than (5) hrs without a break except in the case of urgent/breakdown work which is needed for an immediate resumption of operations, generally meal breaks should be taken between the hours of 11.30 am to 1.20 pm. unless the parties agree to an alternate agreement.

In the event the employee is required to work more than (5)hrs and there is no agreement he/she will be paid the appropriate penalties.

- (c) Except as provided elsewhere in this Award, the ordinary working hours shall be worked in accordance with the following provisions for a four-week cycle:
- i. The ordinary working hours shall be as a four-week cycle, Monday to Friday inclusive, with 19 working days of 8 hours' duration, with 0.4 of one hour on each day worked or for each day on approved or entitled leave accruing as an entitlement to take an accrued Roster Day Off (RDO) within the four-week cycle following the date of entitlement.
 - ii. The taking of the RDO shall be determined by Management in consultation with employees having regard to the needs of the business, health and safety issues and any legal requirements.
 - iii. However, where the RDO cannot be taken within the four-week cycle following the date of entitlement, due to legitimate reasons, at any one time up to a maximum of four (4) RDO's may be accumulated.
 - iv. Where an employee intends to take accumulated RDO's, a written application form must be submitted prior to and approved by the employee's Supervisor/Manager in writing, giving at least 24 hours' notice.
 - v. Each day of paid leave taken and any public holidays occurring during any cycle of four weeks shall be regarded as a day worked for accrual purposes.
 - vi. The accrued Roster Day Off (RDO) may be worked where that is required by the employer in which case, in addition to accrued entitlements, the employee shall be paid at the rates prescribed for Saturday work.

3.3 8 Hour Shift Workers

3.3.1 Definitions for the purpose of this clause:

- (a) "Day shift" means any shift starting after 6.00 am and finishing on or before 6.00pm.
- (b) "Afternoon shift" means any shift starting after 6.00pm and finishing on or before midnight.
- (c) "Night shift" means any shift starting after 8.00 pm and finishing on or before 4.00am.

A regular starting and finishing time within the normal span of hours shall be fixed, which shall not be altered except after notice of at least a week to the employee concerned. Notice of less than one week may be given by agreement between the employer, the employee, and the majority of the employees in the Work Group.

Shift work hours between Monday and Friday, inclusive, shall be paid as ordinary hourly rates. Time worked on a Saturday, Sunday or a Public Holiday shall be paid in accordance with Clause 7, Overtime, provided an ordinary shift commencing before, and extending beyond, midnight Friday, shall be regarded as a Friday shift.

- 3.3.2 All Shift Workers will be entitled to a 30 minute paid break within five hours of commencement of work. The time of taking meal breaks, whether during ordinary or overtime hours, shall be flexible so as to permit the conduct of continuous operations.
- 3.3.3 Shift Workers will be required to work shift work on a Rotating Shift or on a Permanent Shift System on Day Shift, Afternoon Shift and Night Shift, as defined in Clause 3.3.1.
- 3.3.4 A shift shall be determined as being a Saturday, Sunday or Public Holiday if the major portion of that shift is worked on that day.
- 3.3.5 Accrued Rostered Days Off (RDO) as per Sub-Clause 6.3 (b) of Clause 6, Hours, shall apply to eight (8) hour shift workers.
- 3.3.6 Shift Work Allowances for Shift Workers:
 - 1 Subject as in the Award otherwise provided, shift workers shall be paid, in addition to the rates payable under this Award, shift work allowances at the rate of 15% for Afternoon and Night shift not fixed

3.4 Twelve Hour Shift Workers

- 3.4.1 This subclause shall only apply to Shift Workers working a twelve-hour rostered shift of continuous basis ("Twelve Hour Shift Workers").
- 3.4.2 Payment for rostered shifts shall be:

Monday: 00.00 to Friday 24.00	- Ordinary time for all hours
Saturday: 00.00 to 24.00	- Time and one half for all hours
Sunday: 00.00 to 24.00	- Double time for all hours
Public Holidays	- Double time and one half for all hours

3.4.3 Shift Allowance -

The parties agree that for full time 12-hour shift employees who are rostered on shifts on any day of the week, an allowance equivalent to \$1.75 per hour for 42hrs and for 52 weeks will be paid in lieu of any percentages for 12hr shift workers only. This allowance will not extend into overtime.

3.4.4 Hours of Duty

- (a) During the life of this Agreement the ordinary hours of duty For Twelve Hour Shift Workers will be 12 hours per shift. The hours rostered will average 42 per week over the roster cycle.
- (b) Day shift will commence at 6am and finish at 6pm.
- (c) The first shift of the week will be the Sunday night work.
- (d) Night shift will commence at 6pm and finish at 6am the next day.
- (e) All Twelve Hour Shift Workers must be on the job and ready for work to have relieved the previous shift by 6am or 6pm as appropriate.
- (f) For the purposes of payment the day upon which any twelve (12) hour shift commences will determine such penalty rates or benefits that may be paid for that working shift.

3.4.5 Pay Period

The hours paid per weekly pay period will be averaged over the roster cycle and pays shall be equal to the average weekly pay regardless of the normal days worked in each pay period subject to variations detailed.

3.4.6 Penalty Rates

- (a) There is no change in penalty rate entitlements for overtime or for weekend shift work for Twelve Hour Shift Workers.
- (b) Overtime will not commence until twelve (12) ordinary hours have been worked each shift. Payment for the first two (2) hours of work beyond the twelve (12) -hour shifts will be at time and a half and thereafter at double time.
- (c) Overtime worked on Saturday and Sunday will be paid at double time.

3.4.7 Training

- (a) Twelve Hour Shift Workers will be paid for the time they attend for training and this shall be a minimum payment of four (4) hours.
- (b) A minimum notice period of 48 hours shall be given to a Twelve Hour Shift Worker to be trained and the trainer of arrangements to train outside ordinary work hours.

3.4.8 Overtime Coverage

- (a) When overtime coverage by a Twelve Hour Shift Worker is required due to unplanned absence then other day shift personnel will be directed to cover the shift if other operational requirements are not adversely affected
- (b) If no day worker can be made available with this process, the supervisor will then call on any Employee rostered off but made available through the voluntary overtime roster.
- (c) If no rostered off Employees, or Day Workers or Shift Workers can be made available then a Twelve Hour Shift Worker from the previous shift may be required to stop an additional 4 hours to ensure continuity of production to the customer. Another Twelve Hour Shift Worker from the following shift may be required to attend four (4) hours early and the interim four (4) hours will be covered by other team members.

3.4.9 Relief on the Job

- (a) Twelve Hour Shift Workers shall provide on the job shift changeovers. This requires the oncoming relief to be at the place of work, or equipment, before the outgoing person ceases to work.
- (b) In the event that the oncoming shift relief does not arrive then Twelve Hour Shift Workers may be required to remain on the job for up to four (4) hours or until a replacement is arranged to provide continuity of production and services.

3.4.10 Early Relief

Twelve Hour Shift Workers may continue to relieve to a maximum of one (1) hour before or after the normal shift commencement time by mutual agreement.

3.4.11 Shift Swaps

Shift swaps by arrangement between Twelve Hour Shift Workers will still be permissible but will not be approved if the swap will bring about a double twelve (12) hour shift.

3.4.12 Public Holidays

- (a) For the purposes of this agreement, each day is deemed to commence at 6am and extend for a twenty four (24) hour period to 6am the next day for Twelve Hour Shift Workers. The first shift of the week for Twelve Hour Shift Workers shall be shift commencing Sunday 6am.
- (b) For the purposes of payment the two shifts for Twelve Hour Shift Workers commencing during the 24 hours of the Public Holiday will attract the Public Holiday payments or penalty rates.
- (c) Public Holidays falling on a rostered day off of a Twelve Hour Shift Worker will be paid at 8 hours.

3.4.13 Meal Breaks

Twelve Hour Shift Workers are entitled to two twenty-minute crib breaks to be taken approximately four hours apart. Each crib break will be taken in a staggered system within the shift crew to cover the needs of the operation and will be counted as time worked. The breaks should be arranged so that they are taken at regular intervals at a time to best suit the needs of the business. Operators are expected to be flexible in working arrangements to allow for shift and meal breaks to be taken by all Twelve Hour Shift Workers on shift.

An employee shall not be required to work more than (5) hrs without a break except in the case of urgent/breakdown work which is needed for an immediate resumption of operations.

In the event the employee is required to work more than (5)hrs and there is no agreement he/she will be paid the appropriate penalties.

3.4.14 Transfer Between Day Work, Shift Work and Rosters

- (a) For the purpose of meeting the needs of the industry, the Company may require any Twelve Hour Shift Worker to transfer from one system of work to another system of work prescribed by this Award at the rate applicable thereto and, unless reasonable cause exists, an employee shall transfer in accordance with such requirement.
- (b) Day Workers may be employed as, and become, Twelve Hour Shift Workers for a period of not less than five shifts when the fifth shift is their 38-hour week rostered off shift and shall be paid accordingly.
- (c) Provided that an employee shall be paid at overtime rates for any shift upon which he/she is employed as a Twelve Hour Shift Worker under this Clause in respect of which they have not been given at least 48 hours' notice.
- (d) A Shift Worker who is required to work on a shift other than the shift on which he/she would ordinarily have been rostered shall be paid at overtime rates for any such shift in respect of which they have not been given at least 48 hours' notice. This will not apply where the Employee reverts to their normal shift pattern or where Employees change shifts at their own request.

3.5 Overtime

3.5.1 This clause only relates to "Day Workers" and "Shift Workers".

3.5.2 Overtime - Day Workers:

- (a) "Overtime" is work performed in excess of or outside the ordinary working hours and times prescribed by 3.4 of the Award and shall be paid at the rate of time and one half for the first two hours and at the rate of double time thereafter.

- (b) Except in the case of urgent breakdown work necessary to secure an immediate resumption of operations, overtime shall be paid for all time worked by Day Workers in excess of five hours without a meal break.
- (c) A Day Worker, required to work either:
 - i. On a Saturday, Sunday, a 38-hour week rostered day off, or a public holiday;
 - ii. A Monday to Saturday shift worker required to on a Sunday, a 38 hour week rostered off day or a Public Holiday,

they shall be paid for a minimum of four (4) hours' work.

- (d) Where the actual time worked is of shorter duration than four (4) hours, the working period shall not be regarded as overtime.

3.5.3 Overtime - Shift Workers:

- (a) Overtime shall be paid for Shift workers at the rate of time and one half for the first two hours and at the rate of double time thereafter for all time worked:
 - i. For all hours worked in excess of the ordinary working shift hours prescribed in Clause 3.4 of the Award;
 - ii. For all shift worked if more than eleven shifts in twelve consecutive days;
 - iii. For all hours worked on a rostered shift off; or
 - iv. For all hours worked in excess of five and one half hours without a Crib break.
- (b) For Shift Workers overtime shall be paid at the rate of double time for all time worked on Saturday and Sunday.

3.5.4 Where overtime is scheduled on a Rostered day, and an agreement has been reached to work such overtime:

- (a) If an employee is unavailable to work for personal reasons they must where practicable, give three (3) days' notice to their Supervisor or Team Leader of their unavailability, this is not applicable for sickness but where possible they should give as much notice as possible with a minimum of (1) hour.
- (b) The Company may not cancel such programmed work on rostered-off shifts with less than three (3) days' notice or shall pay for a minimum of four (4) hours at the overtime rate.
- (c) Overtime is not payable when time is worked by arrangement between the Employees themselves. Employees wishing to change their rostered working hours or exchange with other Employees must advise the Company well before the hours of work is required to be performed.

3.5.5 Subject to the Contract of Employment an Employee who presents him/herself for their ordinary work and the Company does not provide adequate notice to the Employee that they are not required, they shall be paid at least four (4) hours pay.

3.5.6 Any employee who is:

- (a) Recalled to work overtime after leaving the place of work whether notified before or after leaving the premises; or

- (b) Required to report and who do report for overtime on a public holiday or a day other than an ordinary working day (including rostered days) off, shall be paid for a minimum period of four (4) hours at the appropriate rate for each such occasion, unless the period to be paid overlaps with a rostered shift.
- 3.5.7 Overtime call outs within two (2) hours of normal rostered shifts will be paid at double time for that period or the Employee may choose to work his/her normal shift hours from the commencement of the call out at the normal shift rate.
- 3.5.8 Overtime work is not a right or privilege of Employees and, when offering overtime, preference may be given to the Employees working that function, and then to other Employees with necessary skills and training on a fair and equitable basis.
- 3.5.9 When overtime work is necessary, wherever practicable, it shall be arranged that the employees have at least eight (8) consecutive hours off duty between the works of successive days. An Employee who works overtime such that they do not get eight (8) successive hours off between working days shall, subject to this Clause, be released after completion of such overtime until they have had eight (8) hours off duty without loss of pay for ordinary working time during such absence. No more than sixteen (16) consecutive hours shall be worked at any one time.
- 3.5.10 If, on instruction from the Company, an Employee resumes or continues working without eight (8) consecutive hours off duty, he/her shall be paid at double rates until released from duty and then be entitled to be absent until having eight (8) consecutive hours off duty, without loss of pay, for ordinary working time during such a period.
- 3.6 Transfer Between Day Work, Shift Work and Rosters
 - 3.6.1 This clause only relates to "Day Workers" and "Shift Workers" as defined in Clause 3.2 and 3.3 of the Award.
 - 3.6.2 For the purpose of meeting the needs of the industry, the Company may require any Employee to transfer from one system of work to another system of work prescribed by this Award at the rate applicable thereto and, unless reasonable cause exists, the Employee shall transfer in accordance with such requirement.
 - 3.6.3 Day Workers may be employed as, and become, Shift Workers for a period of not less than five shifts when the fifth shift is their 38-hour week rostered off shift and shall be paid accordingly. If they work less than five consecutive shifts, they shall be paid overtime rates.
 - 3.6.4 Provided that an Employee shall be paid at overtime rates for any shift upon which he/she is employed as a Shift Worker under this Clause in respect of which they have not been given at least 48 hours' notice.
 - 3.6.5 A Shift Worker who is required to work on a shift other than the shift on which he/she would ordinarily have been rostered shall be paid at overtime rates for any such shift in respect of which they have not been given at least 48 hours' notice. This will not apply where the Employee reverts to their normal shift pattern or where Employees change shifts at their own request.

