

REGISTER OF CONTRACT AGREEMENTS

CONTRACT AGREEMENT NO: CA06/5

TITLE: Toll Contract Carrier Agreement 2005 - 2007

I.R.C. NO: IRC5/6821

DATE APPROVED/COMMENCEMENT: 24 January 2006 / 1 January 2005

TERM: 24

**NEW AGREEMENT OR
VARIATION:** New.

GAZETTAL REFERENCE: 17 February 2006

DATE TERMINATED:

NUMBER OF PAGES: 9

COVERAGE/DESCRIPTION OF

EMPLOYEES: The agreement applies to all Carriers engaged by Toll Pty Ltd; Toll Ipec Pty Ltd; Toll Transport Pty Ltd and Toll North Pty Ltd, located at Level 8, 380 St Kilda Road, Melbourne VIC 3004, but shall exclude Carriers engaged in carting brewery products, who fall within the coverage of the Transport Industry - General Carriers Contract Determination.

PARTIES: Toll IPEC Pty Ltd, Toll North Pty Ltd, Toll Pty Ltd, Toll Transport Pty Ltd -&- the Transport Workers' Union of New South Wales

TOLL CONTRACT CARRIER AGREEMENT 2005 - 2007

Title

This Agreement shall be known as the Toll Contract Carrier Agreement 2005 - 2007

Arrangement

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Parties Bound

This Agreement shall be binding on:

Toll Pty Ltd ;

Toll Ipec Pty Ltd;

Toll Transport Pty Ltd;

Toll North Pty Ltd

(collectively referred to as "**Toll**"), but only to the extent that the entities listed above engage Contract Carriers (the "**Carriers**") but shall exclude Carriers engaged by any of the entities listed above who cart brewery products; and,

the Transport Workers Union of New South Wales (the "**TWU**")

with respect to Carriers engaged by Toll in NSW who fall within the jurisdiction of the Transport Industry - General Carriers Contract Determination (the "**Determination**").

Duration

This Agreement shall operate from 1 January 2005 and shall come into force on or after the first pay period commencing after the date it is approved by the Industrial Relations Commission of New South Wales (the "Commission") and shall remain in force until 31 December 2007.

Relationship with Previous Agreements

This Agreement shall be read in conjunction with the Determination and any other agreements and shall prevail to the extent of any inconsistencies with the Determination.

Objects

The objects of the Agreement are to:
enhance the productivity and efficiency of the Company's operations; and,
provide Carriers with a just measure of income.

Application of this Agreement

This Agreement shall apply to following business units:

Toll Networks

Toll SPD

Toll Express

Toll Tasmania

TollIpec

Toll Fleet
Toll Refrigerated
Toll Priority
Toll Regional
Toll Local

Toll Logistics

Toll Auto Logistics
Toll Food and Beverage
Toll Personnel
In2store
Toll Liquids
Toll Industrial
Toll Ports

Toll North

NQX
Toll Refrigerated
R & H Transport

The parties will discuss the applicability of this Agreement to future acquisitions made by Toll with respect to the Carriers that would fall within the jurisdiction of this Agreement.

Site Specific Enterprise Agreements and Local Matters

Notwithstanding this Agreement, further agreements may be negotiated about local matters to improve work practices and inefficiencies. Such agreement must be consistent with the matters dealt with in this Agreement.

Where there is disagreement with respect to the negotiation of local matters, work shall continue as normal and the dispute is to be dealt with in accordance with clause 13 of this Agreement, Settlement of Disputes.

Wage Increases

The following increase to remuneration shall apply, on a compounding basis and only to the labour component of the Carriers remuneration, on the first full pay period on or after January 1 in each year, for all purposes, as follows:

5% 1 Jan 05
5% 1 Jan 06

5% 1 Jan 07

The parties have agreed that should the movements in CPI (as measured by the All Capital Cities) exceed 5% in both the June and September quarters of 2006, the TWU may request Toll consider varying the increase payable as 1 January 2007 in this Agreement.

