

REGISTER OF ENTERPRISE AGREEMENTS

ENTERPRISE AGREEMENT NO: EA06/39

**TITLE: Concite Country Concrete Truck Driver 2006-2008
Enterprise Agreement**

I.R.C. NO: IRC5/6866

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

TERM: 24

**NEW AGREEMENT OR
VARIATION:** Replaces EA04/98.

GAZETTAL REFERENCE: 17 February 2006

DATE TERMINATED:

NUMBER OF PAGES: 29

COVERAGE/DESCRIPTION OF

EMPLOYEES: The agreement applies to all employees employed by Concite Pty Limited, who are employed at any of the company's concrete plants in NSW, with the exception of those plants that are covered by the Concrete Sydney Concrete Truck Drivers 2005-2007 Enterprise agreement, who fall within the coverage of the Transport Industry - Mixed Enterprises Interim (State) Award.

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

ENTERPRISE AGREEMENT

BETWEEN

CONCRITE PTY LIMITED

AND

NSW COUNTRY EMPLOYEE CONCRETE TRUCK DRIVERS

KNOWN AS

**“CONCRITE COUNTRY CONCRETE TRUCK DRIVER
1/1/2006 – 31/12/2008 ENTERPRISE AGREEMENT”**

A. INTRODUCTION

B. TERMS AND CONDITIONS

1. APPLICABLE AWARD CONDITIONS
2. TERMS OF EMPLOYMENT
3. CLASSIFICATION
4. HOURS OF EMPLOYMENT
5. WAGES
6. SKILL ALLOWANCE
7. MEAL ALLOWANCE
8. BONUS PAYMENTS
9. CASUAL EMPLOYEES
10. PART-TIME EMPLOYEES
11. OVERTIME
12. REASONABLE WORKING HOURS
13. MEAL AND CRIB BREAKS
14. PAYMENT OF WAGES
15. SICK LEAVE
16. MEDICAL EXAMINATIONS
17. TERMINATION OF EMPLOYMENT
18. RECALL
19. PUBLIC HOLIDAYS
20. LONG SERVICE LEAVE
21. PERSONAL PROTECTIVE EQUIPMENT
22. SAFETY AND ALCOHOL
23. SUPERANNUATION
24. DISPUTES AND GRIEVANCES
25. UNION RECOGNITION
26. SAVINGS CLAUSE

DECLARATION

A. INTRODUCTION

1. The parties to this Agreement are Concrete Pty Limited (ACN 000 795 166) of 36 Eton Street Sutherland NSW (the “**Company**”) and the Transport Workers Union of Australia – New South Wales Branch, (the “**Union**”).
2. This agreement shall apply to persons employed by the Company whose employment comes within the area, incidence and duration of the Transport Industry - Mixed Enterprises Interim (State) Award (the “**Award**”) classified in accordance with clause 7, Wages, of the Award and who are employed at any of the Company’s concrete plants in New South Wales; with the exception of those plants that are covered by the Concrete Sydney Concrete Truck Drivers 2005-2007 Enterprise Agreement (the “**Employees**”).
3. This Agreement is made without duress.
4. This Agreement shall commence on the date of its approval by the Industrial Relations Commission of New South Wales or 1 January 2006, whichever date is the later, and shall remain in force until 31 December 2008.
5. The first wage increase provided under this Agreement shall be payable from the first full pay period to commence on or after 1 January 2006.
6. This Agreement rescinds and replaces the Concrete Country Concrete Truck Driver 2004-2005 Enterprise Agreement (EA 04/98) (the “**Previous Agreement**”). The parties to this Agreement undertake to ensure the approval of the Agreement with the Industrial Relations Commission of New South Wales as soon as possible after signing the Agreement.

B. TERMS AND CONDITIONS

1. APPLICABLE AWARD CONDITIONS

- (a) It is the intention of the parties to this Agreement that this Agreement shall displace the Award and/or any other award in its entirety (except the Transport Industry - Redundancy (State) Award), provided however, that the following provisions of the Award shall apply, except to the extent that they are inconsistent with this Agreement. Where an inconsistency exists, this Agreement shall take precedence:

| Clause No. | Subject |
|-------------------|---|
| 4 | Anti-Discrimination |
| 7 | Wages - Division A |
| 11 | Shift Work |
| 16 | Mixed Functions |
| 17 | Absences from Duty |
| 33 | Unauthorised Persons Riding on Vehicles |
| 36 | Sick Leave |
| 37 | Personal/Carers Leave |
| 38 | Bereavement Leave |
| 39 | Annual Leave |

| | |
|-----|-----------------|
| 40 | Public Holidays |
| 41 | Jury Service |
| 56. | Redundancy |

A copy of these clauses is attached as Appendix A.

- (b) All other clauses of the Award shall not apply to employees covered by this Agreement.

2. TERMS OF EMPLOYMENT

- (a) The Company may direct an Employee to carry out such duties as are within the limits of the Employee's skill, competence and training consistent with the classification structure of this Agreement. Employees shall perform any work associated with concrete trucks or the batch plant and equipment of which the Employee is capable. Employees will take a professional attitude at all times to ensure that the Company's operations are carried out in a highly efficient and safe manner, including compliance with the Company's Procedures Manual.
- (b) The Company may engage concrete trucks from other sources to supplement its own fleet from time to time. The Company will utilise its own trucks before it engages trucks from another source.
- (c) An Employee with more than two (2) months' service on termination of employment shall upon request be given a reference or certificate of service in writing containing at least information as to the length and nature of employment.
- (d) Employees shall be committed to the improvement in skills, knowledge and professionalism through training and consultation, and ensure greater responsibility and accountability of Employees, particularly towards customers, safety, the environment, and quality.

3. CLASSIFICATION

- (a) Employees shall be classified in a grade in accordance with the classification definitions in Clause 7, Wages, of the Award.
- (b) Employees shall be classified as full-time, part-time or casual.

4. HOURS OF EMPLOYMENT

- (a) **Ordinary Hours of Work**
 - (i) The ordinary hours of employment shall be an average of thirty-eight (38) hours per week to be worked over a cycle agreed between the Company and the Employee.
 - (ii) The ordinary days of work for full time Employees shall be any day, Monday to Friday inclusive. The spread of hours for ordinary hours of work, unless otherwise agreed between the Company and the Employee, shall be from 6.00 am to 4.00pm and shall not exceed eight (8) hours per day.