4. Classifications/Rates of Pay

4.1 Classifications

- (a) Rates of pay have been set with regard to the nature and location of the work, working arrangements, qualifications and skill level required, and includes compensation for any special disabilities, conditions and responsibilities associated with the work, including consideration of climatic work related factors, and the supply of tools, equipment and clothing. Rates of pay are total and inclusive, not subject to rates or allowances other than defined in this Award.

- (b) An Employee who is required to do work carrying a higher rate than his/her ordinary classification for two hours or more on any day or shift shall be paid at the higher rate for the whole of the day or shift.
- (c) The ordinary and minimum weekly rates to be paid to any classification of adult Employee shall be in accordance with the following levels and set out in Appendix 3 -Rates of Pay:
- i. Operator Level 1 shall mean a person shall mean an Employee on probation that is undertaking training for Level 2 classification.
 - ii. Operator Level 2 shall mean an Employee assessed as competent and employed in;
 - 1 Front-end Loader (general);
 - 2 Crushing & Screening Plant (equivalent to two skills);
 - 3 Road Sweeper; Fuel Truck; Fork Lift, Skid Steer and persons in training for Level 3 classification
 - iii. Operator Level 3 (Leading Hand) - For the purpose of this Sub-Clause, a Leading Hand may be defined as an Employee at any level, who is required to act as a Leading Hand and is formally appointed after consultation with Management. The Primary Purpose of the Leading Hand function is to allocate and prioritise while on shift.
- (d) The Leading Hand shall assist Management in:
- The safe working procedures;
- Keeping all plant in his/her work environment in a safe and good working condition;
- Ensuring all work is carried out to a high standard.
- (e) It is essential that Level 3 Operators are committed and will respond to the needs of BSL, not frustrate the needs of the business.

4.2 Wages

- (a) The Employees are currently paid one of the following rates.

Classification	Rate per Hour
Operator Level 1	\$ 22.00
Operator Level 2	\$ 22.50
Operator Level 3	\$ 23.75

- (b) These rates will be increased by an additional 4.5% from the first pay period commencing on or after the 1st July 2006; and
- (c) A further 4.5% increase in rates shall apply from the first pay period commencing on or after the 1st July 2007; and

Category	Current Base	01/07/06 4.5%	01/07/07 4.5%
Level 1	22.00	22.99	24.02
Level 2	22.50	23.51	24.56
Level 3	23.75	24.81	25.93

4.3 Meal Allowances

Employees required to work overtime for more than one and a half hours after the ordinary cessation of shifts without having been notified 24 hours prior to the day of the requirement to work shall be provided with a meal voucher by the Company.

4.4 Superannuation

The Company nominates AMP Custom Super Superannuation Fund as its default Superannuation Fund but offers employees the choice of contribution to STA or C-BUS Superannuation Funds. The Company shall contribute to the nominated Superannuation Fund, on behalf of each eligible Employee, a superannuation contribution in accordance with the Superannuation Guarantee Levy.

5. Leave

5.1 Annual Leave

- (a) See *Annual Holidays Act* 1944 (NSW) ('the Annual Holidays Act') as amended.

5.2 Annual Leave Loading

- (a) Before an Employee is given and takes a period of annual leave, or where by award between the Company and Employee the annual holiday is given and taken in more than one separate period, then before each of such separate periods, the Company shall pay an employee a loading determined in accordance with this clause.
- (b) The loading is payable in addition to the pay for the period of holiday given and taken and due to the Employee under the *Annual Holidays Act* and the Award.
- (c) The loading is to be calculated in relation to any period of annual holiday to which the Employee becomes entitled under the Annual Holidays Act and the Award, or, where such a holiday is given and taken in separate periods, then in relation to each such separate period.
- (d) The loading is the amount payable for the period, or the separate period, as the case may be, at the rate per week of 20% of the appropriate ordinary normal time rate of pay prescribed by the Award for the classification in which the Employee was employed immediately before commencing the annual holiday, but shall not include Saturday, Sunday or public holiday loading for Twelve Hour Shift Workers, or any other allowances, penalty rates, shift allowances, or any other payments prescribed by the Award.
- (e) Where the employment of an Employee is terminated by the Company, for a clause other than misconduct and at the time of the termination the Employee has not been given and has not taken the whole of an annual holiday to which the Employee became entitled, the Employee shall not be paid a loading calculated in accordance with subclause (d) for the period not taken. Except as provided by paragraph (a) of this subclause, no loading is payable on the termination of an Employees employment.

5.3 Public Holidays

- (a) New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Christmas Day, Boxing Day and an additional days holiday (known as the Union's Picnic Day which will coincide with the Bluescope Picnic Day) to be observed pursuant to subclause (b) of this clause and any other day gazetted as a public holiday for the State shall be holidays for the purpose of the Award.
- (b) As noted above, an Employee shall be entitled to one additional day as a holiday in each calendar year known as the Unions Picnic Day. This additional holiday shall be observed on the day mutually agreed between the Company and Employees. The additional holiday is not cumulative and must be taken within each calendar year. This day shall coincide with Blue Scope

- (c) No deductions shall be made from the wages of Day Workers for the week in which any of the holidays, referred to in subclause (a) of this clause, fall.
- (d) Where an Employee is absent from employment on the working day before or the working day after a public holiday without reasonable excuse or without the consent of the Company the Employee shall not be entitled to payment for such holiday.
- (e) For public holidays falling during a period of annual or long service leave, the following payments will apply.

5.4 Long Service Leave

Employees are entitled to long service leave in accordance with the *Long Service Leave Act 1955* (NSW).

5.5 Parental Leave

Employees are entitled to Maternity, Paternity or Adoption Leave in accordance with the provisions of the *Industrial Relations Act 1996* (NSW).

5.6 Sick Leave

5.6.1 An Employee who is unable to attend for duty during his/her ordinary working hours by reason of personal illness or incapacity shall be entitled to be paid at ordinary time rates of pay which would have been payable had they attended for duty subject to the following:

- i. He/she shall not be entitled to be paid leave of absence for any period in respect of which he/she is entitled to workers' compensation.
- ii. He/she shall notify the Company of his/her inability to attend for duty in accordance with Company procedures and, as far as possible, state the nature and estimated duration of the illness or incapacity.

5.6.2 The Company permits up to two (2) separate single day Sick Leave periods per calendar year without Medical Certificate, but a signed declaration by the Employee on the relevant Company Form.

5.6.3 In all other cases a Medical Certificate as proof of illness must be supplied within three (3) days of commencement of that illness.

5.6.4 Employees will be subject to the following Sick Leave entitlements:

- (a) Employees with less than one (1) year's continuous service are entitled to five (5) days sick leave at ordinary time.
- (b) Employees with more than one (1) years' but less than ten (10) years' continuous service are entitled to eight (8) days sick leave at ordinary pay.
- (c) Employees with more than ten years service are entitled to ten (10) days sick leave at ordinary pay.
- (d) Employees are required to complete a qualifying period of three (3) months of continuous service with the Company in order to be entitled to paid sick leave.

5.7 Personal/Carer's Leave

5.7.1 Employees may use of sick leave as follows:

- (a) An Employee, other than a Casual Employee, with responsibilities in relation to a class of person as set out in Sub-Paragraph (d) of this Clause who needs the Employee's care and support shall be entitled to use, in accordance with this Sub-Clause, any current or accrued sick leave entitlement, provided for in Clause -5.6 (Sick Leave), for absences to provide care and support for such persons when they are ill. Such leave may be taken for part of a single day.
- (b) The Employee shall, if required, establish, either by production of a medical certificate or Statutory Declaration, the illness of the person concerned and that the illness is such as to require care by the Employee.
- (c) In normal circumstances, an Employee must not take carer's leave under this Sub-Clause where another person has taken leave to care for the same person.
- (d) The entitlement to use sick leave in accordance with this subclause is subject to:
 - i. The Employee being responsible for the care of the person concerned, and
 - ii. The person concerned being:
 - 1 A spouse of the Employee; or
 - 2 A de facto spouse who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or
 - 3 A child or an adult child (including an adopted child, a step-child, a foster child or an ex-nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the Employee; or spouse or de facto spouse of the Employee; or
 - 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
 - 5 A relative of the Employee who is a member of the same household where, for the purposes of this paragraph:
- (e) For the purposes of subclause (d) of this Clause:
 - i. "Relative" means a person related by blood, marriage or affinity;
 - ii. "Affinity" means a relationship that one spouse, because of marriage, has to blood relatives of the other; and
 - iii. "Household" means a family group living in the same domestic dwelling.
- (f) An employee shall, wherever practicable, give the Company 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.

5.7.2 Sick Leave/ Careers Leave (Exhausted)

An Employee may elect, with the consent of the Company, to take unpaid leave for the purpose of providing care and support to a member of a class of person (set out in subclause (d) of Clause 5.7.1 of the Award) who is ill.

5.8 Compassionate Leave

- 5.8.1 An Employee other than a Casual Employee shall be entitled to up to two days bereavement leave without deduction of pay on each occasion of the death of a person prescribed in paragraph 5.8.3 below.
- 5.8.2 The Employee must notify the Company as soon as practicable of the intention to take bereavement leave and will, if required by the Company, provide to the satisfaction of the Company proof of death.
- 5.8.3 Bereavement leave shall be available to the Employee in respect to the death of a person prescribed for the purposes of Personal/Carer's Leave in Clause 5.7.1(d)(ii), provided that for the purpose of bereavement leave, the Employee need not have been responsible for the care of the person concerned.
- 5.8.4 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.

5.9 Community Service

5.9.1 Jury Service

- (a) An Employee required to attend for jury service:
- i. During his/her ordinary hours; or
 - ii. Immediately following an ordinary night shift or immediately preceding an ordinary afternoon shift on which the Employee is rostered to work and, as a result of attending jury service, is not reasonably able to report for work on the night or afternoon shift as the case may be: shall be reimbursed by the Company an amount equal to the difference between the amount paid in respect of this attendance for jury service and the ordinary time they would have worked had they not attended for jury service.
- (b) An Employee shall notify the Company as soon as possible of the date upon which he is required to attend for jury service. Further, the Employee shall provide the Company proof of his attendance, the duration of such attendance and the amount received in respect of such jury service.

5.9.2 Other Service

An Employee may request the Company to provide special leave due to community service emergencies eg; fire fighting, S.E.S., payable at loss of ordinary earnings only. Employees will be entitled to a maximum of eighty (80) hours in any year of such community service emergency leave. Further, the Employee shall provide the company proof of his attendance, the duration of such attendance and any amount received in respect of such leave.

6. Disciplinary Policy

6.1 Objectives of Discipline Policy

A clear and effective Discipline Policy is fundamental in achieving production efficiency, safety and sound industrial relations. Disciplinary action is only necessary in most circumstances where the initial counselling of an Employee has been unsuccessful. The Unions and the Company agree on the

following disciplinary procedure to be applied in the event of an Employee's unacceptable work performance or behaviour.

6.2 Employee's Right to Have a Witness Present at an Interview.

Before commencing any disciplinary interview, the Employee must be advised of the purpose of the interview and may, if they wish, have a witness present at the interview. The person may be the Union Delegate or another Employee (provided they are available and can be released from the job). The Employee's right to have a person of their choice is on the understanding that the attendance and involvement of that person should not unreasonably delay the interview. If English fluency or language is a problem, an interpreter may be offered.

6.3 Stages of Discipline

(a) Stage 1: Verbal Warning

In this process the Supervisor or Manager verbally warns an Employee in respect of inappropriate behaviour. It should be indicated to the Employee:

- 1 What is expected and required of him/her;
- 2 Where and how he/she has failed to meet the standard required;
- 3 What he/she must do to reach the required standard;
- 4 What the consequences will be if he/she failed to improve to the required standard; and
- 5 Refer to the Employee's right to have a witness.

(b) Stage 2: First Written Warning

Where unacceptable work performance or behaviour continues or the Employee has displayed behaviour that in itself warrants an immediate written warning the Manager or Superintendent will issue a written warning in the following form:

- 1 What is expected and required of him/her;
- 2 Where and how he/she has failed to meet the standard required;
- 3 What he/she must do to reach the required standard;
- 4 What the consequences will be if he/she failed to improve to the required standard; and
- 5 Refer to the Employee's right to have a witness.

In the event that there is no repetition of the same misdemeanour or misconduct for a period of six (6) months the warning will lapse.

(c) Stage 3: Final Written Warning

Where unacceptable work performance or behaviour continues or the Employee has displayed behaviour that in itself warrants an immediate final written warning, the Manager or Superintendent will issue that warning in the following form.

- 1 What is expected and required of him/her;
- 2 Where and how he/she has failed to meet the standard required;
- 3 What he/she must do to reach the required standard;
- 4 What the consequences will be if he/she failed to improve to the required standard; and
- 5 Refer to the Employee's right to have a witness.

The final written warning will be issued in the presence of a Union Organiser and/or Representative. In the event that there is no repetition of the same misdemeanour or misconduct for a period of twelve (12) months the warning will lapse.

6.4 Repetition of Misdemeanours After Lapse of Warnings.

- (a) In the case of an Employee whose first written warning has lapsed, where there is a repetition of the same misdemeanour or misconduct within a period of four (4) months, he/she will be placed back on a first written warning for six months.
- (b) In the case of an Employee whose final written warning has lapsed, where there is a repetition of any misdemeanour or any misconduct within a period of six (6) months, he/she will be placed back on a written warning for a further six (6) months.
- (c) Should there be occasions where an Employee through his/her action, indicates a failure to improve their performance and is abusing the warning system the situation will then be resolved through discussion between the Operations Manager, Union Representatives and the use of ongoing warnings will be reviewed.

6.5 Avoidance of Disputes

- (a) In the event there is a disagreement between the parties on what level of disciplinary action is required, the matter will be the subject to further discussion between the parties. Where the parties cannot reach agreement the matter will be referred to the NSW Industrial Relations Commission for resolution.
- (b) Both parties shall withhold any form of action until a decision is made by the Commission and both parties will abide by the decision.

