

## **REGISTER OF ENTERPRISE AGREEMENTS**

**ENTERPRISE AGREEMENT NO:** EA06/258

**TITLE: Downer Engineering Power Pty Ltd Sydney Construction  
Enterprise Agreement 2005-2008**

**I.R.C. NO:** IRC6/1572

**DATE APPROVED/COMMENCEMENT:** 17 March 2006 / 17 March 2006

**TERM:** 36

**NEW AGREEMENT OR  
VARIATION:** New.

**GAZETTAL REFERENCE:** 28 July 2006

**DATE TERMINATED:**

**NUMBER OF PAGES:** 15

**COVERAGE/DESCRIPTION OF**

**EMPLOYEES:** The agreement applies to all employees employed by Downer Engineering Power Pty Ltd., located at 480 Victoria Road, Gladesville NSW 2500, who are engaged upon construction work within the County of Cumberland, who fall within the coverage of the Electrical, Electronic and Communications Contracting Industry (State) Award.

**PARTIES:** Downer Engineering Power Pty Ltd -&- the Electrical Trades Union of Australia, New South Wales Branch

# DOWNER ENGINEERING POWER PTY LTD SYDNEY CONSTRUCTION ENTERPRISE AGREEMENT 2005 – 2008.

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### 1. Introduction

This Agreement has been jointly developed by Downer Engineering Power Pty Ltd and its Employees, with the purpose of developing and implementing workplace reform strategies so as to produce an environment aimed directly at improving the competitiveness of DEP within the marketplace, thus delivering projects on time and within budget along with job satisfaction and security for Employees.

### 2. Title

This Agreement shall be known as the Downer Engineering Power Pty Ltd Sydney Construction Enterprise Agreement 2005 – 2008.

### 3. Definitions

For the Purpose of this Agreement:

- “Agreement” means this Enterprise Agreement.
- “DEP” means - **Downer Engineering Power Pty Ltd – Sydney Construction Division** (ABN No. 53 000 983 700)
- “Construction Work” is defined in the Parent Award and no further scope shall be given to this definition.
- “County of Cumberland” as per the defined boundaries within the industry.
- “Employee” means an employee of DEP performing work within the scope of this Agreement.
- “Parent Award “ means the Electrical Electronic and Communication Contracting Industry (State) Award.
- “Union “ means the **Electrical Trades Union of Australia, New South Wales Branch**

### 4. Objectives

The parties to this Agreement are committed to the following shared objectives:

- To ensure customer satisfaction in the provision of services.
- Increasing the competitiveness, productivity, efficiency and flexibility of DEP and its workforce.
- Creating a co-operative, safe and productive environment on DEP’s projects.
- Continuing the development of more flexible, efficient and adaptable management and work practices.
- Establishing and developing better and more effective communication and consultation between DEP and Employees.
- To foster a commitment to DEP’s Quality Management System
- Improving job security and the working environment.
- To provide for the use of the full range of skills and knowledge held by Employees.
- To implement a training skills enhancement program consistent with the provisions of the Parent Award and this Agreement for all Employees.
  
- To ensure that the DEP’s industrial arrangements and practices are, at all times, compliant with the Workplace Relations Act 1996, the National Code of Practice for the Building and Construction Industry and the Commonwealth Implementation Guidelines for the National Code of Practice.

Employees are aware that the parties to this Agreement acknowledge that to ensure the competitiveness, productivity and efficiency of the workforce a mechanism must exist to regularly monitor Employee’s performance. This assessment may take place regardless of DEP’s workload. Outcomes of the assessment are to be made available to the Employee and Employees have the right to appeal the assessment at the time of the assessment. This system is to be transparent.

### 5. Parties Bound

This Agreement shall be binding upon:

- i) DEP, and
- ii) All Employees whether members of the Union or not, engaged in any of the occupations, industries or callings specified in the Parent Award, and Electrical Trades Union of Australia, New South Wales Branch

This Agreement applies to DEP in respect to all Employees who are engaged pursuant to the Parent Award and who are engaged upon construction work within the County of Cumberland.