- (iii) The ordinary days of work for part time and casual Employees may be any day, Monday to Friday inclusive, as agreed between the Company and the Employee and the spread of hours for ordinary hours of work shall be from 6.00 am to 4.00pm, Monday to Friday.
- (iv) When overtime is to be worked on Saturday mornings, full-time Employees shall be given priority.
- (v) Hours in excess of an average of thirty-eight (38) hours per week shall be paid at overtime rates in accordance with Clause 11 of this Agreement.

(b) Time Paid

- (i) Employees shall be paid for the time worked. Time worked shall be recorded and calculated to the nearest five minutes. Employees may be required to “clock on” at the plant.

(c) Rostered Days Off

- (i) Unless otherwise agreed between the Company and the Employee, full-time Employees shall accrue a right to a full rostered day off (“RDO”) in a four week cycle by working forty (40) ordinary hours per week. RDOs shall be taken on days agreed between the Company and the Employee.
- (ii) RDOs may be accumulated with no limit as to the number of days accumulated provided there is agreement between the Company and Employee.
- (iii) Accumulated RDOs shall be paid out on termination, or at the request of the Employee and by agreement with the Company, provided that the Employee maintains a balance of two (2) accrued RDOs. Such payment of accumulated RDOs shall be at the ordinary time rate. Payment for RDOs cancels the corresponding right to take the rostered days off.
- (iv) On a day where manning requirements are low, the Company may call for volunteers to take a half an accumulated RDO as per current work practices. If agreed, the Employee shall leave the workplace immediately. The Employee will be paid eight (8) hours pay for the day and four (4) hours will be deducted from the Employee’s RDO accumulation.

The Company must advise the Employee of the requirement to take a half RDO within two (2) hours of the Employee starting work on the particular day.

(d) Commencement Time

- (i) Commencement times for ordinary hours of work, unless otherwise agreed between the Company and the Employee, shall be between 6.00 am and 7.30am. Actual commencement times may be varied by the Company, by notice to the Employee on the previous day, to suit day to day production requirements. Employees shall be contactable by telephone for notice about commencement time.

5. WAGES

- (a) The wage rates in this Agreement are total wage rates of pay, inclusive of the basic wage for adults
- (b) The wage rate for full-time Employees shall be:

| Classification Grade | Wage Rate \$ per week |
|---|--------------------------|
| Transport Worker Grade Four – 3 axle truck | 670.42 |
| Transport Worker Grade Five – 4 axle truck | 697.74 |

- (c) The hourly wage rate for ordinary hours of work for part-time Employees shall be the appropriate wage rate per week for full-time Employees, divided by 38.
- (d) The ordinary hourly wage rate for casual Employees, as set out in the table below, includes payment of a casual loading, which is in lieu of payment for public holidays, annual leave, sick leave, personal leave, and redundancy benefits, and which compensates for the nature of casual employment.

| Classification Grade | Wage Rate \$ per hour |
|-----------------------------|--------------------------|
| Transport Worker Grade Four | 20.90 |
| Transport Worker Grade Five | 21.75 |

- (e) The wage rates set out in (b) and (d) above shall be effective from the first full pay period commencing on or after 1 January 2006. It is noted that these rates reflect provision for collection of monies being included in hourly wage rate rather than being paid as an allowance.
- (f) The wage rates set out in (b) and (d) above shall be increased by three (3) percent from the first full pay period commencing on or after 1 January 2007 and by a further three (3) percent from the first full pay period commencing on or after 1 January 2008.
- (g) However, wage rates payable under this Agreement shall be increased again, if necessary, so that the Employees do not receive a lower hourly rate for ordinary hours than they would receive under the Award.

(h) No Extra Claims

It is agreed by the parties that up to the nominal expiry date of this Agreement:

- (i) The Employees and the Union will not, by any means whatsoever, demand, pursue or make any extra claims relating to benefits, conditions, obligations or matters contained in this Agreement;
- (ii) The Employees and the Union will not, by any means whatsoever, demand, pursue or make any claims relating to benefits, conditions, obligations or matters that are not contained in this Agreement; and
- (iii) The Employees and the Union will not seek any changes to the Employee's terms and conditions of employment outside of the provisions of this Agreement.
- (iv) this Agreement shall cover all matters or claims regarding the employment of the Employees, which could otherwise be the subject of protected action pursuant to s.170ML of the *Workplace Relations Act 1996* (as amended from time to time); and
- (v) neither the Employees, nor any party to the Agreement, shall engage in protected action pursuant to s.170ML of the *Workplace Relations Act 1996* (as amended from time to time), in relation to the performance of any work covered by this Agreement.
- (vi) this sub clause 5(h), also applies to exclude claims about matters not dealt with during negotiations leading to the Agreement, and/or matters conceded during negotiations and therefore not contained within the Agreement.
- (vii) all other clauses of the Award or any other Award including, but not limited to, Site Awards or Project Awards that are or become binding on the Company shall have no application whatsoever to the Employees covered by this Agreement.

6. SKILL ALLOWANCE

- (a) An additional allowance in recognition of skill shall be paid. The allowance shall be \$17.86 per week adjusted for any increase applied to this allowance through the Award. The allowance is not paid on overtime hours. This allowance shall only be payable to an Employee who has had at least three (3) months' service with the Company, provided that at the Company's discretion it may be payable after one (1) month's service to Employees who have had extensive prior experience in the operation of concrete trucks.

7. No additional allowances are paid other than those specifically mentioned in this Agreement. All other allowances including collection of money allowances have been compensated for in setting the rates of pay in clause 5 of this Agreement

8. MEAL ALLOWANCE

An Employee who is required to work overtime on any weekday for a period of two (2) hours or more after the end of ordinary hours of work shall, unless notified the previous day or earlier that such overtime is expected to be worked, be paid a meal

allowance of \$9.35. Where so notified that overtime is expected to be worked and such overtime is not worked, the Employee shall be paid the meal allowance.

9. BONUS PAYMENTS

Employees shall be eligible for a number of bonuses which will be paid through the normal payroll process and be subject to PAYE tax.

- (a) Subclauses 8(a) (i) and (ii) shall together entitle an Employee to a maximum annual bonus of one percent (1%) of the Employee's annual gross earnings (excluding allowances, leave loading and superannuation). The bonus payment shall be calculated half-yearly on an Employee's gross earnings for the particular half-year (excluding allowances, leave loading and superannuation) (the bonus payment). Payment of the bonus is subject to the Employee achieving each relevant Key Performance Indicator (KPI) detailed in this clause. Full-time, part-time and casual Employees shall be eligible for the bonus payments.

This Bonus system shall work as follows:

- KPIs shall be measured every six (6) months. For every KPI met at the six (6) month period, the applicable bonus shall be paid.
- KPIs shall be measured on a **Country fleet** basis.