6.6 Employee Assistance Scheme

If during any stages of the disciplinary procedure the company is of the view that an employee might need extra counselling or other professional support the management may offer an Employee some form of assistance.

7. Training

7.1 Training Provisions

- (a) The Company has a commitment to provide training to develop Employees' skills and competencies and maintain those skills so Employees can carry out their duties.
- (b) Statutory training given off the job, outside normal working hours, will be paid at overtime rates of pay. Other training off the job, outside normal working hours, will be paid at single time rates of pay unless it involves productive work when it will be paid at overtime rates.
- (c) Employees will be trained in the skills which will be of maximum benefit to the team and needs of the Business.
- (d) An Employee will receive an additional payment for skills only when full accreditation for competency in the applicable level has been given.
- (e) The Teams training route is defined in Company Procedures.
- (f) Once deemed competent to a skill level Employees are required to operate to that skill level whenever there is a need. Multi-skilling is a condition of employment.
- (g) A company nominated Training Coordinator may operate equipment when demonstrating its application to an Employee in training.
- (h) Training periods are not to exceed 240 working hours or the period determined in the Training Module.

7.2 Payment for Training

- 7.2.1 Scope of Agreement - This agreement applies to Company authorised training to allow employees to:
- 7.2.2 Carry out the full range of duties of his or her current classification; and/or progress within the appropriate Employee Job Development model;

Provided that the employee's attendance at authorised training has been approved by supervision after consideration of the employee's and Company's needs, including operational requirements. Any refusal by supervision to grant such approval is subject to review under the established procedure for resolving industrial claims, issues and disputes or other local arrangements.

This agreement does not apply to training, which is generally not associated with:

- 7.2.3 Allowing employees to carry out the full range of duties of his or her current classification; and/or

The appropriate Employee Job Development model, such as occupational health and safety committee training, trade union training, full time training (e.g. apprentices) or training such as that covered by the Approved Student and Cadet Schemes and University Degrees.

So far as is reasonably practicable, having regard to operational requirements and the need to minimise labour costs additional to those of the employee's paid ordinary hours, an employee's training will be done during the employee's ordinary hours of work (including where appropriate by rescheduling those hours).

- 7.2.4 Payments - Where with the approval of the Company an employee attends training authorised by the Company, the employee's attendance will be on the following basis:

- 7.2.5 TAFE and other externally provided training whether conducted on or off the plant:

- (a) During ordinary working hours - no deduction from the employee's ordinary wages;
- (b) Outside ordinary working hours - attendance and payment at single time payment will be approved in accordance with the needs of the authorised training. Generally this training will not exceed 6 hours per week except that additional training may be approved and single time payment will be made if exceptional training requirements exist.

- 7.2.6 Other classroom training:

- (a) During ordinary working hours - no deduction from the employee's ordinary wage;
- (b) Outside ordinary working hours - single time payments.

- 7.2.7 Computer aided or computer based training during ordinary working hours - no deduction from the employee's ordinary wage.

Computer aided or computer based training outside ordinary working hours - single time payment for the time spent training up to the maximum of the course duration as determined by the course designer or course coordinator. No payment will be made for time beyond that duration. Any refusal of payment is subject to review under the established procedure for resolving industrial claims, issues and disputes or other local arrangements.

- 7.2.8 On-the-job training:

- (a) During ordinary working hours - no deduction from the employee's ordinary wage;
- (b) Outside ordinary working hours - single time payment for the employee's initial training period. However, once the employee has completed the initial training period and commences experience training the appropriate award overtime rates of pay will apply.

For the purposes of 7.2.8(b) above:

"initial training" is the training which an employee undertakes to the point where the employee's supervision is satisfied that the employee has acquired sufficient knowledge and understanding of a skill, task or function to perform that skill, task or function; and

"experience training" is the training, if applicable, following initial training during which an employee is gaining experience in the skill, task or function which is required for the purpose of accreditation.

7.3 Appraisals

- I. All Employees will be appraised on an annual basis to gather information on the aspirations and expectations of Employees and whether these are being satisfied.
- II. Performance appraisals will be used to determine a training, development and career path for those Employees who are seeking an opportunity to progress.
- III. Each Employee is to receive regular feedback from their Supervisor on their performance in the job. Review, appraisal and feedback are to be on both an informal and formal basis.

8. Occupational Health and Safety

The Company and Employees are required to adhere to the requirements of the *Occupational Health and Safety Act 2000* at all times.

8.1 Anti Discrimination

- i. It is the intention of the parties bound by this award to seek to achieve the object in Section 3(f) of the *Industrial Relations Act 1996* to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.
- ii. It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by the Award, the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the award which, by its terms or operation, has a direct or indirect discriminatory effect.
- iii. 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.
- iv. Nothing in this Clause is to be taken to affect:
 - (a) Any conduct or act which is specifically exempted from anti-discrimination legislation;
 - (b) Offering or providing junior rates of pay to persons under 21 years of age;
 - (c) Any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
 - (d) A party to this award from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.

- (v) his Clause does not create legal rights or obligations in addition to those imposed upon the parties by legislation referred to in this Clause.

NOTES -

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

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

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

9. Dispute Settlement Procedures

The parties to this Award accept and agree to process and resolve claims, issues of dispute, areas of disagreement including grievances, conflicts and complaints, or any matter that arises between the Union and the Company according to the following procedures:

- (a) The parties undertake that when any such matter arises, the basic intention shall be to resolve such matters as quickly as possible by direct consultation and negotiation.
- (b) Work shall continue as normal and without interruption. No party shall be prejudiced as to final settlement by the continuance of work in accordance with this subclause
- (c) In the event that the matter exceeds the level of authority of the Operations Co-ordinator, or Employee and/or Employees' Representative is not satisfied with the decision, or progress, or wishes to appeal against the decision; the matter is to be placed before the Manager. The Manager shall fully familiarise himself with the matter and take all reasonable steps within the Manager's authority to resolve the matter to the satisfaction of both parties.
- (d) Should the matter remain unsolved, the appropriate Union official shall be invited to assist in the resolution of the matter.
- (e) In the event that the matter is not resolved, it is to be placed before the Executive Management of the Company for determination.
- (f) On order to expedite amicable settlement, the Company reserves the right to appoint an independent "facilitator" or "conciliator" to advise on a "fair and reasonable" resolution to satisfy both of the Parties concerned.
- (g) In the event that the matter cannot be resolved to the satisfaction of both Parties, the matter shall be referred to the Industrial Relations Commission of New South Wales by either party for resolution.
- (h) Matters raised in relation to bona fide safety issues are to be investigated and corrected as quickly as possible in accordance with the Occupational Health and Safety Act.

10. Essential Services Dispensation

10.1 Objectives of this Clause:

The parties understand that only by delivering Essential Services can the Company achieve the desirable benefit of customer satisfaction and as a result, ongoing security of employment.

The obligations imposed by this Clause apply to all parties at all times, regardless of the reasons, the nature or the extent of, industrial action, other than serious safety or environmental issues affecting employees in Essential Service activities.

The obligations imposed by this Clause require that Employees covered by this Clause perform as directed the necessary work to continue to ensure that the Customers production is not affected.

10.2 BOS Operations

BOS Essential Services shall be defined as "all those activities necessary for, in or conjunction with, the handling and/or removal of Slag, debris and other products from the BOS sites, in a safe and environmentally compliant manner that does not impede upon BSL's operations".

These activities include all the ISMS - BOS activities and handling of BOS material generated from the above operations and the management of incoming material storage.

The requirement is for one (1) operator per shift to be on site at all times.

Environmental requirements - Road Sweeper - As per EPA's Environmental requirements.

Any new Contracts won by ISMS with BSL that includes the need to provide Essential Services, to be discussed between Management and the Union and should be added to this Award through exchange of letters.

- 10.3 Any new contracts won by the Company with BOS that includes the need to provide Essential Services, are to be discussed by Management and the Union, and should be added to the Award through exchange of letters.

11. Payroll Deduction of Union Membership Fees

- 11.1 The Company shall deduct Union membership fees (not including fines or levies) from the pay of any employee, provided that:

- 1 The employee has authorised the Company to make such deductions in accordance with subclause 11.2 herein;
- 2 The Union shall advise the employer of the amount to be deducted for each pay period applying at the Company's workplace and any changes to that amount.
- 3 Deduction of Union membership fees shall only occur in each pay period in which payment has or is to be made to an employee; and

- 11.2 The employee's authorisation shall be in writing and shall authorise the deduction of an amount of Union fees (including a variation in that fee effected in accordance with the Union's rules) that the Union advises the Company to deduct. Where the employee passes any such written authorisation to the Union, the Union shall not pass the written authorisation on to the Company without first obtaining the employee's consent to do so. Such consent may form part of the written authorisation.

- 11.3 Monies so deducted from employees' pay shall be remitted to the Union on either a weekly, fortnightly, monthly or quarterly basis at the Company's election, together with all necessary information to enable the reconciliation and crediting of subscriptions to employee's membership accounts, provided that:

- 1 Where the Company has elected to remit on a weekly or fortnightly basis, the Company shall be entitled to retain up to 5 per cent of the money deducted; and
- 2 Where the Company has elected to remit on a monthly or quarterly basis, the Company shall be entitled to retain up to 2.5 per cent of the monies deducted.

- 11.4 Where an employee has already authorised the deduction of Union membership fees in writing from his or her pay prior to this clause taking effect, nothing in this clause shall be read as requiring the employee to make a fresh authorisation in order for such deductions to commence or continue.

- 11.5 The Union shall advise the Company of any change to the amount of membership fees made under its rules, provided that this does not occur more than once in any calendar year. Such advice shall be in the form of a schedule of fees to be deducted specifying either weekly, fortnightly, monthly, or quarterly as the case may be. The Union shall give the Company a minimum of two month's notice of any such change.

An employee may at any time revoke in writing an authorisation to the Company to make payroll deductions of Union membership fees.

Where an employee who is a member of the Union and who has authorised the Company to make payroll deductions of Union membership fees resigns his or her membership of the Union in accordance with the rules of the Union, the Union shall inform the employee in writing of the need to revoke the authorisation to the employer in order for payroll deductions of Union membership fees to cease.

J. P. GRAYSON *D.P.*

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(1867)

SERIAL C4945

BOARDING HOUSE STAFF (ST GREGORY'S COLLEGE CAMPBELLTOWN) (STATE) AWARD 2006

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by New South Wales Independent Education Union, Industrial Organisation of Employees.

(No. IRC 2571 of 2006)

Before The Honourable Justice Schmidt

17 July 2006

AWARD

PART A

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PART C - REDUNDANCY

2. Definitions

- (i) "Award" means the Boarding House Staff (St Gregory's College, Campbelltown) (State) Award 2006.
- (ii) "Employee" means a person who is employed with responsibility for the pastoral care and supervision of students in a boarding house.
- (iii) "Employer" means St Gregory's College, Campbelltown.
- (iv) "Full-time employee" means an employee who works hours as prescribed in section (i) of clause 6.
- (v) "Union" means the New South Wales Independent Education Union.
- (vi) "Part-time employee" means an employee, other than a casual employee, who works a consistent number of ordinary hours less than those prescribed in section (ii) of clause 6.
- (vii) "Casual Employee" means an employee engaged and paid as such.

3. Wages

(i) Classifications

An employee shall be initially appointed to the appropriate level as determined by the employee's skills and duties required to be performed in the position, as set out below:

- (a) A Supervisor position is one where the employee undertakes basic duties to assist the person in charge of the boarding house in the daily routines involving the care of students and the general functions of the boarding house, but while actively on duty may deputise as required from time to time for the person in charge of the boarding house.
 - (b) A Coordinator position is one where the employee is responsible for the management of a boarding house and has a significant concern for the welfare of the students. Duties include the maintenance of effective communication with the parents of students and the supervision of other staff covered by this award in the boarding house.
- (ii) Subject to paragraphs (iv) and (v) of this clause, Supervisors shall be rostered to work a minimum of 12 hours per week during term time which shall be paid at the part-time hourly rates of pay prescribed by Table 1 - Wage Rates. Any additional hours worked beyond 12 hours per week during term time, or any time worked during non-term time shall be paid at the casual rate prescribed by subclause (iv).
- (iii) Subject to paragraphs (iv) and (v) of this clause, Coordinators shall be rostered to work a minimum of 19 hours per week during term time which shall be paid at the part-time hourly rates of pay prescribed by Table 1 - Wage Rates. Any additional hours worked beyond 19 hours per week during term time, or any time worked during non-term time shall be paid at the casual rate prescribed by subclause (iv).

(iv) Casual Employees

Casual employees shall be paid:

- (a) at the hourly rate prescribed by Table 1 - Wages for the applicable classification; plus
 - (b) one loading of 25 per cent of that amount (inclusive of payment in lieu of annual holidays required to be paid under the *Annual Holidays Act 1944*).
 - (c) All hours worked by a part-time employee and paid at the casual rate will not accrue entitlements to annual leave or sick leave under this award.
- (v) Part-time Employees
- (a) Part-time employees shall be paid the hourly rate prescribed by Table 1 - Wages for the applicable classification.
 - (b) All hours worked by a part-time employee and paid at the casual rate will not accrue entitlements to annual leave or sick leave under this award.
- (vi) The hourly rates for part-time and casual employees shall be calculated to the nearest whole cent, any amount less than a half cent in the result to be disregarded.

4. Payment of Wages

- (i) The wages payable to an employee other than a casual employee shall be payable fortnightly.
- (ii) Wages payable to an employee shall be payable, at the employer's discretion, by either cash, cheque or electronic funds transfer into an account nominated by the employee.

5. Contract of Employment

- (i) On appointment, the employer shall provide full-time and part-time employees with a letter of appointment setting out the following:
- (a) the classification and rate of pay of the employee;
 - (b) the rostered minimum number of hours to be worked each week, Monday to Sunday, and the number of weeks to be worked throughout the year; and
 - (c) any arrangements pertaining to the employee that provide for release time from other duties and/or additional payments or remuneration.
- (ii) Except for the 3 month period of probation during which employment may be terminated by either party on the giving of one week's notice, the employment of a full-time or part-time employee may be terminated by either party in accordance with the following provisions or by the payment or forfeiture, as the case may be, of wages in lieu of notice.