## **6. Application of Agreement**

If DEP has secured work outside of the County of Cumberland, an Employee whom normally works within the County of Cumberland:

- i) Will be paid at the rates outlined in this agreement if specifically requested by DEP to work on that site.
- ii) May be offered work at that location at the rates that apply for that area and if applicable, taking into account Clause 30, Distant Work.
- iii) May determine that redundancy would be more appropriate.

Where there is any inconsistency between this Agreement and the Parent Award, the Agreement shall prevail to the extent of the inconsistency.

Clause 13.2 of the Parent Award shall have no application under this agreement.

## **7. Date of Operation**

This Agreement shall come into operation from the date of certification and remain in force for a period of three years.

The parties to this Agreement shall continuously monitor the application of the Agreement via a Consultative Committee.

## **8. No Extra Claims**

The Employees and the Union shall not pursue any extra claims, either Award or over Award for the life of the Agreement. Without limiting the generality of the foregoing, there shall be no industrial action for the purpose of supporting or advancing claims against DEP in relation to the above, until the Agreement's nominal expiry date has passed. Where any disagreement arises, the parties shall follow the Dispute Settlement Procedure contained in this Agreement.

## **9. Not to be used as a precedent**

This Agreement shall not be used in any manner whatsoever to obtain similar arrangements or benefits in any other State, Territory, Division, Plant or Enterprise.

## **10. Conditions of Employment**

- It is a term and condition of employment and of the obligations and rights occurring under this Agreement, that an Employee shall:
  - i) properly use and maintain all appropriate protective clothing and tools and equipment supplied by DEP for specified circumstances; and
  - ii) use any technology and perform any duties which are within the limits of the Employee's skill, competence and training; and
  - iii) understand that termination of employment will be based on job requirements and skills and that the principle of "last on - first off" will not apply. It is the needs and requirements of DEP, together with the efforts, skills and abilities of the Employee which will be the determining factors regarding the retrenchment of Employees. However, where efforts, skills and abilities are equal then seniority shall take precedence; and
  - iv) maintain commitment to, and comply with DEP's directions (consistent with the objectives of the Agreement) with respect to, safety, quality, site cleanliness and waste management; and
  - v) provide and maintain an adequate kit of tools in accordance with Parent Award requirements; and
  - vi) be committed to the objectives in Clause 4 of this Agreement

- All new Employees (other than casuals) will be engaged on the basis of a 3-month probationary period, which shall count as service. DEP reserves the right to terminate a probationary Employee at any time during this 3 month period subject to a week's notice or payment in lieu thereof.
- DEP's right to employ persons on a specified task and/or specified period basis is acknowledged.
- Casual employees will be engaged in accordance with the provisions of clause 8.2 of the Parent Award, with the exception that Clause 8.2.2 of the Parent Award has no application under the Agreement.

## **11. Anti Discrimination**

- i) It is the intention of the parties 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 or responsibilities as a carer.
  - ii) It follows that in fulfilling their obligations under the dispute resolution procedure set out in this Agreement the parties have obligations to take all necessary steps to ensure that the operation of the provisions of this Agreement are not directly or indirectly discriminatory in their 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 or unlawful discrimination or harassment.
- Nothing in this clause is to be taken to affect:-
    - i) any conduct or act which is specifically exempted from anti-discrimination legislation
    - ii) offering or providing junior rates of pay to persons under 21 years of age
    - iii) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the Anti Discrimination Act 1977
    - iv) 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.

## **12. Dispute Settlement Procedure**

- (a) Procedure relating to a grievance of an individual employee:
  - (i) The employee is required to notify the Company (in writing or otherwise) as to the substance of the grievance, request a meeting with the Company for bilateral discussions and state the remedy sought.
  - (ii) A grievance must initially be dealt with as close to its source as possible, with graduated steps for further discussions with resolution at higher levels of authority (where appropriate).
  - (iii) Reasonable time limits must be allowed for discussions at each level of authority.
  - (iv) If the dispute is not resolved in discussions, the Company must provide a response to the employee's grievance, including reasons for not implementing any proposed remedy.
  - (v) While this procedure is being followed, normal work must continue.