Details of the KPIs are as follows:

- (i) **No worsening in the number of reportable injuries ('RIs')** with respect to the 2004/2005 financial year figures. There were nil RIs in the 2004/2005 financial year.
- no worsening in RIs in year one, ie nil RIs for the year. This equates to a **cumulative** average six monthly figure of nil.
 - no worsening in the number of RIs in year two, ie nil RIs for the year. This equates to a **cumulative** average six monthly figure of nil.
 - no worsening in the number of RIs in year three, ie nil RIs for the year. This equates to a **cumulative** average six monthly figure of nil.
- Achievement of this target shall result in payment of one half of one percent (**0.50%**) bonus payment.

However, should there be one only RI in any six month period, then provided that the injury/incident:

1. was reported on the day it occurred;
2. was treated by the Company's preferred doctor; and

3. was not the result of reckless behaviour or a breach of Company policy,

then one quarter of one percent (**0.25%**) bonus payment shall be payable.

The aim of the KPI shall be to increase the awareness of each individual with respect to Company policy.

A 'reportable injury' shall encompass:

- Any injury that requires medical treatment e.g. at a medical centre and/or hospital as opposed to seeing a doctor for medical assessment prior to medical treatment.
- Any injury where a full shift of work is missed.
- Any injury where the injured person has not resumed pre-injury duties within 48 hours of the injury occurring.

(ii) **A reduction in annual truck/mixer incidents** that result in damage to the truck/mixer and/or damage caused to other vehicles and/or property with respect to the 2004/2005 financial year figures. There were three (3) incidents in the 2004/2005 financial year.

- a reduction by one (1) incident in year one, ie two incidents for the year. This equates to a figure of one for the first six months, and two for the year.
- a further reduction by one (1) incident over years two and three. This equates to a figure of one for the first six months, and one for the year.

→ Achievement of this target shall result in payment of **0.50%** bonus payment.

(b) Full-time Employees shall be eligible for an **“Unplanned Leave” incentive bonus**. All absenteeism days other than for annual leave, long service leave, and RDO's shall be classified as unplanned leave. The following amounts shall be available each January following the completion of the previous year of the Agreement.

| Number of “unplanned leave” days during year 1 January to 31 December | Annual Bonus |
|--|---------------------|
| | |
| Zero | \$600 |
| One | \$500 |
| Two | \$400 |
| Three | \$300 |
| Four | \$200 |
| Five or more | Nil bonus |

10. CASUAL EMPLOYEES

- (a) Casual Employee shall mean an Employee who is engaged from day to day and is paid as such under this Agreement.
- (b) A casual Employee shall be paid a minimum of four hours for each start.
- (c) The ordinary hours of work for a casual Employee shall be in accordance with Clause 4 of this Agreement.
- (d) The wage rate for a casual Employee is inclusive of casual loading, which is paid in lieu of payment for public holidays, annual leave, sick leave, personal leave and redundancy benefits, and which compensates for the nature of casual employment

11. PART-TIME EMPLOYEES

- (a) Part-time Employee shall mean an Employee engaged by the week to work a lesser number of hours than a full-time Employee, but does not include a casual Employee.
- (b) The weekly hours for a part time employee shall be set by the Company upon engagement and may be changed by the Company.
- (c) A part-time Employee shall be engaged for a minimum of twenty (20) hours per week.
- (d) Irrespective of hours worked, a part-time Employee shall be paid a minimum of four hours for each start.
- (e) Other provisions of this Agreement, where applicable, shall apply to part-time Employees in the same ratio as the part time employee's ordinary hours of work are to thirty-eight (38) hours per week. A part time Employee shall not be entitled to an RDO.
- (f) The Company may make job sharing arrangements with part-time Employees.

12. OVERTIME

- (a) Overtime at the rate of time and one-half for the first two hours and double time thereafter shall be paid to all Employees for all time worked in addition to the ordinary hours of employment..
- (b) For the purpose of calculating overtime each day shall stand alone.
- (c) The hourly rate of pay for purposes of calculation of overtime for all Employees shall be the wage rate per week for full-time Employees, divided by 38.
- (d) Reasonable overtime shall be worked by Employees when required by the Company.
- (e) An Employee required to work on a Sunday shall be paid at double time for all hours worked on the Sunday with a minimum payment of four hours.

12. REASONABLE WORKING HOURS

12.1 Subject to clause 12.2 Concrete may require a driver to work reasonable overtime at overtime rates or as otherwise provided for in the Parent Award.

12.2 A driver may refuse to work overtime in circumstances where the working of such overtime would result in their working hours which are unreasonable.

12.3 For the purpose of clause 12.2 what is unreasonable or otherwise will be determined having regard to:

- (a) any risks to employee health and safety
- (b) the driver's personal circumstances including any family and carer responsibilities
- (c) the needs of Concrete's concrete business;
- (d) the notice (if any) given by Concrete of the overtime and by the driver of their intention to refuse it; and
- (e) any other relevant matters.

13. MEALS AND CRIB BREAKS

- (a) Whenever it suits concrete production requirements, there shall be an unpaid lunch break of thirty (30) minutes between the hours of 11.00am and 2.00pm.
- (b) The lunch break shall be taken between loads to suit production requirements advised by the Company.
- (c) When the Company requires an Employee to work without taking an unpaid lunch break, the Employee shall be paid for the actual hours worked and shall record "N/L" (No Lunch) on his or her time sheet.

14. PAYMENT OF WAGES

- (a) Wages shall be paid weekly.
- (b) Payment of wages shall normally be by electronic funds transfer and shall be available to the Employee by the second day after the end of the pay period. Alternative arrangements for payment by cheque may be made.
- (c) Payment shall normally be made by direct deposit into a bank account, building society or credit union account nominated by the Employee.
- (d) Unless otherwise agreed, payment for annual leave shall be made in advance, except where an Employee takes part annual leave in a pay week, and has returned to work before the end of the pay week.

15. SICK LEAVE

- (a) An Employee may be required to furnish a satisfactory Medical Certificate to the Company in respect of any claim for sick leave other than the first five sick leave days in any one year of employment provided these are individual non consecutive days.
- (b) An Employee shall make every effort to inform management, **prior** to his or her starting time, of his or her inability to attend for duty to enable alternate arrangements to be made to avoid interruption to deliveries. An Employee may be subject to disciplinary action if a genuine effort has not been made to contact management prior to the Employee's intended start time.