Employee's period of continuous service with the employer	Period of notice
Not more than 1 year	At least 1 week
More than 1 year but not more than 3 years	At least 2 weeks
More than 3 years but not more than 5 years	At least 3 weeks
More than 5 years	At least 4 weeks

If the employee is over 45 years old then increase the period of notice by 1 week

- (iii) In the case of a casual employee one day's notice shall be given by either party.
- (iv) This shall not affect the right of the employer to summarily dismiss any employee without notice for misconduct and in such cases wages shall be paid up to the time of dismissal only.
- (v) On the termination of employment the employer shall, at the request of the employee, give to such employee a statement signed by the employer stating the period of employment, the employee's classification, and when the employment terminated.
- (vi) Redundancy

See Part C - Redundancy

6. Hours of Work

- (i) The rostered hours of work for full time employees shall be a minimum of 152 hours in any period of four school term weeks, which hours shall not include hours outside rostered hours where the employee is required to be resident on the premises (including the period of a sleep over) PROVIDED THAT if the employee is required to attend to duty for 15 minutes or more due to an emergency or disturbance outside the rostered hours of that employee or at any time between 10.30pm on one evening and 7.00am the next morning, the employee shall be compensated by payment at the casual rate for the period of such duty.
- (ii) Unless the employer and employee otherwise agree, all full time employees shall be entitled to 48 hours off duty each week or 96 hours off duty each fortnight, at a time mutually convenient to the employer and the employee.

7. Sick Leave

- (i) An employee, other than a casual employee, shall be entitled to 13 days sick leave on full pay upon each anniversary of their continuous service which occurs after the making of this award.
- (ii) The taking of sick leave is subject to the following conditions:
 - (a) Employees shall not be entitled to paid sick leave for any period in respect of which the employee is entitled to payment under the Workers' Compensation Act, 1987 (as amended or replaced).
 - (b) The employee shall, as soon as reasonably practicable, and in any case within twenty-four hours of the commencement of such absence, inform the employer of an inability to attend for duty and, as far as possible, state the nature of the injury or illness and the estimated duration of the absence.
 - (c) The employee shall furnish to the employer such evidence as the employer may desire that the employee was unable by reason of such illness or injury to attend for duty on the day or days for which sick leave is claimed.

Provided that where a single day absence occurs before and/or after a public holiday a medical certificate shall be supplied.
- (iii) The sick leave entitlement of a part-time employee shall be in that proportion which the number of hours worked by the employee in a week bears to a full-time employee.
- (iv) If the full period of sick leave is not taken in any year, the whole or any untaken portion shall be cumulative from year to year. Provided that an employer shall not be bound to credit an employee for sick leave which accrued more than fifteen years before the end of the last completed year of service and the maximum accrual of sick leave (including both current and accumulated) shall be 154 days.
- (v) If an award holiday occurs during an employee's absence on sick leave then such award holiday shall not be counted as sick leave.

8. Annual Leave and Payment on Termination

- (i) All employees, other than casual employees, shall receive four weeks paid annual leave in accordance with the *Annual Holidays Act* 1944 (as amended or replaced) such leave normally to be taken during the boarding house summer pupil vacation period unless otherwise directed by the employer in accordance with the said Act.
- (ii) The provisions of the *Annual Holidays Act* 1944 (as amended or replaced) shall apply with respect to pro-rata payment on termination.

9. Annual Leave Loading

- (i) In this clause the *Annual Holidays Act* 1944 (as amended or replaced) is referred to as "the Act".
- (ii) Where an employee, other than a casual employee, is given and takes their annual holiday or where, by agreement between the employer and employee, the annual holiday is given and taken in more than one separate period, then before each of such separate periods the employer shall pay to the employee a loading determined in accordance with this clause.
- (iii) The loading is payable in addition to the pay for the period of holiday given and taken and due to the employee under the Act and this award.
- (iv) The loading is to be calculated in relation to any period of annual holiday to which the employee becomes entitled under the Act and this award or, where such a holiday is given and taken in separate periods in relation to each such separate period. NOTE: See subclause (vi) of this clause as to holidays taken wholly or partly in advance.

- (v) The loading is the amount payable for the period or the separate period, as the case may be, stated in subclause (iv) of this clause, at the rate per week of 17½ per cent of the appropriate ordinary weekly time rate of pay prescribed by this award for the classification in which the employee was employed immediately before commencing their annual holiday, but shall not include any other allowances, penalty rates, shift allowances, overtime or any other payments prescribed by this award.
- (vi)
 - (a) No loading is payable to an employee who takes annual holidays wholly or partly in advance; provided that, if the employee continues until the day when they would have become entitled under the Act to an annual holiday, the loading then becomes payable in respect of the period of such holiday and is to be calculated in accordance with subclause (v) of this clause applying the award rates of wages payable on that day.
 - (b) Notwithstanding the provisions of paragraph (a) of this subclause, an employee shall be paid an annual leave loading where the annual holiday falls wholly or partly in advance during the summer pupil vacation period. The employee shall be entitled to the fraction of four weeks holiday loading as is equal to the number of weeks worked by the employee in that school year compared to the number of weeks in the year since the first day of the teachers' school year.
 - (c) The employee shall be entitled to be paid annual leave loading in respect of the annual leave which is payable upon termination pursuant to subclause 8(ii), except in circumstances where the employee's employment is terminated by the employer due to the employee's serious and wilful misconduct.

10. Long Service Leave

- (i) *Applicability of Long Service Leave Act 1955*

Except in so far as expressly varied by the provisions of this clause the provisions of the *Long Service Leave Act 1955* (as amended or replaced) shall apply.

- (ii) *Quantum of Leave*

Subject to subclause (v) of this clause, the amount of long service leave to which an employee shall be entitled for all service performed after the commencement of this award shall be calculated on the following basis:

- (a) In respect of full-time service an employee shall accrue 1.3 weeks per year of service. "Full - time service" means service of a full-time employee as defined in subclause 2(iv) of this award.
- (b) Where an employee works part-time in a given year the employee shall accrue leave on a pro rata basis according to the number of hours worked by the employee in a week compared to 38, where a full-time employee accrues 1.3 weeks of leave for each year of service.
- (iii) An employee shall be entitled to take any leave accrued under subclause (ii) of this clause upon completion of ten years service with the employer. Provided that an employee is further entitled to take any further leave accrued under this clause upon completion of each subsequent 5 years of service or as otherwise agreed with the employer.
- (iv) In the case of an employee who has completed at least five years service with the employer and the service of the employee is terminated or ceases for any reason, such employee shall be paid their accrued leave long service leave balance calculated in accordance with subclause (ii) of this clause.
- (v) The service of an employee with an employer shall be deemed continuous notwithstanding the service has been interrupted by reason of the employee taking maternity leave (including paid and unpaid leave) or approved leave without pay, but the period during which the service is so interrupted shall not be taken into account in calculating the period of service.

11. Parental Leave

(i) Maternity Leave

- (a) An employee who applies for maternity leave under Part 4 of Chapter 2 of the *Industrial Relations Act* 1996 (as amended or replaced), is granted maternity leave for a period of nine weeks or longer by the employer and commences maternity leave on or after the making of this award, shall be entitled to maternity leave in accordance with this sub-clause.
- (b) The maternity leave shall be paid for nine weeks at the rate of pay the employee would have received, if the employee had not taken maternity leave. (If the period of maternity leave granted to the employee is for less than nine weeks then the period of paid maternity leave shall be for such lesser period).
- (c) The employee may elect to be paid during the period of paid leave in paragraph (b) of this sub-clause either in accordance with the usual employer payment schedule or as a lump sum payment in advance. In addition, if the employee requests and the employer agrees, the final three weeks of the leave may be paid at half pay for a period of six weeks.
- (d) Where an employee applies for a lump sum payment in advance under paragraph (c) of this sub-clause, the employee shall give the employer at least one month's notice of intention.
- (e) If an employee has commenced paid maternity leave and subsequently the employee's pregnancy results in a miscarriage or a still birth, the employee shall be entitled to retain payment in accordance with this clause equivalent to salary for the period of maternity leave taken by the employee.
- (f) The parties agree to review the effect of this clause in the event of any legislation by either the Federal or State Government which provides a maternity allowance or similar payment, however named, or in the event that the operation of this clause is found to be discriminatory by an anti-discrimination tribunal.
- (g) An employee on paid maternity leave in accordance with this clause will not be employed as a casual employee by the employer during such paid leave.
- (h) Except as varied by this provision, Part 4 of Chapter 2 of the *Industrial Relations Act* 1996 shall apply.

Notation

Transitional Arrangements - For the purpose of paragraph (a) of this subclause, maternity leave commences on or after the making of this award, if the first day off work due to maternity leave is on or after the making of this award.

(ii) Adoption Leave

- (a) An employee who applies for adoption leave under Part 4 of Chapter 2 of the *Industrial Relations Act* 1996 (as amended or replaced) and is granted such leave by the employer in accordance with these provisions, shall be entitled to payment of adoption leave under the same (or comparable) conditions as those set out in this clause in relation to paid maternity leave. Provided further that adoption leave shall only be payable in respect of one adopting parent of a child.
- (b) An employee shall be entitled to one day's leave with pay for the purpose of adopting any child provided that he or she is not also entitled to payment of adoption leave pursuant to paragraph (a) of this sub-clause.

(iii) Paternity Leave

- (a) An employee shall be entitled to one day's leave with pay on the date of his wife's confinement or on the day on which his wife leaves hospital following her confinement.
- (b) In addition to the entitlement in paragraph 11. (iii)(a), an employee shall be entitled, subject to this sub-clause, to take paternity leave in one continuous period not exceeding two weeks. Such leave shall be deducted from, and shall not exceed, the employee's entitlement to Catholic Personal/Carer's Leave pursuant to clause 12 of this award.
- (c) The employee shall be entitled to take such paternity leave in the four weeks before the date or expected date of the birth of the child and not later than four weeks after the birth of the child, provided that the employer may, in exceptional circumstances, request the employee to take leave at a time outside the period specified in this paragraph. If the employee chooses to agree to the employer's request, such agreement shall be recorded in writing. Where the employee does not agree, the leave shall be taken in accordance with this paragraph.
- (d) The entitlement to paternity leave in paragraphs 11. (iii)(a) and (b) is inclusive of, and not in addition to, the employee's entitlement to take unpaid paternity leave in accordance with the *Industrial Relations Act 1996* (as amended or replaced).
- (e) The employee must, at least 4 weeks before proceeding on leave pursuant to paragraph 11. (iii)(b) above, give written notice of the dates on which he proposes to start and end the period of leave. The proposed dates may be varied by further written notice, subject to the provisions of paragraph 11.(iii)(c) above.

(iv) Casual Employees

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

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

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

(v) Right to request

- (a) An employee entitled to parental leave may request the employer to allow the employee:
 - (1) to extend the period of simultaneous unpaid parental leave up to a maximum of eight weeks;
 - (2) to extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;
 - (3) to return from a period of parental leave on a part-time basis until the child reaches school age;to assist the employee in reconciling work and parental responsibilities.
- (b) The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only

refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

- (c) Employee's request and the employer's decision to be in writing

The employee's request and the employer's decision made under subparagraphs (a) (2) and (3) of this subclause must be recorded in writing.

- (d) Request to return to work part-time

Where an employee wishes to make a request under subparagraph (a) (3), such a request must be made as soon as possible before the date upon which the employee is due to return to work from parental leave.

- (vi) Communication during parental leave

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

- (1) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
- (2) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.

- (b) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

- (c) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph (a).

12. Catholic Personal/Carer's Leave

- (i) Use of Sick Leave to Provide Care and Support for a Family Member

- (a) An employee other than a casual employee, with responsibilities in relation to a class of person set out in subparagraph (2) of paragraph (c) who needs the employee's care and support, shall be entitled to use, in any year, in accordance with this subclause, any current or accrued sick leave entitlement provided for at Clause 7 of the award, for absences to provide care and support for such persons when they are ill, or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.

- (b) The employee shall, if required,

- (i) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
- (ii) establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

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

- (c) The entitlement to use sick leave in accordance with this subclause is subject to:
- (1) the employee being responsible for the care of the person concerned; and
 - (2) the family member being a parent, step-parent, spouse, grandchild, sibling, grandparent, child, step-child, foster child, adopted child and foster parent of the employee or spouse.

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

Where the parties are unable to reach agreement the disputes procedure at Clause 15, Disputes Avoidance and Grievance Procedure should be followed.

(ii) Use of Sick Leave for a Pressing Domestic Necessity

- (a) Subject to paragraph (c), for the purposes of this clause "pressing domestic necessity" means any reason at the discretion of the employer, provided that such discretion is not unreasonably withheld and is exercised so as not to contravene any applicable provisions of the *Anti-Discrimination Act 1977*.
- (b) An employee, other than a casual employee, with sick leave credits may apply to utilise such credits up to five of any current or accrued sick leave entitlement days in any one year of the employee's service, for any pressing domestic necessity other than to care for or support a person defined in subparagraph 12(i)(c)(2).
- (c) Where an employee, other than a casual employee, is not entitled to utilise sick leave credits pursuant to paragraph 12(i)(a) he or she may access any current or accrued sick leave for any pressing domestic necessity where the employee is responsible for the care or support of a person not referred to in subparagraph 12(i)(c)(2).
- (d) The yearly entitlement for the purpose of pressing domestic necessity in paragraph 12.2(b) is non-cumulative.
- (e) If required, an employee shall provide a written statement or other evidence supporting the application for Personal/Carer's Leave for the purpose of pressing domestic necessity.

(iii) Notification of Intention to Take Leave

In relation to sub-clauses 12(i) and 12(ii), wherever practicable, an employee shall give the employer notice prior to the absence of the intention to take leave. The employee shall also provide the name of the person requiring care, that person's relationship to the employee, the nature of any pressing domestic necessity, 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.

(iv) Unpaid Leave for Family Purpose

An employee may elect, with the consent of the employer to take unpaid leave for the purpose of providing care and support to a person referred to in subparagraph 12(i)(c)(2) or paragraph 12(ii)(c) who is ill or who requires care due to an unexpected emergency.