- (vi) The employee may be represented by an industrial organisation of employees that is entitled to represent the employee's industrial interests.
  - (vii) In the absence of agreement, either party may refer the matter to the NSW Industrial Relations Commission for conciliation.
  - (viii) The NSW Industrial Relations Commission may only arbitrate a dispute in respect of this Agreement where the Company agrees.
- (b) Procedure for a dispute between the Company and the employees:
- (i) A question, dispute or difficulty must initially be dealt with as close to its source as possible, with graduated steps for further discussions and resolution at higher levels of authority (where appropriate).
  - (ii) Reasonable time limits must be allowed for discussions at each level of authority.
  - (iii) While this procedure is being followed, normal work must continue.
  - (iv) The Company may be represented by an industrial organisation of employers and the employees may be represented by an industrial organisation of employees that is entitled to represent the employees' industrial interests for the purposes of each procedure.
  - (v) In the absence of agreement, either party may refer the matter to the NSW Industrial Relations Commission for conciliation.
  - (vi) The NSW Industrial Relations Commission may only arbitrate a dispute in respect of this Agreement where the Company agrees.

### **13. Consultative mechanism**

The parties agree that a precondition for the effective operation of the Agreement is the establishment of consultative mechanisms with DEP. To this end, a Consultative Committee, comprising of DEP appointed representatives and Employee elected representatives should be established and maintained.

The purpose of the Consultative Committee shall be to consult, develop, recommend and assist to implement strategies and measures designed to achieve the objectives outlined under Clause 4 of this Agreement.

### **14. Hours of Work**

The company and employee's agree that the current working arrangements for hours of work provisions (including, but not limited to, the daily maximum ordinary hours, work cycles and the taking of meal breaks and rest periods) may be altered during the life of the Agreement following consultation and agreement between DEP and the majority of affected site personnel so as to provide greater flexibility and to meet project and /or shift work or operational requirements. The criteria that will be used in assessing the desirability of proposed changes in hours of work will include the impact on efficiency, operational and project requirements, productivity and quality of life.

The parameters for ordinary hours for the purpose of this Agreement shall be an average of 36 hours per week and shall be between 6.00am and 6.00pm on any or all of the days Monday to Friday. The ordinary hours of work shall be worked continuously except for meal breaks. Different methods of implementation of the hours of work may be applied to various groups or sections of Employees by agreement.

An Employee's weekly ordinary hours of work can consist of both day work and shift work, provided that the appropriate shift allowance is paid for any shift in accordance with Clause 22.6 of the Parent Award.

Employees shall be at the nearest gang box or site shed dressed and equipped and ready to commence work at the work start time. Wash up time shall occur after the finish time.

## **15. Rostered Days Off**

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 the spreading of Employees taking an RDO being distributed during the 20 day work cycle. This will enable the project to work productively on those days scheduled as industry RDO's.

However, it is recognised that there is merit in programming no work on RDO's adjacent to public holiday weekends during the working year. This will allow the management and Employees of DEP to have quality paid leisure time. For the duration of this agreement, work is prohibited on the weekends and agreed RDO's adjacent to Australia Day, Easter Friday, Easter Monday, Anzac Day, Queens Birthday, Labour Day and Building Industry Picnic Day. Employees may use new RDO accruals for payment of the applicable Saturdays paid at single time.

The ordinary working hours shall be worked in a 10 day cycle, Monday to Friday inclusive, with 8 hours worked for each of 9 days with 0.8 of an hour on each of those days accruing for a paid RDO. This shall be taken as a paid day off. The 0.8 accrual also applies on paid leave.

A RDO shall be taken as provided below:

- Agreement shall be reached by DEP and Employees as to which day shall be taken as a RDO when such an entitlement is due. It is agreed a company roster system may apply. However all Employees with an RDO entitlement may use accruals for the Saturday and industry agreed RDO's of the public holiday weekends stipulated in the Hours of Work clause above.
- RDO's may be banked at a maximum of 5 days in any 12-month period. These RDO's may be taken as a group of consecutive days or any other combination as may be suitable.
- RDO's will not be paid out by DEP.
- Any dispute arising from this clause shall be resolved through the dispute settlement procedure.
- Where more than 1 accrued RDO is to be taken on consecutive working days, application for such time shall be sought giving a reasonable period of notice.
- A new Employee will be eligible for an RDO after achieving 7.2 hours RDO accrual.
- Where there is an agreed emergency or a special client need limited work may be carried out on the No Work weekends and adjacent fixed RDO's unless impracticable. DEP will consult with affected employees, giving 48 hours notice of any such need for work.
- The DEP Christmas party day shall either be taken as an RDO or this function will be held in the evening. This decision will be made with the consultative committee prior to each years function.
- Melbourne Cup Day will form part of the company's RDO roster. It may however be necessary for work to be carried out on some sites. DEP will consult with affected employees, giving 48 hours notice of any such need for work.

