

**REGISTER OF
ENTERPRISE AGREEMENTS**

ENTERPRISE AGREEMENT NO: EA03/157

TITLE: Duren Transport - TWU Heads of Agreement

I.R.C. NO: IRC3/3272

DATE APPROVED/COMMENCEMENT: Approved 16 July 2003 and commenced 1 January 2003

TERM: 23

**NEW AGREEMENT OR
VARIATION:** New

GAZETTAL REFERENCE: 10 October 2003

DATE TERMINATED:

NUMBER OF PAGES: 13

COVERAGE/DESCRIPTION OF

EMPLOYEES: Applies to all employees of the company engaged in the transportation or distribution operations and who fall within the coverage of the Transport Industry (State) Award 2000

PARTIES: Duren Transport Pty Ltd -&- the Transport Workers' Union of New South Wales

2002 TWU Heads of Agreement

1. Title

This agreement shall be known as the Duren Transport - TWU Heads of Agreement.

2. Parties

(i) The parties to this agreement shall be:

Duren Transport ("The company")

And

The Transport Workers' Union of Australia, New South Wales Branch ("the TWU").

3. Operation

This agreement shall apply to all of the transport or distribution operations of the company located in the State of New South Wales.

4. Definitions

(i) Subject to sub-clause 4(iii), in this agreement, unless the context otherwise requires:

"Award", in relation to:

Wages and Monetary Rates, means the rates set out in Part B of the Transport Industry (State) Award, 2000 as varied from time to time; and

The terms and conditions of employment other than Monetary Rates, means Part A of the Transport Industry (State) Award, 2000 as it reads at the date of the making of this Agreement, provided that any clause that is inserted into the said award relating to the protection of employee entitlements after the date of the making of this Agreement shall also apply to the parties covered by this Agreement.

"Blue Card" means a safety initiative for the transport and distribution industry, based upon the Transport and Distribution ("TDT 1997") nationally recognised level 1 training competency. Blue Card compels employees to familiarise themselves with, and follow, occupational health and safety procedures. Blue Card is conducted by a registered training provider that is licensed to deliver Blue Card.

"company" means Duren Transport

"employee" means all transport workers covered by the classifications referred to in Clause 1 of the Transport Industry (State) Award and/or by an employer whose business functions are in transport or distribution.

"transport worker" means any employee or contract carrier whose work is covered by this agreement, and includes transport workers employed by other organisations in connection with the workplace of the company (including but not limited to workers who regularly enter the company's workplace).

"Transport Industry - Training, Education and Industrial Rights Council" means an organisation established for the purpose of promoting vocational training, occupational health and safety training, safer work practices, knowledge of this Heads of Agreement, the award and other industrial instruments, and the furtherance of industrial rights compliance in the transport industry. The ordinary members of the Council are constituted by an equal representation of employees and employers, and the Council is chaired by the Secretary of the TWU, or his nominee. By agreeing to sub-clause 14(iv) of this agreement the company may nominate a representative to the board of the Council, provided that if the company is a member of a registered organisation of employers it may be represented on the council by that organisation.

"TWU" means the Transport Workers' Union of Australia, New South Wales Branch.

(ii) In this agreement:

Words importing the singular shall include the plural; and

Words importing the masculine gender shall include the female gender.

5. Commitment

By entering this agreement the employer hereby makes a commitment to:

- (i) Utilise full-time, part-time or casual employees prior to work is contracted out to other companies or business;
- (ii) Strongly recommend that all transport workers covered by the agreement join the TWU, advise employees of the availability of TWU membership at the point of recruitment;
- (iii) Positively support the making of an award, or enterprise agreement under the Industrial Relations Act, 1996 (NSW), applying to all employers and employees, or a contract determination or contract agreement applying to all principal contractors and contract carriers, as the case may be, performing work for and on behalf of the company whether at the workplace of the company or elsewhere in the same terms of this Heads of Agreement;
- (iv) Ensure that all road transport or distribution companies, employment & labour hire providers and other contractors engaged by the company abide by the Chain of Responsibility Clause and the Safe Driving Plan contained therein.
- (v) The training of its transport workers in occupational health and safety and other professional training as provided by a licensed Blue Card Provider; and
- (vii) Abide by the TWU Delegates Charter of Rights, annexed to and forming part of this agreement.

6. Training

The company will promote vocational training, occupational health and safety training, safer work practices, knowledge of this agreement and other industrial entitlements, and other services for the benefit of the workers in the transport and distribution industry.

The company recognises its responsibilities to provide a safe and healthy workplace for its employees and contract carriers and all other persons attending its sites and accordingly agrees to train all transport workers covered by this Heads of Agreement in accordance with this Clause:

- (i) Induction Training

- (a) Prior to a transport worker commencing to work with the company the transport worker shall be trained in:
- occupational health and safety
 - vocational skills;
 - other professional training; and
 - industrial rights.

- (b) In order to meet the requirements of sub-clause (a) each new transport worker shall undertake a Blue Card Induction Program, conducted by a licensed Blue Card training provider, in conjunction with the company.