(v) Annual Leave

- (a) An employee may elect with the consent of the employer to take annual leave not exceeding ten days in single day periods or part thereof, in any calendar year at a time or times agreed by the parties.
- (b) Access to annual leave, as prescribed in paragraph (a) of this subclause, shall be exclusive of any shutdown period provided for elsewhere under this award.

- (c) An employee may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken.
 - (d) An employee may elect with the employers agreement to take annual leave at any time within a period of 24 months from the date at which it falls due.
- (vi) Make-Up Time
- (a) An employee may elect, with the consent of the employer, to work "make-up time" under which the employee takes time off ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in the award, at the ordinary rate of pay.
 - (b) An employee on shift work may elect, with the consent of the employer, to work "make-up time" (under which the employee takes time off ordinary hours and works those hours at a later time), at the shift work rate which would have been applicable to the hours taken off.
- (vii) Entitlement for casual employees
- (a) Subject to the requirements in paragraph 12(i)(b) and subclause 12(iii) casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in 12 (i) (c) (2) or subclause 12(i) (c) of this clause who is sick and requires care and support, or who requires care due to an unexpected emergency, or the birth of a child.
 - (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of an agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
 - (c) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

13. Bereavement Leave

- (i) An employee shall on the death of a spouse, father, mother, father-in-law, mother-in-law, grandparent, brother, sister, child, step-child or grandchild, of the employee, be entitled to paid leave up to and including the day of the funeral of such relative. Such leave shall not exceed three days in respect of any such death. An employee may be required to provide the employer with satisfactory evidence of such death.
- (ii) Where the employee takes bereavement leave in accordance with subclause (i) of this clause, an employer in their absolute discretion may grant the employee additional leave without pay or leave with pay.
- (iii) Where the employee requests leave to attend a funeral of a person not specified in subclause (i) the employer in their absolute discretion may grant the employee leave as leave without pay or bereavement leave with pay.
- (iv) Where an employer grants an employee leave with pay in accordance with subclauses (ii) or (iii) of this clause, such leave will be deducted from the employee's entitlement to sick leave in accordance with clause 7, Sick Leave.
- (v) An employee shall not be entitled to leave under this clause in respect of any period which coincides with any other period of paid leave entitlement under this award or otherwise.
- (vi) Bereavement Leave shall be available to the employee in respect to the death of a person in relation to whom the employee could have utilised Catholic Personal/Carer's Leave in Clause 12, provided that for the purposes of Bereavement Leave, the employee need not have been responsible for the care of the person concerned.

- (vii) Bereavement Leave may be taken in conjunction with other leave available under subclauses (iv), (v), (vi) and (vii) of Clause 12 Catholic Personal/Carer's Leave. In determining such a request the employer will give consideration to the circumstances of the employee and the reasonable operational requirements of the boarding houses.
- (viii) Bereavement Entitlement for Casual Employees
 - (a) Casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person in relation to whom the employee could have utilised Catholic Personal/Carer's Leave in subclause 12(i)(c)(2), provided that for the purpose of this bereavement entitlement, the casual employee need not have been responsible for the care of the person concerned. A casual employee must notify the employer as soon as practicable of the intention to access this entitlement and may be required to provide the employer with satisfactory evidence of such death.
 - (b) The employer and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
 - (c) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.

14. Jury Service

An employee, other than a casual, required to attend for jury service during ordinary working hours shall be provided with paid leave for this purpose. The employee shall be required to reimburse to the employer any monies payable to the employee for such attendance (excluding reimbursement of expenses) which required the employee's absence from the boarding houses.

The employee shall notify the employer as soon as possible of the date upon which he or she is required to attend for jury service. The employee shall provide to the employer a copy of the summons to attend jury duty and a record of payments received as proof of attendance.

15. Disputes Procedure

- (i) The objective of these procedures is the avoidance and resolution of industrial dispute, arising under this award, by measures based on consultation, co-operation and negotiation. Further, the parties agree that, subject to the provisions of the *Industrial Relations Act 1996* (as amended or replaced), all grievances, claims or disputes shall be dealt with in the following manner so as to ensure the orderly settlement of the matter(s) in question.
- (ii) Procedures relating to grievances of individual employees:
 - (a) The employee is required to notify (in writing or otherwise) the employer as to the substance of the grievance, request a meeting with the employer for discussions and state the remedy sought.
 - (b) A grievance must initially be dealt with as close to its source as possible, with graduated steps for further discussion and resolution at higher levels of authority.
 - (c) Reasonable time limits must be allowed for discussion at each level of authority.
 - (d) At the conclusion of the discussion, the employer must provide a response to the employee's grievance, if the matter has not been resolved, including reasons for not implementing any proposed remedy.
 - (e) While a procedure is being followed, normal work must continue.

- (f) The employee may be represented by a relevant union for the purpose of each procedure.
- (iii) Procedures relating to disputes, etc., between employers and their employees:
 - (a) A question, dispute or difficulty must initially be dealt with as close to its source as possible, with graduated steps for further discussion and resolution at higher levels of authority.
 - (b) Where it has not been possible for an employer to resolve the question, dispute or difficulty in the ordinary course of events at a boarding house, the employer is required to notify (in writing or otherwise) the employees as to the substance of the grievance and require the employee to attend a meeting to discuss the grievance. The employee may bring another member of staff or a representative of the relevant union to this meeting as a witness.
 - (c) Reasonable time limits must be allowed for discussion at each level of authority.
 - (d) While a procedure is being followed, normal work must continue.
 - (e) The employer may be represented by an employer representative and the employees may be represented by a relevant union for the purpose of each procedure.

16. Anti-Discrimination

- (i) It is the intention of the parties bound by this award to seek to achieve the objective of section 3(f) of the *Industrial Relations Act* 1996 (as amended or replaced) 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.
- (ii) It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this award that parties have obligations to take all reasonable steps to ensure that the operations of this award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the award, which, by its terms or operation, has a direct or indirect discriminatory effect.
- (iii) Under the *Anti-Discrimination Act* 1977 (as amended or replaced), 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.
- (iv) Nothing in this clause is to be taken to affect:
 - (a) any conduct or act which is specifically exempt from anti discrimination legislation;
 - (b) offering or providing junior rates of pay to persons under 21 years of age;
 - (c) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act* 1977;
 - (d) a party to this award from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.
- (v) 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.

17. Superannuation

- (i) The New South Wales Non-Government Schools Superannuation Fund or the Catholic and Retirement Fund shall be made available to each employee.

(ii) Definitions

For the purpose of this clause, the following definitions shall apply:

- (a) "Basic Earnings" for the purposes of this clause shall mean the minimum hourly rate of pay prescribed for the employee by this award.
- (b) "Fund" means either
 - (1) the New South Wales Non-Government Schools Superannuation Fund; or
 - (2) the Catholic Superannuation and Retirement Fund; or
 - (3) any other superannuation fund approved in accordance with the Commonwealth operational standards for occupational superannuation funds which the employee is eligible to join and which is approved by the employer as a fund into which an employee of that employer may elect to have the employer pay contributions made pursuant to this award in respect of that employee.

(iii) Benefits

- (a) Except as provided in paragraphs (c), (d) and (f) of this subclause, the employer shall, in respect of each employee employed by the employer, pay contributions into a fund to which the employee is eligible to belong and, if the employee is eligible to belong to more than one fund, the fund nominated by the employee, at the rate of nine per cent of the employee's basic earnings.
- (b) Subject to paragraph (d) of this subclause, contributions shall be paid at intervals in accordance with procedures and subject to the requirements prescribed by the relevant fund or as agreed between the employer and the trustees of a fund.
- (c) The employer shall not be required to make contributions pursuant to this clause in respect of an employee in regard to a period when that employee is absent from his or her employment without pay.
- (d) Contributions shall commence to be paid from the beginning of the first pay period commencing on or after the making of this award.

Provided that if the employee has not applied to join a fund within six weeks of the employee's day of engagement the employer shall commence to pay contributions from the beginning of the next pay period commencing on or after the date on which the employee applies to join a fund.

- (e) The employee shall advise the employer in writing of the employee's application to join a fund pursuant to this award.
- (f) The employer shall make contributions pursuant to this award in respect of:
 - (1) casual employees who earn in excess of \$2,090.00 during their employment with that employer in the course of any year, running from 1 July to the following 30 June (all such casual employees are hereinafter called "qualified employees"); and
 - (2) qualified employees in each ensuing year of employment with that employer.

Such contributions shall be made in respect of all days worked by the qualified employee for the employer during that year and shall be paid by the employer to the relevant fund at the time of

issue of the employee of his or her annual group certificate, provided that prior to the immediately preceding 30 June the employee has applied to join a fund.

- (g) Where the employer approves a fund, other than the Non-Government Schools Superannuation Fund, as one to which the employer will pay contributions in respect of its employees or a class or classes of such employees within two weeks of such approval, the employer shall notify its employees of such approval and shall, if an employee so requests, provide the employee with a copy of the trust deed of such fund and of a letter from the Insurance and Superannuation Commissioner granting interim or final listing to the fund at a cost of eighty cents per page of such copies.

(iv) Transfer between Funds

If an employee is eligible to belong to more than one fund, the employee shall be entitled to notify the employer that the employee wishes the employer to pay contributions in respect of the employee to a new fund but shall not be entitled to do so within three years after the notification made by the employee pursuant to paragraph (e) of sub-clause (iii) of this clause or within three years after the last notification made by the employee pursuant to this clause. The employer shall only be obliged to make such contributions to the new fund where the employer has been advised in writing:

- (a) of the employee's application to join the other fund; and
- (b) that the employee has notified the trustees of the employee's former fund that the employee no longer wishes the contributions which are paid on the employee's behalf to be paid to that fund.

(v) Explanatory Clause

The figure which appears in subparagraph (1) of paragraph (f) of subclause (iii) of this clause, is calculated by the following formula:

$$\begin{array}{ccc} \text{Supervisor} & & \\ \text{casual hourly rate of pay} & \times & 19 \text{ eight-hour days} \\ & & (1 \text{ month}) \end{array}$$

or \$2,090, whichever is the greater.

18. Fair Procedures for Investigating Allegations of Reportable Conduct and Exempt Allegations Pursuant to the *Ombudsman Act 1974*

(i) Definitions

For the purpose of this clause:

"Child" means a person under the age of 18 years.

"Reportable Conduct" as defined in the *Ombudsman Act 1974* means:

- (a) Any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including a child pornography offence), or
- (b) Any assault, ill treatment or neglect of a child, or
- (c) Any behaviour that causes psychological harm to a child,

whether or not, in any case, with the consent of the child.

"Exempt Allegation" means an allegation to which one or more of the exemptions to reportable conduct pursuant to the *Ombudsman Act 1974* (as amended or replaced) applies. These exemptions are:

- (a) conduct that is reasonable for the purpose of the discipline, management or care of children, having regard to the age, maturity, health or other characteristics of the children and to any relevant codes of conduct or professional standards, or
- (b) the use of physical force that, in all the circumstances, is trivial and negligible, but only if the matter is to be investigated and the result of the investigation recorded under workplace employment procedures, or
- (c) conduct of a class or kind exempted from being reportable conduct by the Ombudsman under section 25CA of the *Ombudsman Act 1974*.

"Reportable allegation" means an allegation of reportable conduct against an employee or an allegation of misconduct that may involve reportable conduct.

(ii) Natural Justice to employees in dealing with reportable allegations and exempt allegations

An employee, against whom a reportable allegation or an exempt allegation has been made in the course of employment, is to be informed by his or her employer (or the person delegated by his or her employer to do so) of the reportable allegation or exempt allegation made against them and be given:

- (a) an opportunity to respond to the reportable allegation or exempt allegation; and
- (b) sufficient information to enable them to respond to the matters alleged against him/her. He or she must be given full details unless the Police or other government agency involved in the investigation of the matters alleged against the employee, have otherwise directed the employer not to do so.

Where an interview is required, the employee shall be advised in advance of the general purpose of any interview relevant to the reportable allegation or exempt allegation the names and positions of persons who will be attending the interview; the right to be advised of an entitlement to be accompanied by a person of the employee's choice (a witness), and sufficient notice of the proposed meeting time to allow such witness to attend. Such witness may be a union representative.

(iii) Access to files

- (a) Such employee is to be informed by his or her employer of the location of any files that the employer holds relating to the employee, concerning a reportable allegation or an exempt allegation made against the employee.
- (b) The employee may, subject to giving reasonable notice, have the right to inspect such files held by the employer.
- (c) The employer may restrict or withhold access to any such file, or part of a file, where the employer has reason to believe that the provision of access would either;
 - (1) compromise or put at risk the welfare or safety of a child who is the alleged victim or subject of the reportable allegation or exempt allegation, or
 - (2) contravene any statutory provision, or guideline or policy directive of a government authority or agency, in relation to the reporting or investigation, including police criminal investigation, of any reportable allegation or exempt allegations, or
 - (3) prevent the employer from conducting or completing the investigation or reporting of the details of a reportable allegation or an exempt allegation against an employee, in compliance with any statutory deadline.

(iv) Additional Documentation from Employee

- (a) An employee against whom a reportable allegation or an exempt allegation has been made may submit to his or her employer documentation, in response to the matters alleged against him or her.
- (b) The employer must place such documentation on the file held by the employer concerning the reportable allegation or exempt allegation made against the employee.
- (v) Confidentiality of documents and files
 - (a) The employer must implement procedures to safeguard the confidentiality of any file held by the employer concerning any reportable allegation or exempt allegations made against an employee.

19. Higher Duties

A supervisor required by the employer to temporarily perform duties of a Co-ordinator for more than one day shall be paid at the Co-ordinator rate for the whole period during which those duties are performed.

20. Travelling Expenses

- (i) When an employee, in the course of their duty, is required by the employer to go to any place away from their usual place of employment, they shall be paid all reasonable expenses actually incurred.
- (ii) Where an employee is required to use their motor car by the employer on a casual or incidental basis, they shall be paid the rate set by Item 1 of the Table 2, during such use.
- (iii) If the employer provides a vehicle the employer shall pay the whole of the cost of the upkeep, registration, insurance, maintenance and running expenses.