## **16. Wages**

Wage rates for Employees shall be as prescribed in Schedule A. These wage rates are effective from the dates specified in Schedule A.

These wage increases shall be in lieu of any other increases granted by the Industrial Relations Commission of New South Wales during the term of this Agreement except that should the Parent Award's all purpose hourly wages rates exceed the rates under this Award, Employees shall be paid at the higher hourly rate.

The parties agree that apprenticeships and Traineeships are now competency based and therefore require individual assessment on an ongoing basis. Progression through the apprenticeship must meet the necessary academic and workplace competency standards as determined by DEP and the relevant authority.

Expense related allowances, with the exception of the excess fares allowance, will be paid in accordance with the Parent Award and varied as the Parent Award is varied.

### **17. Productivity Allowance**

A productivity allowance per hour worked will be paid to Employees engaged upon construction work from the date of agreement. This allowance will not be subject to penalty addition and shall be in lieu of all or any Parent Award disability allowances, with the exception of the multi-storey allowance.

Site/Project allowances will be paid in addition to the productivity allowance where such an addition is awarded by the Industrial Relations Commission or incorporated in a certified agreement.

### **18. No disadvantage**

No Employee shall suffer a reduction in ordinary pay as a result of the making of this Agreement. The components used to determine if any financial disadvantage has occurred are wage rates, productivity allowance and excess fares and travel time only. Site allowance, superannuation, redundancy and top-up/24 hour employee insurance contributions will not form part of an employee's income. Further, this assessment will be based on an ordinary 36-hour working week and no overtime shall be taken into account.

### **19. Superannuation**

DEP will pay superannuation contributions into either the NESS Superannuation Scheme, EISS or the C+BUS Superannuation Fund for each Employee. It is hereby agreed that either of these superannuation funds will be the sole fund utilised under this Agreement. The contribution rate shall be as required by the Superannuation Guarantee Legislation.

All superannuation contributions will be paid monthly as required by the Trust Deed.

### **20. Redundancy**

Redundancy will be paid strictly according to the provisions of the Parent Award with the exception that this Agreement shall apply notwithstanding that employment is terminated by DEP due to the ordinary and customary turnover of labour.

Upon commencement of this agreement, DEP will make contributions to the Mechanical and Electrical Redundancy Trust ("MERT") on behalf of employees engaged upon construction work at the rate of \$75.00 per week worked.

DEP will not be obliged to pay any amount into MERT on behalf of/for apprentices. Casual employees will receive MERT payments after two weeks employment with DEP. To remove any doubt, the provisions of this subclause over-ride any inconsistent provisions whether such agreements arise under contract, state or federal industrial instrument or otherwise.

An employment period served as either an apprentice or trainee will count as service for the calculation of either notice or severance pay for the purpose of redundancy.

### **21. Top Up**

It is a term of the Agreement DEP will pay Top-up/24 Hour Employee Insurance (to a maximum of \$12.00 per week, unless otherwise agreed) under the Electric Top Up fund (or other agreed fund) from the date of agreement.

## **22. Clothing**

Employees after 152 hours employment with DEP will be supplied with:

- i) Two sets of shorts, overalls or trousers and shirts, or any combination of clothing as agreed between the Employees and DEP which shall be replaced on a fair wear and tear basis;
- ii) Safety boots will be provided on commencement of employment and replaced on a fair wear and tear basis.
- iii) A jumper, or in the case of Employees engaged upon construction work, a bluey jacket, which shall be replaced on a fair wear and tear basis.
- iv) Where ever possible 'Australian Made' protective clothing will be issued.