Note: The induction training course is competency based. Therefore although the duration of the training course would usually be of no less than four (4) hours duration, it may be of greater or lesser duration, depending upon the actual time required by each inductee to be trained.

- (c) In addition to the requirements contained in sub-clauses (a) and (b) the company shall arrange for a safety assessment in relation to the workplace of the company and any BHP sites that a transport worker may visit in the course of that transport worker's employment/engagement. This safety assessment shall be carried out by an appropriately qualified person. The company shall ensure that each transport worker who works at or in connection with the workplace of the company receives appropriate induction training relating to the safety assessment.

(iii) Ongoing Training.

Upon entering this agreement the company agrees:

- (a) To comply with all current Codes of Practices, Regulations, Worksafe Australia documentation and approved and recognised industry standards as a minimum requirement, so as to meet and comply with the company's obligations under the NSW Occupational Health and Safety Act 2001;
- (b) To authorise all transport workers elected to OH & S Committees and/or as OH & S Representatives to attend a committee training course (as per the NSW Occupational Health and Safety Act, 2001) as soon as practicable within 3 months of being elected to such a position. Further, the Company will establish an OH & S Committee in all workplaces with less than 20 employees;
- (c) To train all existing transport workers in the Blue Card Induction Program. Such training is to occur within six months of the commencement of the agreement, and shall be conducted by a licensed Blue Card training provider, in conjunction with the company and the TWU delegate;
- (d) To enrol and provide all transport workers that perform driving duties, together with allocation staff and fleet controllers with the opportunity to attend Driver Fatigue Management programs; and
- (e) To provide all TWU delegates and co-delegates with an two weeks per annum paid training leave. A maximum of 2 delegates will be trained per annum subject to operational requirements.

(iv) Training to be paid for by the Company

The company shall pay for the training courses referred to in clause 7 and wages and excess travel expenses, which would otherwise be incurred by attendees of the course, shall be borne by the company. Further, attendees shall receive no less than their usual pay whilst attending such courses.

7. Measures to Increase Efficiency

- (i) The parties have agreed that in order to develop a more efficient and productive enterprise it is necessary to create a co-operative work environment and appropriate consultative mechanisms involving the company, the TWU and employees.

8. Conditions of Engagement

- (i) In relation to any matter in respect of which this agreement does not make provision, the terms of the Award shall apply to all employees.
- (ii) The wage rates specified in this clause are to apply for the purposes of calculating all employee and contract carrier entitlements including (but not limited to) overtime, any form of leave, redundancy and superannuation.

9. Rates of Remuneration for Employee Transport Workers

- (i) The company agrees to increase the rates of pay of its employee's remuneration by 3% 1 July 2003, a further 2% 1 December 2003, a further 3% 1 July 2004 and a further 2% 1 December 2004.
- (ii) The wage rates in sub-clause 10(i) do not include allowances. Subject to clause 19 herein, allowances as prescribed by the Award shall be paid to employees.

10. Settlements of Disputes

- (i) The parties have agreed that the following settlement of disputes procedure shall apply:
 - (a) The matter should first be discussed at the workplace level between transport workers and relevant management. If an employee so requests the TWU delegate will be involved in such discussions;
 - (b) If the matter is not settled discussions shall occur between the appropriate TWU official and management;
 - (c) If the matter is still not settled it shall be discussed between the Branch Secretary (or nominee) of the TWU and the company;
 - (d) If the matter is still not settled it shall be submitted to the Industrial Relations Commission of New South Wales which shall conciliate the matter;
 - (e) The Industrial Relations Commission of New South Wales may make a determination, which is binding on the parties where there is no likelihood that, within a reasonable period, conciliation or further conciliation will result in agreement.
- (ii) Whilst the above procedure is being followed work shall continue normally, except in circumstances where employees have genuine concerns for their health and safety.
- (iii) This settlement of disputes procedure will apply to any dispute or claim (whether it arises out of the operation of this Agreement or not) as to the wages or conditions of engagement of transport workers engaged by the company.

11. Superannuation

- (i) The company agrees to make monthly contributions with respect to all its transport workers to the TWU Superannuation Fund. In the case of employees such contributions shall be in accordance with the Transport Industry Superannuation (State) Award.

- (ii) For the purposes of determining ordinary time earnings of transport workers the following shall be applied: Bonuses, incentive payments, over award or agreement payments, shift loadings and the like, as per the Australian Tax Office Superannuation Guarantee Ruling SGR 94/4.

ongoing training of transport workers in vocational and professional skills, occupational health and safety and industrial rights; and

furtherance of industrial rights compliance in the transport and distribution industry

- (iii) Retraining, Training, Education and Industrial Rights

In addition to any other entitlement of transport workers covered by this agreement the company shall make contributions of an amount of \$ 500.00 per quarter of each year for transport workers covered by this agreement to the Transport Industry - Training, Education and Industrial Rights Council who may apply the money to:

Retrain and assist in the job placement of retrenched transport workers;

Train transport workers in vocational and professional skills, occupational health and safety and industrial rights; and

Further industrial rights compliance in the transport industry.