16. MEDICAL EXAMINATIONS

- (a) The Company shall require prospective Employees to undertake a medical examination conducted by a qualified and practising medical practitioner (of the Company's choice) prior to the Company offering employment
- (b) From time to time, current Employees shall be required to undertake a medical examination conducted by a qualified and practising medical practitioner at the Company's request.
- (c) The Employee may be required to make the results of such examinations available to the Company and the Employee consents to the results being provided to the Company.
- (d) Persons considered unfit for work within their classification may be reclassified to other duties, provided alternative duties are available or terminated or retired.
- (e) The results of all medical examinations made available to the Company are to be treated with strict confidence by the Company. The Company agrees to reimburse each Employee the difference between the rate charged by a practising qualified medical practitioner and the scheduled fee.
- (f) Where the Company nominates the medical practitioner the examinations shall be at the Company's expense.

17. TERMINATION OF EMPLOYMENT

- (g) Notice of Termination by Company
 - (i) The following periods of notice shall be given on termination of employment:

- (aa) Full-time and part-time Employees shall be given the following period of notice of termination of employment, or compensation instead of notice:

| Period of Employee's continuous Service with the Company | Period of Notice |
|--|------------------|
| Not more than 1 year | 1 week |
| More than 1 year but not more than 3 years | 2 weeks |
| More than 3 years but not more than 5 years | 3 weeks |
| More than 5 years | 4 weeks |

The period of notice is increased by one (1) week if the Employee is over 45 years of age and has completed at least two year's continuous service with the Company.

Employees employed for a fixed term, or Employees employed for the duration of a specific contract or task, shall be given a minimum of one day's notice of termination of employment.

- (bb) No period of notice shall be given to Employees terminated for serious misconduct.
- (ii) Payment in lieu of notice shall be made if the appropriate notice period is not given. Employment may be terminated by part notice and part payment in lieu.

(h) Notice of Termination by Employee

- (i) The notice of termination required to be given by an Employee shall be one week.
- (ii) Should an Employee fail to give the requisite notice to the Company, the Company may deduct payment for the corresponding period of notice.

(i) Probation Period

A probation period of three (3) months shall apply to newly employed Employees.

(j) Last On First Off Practice

The "last on first off" practice shall not be applicable.

(e) **Redundancy**

- (i) Subject to paragraph (ii) of this sub clause, the provisions of the Transport Industry - Redundancy (State) Award shall apply.
- (ii) An Employee will not receive severance pay where the Company obtains acceptable alternative employment for the Employee.

18. RECALL

An Employee recalled to work within two (2) hours of finishing shall be paid for the additional time worked, plus thirty (30) minutes, but must receive a minimum of two (2) hours pay.

19. PUBLIC HOLIDAYS

- (a) The provisions of Clause 23(i) of the Award shall apply.
- (b) In addition, Employees shall receive one additional day each year as a holiday to be observed on Easter Saturday in recognition of the Union Picnic Day. A full-time Employee not rostered to work on Easter Saturday shall be paid an additional day's pay or may agree to take a substitute day on a day mutually agreed by the Company and Employee.

20. LONG SERVICE LEAVE

- (a) The Long Service Leave Act, 1955 shall apply.
- (b) During the time in which an Employee takes long service leave, the Employee's entitlement to accrue rostered days off shall cease.

21. PERSONAL PROTECTIVE EQUIPMENT

- (k) The Company shall establish and update Safety Standards in accordance with the requirements of the Occupational Health and Safety Act 2000 and the Regulation 2001.
- (l) The Company shall provide Employees with appropriate personal protective equipment ('PPE') which includes distinctive uniforms, safety footwear, and various other PPE. The wearing of Company-supplied PPE shall be mandatory where deemed necessary by the Company.
- (m) Employees shall maintain and keep secure PPE supplied by the Company at all times.
- (n) Employees shall be entitled to uniform replacement on a fair wear and tear basis with replacement being carried once a year.
- (o) Employees shall provide and wear an accurate watch.
- (p) Employees shall wear clothing which is tidy and neat in appearance.

22. SAFETY AND ALCOHOL

Consumption of alcohol before work, during or before the end of a day's work is prohibited. Consumption on the Company's premises shall be in accordance with the Company's policies.

23. SUPERANNUATION

- (q) The Company shall nominate and make contributions to a complying superannuation fund in accordance with the Superannuation Guarantee legislation which currently provides a rate of nine percent (9%) for all full time and part time Employees, and for casual Employees when they earn more than \$450.00 in a calendar month.
- (r) The Company gives an undertaking that it shall assess opportunities to provide a salary sacrifice superannuation contribution scheme to all of its Employees in the future. If such a scheme is introduced, then Employees covered by this Agreement shall be given the opportunity to participate in the scheme.

24. DISPUTES AND GRIEVANCES

- (s) Individual Employee Grievances
 - (i) An individual Employee grievance must initially be dealt with as close to its source as possible.
 - (ii) An Employee with a grievance is to notify the immediate supervisor and the supervisor shall attempt to resolve the grievance in the first instance.
 - (iii) If the grievance cannot be resolved at this level within a reasonable time, the supervisor shall refer the grievance to more senior management for resolution. Senior management shall meet with the Employee and genuinely attempt to resolve the grievance.
 - (iv) At the conclusion of these discussions, the Company shall provide the Employee with a response to the grievance, provided the grievance has not been resolved, including reasons for not implementing any proposed remedy.
 - (v) If the foregoing procedures fail to resolve the issue within a reasonable period, the grievance may be referred to the Industrial Relations Commission of New South Wales.
 - (vi) Reasonable time shall be allowed for each part of the procedure.
 - (vii) At all times whilst a grievance is being resolved normal work shall continue.
 - (viii) The Company acknowledges that an Employee may be represented by the Transport Workers Union of Australia, New South Wales Branch, in relation to any grievance dispute.
 - (ix) If the matter remains unresolved either party may refer the question, dispute or difficulty to the Industrial Relations Commission of New

South Wales to be dealt with in accordance with the Industrial Relations Act, 1996.

25. UNION RECOGNITION

- 25.1 The Union is recognised, subject to the limits of their constitution rule, to be the relevant industrial organisations of employees for the drivers.
- 25.2 Nothing stated above is to be construed to confer a right of preference of employment in favour of a member of an industrial organisation of employees over a person who is not a member of an industrial organisation of employees.