The labour component increases referred to in this clause will absorb any increases: awarded by the Commission in relation to any determination increase ; or contained in an agreement payable after 1 January 2005 whether registered or otherwise.

The running and fixed cost component of the Carriers remuneration shall be varied in accordance with movements, excluding labour, in the Determination.

Rates

Toll may choose to remunerate the carrier by way of piece rate or other incentive rate system of payment.

Where Toll remunerates a carrier by way of a method as described in (a) above, the carrier shall receive no less than what the carrier would otherwise have earned, for work performed, had the carrier been remunerated in accordance with the rates set out in schedule 1 of the Determination **BUT** averaged over a 3 month period.

For the purposes of this clause, reference to "a 3 month period" shall be a calendar quarter as follows:

January, February, March;

April, May, June;

July, August, September;

October, November, December.

Commitment of Toll

Toll Commitment

Toll commits to:

the full-time engagement of its Carriers wherever possible;

requiring, in co-operation with the TWU, that contract carriers, when engaged by Toll to perform work on Toll's behalf, abide by all legal obligations including, but not limited to, compliance with any applicable industrial instrument, compliance with driving hours and compliance with Occupational Health and Safety laws. Toll will, having regard to section 127 of the Industrial Relations Act 1996, implement appropriate contract and invoicing requirements;

only enter into collective agreements with its Carriers and the TWU for the term of this Agreement; and,

ensuring that where a Carrier takes leave and, with the prior approval of Toll, employs a relief driver to undertake the work that the Carrier would otherwise perform, the Carrier's employee shall

be paid the rates applicable at the relevant business unit or site whilst performing that work. During such period, the Carrier shall receive no more than the amount that the Carrier would otherwise be paid for performing the work themselves.

Probationary Period

All Carriers who are offered contracts of carriage by Toll after this agreement comes in to force shall be on a three (3) month probationary period. Toll shall decide, prior to the expiration of the probationary period, whether the Carrier shall be offered further contracts of carriage.

During the probationary period Toll or the Carrier may terminate the engagement by the giving of one (1) weeks notice.

Settlement of Disputes

The parties have agreed that the following settlement of disputes procedure shall apply:

The matter should first be discussed at the workplace level between the Carrier(s) and their immediate supervisor;

If the matter is not settled, the Carrier(s) may request that the TWU delegate be involved in further discussions with the immediate supervisor;

If the matter is not settled discussions shall occur between the appropriate TWU official or officials and the Branch/Contract Manager ;

If the matter is still not settled discussions shall occur between a senior TWU official or officials and the State Manager or the next senior manager;

If the matter is not settled discussions shall occur between the senior TWU official or officials and the relevant General Manager ;

If the matter is still not settled, it shall be submitted to the Commission which shall conciliate and/or arbitrate the matter.

Until the matter is determined all work shall continue without disruption, except in circumstances where Carriers have genuine concerns for their health and safety.

The parties must co-operate to ensure that these procedures are carried out expeditiously. The parties undertake to resolve such concerns in a timely manner in accordance with the above procedure.

Induction, Training and Delegates Meetings

Toll will promote vocational training, occupational health and safety training, safer work practices, knowledge of the Determination and other industrial entitlements, and other services for the benefit of its Carriers.

Toll and the Carriers recognise their responsibilities to ensure that the workplace is safe for all Carriers and all other persons attending Toll's work sites. Accordingly, Toll agrees to train its Carriers covered by this Agreement in accordance with this clause.

Compulsory Induction Training

A new Carrier commencing work with Toll shall be trained in:

occupational health and safety;

vocational skills;

other professional training; and

In order to meet the requirements of sub-clause (a) each new Carrier shall undertake an induction course.

As part of the induction, the relevant site delegate shall be given an opportunity to address the new Carrier for a maximum of 30 minutes.