21. Remuneration Package

- (i) This clause facilitates the provision of salary and benefit packages to individual members of staff covered by this award provided that such salary packaging shall only be available during the term time in which they are paid for performing Boarding House duties.
- (ii) For the purposes of this clause:
 - (a) "Benefits" means the benefits nominated by the employee from the benefits provided by the school and listed in paragraph (c) of subclause (iv) of this clause.
 - (b) "Benefit Value" means:
 - (i) the amount being paid by the employee in the case of rent;
 - (ii) the amount specified by the employer as the cost to the College of the Benefit provided;
 - (iii) the Fringe Benefit Tax, if any.
 - (c) "Fringe Benefit tax" means tax imposed by the *Fringe Benefits Tax Act 1986* (as amended or replaced).

(iii) Conditions of Employment

Except as provided by this clause, employees must be employed on a rate of pay, and otherwise on terms and conditions, not less than those prescribed by this award.

(iv) Salary Packaging

The employer may offer to provide and the employee may agree in writing to accept:

- (a) the Benefits nominated by the employee; and
- (b) a rate of pay equal to the difference between the benefit value and the gross earnings which would have been applied had the employee not made the decision to salary sacrifice benefits under subclause (c) of this clause;
- (c) The available benefits are those made available by the school from the following list:
 - (1) superannuation;
 - (2) rent;
 - (3) payment of meals; or
 - (4) other benefits offered by the employer.
- (d) The level of benefits to which you may package will be a grossed-up value of \$30,000 or such other amount as determined by the Australian Tax Office from time to time.
- (e) The employer must advise the employee in writing of the benefit value before the agreement is entered into.
- (f) During the currency of an agreement under subclause (iv) of this clause if an employee takes:
 - (1) paid leave the employee will continue to be entitled to salary sacrifice any benefits during the period of leave;
 - (2) leave without pay the employee will not be entitled to salary sacrifice any benefits during the period of leave.
- (g) Any other payment, calculated by reference to the employee's salary, however described, and payable:
 - (1) during employment; or
 - (2) on termination of employment in respect of untaken paid leave; or
 - (3) on death,shall be at the rate of pay which would have applied to the employee under subclause (iii) of this clause, in the absence of an agreement under paragraphs (a) and (b) of subclause (iv) of this clause.

22. Accommodation and Meals

- (i) Accommodation
 - (a) Where, at the commencement of this Award or subsequent to the making of this Award, an employee resides in accommodation (being either a studio in a boarding house or a free standing cottage adjacent to a boarding house) provided by the employer during term time the employer is entitled to charge, and may deduct from the employee's pay an amount for rent as specified in Table 3 Accommodation Contributions of Part B Monetary Rate of this Award.
 - (b) The amount of rent that may be deducted by the employer, as specified in (a) of this clause, shall be reviewed by the parties at the same time as the parties to this Award review the rates of pay contained in Part B Monetary Rates of this Award. Such review will have regard, but not limited to, market rates for similar accommodation and fringe benefits tax considerations.

- (c) The rent deducted by the employer from an employee's pay each week shall be equal to the annual rent as determined in paragraph 22(i)(a) divided by the number of term weeks in the school year. Employees shall be entitled to occupy employer premises during non-term time without further deduction of rent.
 - (d) Where an employee who normally resides in a Studio Apartment takes paid leave from the employer for more than one week during term time, and does not occupy the accommodation during that time, no deduction shall be made in accordance with paragraph (a).
- (ii) Meals
- (a) Where an employee elects to purchase meals at the employer's dining facilities the provisions of this subclause shall apply.
 - (b) At the commencement of each school year the employer shall notify the employee, in writing, of the cost of meals provided at the employer's dining facilities.
 - (c) At the commencement of each school year an employee may nominate the number of meals to be taken at the employer's dining facilities each week. Such election shall be made in writing and shall nominate the meals to be purchased each day of the week and whether or not the meals are to be taken during term weeks only, or during term and non-term weeks.
 - (d) Upon receipt of the written instructions outlined in paragraph 22(ii)(c), the employer may deduct from an employee's weekly wage an amount determined by dividing the total projected annual cost of nominated meals for that employee by the number of term weeks in the school year.
 - (e) An employee whose employment terminates during the school year shall not be liable for the cost of future untaken meals.
 - (f) An employee may terminate or vary the instructions outlined in paragraph 22(ii)(c) by the giving of not less than one term's notice in writing to the employer.

23. Savings Clause

This award is made on the understanding that there shall be no overall direct prejudice to the pay and conditions existing for employees at the date on which this award takes effect merely as a consequence of the coming into operation of this award.

24. No Extra Claims

It is a term of this award that the union undertakes not to make or pursue any extra claims for improvements in wages or other terms and conditions of employment until 12 months after the first full pay period to commence on or after 1 March 2006.

25. Area, Incidence and Duration

- (i) This award shall apply to Supervisors and Co-coordinators employed in boarding houses conducted by or on behalf of St Gregory's College, Campbelltown, to the exclusion of any other award, including, but not limited to, the Teachers (Catholic Independent Schools) (State) Award, as amended or replaced. Provided further that this award shall not apply to:
 - (a) Members of a recognised religious order and/or Clerks in Holy Orders, and/or Ministers of Religion;
 - (b) G A P students who are gaining experience under a "school to school interchange programme" with an employer covered by this award;

- (c) Mr Paul Fox and Mrs Jennifer Fox for so long as they reside on College premises as employees of the College and enjoy terms and conditions of employment no less favourable than the terms and conditions of this award.
- (iii) This award shall take effect from the first pay period to commence on or after 1 March 2006 and remain in force for 12 months.

PART B

MONETARY RATES

Table 1 - Wage Rates

Part-time Hourly Rates of Pay

Level	From the first full pay period on or after 1 March 2006 \$ per hour	From the first full pay period on or after 1 April 2006 \$ (4%)
Supervisor	16.92 per hour	17.60 per hour
Coordinator	18.27 per hour	19.00 per hour

Casual Hourly Rates of Pay

Level	From the first full pay period on or after 1 March 2006 \$ per hour	From the first full pay period on or after 1 April 2006 \$ (4%)
Supervisor	21.15 per hour	22.00 per hour
Coordinator	22.84 per hour	23.75 per hour

Table 2 - Other Rates and Allowances

Item No	Clause No	Brief Description	Amount \$
1	20 (ii)	Own Car Allowance for use on a casual or incidental basis	0.57 per km

Items 1 to be adjusted for CPI increases. Current rates have been adjusted to include the June Quarter 2005.

Table 3 - Accommodation Contributions

Type of Accommodation	Contribution Per Term Week
Studio Apartment	\$15.00
Senan House	\$90.00
Free Standing Cottage	\$196.00

PART C

REDUNDANCY

- 1.1 This Part shall apply in respect of full-time and part-time persons employed in the classifications specified by the award.
- 1.2 This part shall only apply if the employer employs 15 or more employees immediately prior to the termination of employment of employees.

- 1.3 Notwithstanding anything contained elsewhere in this award, the provisions of this part 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.
- 1.4 This part shall not apply where employment is terminated as a consequence of conduct that justifies instant dismissal, including malingering, inefficiency or neglect of duty, or in the case of casual 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.

2. Employer's Duty to Notify and Discuss

- 2.1 Where the employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer shall notify the employees who may be affected by the proposed changes and the union to which they belong.
- 2.2 The employer shall discuss with the employees affected and the union to which they belong the introduction of such changes and the likely effect on the employees and the measures taken to avert or mitigate the adverse effects of such changes.
- 2.3 'Significant effects' include termination of employment, major changes in the composition, operation or size of the employers workforce or in the skills required, the elimination or diminution of job opportunities, promotion opportunities or job tenure, the alteration of hours of work, the need for retraining or transfer of employees to other work or locations and the restructuring of jobs.

3. Discussions Before Terminations

- 3.1 Where the employer has made a definite decision that the employer no longer wishes the job the employee has been doing done by anyone and that decision may lead to the termination of employment, the employer shall hold discussions with the employees directly affected and with the union to which they belong.
- 3.2 The discussions shall take place as soon as is practicable after the employer has made a definite decision which will invoke the provision of subclause 3.1 of this clause and shall cover, inter alia, any reasons for the proposed terminations, measures to avoid or minimise the terminations and measures to mitigate any adverse effects of any termination of the employees concerned..
- 3.3 For the purposes of the discussion the employer shall, as soon as practicable, provide to the employees concerned and the union to which they belong, all relevant information about the proposed terminations including the reasons for the proposed terminations, the number and categories of employees likely to be affected, and the number of employees normally employed and the period over which the terminations are likely to be carried out. Provided that any employer shall not be required to disclose confidential information the disclosure of which would adversely affect the employer.

4. Notice for Changes in Production, Program, Organisation Or Structure

- 4.1 This subclause sets out the notice provisions to be applied to terminations by the employer for reasons arising from production, program, organisation or structure in accordance with clause 2 of this part.
- 4.1.1 In order to terminate the employment of an employee the employer shall give to the employee the following notice:

Period of continuous service	Period of Notice
Less than 1 year	1 week
1 year and less than 3 years	2 weeks
3 years and less than 5 years	3 weeks
5 years and over	4 weeks

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.

4.1.3 Payment in lieu of the notice above shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

4.2 Notice for Technological Change

This paragraph sets out the notice provisions to be applied to terminations by the employer for reasons arising from 'technology' in accordance with clause 2 of this part.

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

4.2.2 Payment in lieu of the notice above shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

4.2.3 The period of notice required by this subclause to be given shall be deemed to be service with the employer for the purposes of the *Long Service Leave Act 1955*, the *Annual Holidays Act 1944*, or any Act amending or replacing either of these Acts.

4.3 Time off during the notice period

4.3.1 During the period of notice of termination given by the employer 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 purposes of seeking other employment.

4.3.2 If the employee has been allowed paid 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.

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 part 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.

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.

4.6 Notice to Commonwealth Employment Service

Where a decision has been made to terminate employees, the employer shall notify the Commonwealth Employment Service thereof as soon as possible giving relevant information including the number and categories of the employees likely to be affected and the period over which the terminations are intended to be carried out.

4.7 Department of Social Security Employment Separation Certificate

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

4.8 Transfer to lower paid duties

Where an employee is transferred to lower paid duties for reasons set out in clause 2 of this part, 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 rate for the number of weeks of notice still owing.

5. Severance Pay

5.1 Where an employee is to be terminated pursuant to clause 4 of this part, subject to further order of the Industrial Relations Commission of New South Wales, the employer shall pay the following severance pay in respect of a continuous period of service:

5.1.1 If 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	4 weeks
2 years and less than 3 years	7 weeks
3 years and less than 4 years	10 weeks
4 years and less than 5 years	12 weeks
5 years and less than 6 years	14 weeks
6 years and over	16 weeks

5.1.2 Where an employee is 45 years old or over, the entitlement shall be in accordance with the following scale:

Years of Service	45 Years of Age and Over Entitlement
Less than 1 year	Nil
1 year and less than 2 years	5 weeks
2 years and less than 3 years	8.75 weeks
3 years and less than 4 years	12.5 weeks
4 years and less than 5 years	15 weeks
5 years and less than 6 years	17.5 weeks
6 years and over	20 weeks

5.1.3 'Weeks Pay' means the all purpose rate of pay for the employee concerned at the date of termination, and shall include, in addition to the ordinary rate of pay, over a ward payments, shift penalties and allowances provided for in the relevant award.

5.1.4 Where an employee is subject to a reduction of working hours of 6 or more hours per fortnight, the reduction will be treated as a partial redundancy. A pro rata payment will be made in accordance with the severance payments set out in paragraphs 5.1.1 and 5.1.2 above.

5.2 Incapacity to Pay

Subject to an application by the employer and further order of the Industrial Relations Commission, the employer may pay a lesser amount (or no amount) of severance pay than that contained in subclause 5.1.

The Commission shall have regard to such financial and other resources of the employer concerned as the Commission thinks relevant, and the probable effect paying the amount of severance pay in subclause 5.1 above will have on the employer.

5.3 Alternative Employment

Subject to an application by the employer and further order of the Industrial Relations Commission, an employer may pay a lesser amount (or no amount) of severance pay than that contained in subclause 5.1 if the employer obtains acceptable alternative employment for an employee.

M. SCHMIDT /

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(518)

SERIAL C5012

PARKING ATTENDANTS, &c. (STATE) CONSOLIDATED AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Liquor, Hospitality and Miscellaneous Union, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 2749 of 2006)

Before Commissioner McLeay

31 July 2006

VARIATION

1. Delete clause 6, Wages, of the award published 8 December 2000 (320 I.G. 1171) and insert in lieu thereof the following:
 - (i) The minimum adult weekly rates of pay for each classification, are as set out in Table 1 - Wages, of Part B, Monetary Rates.
 - (ii) The rates of pay in this award include the adjustments payable under the State Wage Case 2006. These adjustments may be offset against:
 - (a) any equivalent overaward payments, and/or
 - (b) award wage increases since 29 May 1991 other than safety net, State Wage Case and minimum rates adjustments.
 - (iii) Junior Employees - The minimum rates of pay to be paid to junior employees shall be the following percentages of the appropriate adult rate of pay as prescribes in subclause (i) of this clause:

	Percentage per week
Under 18 years of age	70
At 18 years of age	100

2. Delete Part B, Monetary Rates, and insert in lieu thereof the following:

PART B

MONETARY RATES

Table 1 - Wages per Week

		Weekly Rates For Full Time Employees		
		A	B	C
Award Classification	Relativity to Metal Industry	Former Rates per week	SWC 2006 per week	Total Rates per week

	Tradesperson	\$	\$	\$
Parking Attendant	82.0%	501.10	20.00	521.10

Table 2 - Other Rates and Allowances

Item	Clause No.	Brief Description	Amount Payable \$
1	6A	Meal Allowance	7.95 per meal
2	6A	Employee in Charge Allowance	30.25 per week
3	6A	First Aid Allowance - Weekly Employee	13.60 per week
4	6A	First Aid Allowance - Other Employee	2.70 per shift
5	6A	Laundry Allowance - Weekly Employee	10.20 per week
6	6A	Laundry Allowance - Other Employee	2.00 per shift

3. This variation shall take effect from the beginning of the first pay period to commence on or after 31 July 2006.

J. McLEAY, Commissioner

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(518)

SERIAL C4944

PARKING ATTENDANTS, &c. (STATE) CONSOLIDATED AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Liquor, Hospitality and Miscellaneous Union, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 1547 of 2006)

Before The Honourable Justice Walton, Vice-President
The Honourable Justice Boland
Commissioner Tabbaa

23 March 2006

VARIATION

1. Delete subclause (i) of clause 10, Saturdays, Sundays and Public Holidays of the award published 8 December 2000 (320 I.G. 1171) and insert in lieu thereof the following:
 - (i) The days on which New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Eight-hour Day, Christmas Day and Boxing Day are observed, and all other days proclaimed as public holidays throughout the State, and the first Monday in August each year, or another day mutually agreed to between the employer and the employee, or between an employer and the majority of employees, shall be holidays and employees not required to work on a holiday shall be paid for the holidays, even though not worked, at the ordinary rates of pay prescribed by clause 6, Wages.
2. This variation shall take effect on and from 23 March 2006.