26. SAVINGS CLAUSE

- 26.1 The Federal Government has announced on 26 May 2005 certain reforms to industrial relations generally in Australia. One such reform suggests that the NSW State Industrial Relations Commission could discontinue operating and be absorbed into a new national system (the Reform) the transitional arrangements for which have not yet been drafted. If this occurs the parties are committed to ensuring that:
 - (a) the drivers’ employment conditions (arising from this Agreement and subject to this Agreement the parent award) are maintained;
 - (b) any Concrete operational flexibilities (arising from this Agreement and subject to this Agreement the parent award) are maintained,
 as a result of the Reforms for the nominal term of this Agreement.
- 26.2 To give affect to clause 26.1 the parties will, if required, consent to this Agreement being varied or make such other registered industrial agreements to ensure that the said maintenance occurs.

DECLARATION

The Company, the Union and the named Employees declare by their signatures below that this Agreement has been entered into freely and without duress or undue influence.

**SIGNED for and on behalf of
CONCRITE PTY LIMITED**

In the presence of:

.....
(name)

.....
(name)

.....
(signature)

.....
(signature)

Date:

Date:

Picton Plant Employee Union Delegate

In the presence of:

.....
(name)

.....
(name)

.....
(signature)

.....
(signature)

Date:

Date:

Wollongong Plant Employee Union Delegate In the presence of:

.....
(name)

.....
(name)

.....
(signature)

.....
(signature)

Date:

Date:

Mittagong Plant Employee Union Delegate

In the presence of:

.....
(name)

.....
(name)

.....
(signature)

.....
(signature)

Date:

Date:

Moss Vale Plant Employee Union Delegate

In the presence of:

.....
(name)

.....
(name)

.....
(signature)

.....
(signature)

Date:

Date:

Goulburn Plant Employee Union Delegate

In the presence of:

.....
(name)

.....
(name)

.....
(signature)

.....
(signature)

Date:

Date:

Yass Plant Employee Union Delegate

In the presence of:

.....
(name)

.....
(name)

.....
(signature)

.....
(signature)

Date:

Date:

**SIGNED for and on behalf of
TRANSPORT WORKERS UNION
OF AUSTRALIA, NSW BRANCH**

In the presence of:

.....
(name)

.....
(name)

.....
(signature)

.....
(signature)

Date:

Date:

APPENDIX A – APPLICABLE AWARD CONDITIONS

4. Anti-Discrimination

- 4.1 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. This includes discrimination on the grounds of race, ex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.
- 4.2 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 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.

- 4.3 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.
- 4.4 Nothing in this clause is to be taken to affect:
- 4.4.1 any conduct or act which is specifically exempted from anti-discrimination legislation;
- 4.4.2 offering or providing junior rates of pay to persons under 21 years of age;
- 4.4.3 any act or practice of a body established to propagate religion which is exempted under section 56(d) of the Anti-Discrimination Act, 1977; or
- 4.4.4 a party to this award from pursuing matters of unlawful discrimination in any State or federal jurisdiction.
- 4.5 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.

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 the Act affects...any of the act or practiced 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."

7. **Division A - General Rates -**

- 7.1.1 **Rates of Pay** - Employees falling within this division shall be paid the rates of pay as set out in Table 1 - Wages (Division A - General Rates), of Part B, Monetary Rates.

7.1.2 **Classification Definitions -**

TRANSPORT WORKER GRADE ONE - Employees appointed to this grade can be required to perform any of the following functions for which they have been trained:

extra hand;
yardperson;
rider of a motorcycle;
rider or driver of a horse;
driver of a tow motor;
bicycle courier.

Employees appointed to this grade can also be required to perform occasional driving of vehicles for which a Class 1A driving license is necessary, provided that it is incidental to the preceding functions.

TRANSPORT WORKER GRADE TWO - Employees appointed to this grade can be required to perform any of the following functions for which they have been trained:

driver of two-axle rigid vehicles with a gross vehicle mass of up to 4.5 tonnes;
driver of forklifts with a capacity of up to 4.5 tonnes;
loader;
loader of rail truck.

TRANSPORT WORKER GRADE THREE - Employees appointed to this grade can be required to perform any of the following functions for which they have been trained:

driver of two-axle rigid vehicles with a gross vehicle mass of over 4.5 tonnes;
driver of forklifts with a capacity of over 4.5 tonnes and up to 9 tonnes;
driver of a straddle truck.

TRANSPORT WORKER GRADE FOUR - Employees appointed to this grade can be required to perform any of the following functions for which they have been trained:

driver of three-axle rigid vehicles;
driver of forklifts with a capacity of over 9 tonnes and up to 15 tonnes.

TRANSPORT WORKER GRADE FIVE - Employees appointed to this grade can be required to perform any of the following functions for which they have been trained:

driver of four-axle rigid vehicles;
driver of articulated vehicles with a total of three axles;
driver of rigid vehicle-trailer combinations with a total of three axles;
driver of forklifts with a capacity of over 15 tonnes and up to 30 tonnes.

TRANSPORT WORKER GRADE SIX - Employees appointed to this grade can be required to perform any of the following functions for which they have been trained:

driver of articulated vehicles with a total of four axles;
driver of rigid vehicle-trailer combinations with a total of four axles;
driver of forklifts with a capacity of over 30 tonnes and up to 60 tonnes.

TRANSPORT WORKER GRADE SEVEN - Employees appointed to this grade can be required to perform any of the following functions for which they have been trained:

driver of articulated vehicles with a total of five axles or six axles;
driver of rigid vehicle-trailer combinations with a total of five axles or six axles or seven axles;
driver of forklifts with a capacity of over 60 tonnes.

TRANSPORT WORKER GRADE EIGHT - Employees appointed to this grade can be required to perform any of the following functions for which they have been trained:

driver of double articulated vehicles (i.e. "B-double combination vehicles");
driver of rigid vehicle-triple trailer combinations (i.e. "road trains");
driver of gantry crane.

11. **Shift Work**

11.1 **Definitions -**

11.1.1 "Early Morning Shift" shall mean a shift to which an absolute majority of permanent employees in a yard or depot have agreed by vote may be worked at that yard or depot and which commences at or after 4.00am and before 7.00am.

11.1.2 "Afternoon Shift" shall mean a shift which finishes after 6.00pm and at or before midnight.

11.1.3 "Night Shift" shall mean a shift which finishes subsequent to midnight and at or before 8.00am

11.1.4 "Alternate Night/Afternoon Shift" shall mean a shift which alternates between night shift and afternoon shift or night shift and afternoon shift and day work.

11.1.5 “Shift Work” shall mean work extending for at least 4 weeks and performed either in daily recurrent periods or in regular rotating periods within the limits defined for “Early Morning Shift” or “Afternoon Shift” or “Night Shift”.