## **23. Transfer of Labour**

If a halt to productive work occurs which is not the fault or the responsibility of DEP, the parties agree that Employees can be relocated to other unaffected areas to continue productive work or to other sites if work is available. Provided that Employees will continue to be paid in accordance with this Agreement during such a temporary transfer.

## **24. Skills Development**

DEP acknowledges the changing pace of technology in the electrical contracting industry and the need for Employees to understand those changes and have the necessary skill requirements to keep DEP at the forefront of the industry.

The Parties to this Agreement recognise that in order to increase the efficiency, productivity and competitiveness of DEP, a commitment to training and skill development is required. Accordingly, the parties commit themselves to:

- i) developing a more highly skilled and flexible workforce.
- ii) providing Employees with career opportunities through appropriate training to acquire the additional skills as required by DEP.

Taking into account;

- The current and future skill needs of DEP.
- The size, structure and nature of DEP.
- The need to develop vocational skills relevant to DEP and the Electrical Contracting Industry.

Where, by agreement between the Employee and DEP, an Employee undertakes training providing skills, which are not a company specific requirement, any time spent in the completion of this training shall be unpaid.

## **25. Wet Weather**

In the event of wet weather, work in the open will continue until the particular work in hand can no longer be done safely and efficiently.

Whilst it is raining, Employees will be required to:

- Continue to work under cover or relocate to alternative work under cover, on site.
- Obtain materials and services for Employees working under cover where there is only minimal exposure to inclement weather.

- When required, perform emergency and safety work. In addition, work on unexpected breakdowns, which can be corrected in limited time duration.

Should a portion of the project be affected by wet weather, all other Employees not so affected shall continue working in accordance with award conditions, regardless that some Employees may be entitled to cease work due to wet weather.

If a halt to productive work occurs due to inclement weather, the parties agree that Employees may be relocated to other unaffected sites.

Where the above steps are not possible;

- a) Should a decision be able to be made prior to 11:00am on the affected day that productive work will not be possible for the remainder of the day, employees may choose to elect to take ½ the day as a RDO with the first 4 hours paid as productive time. This will be done on a majority basis or
- b) affected Employees may be required to attend tool box meetings, work planning sessions or skills development activities, all of which will count as productive time for payment purposes.

## **26. Payment of Wages**

Wages will be paid weekly by Electronic Funds Transfer (EFT). DEP shall comply with all provisions in relation to the keeping of time and wage records and production of pay slips in accordance with the Industrial Relations Act 1996.

DEP is responsible for the accurate and timely completion and provision of time sheets and production records.

## **27. Travelling time and Fares**

Employees will be paid an excess fares allowance as prescribed by Schedule A per day where they have entitlement to this allowance under the Parent Award.

Where an Employee has an entitlement to the average excess traveling time payment pursuant to sub-clause 4.4.2 or the Parent Award, the payment will be prescribed as by Schedule A.

## **28. Building Industry Picnic Day**

All employees will be entitled to a picnic day on the first Monday each December. Clause 20.2.1 of the Parent Award shall have no application under this agreement.

## **29. Distant/Away Work**

Where an Employee volunteers to be transferred to a distant site, they shall not be entitled to living away allowances or travel expenses.

Where an Employee is specifically requested to transfer to a distant site, they shall be entitled to living away allowances.

All arrangements regarding distant sites shall be formalised in writing and witnessed by another Employee. The selection of Employees for away work shall be solely at the discretion of DEP.

## **30. Payroll Deductions**

The company agrees to continue it's long standing policy of making payroll deductions at the request of the employee for salary sacrifice superannuation contributions and other contributions related to their employment in the Electrical Contracting Industry.

### **31. Tools**

The parties agree that a necessary precondition for a productive and efficient workforce is to ensure that Employees maintain and are where possible provided with an adequate kit of tools.

In circumstances where the Employees are required to supply their own tools and have them stolen, by no fault of their own, shall be compensated to a maximum of \$1,000.00.

### **32. Australian communications Authority (ACA) License / Registration Allowance**

Where an Employee covered by this Agreement is required under the ACA Cabling Provider Rules to hold and use a current license/registration in the course of their employment, DEP commits to accepting all payments in relation to the training and or liability for the qualification used during the course of their employment with DEP.