M. J. WALTON *J, Vice-President.*
R. P. BOLAND *J.*
I. TABBAA, Commissioner.

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(503)

SERIAL C4818

GREYHOUND RACING AUTHORITY (NSW) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Public Employment Office.

(No. IRC 352 of 2006)

Before The Honourable Justice Wright, President

3 February 2006

VARIATION

1. Delete the words "19. Maternity Leave" appearing in the Arrangement of the award published 28 May 2004 (344 I.G. 702), and insert in lieu thereof the following:

19. Parental Leave

2. Insert at the end of the Arrangement, the following:

Appendix A
Appendix B

3. Insert after subclause (b), of clause 2, Salaries, the following new subclause:

- (c) Casuals shall also receive the following entitlements in accordance with the Crown Employees (Public Service Conditions of Employment) Award 2005:

- (a) Unpaid parental leave in accordance with clause 12 (iv)(d);
 - (b) Personal Carer's entitlement in accordance with clause 12 (v); and
 - (c) Bereavement entitlement in accordance with clause 12 (vi).

This entitlement is also set out at Appendix A of this Award.

4. Delete clause 19, Maternity Leave, and insert in lieu thereof the following:

19. Parental Leave

5. Insert after Table 1, Rates of Pay, of Part B, Monetary Rates, the following new Appendices:

APPENDIX A

- (i) Personal Carers entitlement for casual employees

- (a) Casual employees are entitled to not be available to attend work, or to leave work if they need to care for a family member described in (iii) below who is sick and requires care and support, or who requires care due to an unexpected emergency, or the birth of a child. This entitlement is

subject to the evidentiary requirements set out below in (d), and the notice requirements set out in (e).

- (b) The Department Head and the casual employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
- (c) The Department Head must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.
- (d) The casual employee shall, if required,
 - (A) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
 - (B) establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

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

- (e) The casual employee must, as soon as reasonably practicable and during the ordinary hours of the first day or shift of such absence, inform the employer of their inability to attend for duty. If it is not reasonably practicable to inform the employer during the ordinary hours of the first day or shift of such absence, the employee will inform the employer within 24 hours of the absence.

(ii) A family member for the purposes of (ii) (a) above is:

- (a) a spouse of the staff member; or
- (b) a defacto spouse being a person of the opposite sex to the staff member who lives with the staff member as her husband or his wife on a bona fide domestic basis although not legally married to that staff member; or
- (c) a child or an adult child (including an adopted child, a step child, a foster child or an ex-nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the staff member or of spouse or of defacto spouse of the staff member; or
- (d) a same sex partner who lives with the staff member as the defacto partner of that staff member on a bona fide domestic basis; or a relative of the staff member who is a member of the same household, where for the purposes of this definition:-

"relative" means a person related by blood, marriage, affinity or Aboriginal kinship structures;

"affinity" means a relationship that one spouse or partner has to the relatives of the other; and

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

(iii) Bereavement entitlements for casual employees

- (a) Casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a family member on production of satisfactory evidence (if required by the employer).
- (b) The Department Head and the casual employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is

entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.

- (c) The Clerks must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.
- (d) The casual employee must, as soon as reasonably practicable and during the ordinary hours of the first day or shift of such absence, inform the employer of their inability to attend for duty. If it is not reasonably practicable to inform the employer during the ordinary hours of the first day or shift of such absence, the employee will inform the employer within 24 hours of the absence.

APPENDIX B

- (1) Refer to the *Industrial Relations Act 1996* (NSW). The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).
- (2) An employer must not fail to re-engage a regular casual employee (see section 53 (2) of the Act) because:
 - (a) the employee or employee's spouse is pregnant; or
 - (b) the employee is or has been immediately absent on parental leave.

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

- (3) Right to request
 - (a) An employee entitled to parental leave may request the employer to allow the employee:
 - (i) to extend the period of simultaneous unpaid parental leave use up to a maximum of eight weeks;
 - (ii) to extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;
 - (iii) to return from a period of parental leave on a part-time basis until the child reaches school age.

to assist the employee in reconciling work and parental responsibilities.
 - (b) The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or Eraring Energy business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.
 - (c) Employee's request and the employer's decision to be in writing

Employee's request and Eraring Energy's decision made under 3 (a) (ii) and 3 (a) (iii) must be recorded in writing.
 - (d) Request to return to work part-time

Where an employee wishes to make a request under 3(a)(iii), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

- (4) Communication during parental leave
- (a) Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:
 - (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
 - (ii) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.
 - (b) The employee shall take reasonable steps to inform Eraring Energy about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part time basis.
 - (c) The employee shall also notify the employer of changes of address or other contact details which might affect Eraring Energy's capacity to comply with paragraph (a).
6. This variation shall take effect from the 19 December 2005.

F. L. WRIGHT J , *President*

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(180)

SERIAL C4423

ELECTRICAL, ELECTRONIC AND COMMUNICATIONS CONTRACTING INDUSTRY (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by The Electrical Contractors' Association of New South Wales, Industrial Organisation of Employers.

(No. IRC 127 of 2004)

Before The Honourable Justice Staunton

20 March 2006

VARIATION

1. Delete paragraph 11.4.12 of clause 11, Redundancy and Technological Change of the award published 17 March 2006 (358 I.G. 1) and insert after paragraph 11.4.9, Severance Pay, the following:

11.4.9A Funding Severance Pay

11.4.9A.1 An employer bound by this award may utilise a fund to meet all or some of the liabilities created by clause 11.4.9. Where an employer utilises such a fund, the employer shall be required to make contributions to the fund of the amount notified to the trustee of the fund, or if no amount is notified, at the rate set by the trustee of the fund from time to time in respect of those employees covered by this clause and for the period the employer so remains in the fund.

11.4.9A.1.1 payments made by a fund designed to meet an employer's liabilities under this clause, to employees eligible for redundancy/severance pay, shall be set off against the liability of the employer under this clause, and the employee shall receive the fund payment or the award benefit whichever is the greater, but not both; or

11.4.9A.1.2 where a fund, which has been established pursuant to an agreement between the union and employer(s), does not make payments in accordance with the other provisions of this clause, but makes payments that are greater than the obligation elsewhere in this clause, contributions made by an employer on behalf of an employee to the fund shall, to the extent of those contributions, be set off against the liability of the employer elsewhere under this clause, and payments to the employee shall be made in accordance with the rules of the fund or any agreement relating thereto and the employee shall be entitled to the fund benefit or the benefit elsewhere in this clause, whichever is greater, but not both.

11.4.9A.2 Nothing in subclause 11.4.9A.1 shall be construed so as to reduce or remove the severance payment an employee would be entitled to receive pursuant to this Award.

11.4.9A.3 Nothing in subclause 11.4.9A.1 shall be construed so as to reduce or remove the fund benefits an employee would be entitled to receive from a fund which are greater than the severance payment an employee would be entitled to receive pursuant to the other provisions of this Award.

11.4.9A.4 Nothing in this clause shall be construed so as to create more than one entitlement to a severance payment for the same service pursuant to this Award.

2. This variation shall take effect from 20 March 2006.

P. J. STAUNTON *J.*

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(1827)

SERIAL C4706

CROWN EMPLOYEES (NSW TAFE COMMISSION - ADMINISTRATIVE AND SUPPORT STAFF CONDITIONS OF EMPLOYMENT) AWARD 2005

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by NSW Department of Education and Training.

(No. IRC 326 of 2006)

Before The Honourable Justice Wright, President

3 February 2006

VARIATION

1. Delete clause 1, Arrangement, of the award published 27 January 2006 (356 I.G. 896), and insert in lieu thereof the following:

1. Arrangement

Clause No.	Subject Matter
1.	Arrangement
2.	Title
3.	Definitions
4.	Entitlements Under Another Industrial Instrument
5.	Work Environment
6.	Dispute Resolution Procedures
7.	Local Arrangements
8.	Working Hours
9.	Casual Employment
10.	Morning and Afternoon Breaks
11.	Meal Breaks
12.	Variation of Hours
13.	Natural Emergencies and Major Transport Disruptions
14.	Assistance with Transport
15.	Notification of Absence from Duty
16.	Public Holidays
17.	Standard Working Hours
18.	Flexible Working Hours
19.	Rostered Days Off for 38 Hour Week Workers
20.	Existing Hours of Work Determinations
21.	Excess Travelling Time
22.	Waiting Time
23.	Travelling Allowances - General
24.	Meal Expenses on One Day Journeys
25.	Travelling Allowances when staying in Non Government Accommodation
26.	Travelling Allowances when Staying in Government Accommodation
27.	Restrictions on Payment of Travelling Allowances

28. Increase or Reduction in Payment of Travelling Allowances
29. Production of Receipts
30. Travelling Distance
31. Camping Allowances
32. Camping Equipment Allowance
33. Allowance Payable for Use of Private Motor Vehicle
34. Damage to Private Motor Vehicle Used for Work
35. Allowance for Living in a Remote Area
36. Assistance to Staff Members Stationed in a Remote Area When Travelling on Recreation Leave
37. Overseas Travel
38. Exchanges
39. Room at Home Used as Office
40. Semi-official Telephones
41. On-call Allowance
42. Uniforms and Protective Clothing
43. Payment of Laundry Allowance
44. Compensation for Damage to or Loss of Staff Member's Private Property
45. Garage and Carport Allowance
46. Community Language Allowance Scheme
47. First Aid Allowance
48. Review of Allowances Payable in Terms of This Award
49. Trade Union Activities Regarded as on Duty
50. Trade Union Activities Regarded as Special Leave
51. Trade Union Training Courses
52. Conditions applying to On-Loan Arrangements
53. Period of Notice for Trade Union Activities
54. Access To Facilities by Trade Union Delegates
55. Responsibilities of the Trade Union Delegate
56. Responsibilities of the Trade Union
57. Responsibilities of Workplace Management
58. Right of Entry Provisions
59. Travelling and Other Costs of Trade Union Delegates
60. Industrial Action
61. Consultation
62. Deduction of Trade Union Membership Fees
63. Leave - General Provisions
64. Absence from Work
65. Applying for Leave
66. Adoption, Maternity and Parental Leave
67. Extended and Long Service Leave
68. Family and Community Service Leave
69. Leave Without Pay
70. Military Leave
71. Observance of Essential Religious or Cultural Obligations
72. Personal Carers Leave
73. Recreation Leave
74. Annual Leave Loading
75. Sick Leave
76. Sick Leave - Requirements for Medical Certificate
77. Deleted
78. Sick Leave - Workers Compensation
79. Sick Leave - Claims Other Than Workers Compensation
80. Special Leave

81. Study Assistance
82. Shift Work
83. Overtime - General
84. Overtime Worked by Shift Workers
85. Overtime Worked by Day Workers
86. Recall to Duty
87. On Call (Stand-by)
88. Overtime Meal Breaks
89. Overtime Meal Allowances
90. Rate of Payment for Overtime
91. Payment for Overtime or Leave in Lieu
92. Calculation of Overtime
93. Review of Overtime Meal Allowances
94. Provision of Transport in Conjunction with Working of Overtime
95. Higher Duties Allowance
96. Management of Conduct and Performance
97. Anti-Discrimination
98. Leave Reserved
99. Area, Incidence and Duration

PART B

MONETARY RATES

Table 1 - Allowances

Schedule 1 - Classifications Of Administrative And Support Staff Covered By The Award

2. Renumber the clauses in the body of the award to reflect the new Arrangement.
3. Delete subclause (d), of clause 9, Casual Employment, and insert in lieu thereof the following:
 - (d) Leave
 - (1) Other than as described under paragraphs (d)(3), (d)(4), (d)(5) and (d)(6) of this clause casual employees are not entitled to any other paid or unpaid leave.
 - (2) As set out in paragraph (b) (3) of this clause, casual employees will be paid 1/12th in lieu of annual leave.
 - (3) Casual employees will be entitled to Long Service Leave in accordance with the provisions of the *Long Service Leave Act 1955*.
 - (4) Casual employees will be entitled to unpaid parental leave under Chapter 2, Part 4, Division 1, Section 54 Entitlement to Unpaid Parental leave, in accordance with the *Industrial Relations Act 1996*. The following provisions shall also apply in addition to those set out in the *Industrial Relations Act 1996* (NSW).
 - (i) The Managing Director must not fail to re-engage a regular casual employee (see section 53(2) of the *Industrial Relations Act 1996* because:
 - (a) the employee or employee's spouse is pregnant; or
 - (b) the employee is or has been immediately absent on parental leave.

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

(5) Personal Carers entitlement for casual employees

- (i) Casual employees are entitled to not be available to attend work, or to leave work if they need to care for a family member described in paragraph 72(a)(3) of the Award who is sick and requires care and support, or who requires care due to an unexpected emergency, or the birth of a child. This entitlement is subject to the evidentiary requirements set out below in (iv), and the notice requirements set out in (v).
- (ii) The Managing Director and the casual employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
- (iii) The Managing Director must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of the Managing Director to engage or not to engage a casual employee are otherwise not affected.
- (iv) The casual employee shall, if required,
 - (a) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
 - (b) establish by production of documentation acceptable to the Managing Director or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

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

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

(6) Bereavement entitlements for casual employees

- (i) Casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a family member (as defined in paragraph 72(a)(3) of this award) on production of satisfactory evidence (if required by the Managing Director).
- (ii) The Managing Director and the casual employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
- (iii) The Managing Director must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of the Managing Director to engage or not engage a casual employee are otherwise not affected.