11.2 ***Shift Work – Weekly Employees***

11.2.1

11.2.1.1 The hours of work of weekly employees on shift work shall be an average of 38 per week.

11.2.1.2 Such work shall be arranged as provided for by clause 8, Hours of Employment, of this award, provided that the employees may be rostered to work shift work over five days within a six or seven-day spread with two consecutive days off.

11.2.1.3 Crib time on any shift shall be at a time fixed by the employer and shall not be varied except in an emergency; provided that an employee shall not be required to work more than 5 hours without a crib break.

11.2.2.

11.2.2.1 There shall be a shift roster which shall provide for rotation unless otherwise agreed between the employer and the employee.

11.2.2.2 Such shift roster shall specify the commencing and finishing times of arranged ordinary hours of respective shifts. A copy of such shift roster shall be kept in a prominent place. Such roster having been fixed may be varied by agreement between the employer and the employee affected to suit the circumstances of the establishment, provided that the Union is notified of such agreement or, in the absence of such agreement, by seven days’ notice of such alteration given by the employer to the employee affected or, in the case of changes necessitated by circumstances outside the control of the employer, by twenty-four hours’ such notice.

11.2.2.3 Day workers may be transferred to shift work by seven days’ notice given by the employer to the employee or, in cases where sudden or unforeseen circumstances make the change necessary, by twenty-four hours’ such notice.

11.3 ***Shift Work – Allowances –***

11.3.1 For ordinary hours of shift work, shift workers shall be paid the following extra percentages of the rates prescribed for their respective classifications:

Percentages

| | |
|---|------|
| (1) Early Morning Shift | 12.5 |
| (2) Permanent Afternoon Shift | 17.5 |
| (3) Permanent Night Shift | 30 |
| (4) Alternate Night/Afternoon Shift | |
| When on afternoon shift | 17.5 |
| When on night shift | 30 |
| (5) Shifts which rotate with a Day Shift: | |
| When on afternoon shift | 15 |
| When on night shift | 20 |

11.3.2 Shift workers rostered on a shift the major portion of which is performed on a Saturday, Sunday or public holiday shall be paid as follows:

- (1) Saturday – At the rate of time and a half.
- (2) Sunday – At the rate of double time.
- (3) Public Holidays – At the rate of double time and a half.

The penalty rates prescribed by this subclause for work on a Saturday, Sunday or a public holiday shall be payable in lieu of the shift allowances prescribed in 11.3.1.

11.3.3 Notwithstanding anything contained herein, each shift shall be paid for at the rate applicable to the day on which the major portion of the ordinary time of the shift is worked.

11.4 ***Shift Work – Overtime –***

For all time worked outside or in excess of the arranged ordinary shift hours or pursuant to circumstances under 11.2.2.2, shift workers shall be paid at time and a half for the first 2 hours and double time thereafter and provided that for shifts the major portion of which falls on a Sunday or a public holiday all overtime shall be paid at the rate of double time.

11.5 ***Shift Work – Casual Employees –***

11.5.1 Casual employees may be engaged on shift work on less than 38 hours per week.

11.5.2 Such employees must be paid a minimum payment of 8 hours per shift.

11.5.3 Casual shift workers shall be entitled to the appropriate shift penalty as provided for in 11.3.1 and 11.3.2, plus 15% loading.

11.5.4 Casual shift workers who work in excess of the arranged ordinary hours of the shift on which they are rostered shall be entitled to the appropriate overtime rates provided for in 11.4.

11.5.5 Casual shift workers who work on a rostered shift the major portion of which is performed on a Saturday, Sunday or public holiday shall be paid at the appropriate rates provided for in 11.3.2 and in addition thereto a loading of 15% provided that such payments for work on a Saturday, Sunday or public holiday shall be in lieu of the shift allowances provided for in 11.3.1.

11.5.6 After a maximum of 5 hours work a casual shift worker shall be entitled to paid crib time of 20 minutes.

11.6 ***Shift Work – Meal Time –***

All shift workers whilst working on early morning, afternoon or night shift shall be entitled to a paid crib time of 20 minutes. Such crib time shall be allowed and taken as prescribed in 11.2.1.3.

11.7 ***Shift Work – Prior Arrangements –***

Arrangements as to shift work entered into between the Union and any employer, prior to the introduction of this clause into the award, which provide for more advantageous conditions for employees than this clause shall not be altered without the agreement of the Union.

11.8 ***Shift Work – Alternative Arrangements***

Arrangements as to shift work alternative to those provided for by 11.1 and at penalties different to those provided for by 11.3 may be implemented by means of the procedure provided for in clause 55, Award Modernisation. Provided that employers in industries other than the transport industry may, in relation to rotating shift systems not provided for herein, observe the provisions for such shifts prescribed for the majority of employees in their establishment if they wish to make use of such shifts.

11.9 **Shift Work – Government Departments and Authorities –**

Notwithstanding the foregoing provisions, employees of contractors and such subcontractors as may be engaged by them on the Snowy Mountains Hydro-Electric Authority, and employees of Departments of the State Government of New South Wales and of the Roads and Traffic Authority may, in lieu thereof, carry out shift work under the terms and conditions as are prescribed by the General Construction and Maintenance, Civil and Mechanical Engineering, &c. (State) Award, as varied from time to time, or by any award replacing the said award.

16. **Mixed Functions**

- 16.1 An employee required by the employer to work for less than two hours a day on work carrying a higher rate of pay shall be paid at the higher rate for the actual time so worked and when required to work for more than two hours a day on such work the employee shall be paid as for a whole day's work.
- 16.2 This clause shall not apply to actual periods of one hour or less or to interchange of work arranged between employees to meet their personal convenience.
- 16.3 On any day on which an employee covered by this award is engaged for more than two hours in the cartage or distribution within New South Wales of petrol or petroleum products from refineries, terminals or depots of oil companies which are respondents to the Transport Workers' (Oil Companies) Federal Award, in force from time to time, the employee shall be paid for each such day at the rate of pay prescribed by this award, or the rate of pay prescribed by the Transport Industry - Petroleum, &c., Distribution (State) Award, whichever is the higher rate.