12. Chain of Responsibility

The employer when contracting out work to a sub-contractor shall keep records containing details of the work it has contracted out including the name and address of the employer, person or entity to whom the work has been contracted, the date the work was contracted and a description of the work performed. Any work contracted out by the employer shall have a Safe Driving Plan relating to any work that is of long distance work.

- (a) Safe Driving Plan for Long Distance Work. For each and every freight delivery task a Safe Driving Plan must be completed. Each Safe Driving Plan must be multiple copy (at least triplicate) and self-carbonating. A Safe Driving Plan must be in the form annexed to this agreement and clearly record the following information:

Drivers details and operating license number;

Name and contact details of owner of vehicle including operating license plus principal contractor details where the task has been further contracted;

Name and contact details of customer including industry operating license;

Insurance details;

Speedometer reading on truck prior to departure and upon arrival;

Details of trip, specifying departure point and time, destination, route to be used and time for journey (expressed as range of a minimum number of hours with allowances for variations);

Details (totals and time periods) of time driver spent in 24 hours immediately prior to departure driving (including local deliveries), other work activities such as loading, and significant rest breaks (ie six hours or more);

Details sufficient to identify the most recent Safe Driving Plan relating to the driver prior to the current trip;

The rate to be paid to the driver for the job and details of when the payment will be made;

Any applicable demurrage rate to apply;

An undertaking by the operator that the truck has no defects/maintenance problems and the load has been properly restrained;

An undertaking by both the operator and the client that the truck has not been overloaded;

Whether or not hazardous/dangerous freight is being carried and where it is being carried, details of that freight.

When a driver collects a load the driver and the consignor/freight forwarder/client will complete the relevant details on the Safe Driving Plan. A copy of the completed form will stay with the consignor/freight forwarder/client. Two copies of the form will go with driver together with one copy of the Safe Driving Plan for the trip completed by that driver immediately prior to the current trip. At arrival at the delivery point the driver and the recipient will complete the details relating to the speedometer reading at the time of arrival, the actual arrival time, the total time taken for rest breaks and any other trips or side trips. The Safe Driving Plan is then to be signed by the recipient who is to retain a copy.

13. Volunteer Emergency Services and Bush Fire Fighters Leave

Any transport worker who is a member of a volunteer emergency service or a bush fire brigade shall be entitled to take leave of absence if they are required to attend an emergency during a period they would ordinarily be working for the company. Such entitlement to leave shall operate in the same manner as Personal/Carer's Leave operates in the Transport Industry (State) Award.

14. Meal Allowance

- (i) An employee required to commence work two or more hours prior to the normal starting time, or work for more than two or more hours after his normal finishing time shall be paid a meal allowance as per the Award

15. Union Picnic Day

The benefits of clause 28 - Union Picnic Day - of the Transport Industry (State) Award, shall apply to all transport workers who are covered by this agreement, who are financial members' of the Union (this includes casual employees who are regular casuals having worked for a minimum period of six months).

16. Union Recognition and Union Membership

- (i) The company recognises the TWU as being the Union that shall represent transport workers covered by this agreement. This representation will extend to all terms and conditions of employment/engagement, whether those terms and conditions are subject to this agreement or not.
- (ii) It is the policy of the company that it shall strongly recommend that all transport workers covered by this agreement shall join the TWU. This includes positively promoting union membership at the point of recruitment and recommending that all employees remain members of the TWU.

- (iii) All new employees covered by this agreement, shall upon induction, be given an application form to join the TWU and any literature provided by the TWU.

17. Reasonable Work Hours

- (i) Subject to sub-clause (ii) the company may require a transport worker to work reasonable overtime at overtime rates.
- (ii) A transport worker may refuse to work overtime in circumstances where the working of such overtime would result in the transport worker working hours which are unreasonable having regard to:
 - (a) any risk to employee health and safety;
 - (b) the transport worker's personal circumstances, including any family responsibilities;
 - (c) the needs of the workplace or enterprise;
 - (d) the notice (if any) given by the company of the overtime and by the transport worker of his or her intention to refuse it, and any other relevant matter.

18. Operation of This Agreement

This agreement comes into effect on 1 January 2003 and shall remain in force until 1 December 2004.

19. Casual to Permanent Ratio

The ratio between permanent and casual employees that has existed in the company in the past years shall remain. In the event that the parties require a change to the existing practice then consultation shall occur prior to that change.

20. Transfer of Employees.

Where the company has either sold the business or loss of contract to BHP all employees shall be transferred to the new contractor/employer without loss of wages and conditions (including this Agreement). Therefore there will be no redundancy payments due to the employees.

21. No Extra Claims

The union undertakes not to pursue any further wage increases during the term of this agreement.

22. Execution

Signed for and on behalf of the company :

Craig Duren

 (Signature) (Witness)

.....
 (Name) (Date)

Signed for and on behalf of
 the Transport Workers Union of
 Australia, New South Wales Branch

Richard Olsen

.....
(Signature) (Witness)

.....
(Name - Official) (Date)

.....
(Signature) (Witness)

.....
(Name - Delegate) (Date)