Toll agrees that it will continue to train contract carriers in the Bluecard Induction Program

Ongoing Training

Toll agrees:

to comply with all Transport Industry Codes of Practice (including the principles of "Trucksafe"), Regulations, Worksafe Australia documentation and approved and recognised industry standards as a minimum requirement, so as to meet and comply with Toll's obligations under the Occupational Health and Safety Act 2000 (NSW);

to enrol and provide existing Carriers with the opportunity and time to attend a two hour safety course, such course to be determined by Toll, conducted on site or other agreed place at an agreed time. Such training will be conducted within a reasonable time of signing this Agreement.

to enrol and provide existing Carriers with the opportunity and time to attend Driver Fatigue Management programs where appropriate .

Delegates Training

The Union has undertaken to give Toll reasonable notice, i.e. at least 7 days, of impending training requirements. It is agreed that delegate training will be organised in a manner that does not effect site operating efficiency. Attendance at such training will not be unreasonably withheld by Toll. All training is to be approved by the relevant Group Director.

Training to be paid for by Toll

Toll shall pay the carrier's remuneration for attending the training courses referred to in this clause 14 in accordance with the custom and practice within the relevant business.

Delegates Meetings

Toll and the delegates have agreed that all delegates meetings will be conducted, as far as practicable, at a time that has the least operational inconvenience. It is further agreed that all delegates attending such meetings should be paid for such attendance in accordance with the custom and practice within the relevant business. All meetings are to be approved by the relevant Group Director.

It is further agreed that in respect of meetings generally which are called by the TWU for the specific purpose of discussing issues relating to Toll, the number of delegates attending at such meetings shall be restricted to no more than two (2) delegates from each business unit or contract where Toll engages more than 20 carriers. Where fewer than 20 carriers are engaged only one (1) delegate shall be released. The Union will undertake to give Toll no less than seven (7) days notice of its intention to call such meetings.

Driving Hours

Driving Hours

Toll recognises the importance of adherence to driving hours and to that extent it will continue to require that all its Carriers comply with the requirements of a Safe Driving Plan ("SDP").

With respect to Toll's Carriers, the SDP shall only be used where Toll determines it to be necessary or as otherwise required by law..

Each business unit shall determine the appropriate form of the SDP in consultation with the Carriers and the TWU. Attachment "A" to this Agreement is a sample SDP

Union Recognition and Delegates Rights

Toll recognises the TWU as being the Union that shall represent Carriers covered by this Agreement.

Union delegates shall be allowed such reasonable time during working hours, as may be agreed between Toll and the delegates, to:

discuss with the union members at the workplace at which they are union delegates, matters relative to working conditions and other matters, with a view to avoiding industrial disputation;

discuss with union officials matters raised above; and,

discuss with Toll matters raised by members affecting their contracts of carriage.

In exercising the above, union delegates shall be allowed:

to perform their roles as delegates free from discrimination;

to bargain collectively and to recruit new members to the union;

To consult and access information about the workplace and the business which Toll determines not be sensitive or confidential; and,

to the reasonable access of office equipment, such as a telephone to carry out their delegate's duties.

No Further Claims

The TWU commits that there shall be no further claims, by it or any of its members covered by this Agreement, of any description, including rates of pay, subject to clause 9(b) of this Agreement, and/or allowances during the term of this Agreement.

Any Determination allowances not covered by this Agreement and which would otherwise be payable shall be adjusted in accordance with any corresponding movements to allowance in the Determination.

Anti-Discrimination Clause

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

Paragraph (b) only applies where the agreement contains a dispute resolution procedure:

It follows that in fulfilling their obligations under the dispute resolution procedure set out in this agreement the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this agreement are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the agreement which, by its terms or operation, has a direct or indirect discriminatory effect.

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

Nothing in this clause is to be taken to affect:

any conduct or act which is specifically exempted from anti-discrimination legislation;

offering or providing junior rates of pay to persons under 21 years of age;

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

a party to this agreement from pursuing matters of unlawful discrimination in any State or federal jurisdiction.

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

Execution

SIGNED as an agreement.

Signed for and on behalf of **Toll** in the presence of:

Signature

Signature of Witness

Name of Witness in full

Signed for and on behalf of **Transport Workers Union of New South Wales** in the presence of:

Signature

Signature of Witness

Name of Witness in full