17. **Absences From Duty.**

Where an employee is absent from duty (other than on annual leave, long service leave, public holidays, paid sick leave, workers' compensation, bereavement leave or jury service) the employee shall, for each day absent, lose average pay for each such day, calculated by dividing the employee's weekly wage rate by 5. An employee who is absent for part of a day shall lose average pay for each hour or part thereof the employee is absent, calculated by dividing the employee's weekly wage rate by 38. An employee so absent from duty will not accrue the entitlement for normal rostered time off provided for in 8.1.7, Day Work, of clause 8, Hours of Employment, of this award. The employee shall take the employee's time off as rostered but shall be paid, in respect of the week during which the rostered time off is taken, the employee's weekly pay less an amount calculated according to the following formula:

$$\frac{\text{Number of day(s) absent during cycle} \times 0.4 \text{ hours} \times \text{Weekly Wage Rate}}{38}$$

33. **Unauthorised Persons Riding on Vehicles**

An employee shall not permit any unauthorised person to accompany the employee on the employee's vehicle, nor permit any such persons to assist the employee in the delivery of goods, wares, merchandise or material unless such person has been engaged as an employee or is the owner of such goods, wares, merchandise or materials or is the agent or representative of such owner.

36. **Sick Leave**

- 36.1 "Year" shall mean the period from 1 July to 30 June next following.
- 36.2 An employee, other than a casual employee, with not less than three months' continuous service with the employer who is absent from work by reason of personal illness or injury, not being illness or injury arising out of or in the course of employment, shall be entitled to leave of absence, without deduction of pay, subject to the following conditions and limitations:

- 36.2.1 He/she shall, unless it is not reasonably practicable so to do (proof whereof shall be on the employee), before his/her ordinary starting time on the first day of the absence, and in any event within twenty-four hours, inform the employer of his/her inability to attend for duty and, as far as practicable, state the nature of the illness or injury and estimated duration of the absence.
- 36.2.2 He/she shall furnish to the employer such evidence as the employer may reasonably desire that he/she was unable, by reason of such illness or injury, to attend for duty on the day or days for which sick leave is claimed.
- 36.2.3 Except as hereinafter provided, he/she shall not be entitled in any year (as defined), whether in the employ of one employer or several in the aforesaid industry in such year, to leave in excess of forty hours of ordinary working time.
- Provided that:
- 36.2.3.1 If his/her employment continues with the one employer after the first year, his/her leave entitlement shall increase to a maximum entitlement of 64 hours of ordinary working time, at which figure it shall remain for any subsequent years of continued employment.
- 36.2.3.2 If the employment of an employee who has become entitled to leave in accordance with 36.2.3.1 is terminated for any reason, he/she shall not be entitled, in the employ of any employer in the industry in that year, to leave in excess of forty hours' ordinary working time.
- 36.3 For the purpose of administering 36.2.3, an employer within two weeks of the employee entering his/her employment, may require an employee to make a statutory declaration or other written statement as to what paid leave of absence he/she has had from any employer during the then current year and upon such statement the employer shall be entitled to rely and act.
- 36.4 The rights under this clause shall accumulate from year to year, so long as his/her employment continues with the one employer, so that any part of the leave entitlement which has not been allowed in any year may be claimed by the employee and shall be allowed by that employer, subject to the conditions prescribed by this clause, in a subsequent year of continued employment.
- 36.5 If an award holiday occurs during an employee's absence on sick leave, then such award holiday shall not be counted as sick leave.
- 36.6 Service before the date of coming into force of this clause shall be counted as service for the purpose of assessing the sick leave entitlement in any year under 27.2.3, but shall not be taken into consideration in arriving at the period of accumulated leave.
- 36.7 Accumulated sick leave to the credit of an employee at the commencement of the award shall not be affected or reduced by the operation of this clause.
- 36.8 Where an employee is sick or injured on the weekday the employee is to take off in accordance with the provisions of 8.1.7 of this award, the employee shall not be entitled to sick pay nor will the employee's sick pay entitlement be reduced as a result of the employee's sickness or injury on that day.
37. Personal/Carer's Leave
- 37.1 Use of Sick Leave
- 37.1.1 An employee, other than a casual employee, with responsibilities in relation to a class of person set out in 37.1.3.2, 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, provided for in clause 36, 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.

37.1.2 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.

37.1.3 The entitlement to use sick leave in accordance with this subclause is subject to:

37.1.3.1 the employee being responsible for the care of the person concerned; and

37.1.3.2 the person concerned being:

37.1.3.2.1 a spouse of the employee; or

37.1.3.2.2 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

37.1.3.2.3 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

37.1.3.2.4 a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis;
or

37.1.3.2.5 a relative of the employee who is a member of the same household, where for the purposes of this subparagraph:

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

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

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

37.1.4 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.

37.2 Unpaid Leave for Family Purpose

37.2.1 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 37.1.3.2 who is ill.

37.3 Annual Leave

37.3.1 An employee may elect with the consent of the employer, subject to the Annual Holidays Act 1944, 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.

37.3.2 Access to annual leave, as prescribed in 37.3.1, shall be exclusive of any shutdown period provided for elsewhere under this award.

37.3.3 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.

37.4 Time Off in Lieu of Payment for Overtime

- 37.4.1 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 12 months of the said election.
- 37.4.2 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.
- 37.4.3 If, having elected to take time as leave in accordance with 37.4.1, the leave is not taken for whatever reason payment for time accrued at overtime rates shall be made at the expiry of the 12 month period or on termination.
- 37.4.4 Where no election is made in accordance with 37.4.1, the employee shall be paid overtime rates in accordance with the award.

37.5 Make-up Time

- 37.5.1 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.
- 37.5.2 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.

37.6 Rostered Days Off

- 37.6.1 An employee may elect, with the consent of the employer, to take a rostered day off at any time.
- 37.6.2 An employee may elect with the consent of the employer, to take rostered days off in part day amounts.
- 37.6.3 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.

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 union(s) to participate in negotiations.

- 37.7 The provisions of this clause will have no application to employees of bodies established by the Catholic Church to propagate religion.

38. Bereavement Leave

- 38.1 An employee, other than a casual employee, shall be entitled to up to two days bereavement leave without deduction of pay, up to and including the day of the funeral, on each occasion of the death of a person within Australia as prescribed in 37.1.3.
- 38.2 The employee must notify the employer as soon as practicable of the intention to take bereavement leave and will provide to the satisfaction of the employer proof of death.
- 38.3 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 as set out in 37.1.3, provided that, for the purpose of bereavement leave, the employee need not have been responsible for the care of the person concerned.
- 38.4 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.

38.5 Bereavement leave may be taken in conjunction with other leave available under 37.2, 37.3, 37.4 and 37.5. In determining such a request, the employer will give consideration to the circumstances of the employee and the reasonable operational requirements of the business.

39. **Annual Leave**

39.1 See Annual Holidays Act 1944.

39.2

39.2.1 An employee at the time of entering upon a period of annual leave in accordance with the Annual Holidays Act shall be entitled to an additional payment in respect of the period of employment to which the said leave is referable, calculated on the basis of three and one-third hours' ordinary pay for each month.