It is noted that in the fire protection, security and computer cabling industries there is a requirement under the cabling provider rules for all Employees who work on services that connect (or are intended to connect) to the telecommunication network to be licensed/registered.

### **33. Safety and Compliance**

DEP commits to make all management and Employees aware of all the changes to the Occupational Health and Safety Act and Regulations. This should be done via training courses and/or external seminars. The conducting of the training and/or seminars shall be at times convenient to DEP.

#### **Alcohol and Other Drugs**

It is agreed that an Employee will not be allowed to enter or work on a project if the person is under the influence of alcohol or any other substance which impairs the person's work or is likely to create an unsafe working environment.

Drivers of DEP vehicles are not to drive when they are under the influence of alcohol or any other substance which impairs the person's work or is likely to create an unsafe working environment. Drivers will be subject to immediate dismissal should this occur.

#### **No Smoking**

Smoking is not allowed in any site offices, mess/change sheds or sanitary facilities; or any other amenities where appropriate signage is displayed.

Smoking is not allowed within the confines or the premises of clients / customers or in any DEP vehicles.

#### **Mobile Telephones**

Subject to other express individual written authorization by DEP, personal mobile telephones are to be switched off during normal working time and are to only be used during scheduled breaks.

#### **MP3 Players, I-pods and other Electronic Devices**

The use of any such equipment on site and during working hours is strictly prohibited. This is due to the inherent risks of impairing an employees ability to hear any audible alarms, warnings and/or instructions from other workers. They may be used during meal breaks, however DEP does not take any responsibility with regards to ensuring the safe keeping of these items on site.

### **34. Quality Assurance**

The parties endorse the underlying principles of DEP's Quality Management System, which seeks to ensure that its services are provided in a manner which best conforms to the requirements of the



## **APPENDIX A**

### **COUNSELLING AND DISCIPLINARY POLICY**

#### **A1 OBJECTIVE**

The objective of this Counselling and Disciplinary Policy is to describe the procedures and mechanism involved in the fair treatment of individuals with respect to discipline.

The policy and procedures established are not specifically for the dealing out of punishment but rather to encourage improvement or changes in work habits, work performance and general behaviour at work.

The aim is for management to handle matters of discipline, including termination of employment, in a fair, equitable and consistent manner.

The establishment of a detailed policy and procedures document is to ensure all Employees of DEP's Sydney Construction Division are familiar with the expectations of management and fellow workers.

#### **A2 DISCIPLINARY PROCEDURE**

##### **A2.1 Objective**

The objective of this procedure is to encourage an improvement in Employees whose performance, behaviour or attendance has fallen below a general acceptable standard.

##### **A2.2 Procedure**

The disciplinary procedure can be summarised as below-

Stage One - Counselling

Stage Two - Written Warning

Stage Three - Termination of Employment

##### **A2.2.1 Stage One – Counselling**

The purpose of the counselling stage is to advise the Employee personally of the conduct that is of concern and to establish if there are any reasons for the behaviour and whether DEP can assist the Employee to avoid further instances of such unacceptable behaviour.

This counselling session will be recorded in the Employee's personal file by way of record of interview. The Employee will be afforded the right to acknowledge the record of interview.

The Employee's direct supervisor or higher management will carry out the counselling session.

The Employee will be given every opportunity to defend himself/herself against the complaint with the assistance of another person if requested by the Employee.

The Company will give due consideration to the matters raised by the Employee.

The counselling session will aim to reach a mutual agreement between DEP and Employee on the action required to rectify the problem. A time or duration will be set to review the Employee's conduct in light of the agreed action plan.

##### **A2.2.2 Stage Two - Written Warning**

Should the conduct of an Employee not improve following an earlier counselling session, he/she will

be personally advised that a second disciplinary interview is required. At the same time, the Employee will be personally advised of the reason(s) for the disciplinary interview.

This interview will be recorded in the Employee's personal file by way of record of interview. The Employee will be afforded the right to acknowledge the record of interview.

The Employee's Projects Manager or higher management will carry out the interview.