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

4. Delete clause 66, Adoption Leave, and insert in lieu thereof the following:

66. Adoption, Maternity and Parental Leave

- (a) Maternity leave shall apply to a staff member who is pregnant and, subject to this clause the staff member shall be entitled to be granted maternity leave as follows:
 - (1) For a period up to 9 weeks prior to the expected date of birth; and
 - (2) For a further period of up to 12 months after the actual date of birth.
 - (3) A staff member who has been granted maternity leave and whose child is stillborn may elect to take available sick leave instead of maternity leave.
- (b) Adoption leave shall apply to a staff member adopting a child and who will be the primary care giver, the staff member shall be granted adoption leave as follows:
 - (1) For a period of up to 12 months if the child has not commenced school at the date of the taking of custody; or
 - (2) For such period, not exceeding 12 months on a full-time basis, as the Managing Director may determine, if the child has commenced school at the date of the taking of custody.
 - (3) Special Adoption Leave - A staff member shall be entitled to special adoption leave (without pay) for up to 2 days to attend interviews or examinations for the purposes of adoption. Special adoption leave may be taken as a charge against recreation leave, extended leave, flexitime or family and community service leave.
- (c) Parental leave shall apply to male and female staff to look after his/her child or children where maternity or adoption leave does not apply. Parental leave applies for a period not exceeding 12 months. Parental leave may commence at the time of the birth of the child or other termination of the spouse's or partner's pregnancy or, in the case of adoption, from the date of taking custody of the child or children or at any time up to 2 years from that date.
- (d) A staff member taking maternity or adoption leave is entitled to payment at the ordinary rate of pay for a period of 14 weeks, a staff member entitled to parental leave is entitled to payment at the ordinary rate of pay for a period of up to 1 week, provided the staff member:
 - (1) Applied for maternity, adoption or parental leave within the time and in the manner determined set out in subclause (i) of this clause; and
 - (2) Prior to the commencement of maternity, adoption or parental leave, completed not less than 40 weeks' continuous service.
 - (3) Payment for the maternity, adoption or parental leave may be made as follows:
 - (i) in advance as a lump sum; or
 - (ii) fortnightly as normal; or
 - (iii) fortnightly at half pay; or

- (iv) a combination of full-pay and half pay.
- (e) Payment for maternity, adoption or parental leave is at the rate applicable when the leave is taken. A member of staff holding a full time position who is on part time leave without pay when they start leave is paid:
 - (1) at the full time rate if they began part time leave 40 weeks or less before starting maternity, adoption or parental leave;
 - (2) at the part time rate if they began part time leave more than 40 weeks before starting maternity, adoption or parental leave and have not changed their part time work arrangements for the 40 weeks;
 - (3) at the rate based on the average number of weekly hours worked during the 40 week period if they have been on part time leave for more than 40 weeks but have changed their part time work arrangements during that period.
- (f) A staff member who has taken no more than 12 months full time maternity, adoption or parental leave or its part time equivalent is entitled to be paid at their normal rate (i.e. the rate at which they were paid before proceeding on maternity, adoption or parental leave) for another period of such leave regardless of whether they resume their normal hours of work before proceeding on leave for another pregnancy or adoption.
- (g) Except as provided in subclauses (d), (e) and (f) of this clause, maternity, adoption or parental leave shall be granted without pay.
- (h) Right to request
 - (1) A staff member who has been granted maternity, adoption or parental leave in accordance with subclause (a), (b) or (c) may make a request to the Managing Director to:
 - (i) extend the period of unpaid maternity, adoption or parental leave for a further continuous period of leave not exceeding 12 months;
 - (ii) return from a period of full time maternity, adoption or parental leave on a part time basis until the child reaches school age (note: returning to work from maternity, adoption or parental leave on a part time basis includes the option of returning to work on part time leave without pay);

to assist the staff member in reconciling work and parental responsibilities.
 - (2) The Managing Director shall consider the request having regard to the staff member's circumstances and, provided the request is genuinely based on the staff member's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the Managing Director's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.
- (i) Notification Requirements
 - (1) When the Managing Director is made aware that a staff member or their spouse is pregnant, or a staff member's spouse is pregnant or is adopting a child, the Managing Director must inform the staff member of their entitlements and their obligations under the Award.
 - (2) A staff member who wishes to take maternity, adoption or parental leave must notify the Managing Director in writing at least 8 weeks (or as soon as practicable) before the expected commencement of the leave:
 - (a) that she/he intends to take maternity, adoption or parental leave, and

- (b) the expected date of birth or the expected date of placement, and
 - (c) if she/he is likely to make a request under subclause (h).
- (3) At least 4 weeks before a staff member's expected date of commencing maternity, adoption or parental leave they must advise:
- (i) the date on which the maternity, adoption or parental leave is intended to start, and
 - (ii) the period of leave to be taken.
- (4) Staff member's request and the Managing Director's decision to be in writing
- The staff member's request and the Managing Director's decision made under subparagraphs 66(h)(1)(i) and 66(h)(1)(ii) must be recorded in writing.
- (5) A staff member intending to request to return from maternity, adoption or parental leave on a part-time basis or seek an additional period of leave of up to 12 months must notify the Managing Director in writing as soon as practicable and preferably before beginning maternity, adoption or parental leave. If the notification is not given before commencing such leave, it may be given at any time up to 4 weeks before the proposed return on a part time basis, or later if the Managing Director agrees.
- (6) A staff member on maternity leave is to notify the Managing Director of the date on which she gave birth as soon as she can conveniently do so.
- (7) A staff member must notify the Managing Director as soon as practicable of any change in her intentions as a result of premature delivery or miscarriage.
- (8) A staff member on maternity or adoption leave may change the period of leave or arrangement, once without the consent of the Managing Director and any number of times with the consent of the Managing Director. In each case she/he must give the Managing Director at least 14 days notice of the change unless the Managing Director decides otherwise.
- (j) A staff member has the right to his/her former position if she/he has taken approved leave or part-time work in accordance with subclause (h), and he/she resumes duty immediately after the approved leave or work on a part-time basis.
- (k) If the position occupied by the staff member immediately prior to the taking of maternity, adoption or parental leave has ceased to exist, but there are other positions available that the staff member is qualified for and is capable of performing, the staff member shall be appointed to a position of the same grade and classification as the staff member's former position.
- (l) A staff member who has returned to full time duty without exhausting their entitlement to 12 months unpaid maternity, adoption or parental leave is entitled to revert back to such leave. This may be done once only, and a minimum of 4 weeks notice (or less if acceptable to the Managing Director) must be given.
- (m) A staff member who is sick during her pregnancy may take available paid sick leave or accrued recreation or extended leave or sick leave without pay. A staff member may apply for accrued recreation leave, extended leave or leave without pay before taking maternity leave. Any leave taken before maternity leave ceases at the end of the working day immediately preceding the day she starts her nominated period of maternity leave or on the working day immediately preceding the date of birth of the child, whichever is sooner.
- (n) A staff member may elect to take available recreation leave or extended leave within the period of maternity, adoption or parental leave provided this does not extend the total period of such leave.

- (o) A staff member may elect to take available recreation leave at half pay in conjunction with maternity, adoption or parental leave subject to:
 - (1) accrued recreation leave at the date adoption leave commences is exhausted within the period of maternity, adoption or parental leave,
 - (2) the total period of maternity, adoption or parental leave, is not extended by the taking of recreation leave at half pay
 - (3) When calculating other leave accruing during the period of recreation leave at half pay, the recreation leave at half pay shall be converted to the full time equivalent and treated as full pay leave for accrual of further recreation, extended and other leave at the full time rate
- (p) If, for any reason, a pregnant staff member is having difficulty in performing her normal duties or there is a risk to her health or to that of her unborn child the Managing Director, should, in consultation with the member of staff, take all reasonable measures to arrange for safer alternative duties. This may include, but is not limited to greater flexibility in when and where duties are carried out, a temporary change in duties, retraining, multi-skilling, teleworking and job redesign.
- (q) If such adjustments cannot reasonably be made, the Managing Director must grant the staff member maternity leave, or any available sick leave, for as long as it is necessary to avoid exposure to that risk as certified by a medical practitioner, or until the child is born which ever is the earlier.
- (r) Communication during maternity, adoption or parental leave
 - (1) Where a staff member is on maternity, adoption or parental leave and a definite decision has been made to introduce significant change at the workplace, the Managing Director shall take reasonable steps to:
 - (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the staff member held before commencing maternity, adoption or parental leave; and
 - (ii) provide an opportunity for the staff member to discuss any significant effect the change will have on the status or responsibility level of the position the staff member held before commencing maternity, adoption or parental leave.
 - (2) The staff member shall take reasonable steps to inform the Managing Director about any significant matter that will affect their decision regarding the duration of maternity, adoption or parental leave to be taken, whether the staff member intends to return to work and whether the staff member intends to request to return to work on a part-time basis.
 - (3) The staff member shall also notify the Managing Director of changes of address or other contact details which might affect the Managing Director's capacity to comply with paragraph 66 (r)(1).
- 5. Delete subclauses (d) and (e), of clause 68, Family and Community Service Leave, and insert in lieu thereof the following:
 - (d) On the death of a person defined in paragraph (3) of subclause 72(a), Use of Sick Leave to Care for a Family Member, additional paid family and community service leave of up to 2 days may be granted on a discrete, per occasion basis to a staff member.
 - (e) In cases of illness of a family member for whose care and support the staff member is responsible, paid sick leave in accordance with paragraph (3) of subclause 72(a), Use of Sick Leave to Care for a Family Member shall be granted when paid family and community service leave has been exhausted.

6. Delete clause 70, Maternity Leave, and renumber clauses 71, Military Leave and 72, Observance of Essential Religious Or Cultural Obligations to read as clauses 70 and 71 respectively.
7. Insert after clause 71, Observance of Essential Religious Or Cultural Obligations, the following new clause:

72. Personal Carers Leave

- (a) Use of sick leave to care for a Family Member

When family and community service leave provided for in clause 68 is exhausted, a staff member with responsibilities in relation to a category of person set out in subclause (3) of this clause who needs the staff member's care and support, may elect to use available paid sick leave, subject to the conditions specified in this clause, to provide such care and support when a family member is ill.

- (1) The sick leave shall initially be taken from the current leave year's entitlement followed, if necessary, by the sick leave accumulated over the previous 3 years. In special circumstances, the Managing Director may grant additional sick leave from the sick leave accumulated during the staff member's eligible service.
- (2) If required by the Managing Director, the staff member must establish by production of a medical certificate or statutory declaration, the illness of the person concerned.
- (3) The entitlement to use sick leave in accordance with this clause is subject to:-

- (i) the staff member being responsible for the care and support of the person concerned; and
- (ii) the person concerned being:-

a spouse of the staff member; or

a de facto spouse being a person of the opposite sex to the staff member who lives with the staff member as her husband or his wife on a bona fide domestic basis although not legally married to that staff member; or

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

a same sex partner who lives with the staff member as the de facto partner of that staff member on a bona fide domestic basis; or a relative of the staff member who is a member of the same household, where for the purposes of this definition:-

"relative" means a person related by blood, marriage, affinity or Aboriginal kinship structures;

"affinity" means a relationship that one spouse or partner has to the relatives of the other; and

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

- (b) Use of recreation leave to care for a family member

- (1) A staff member may elect, with the consent of the Managing Director, to take recreation leave not exceeding 10 days in single day periods, or part thereof, in any calendar year at a time or times agreed by the parties.
- (2) A staff member may elect, with the consent of the Managing Director, to take recreation leave at any time within a period of 24 months from the date at which it falls due.

8. Delete clause 77, Sick Leave to Care for a Family Member, and insert in lieu thereof the following:
77. Deleted
9. This variation shall take effect from 19 December 2005.

F. L. WRIGHT J , *President*

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(1144)

SERIAL C4469

PROFESSIONAL ENGINEERS AND PROFESSIONAL SCIENTISTS (PRIVATE INDUSTRY) (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by The Association of Professional Engineers, Scientists and Managers, Australia (NSW Branch),
Industrial Organisation of Employees.

(No. IRC 1663 of 2006)

Before The Honourable Justice Schmidt

23 March 2006

VARIATION

1. Delete clause 15, Sick Leave, of the award published 18 August 2000 (317 I.G. 1030), and insert in lieu thereof the following:

15. Sick Leave

An employee, other than a casual employee, absent from duty on account of personal ill-health or injury due to any cause shall be entitled to payment of sick leave to the same extent and upon the same conditions as are applicable from time to time to the majority of employees employed in the particular establishment in which the employee is employed. Provided that the minimum quantum of sick leave entitlement shall be ten days per annum, cumulative to ten years sick leave entitlements.

2. This variation shall take effect from the beginning of the first full pay period to commence on or after 23 March 2006.

M. SCHMIDT /

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(710)

SERIAL C4765

WHOLESALE FRUIT AND VEGETABLE EMPLOYEES' (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Erratum to Serial C4507 published 28 July 2006

(360 I.G. 431)

(No. IRC 1819 of 2006)

ERRATUM

1. Delete the matter number "(No. IRC 1819 of 2006)" and substitute the following:

(Nos. IRC 1150 and 1819 of 2006)

2. Delete the words "Before Commissioner Murphy" and substitute the following:

Before The Honourable Justice Wright, President
The Honourable Justice Walton, Vice-President
The Honourable Mr Deputy President Harrison
The Honourable Justice Haylen
Commissioner Tabbaa

3. Delete the words "J. P. MURPHY, Commissioner " and substitute the following:

F. L. WRIGHT *J, President.*
M. J. WALTON *J, Vice-President.*
R. W. HARRISON *D.P.*
W. R. HAYLEN *J.*
I. TABBAA, Commissioner.

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