39.2.2 Upon an employee taking annual leave, the employee's work cycle in respect of which the employee becomes entitled to a weekly accrual for time off pursuant to 8.1.7, shall be suspended and the employee shall not be entitled to further accrual until the employee's return from leave. Upon resumption of work, the entitlement period for accrual shall resume and the employee shall be entitled to be rostered to take time off and shall so take time off upon completing the balance of the work cycle.

39.3 Seven-day shift workers, i.e., employees whose ordinary working period includes Sundays and holidays on which they may be regularly rostered for work:

39.3.1 In addition to the benefits provided by 39.2, and by section 3 of the Annual Holidays Act 1944 (with regard to an annual holiday), an employee who, during the year of the employee's employment with respect of which the employee becomes entitled to the said annual holiday, gives service as a seven-day shift worker shall be entitled to the additional leave as specified hereunder:

39.3.1.1 If during the year of the employee's employment the employee has served continuously as such seven-day shift worker - additional leave with respect to that year shall be one week.

39.3.1.2 Subject to 39.3.1.4, if during the year of the employee's employment the employee has served for only portion of it as such seven-day shift worker - the additional leave shall be one day for every thirty-six ordinary shifts worked as a seven-day shift worker.

39.3.1.3 Subject to 39.3.1.4, the employee shall be paid for such additional leave at the ordinary rate of wages to which the employee is entitled under clause 2, Basic Wage, and clause 3 Wages, of this award, for the number of ordinary hours of work for which such employee would have been rostered for duty during the period of additional leave had such employee not been on such additional leave.

39.3.1.4 Where the additional leave calculated under this subclause is or includes a fraction of a day such fraction shall not form part of the leave period and any such fraction shall be discharged by payment only.

39.3.1.5 In this clause reference to "one week" and "one day" includes holidays and non-working days.

39.3.2 Where the employment of a worker has been terminated and the employee thereby becomes entitled under section 4 of the Annual Holidays Act 1944, to payment in lieu of an annual holiday, with respect to a period of employment, the employee also shall be entitled to an additional payment of three and one-half hours at such ordinary rate of wages with respect to each twenty-one shifts of service as such seven-day shift worker which the employee has rendered during such period of employment.

39.4 Employees of employers engaged in other than the transport industry shall receive the same annual leave conditions as apply to the employees of the industry or establishment in which they are working.

40. **Public Holidays**

40.1

40.1.1

40.1.1.1 The days on which New Year's Day, Australia Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Eight Hour Day, Christmas Day and Boxing Day are observed in the areas concerned, together with such other days which may be proclaimed by the Government and which are observed as public holidays for the area covered by this award, shall be recognised as public holidays.

40.1.1.2 Employees, other than casual employees, shall be entitled to the public holidays specified in 40.1.1.1, without loss of pay.

40.1.2 An employee, other than a casual employee, required to work on -

40.1.2.1 Christmas Day or Good Friday shall be paid at the rate of double time for the actual time worked in addition to the day's pay to which the employee is entitled for those days in accordance with 40.1.1.2.

40.1.2.2 Any of the other days prescribed in 40.1.2.1, shall be paid at the rate of time and one-half for the actual time worked in addition to the day's pay to which the employee is entitled for those days in accordance with 40.1.1.2.

40.1.3 Should any of the prescribed public holidays fall on a Saturday or Sunday and another day in lieu thereof is not proclaimed by the Government for the observance of such public holiday, an employee, other than a casual employee, required to work on such public holiday shall be paid for all work performed on -

40.1.3.1 Christmas Day - double time for the actual time worked and, in addition, ordinary time for the actual time worked up to a maximum of eight hours' pay at ordinary time.

40.1.3.2 Any of the other days prescribed in 40.1.1.1 - time and one-half for the actual time worked and, in addition, ordinary time for the actual time worked up to a maximum of eight hours' pay at ordinary time.

40.1.4 A casual employee required to work on any of the public holidays prescribed in 40.1.1.1, shall be paid double time for all time worked, with a minimum payment for eight hours' work.

40.1.5 An employee required to work on any of the public holidays prescribed in 40.1.1.1, shall be guaranteed four hours' work or shall be paid for four hours at the appropriate rate.

40.2 Employees engaged in association with an industry or establishment shall receive the same conditions with respect to holiday work as the employees of the industry or establishment in association with which they are working.

40.3 An employee, other than a casual employee, whose services are dispensed with within seven days of the commencement of any week in which one or more public holidays occur and who is re-engaged by the same employer within seven days of the said week, shall be paid an ordinary day's pay for each public holiday so occurring at the rate prescribed for the class of work performed by the employee prior to the employee's services being dispensed with.

40.4 An employee, other than a casual employee, who, without permission of the employee's employer or without reasonable cause, is absent from duty on the working day immediately preceding or the working day immediately succeeding any public holiday or series of holidays, shall not be entitled to payment for such public holiday or series of public holidays, provided that if an employee is absent as aforesaid on one only of the working days preceding or succeeding a series of public holidays the employee shall lose the holiday pay only for the holiday closest to the day of the employee's absence.

40.5 Where an employee is rostered to take time off pursuant to 8.7.1, and such rostered time off falls on any of the public holidays referred to in 40.1.1.1, the employee shall be entitled to replacement time off, to be taken on the following basis:

40.5.1 Where the time off not taken fell on either a Friday or Monday, the next practicable Friday or Monday shall be taken for the purposes of replacement time off.

40.5.2 Where the time off not taken fell on a Tuesday, Wednesday or a Thursday, the replacement time off shall be taken on the first practicable day available for the taking of such replacement time off.

41. **Jury Service**

41.1 An employee required to attend for jury service during the employee's ordinary hours shall be reimbursed by the employer an amount equal to the difference between the amount paid in respect of attendance for such jury service and the amount of wage the employee would have received in respect of the ordinary time the employee would have worked had the employee not been on jury service.

41.2 An employee shall notify the employee's employer as soon as possible of the date upon which the employee is required to attend for jury service. Further, the employee shall give his/her employer proof of attendance, the duration of such attendance and the amount received in respect of such jury service.

41.3 Where the day or days upon which an employee is required to attend for jury service coincide with time rostered for the employee to take off pursuant 8.1.7, of this award, such rostered time off shall be deemed to have been taken in accordance with the roster.

56. **Redundancy**

See the Transport Industry - Redundancy (State) Award, 284 I.G. 1395.