The Employee will be given every opportunity to defend himself/herself against the complaint with the assistance of another person if requested by the Employee.

DEP will give due consideration to the matters raised by the Employee which may require further investigation and the interview may need to be reconvened at a later time following this investigation.

Should the issue of a warning to the Employee be necessary, then the session will aim to reach a mutual agreement between DEP and the Employee on the action required to rectify the problem. A time or duration will be set to review the Employee's conduct in light of the agreed action plan.

The Employee will also be advised that continuation of such conduct will lead to termination of employment.

Within 24 hours of the disciplinary interview a final written warning based on the record of interview will be issued to the Employee and a copy placed in the Employee's personal file.

### **A2.2.3 Stage Three - Termination of Employment**

Should the conduct of an Employee not improve following issue of a written final warning, he/she will be personally advised that a termination of employment interview is required. At this same time, the Employee will be personally advised of the reason(s) for the disciplinary interview.

This termination of employment interview will be recorded in the Employee's personal file by way of record of interview. The Employee will be afforded the right to acknowledge the record of interview.

The Employee's Operations Manager or higher management will carry out the interview.

The Employee will be given every opportunity to defend himself/herself against the complaint with the assistance of another person if requested by the Employee.

DEP will give due consideration to the matters raised by the Employee which may require further investigation and the interview may need to be reconvened at a later time following the investigation.

DEP may, following careful consideration of all the factors, the defence raised by the Employee and further investigation of matters raised by the Employee, terminate the Employee's employment. The Employee will be advised in writing that his/her employment is terminated, from what date and by what method.

DEP will decide whether the Employee will work out the required period of notice or be paid in lieu thereof. The minimum period of notice will be one (1) week.

In the event of an Employee being required to work out the required period of notice, he/she will be granted leave of absence without pay for one day in order to look for alternative employment.

If requested by the Employee, DEP will provide:-

- (a) A termination of employment statement. and/or
- (b) A certificate of employment.

### **A3. Summary Dismissal**

The management may exercise their right to summarily dismiss an Employee for-

- Dishonesty, including theft
- Wilful misuse of DEP property, materials or equipment
- Fighting
- Refusal of duty
- Serious neglect of duty
- Malingering
- Wilful negligence of safety procedures
- Gross insubordination or abuse
- Drunkenness
- Illegal drug use (unprescribed drugs)
- Extreme inefficiency or incompetence
- Serious and wilful disobedience
- Serious misconduct

The Employee will be personally advised that a disciplinary interview is required. At this same time, the Employee will be personally advised of the reason(s) for the disciplinary interview.

This interview will be recorded in the Employee's personal file by way of record of interview. The Employee will be afforded the right to acknowledge the record of interview.

The Employee's Operations Manager or higher management will carry out the interview.

The Employee will be given every opportunity to defend himself/herself against the complaint with the assistance of another person if requested by the Employee.

DEP will give due consideration to the matters raised by the Employee which may require further investigation and the interview may need to be reconvened at a later time following this investigation.

DEP may, following careful consideration of all the factors, the defence raised by the Employee and further investigation of matters raised by the Employee, terminate the Employee's employment. The Employee will be advised in writing that his/her employment is terminated from what date and by what method.

Wages will only be paid to the time of dismissal.

If required by the Employee, DEP will provide:-

- (a) A termination of employment statement; and/or
- (b) A certificate of employment

### **A4. Time Limit on Life at Counselling and/or Warnings**

No time limit on the life of previous counselling or warnings will apply. However, the flow of time will be a factor taken into consideration should it be necessary to take previous counselling and/or warnings into consideration.

## **SCHEDULE B**

### **GROUND AND REASONS**

1. This application represents a consent position by the parties to the proposed award.
2. This proposed award will improve the conditions of employment and rates of wages of Employees whilst providing for continuous improvement and productivity strategies for DEP.
3. The award application complies with the requirements as set out in Chapter 2-Part 1 of the *Industrial Relations Act 1996*.
4. The award application is in accordance with the principles established in the State Wage Case of August 1997.
5. It is just and proper that the claims be granted in the terms sought.
6. Good conscience and equity require that the claims be granted.
7. Such other grounds and reasons as the Commission may deem fit and proper.