

**REGISTER OF
ENTERPRISE AGREEMENTS**

ENTERPRISE AGREEMENT NO: EA04/98

TITLE: Concrite Country Concrete Truck Driver 2004-2005 Enterprise Agreement 2004

I.R.C. NO: IRC4/78

DATE APPROVED/COMMENCEMENT: 13 February 2004

TERM: 22 months

**NEW AGREEMENT OR
VARIATION:** New

GAZETTAL REFERENCE: 21 May 2004

DATE TERMINATED:

NUMBER OF PAGES: 19

COVERAGE/DESCRIPTION OF

EMPLOYEES: Applies to the employees of Concrite Pty Limited who are engaged as Transport Workers Grades 4 and 5 at any of the Company's concrete plants in NSW with the exception of those plants that are covered by the Concrite Country Concrete Truck Driver 2003-2004 Enterprise Agreement

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

CONCRITE COUNTRY CONCRETE TRUCK DRIVER 2004-2005 ENTERPRISE AGREEMENT 2004

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A INTRODUCTION

1. This Enterprise Agreement is made between Concrete Pty Limited (ACN 000 795 166) of 36 Eton Street Sutherland NSW (the "Company"), the Transport Workers Union of Australia - New South Wales Branch, (the "TWU") and the employees of the Company ("the Employees") classified in accordance with Clause 5 Wages, of this Agreement 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 2003-2004 Enterprise Agreement.

2. This Agreement is made without duress.

3. This Agreement shall operate from the date of its approval by the Industrial Relations Commission of New South Wales and shall remain in force until 31 December 2005.

This Agreement shall continue to operate until it is rescinded or replaced in accordance with the provisions of the *Industrial Relations Act 1996*.

4. This Agreement takes the place of the prior arrangement. All parties to the Agreement undertake to ensure registration of the Agreement with the Commission as soon as possible after the date of the Agreement.

B TERMS AND CONDITIONS

1 APPLICABLE AWARD CONDITIONS

- (i) the following clauses in the Transport Industry - Mixed Enterprises (State) Award (the "Award") shall apply, except to the extent to which they are inconsistent with the terms and conditions outlined below in this Agreement. Where an inconsistency exists, this Agreement shall take precedence:

PART A

Clause No. Subject

7	Wages - Division A
4	Anti-discrimination
17	Absences from Duty
40	Public Holidays
36	Sick Leave
39	Annual Leave
16	Mixed Functions
33	Unauthorised Persons Riding on Vehicles
38	Bereavement Leave
41	Jury Service
11	Shift Work

A copy of these clauses is attached as Appendix A.

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

2. Terms of Employment

- i) 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 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.
- ii) The company may utilise concrete trucks from other companies to supplement its own fleet from time to time. Concrete trucks shall be fully utilised prior to other company trucks being engaged.
- iii) An employee with more than two month's 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.
- iv) 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

Employees shall be classified in a grade in accordance with the classification definitions in Clause 3, Definitions, of the Award.

Employees shall be classified as full-time, part-time or casual.

4. Hours of Employment

Ordinary Hours of Work

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.

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 6.00am to 4.00pm and shall not exceed eight (8) hours per day.

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 6.00am to 4.00pm Monday to Friday.

When overtime is to be worked on Saturday mornings, full-time employees shall be given priority.

Hours in excess of an average of thirty-eight (38) hours per week will be paid at overtime rates in accordance with Clause 11 of this Agreement.

Time Paid

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.

Rostered Days Off

Unless otherwise agreed between the company and the employee, full-time employees shall accrue a right to a full rostered day off in a four week cycle by working forty (40) ordinary hours per week during the first three (3) weeks and thirty two (32) hours during the fourth week. Rostered days off shall be taken on days agreed between the company and the employee.

Rostered days off may be accumulated with no limit as to the number of days accumulated provided there is agreement between the company and employee.

Accumulated rostered days off 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 rostered days off. Such payment of accumulated rostered days off shall be at the ordinary time rate. Payment for rostered days off cancels the corresponding right to take the rostered days off.

Commencement Time

Commencement times for ordinary hours of work, unless otherwise agreed between the company and the employee, shall be between 6.00 am and 7.30 am. Actual commencement times shall be varied by the company, by notice the day before, to suit day to day production requirements. Employees may be contactable by telephone for notice about commencement time.

5. Wages

- (i) The wage rates in this Agreement are total wage rates of pay, inclusive of the basic wage for adults.
- (ii) The wage rate for full-time employees shall be:

Classification Grade	Wage Rate \$ per week
Transport Worker Grade Four - 3 axle truck	613.00
Transport Worker Grade Five - 4 axle truck	638.75

(iii) 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.

(iv) The hourly wage rate for ordinary hours of work for casual employees shall be:

Classification Grade	Wage Rate \$ per hour
Transport Worker Grade Four	20.10
Transport Worker Grade Five	20.94

(v) The wage rates set out in (ii) and (iv) above shall be effective from 1st January 2004. These rates reflect a six percent (6%) increase based on the applicable rates as set out in the current arrangement which expires on 31st December 2003; plus an adjustment to reflect provision for collection of monies being included in hourly wage rate rather than being paid as an allowance.

(vi) The wage rates set out in (ii) and (iv) shall be increased by the greater of four percent (4%), or the percent increase plus an additional one percent (1%), payable to Concrete Sydney concrete truck drivers effective from 1st January 2005.

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

- a) that the employees will not pursue any extra claims, whether award or over-award. However, wage rates payable under this Agreement shall be increased if necessary so that the employees do not receive a lower hourly rate for ordinary hours than they would receive under the Transport Industry Mixed Enterprises Wages (State) Award.
- b) this Agreement will 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*; and
- c) neither the employees, nor any party to the Agreement, will engage in protected action pursuant to s.170ML of the *Workplace Relations Act 1996*, in relation to the performance of any work covered by this Agreement.
- d) clauses 5(vii) a), b), c), also relate to matters not dealt with during negotiations leading to the Agreement, and/or matters conceded during negotiations and therefore not contained within the Agreement.

6. Allowance

An additional allowance in recognition of skill shall be paid. The allowance shall be at the rate per week of \$17.26. The allowance is not paid on overtime hours. This allowance shall only be payable to an employee who has had at least three (3) month's 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.

No additional allowances are paid other than those specifically mentioned in this agreement. All other allowances have been compensated for in setting the base rate included in this Agreement.

7. Meal Allowance

An employee who is required to work overtime on any weekday for a period of two 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.

8. Bonus Payments

Employees will be entitled to a maximum annual bonus of one percent (1.0%) as described in sub-clauses 8(i), (ii), and (iii) below. The bonus payment will be based on gross earnings for each 6 months only (excluding allowances, leave loading, and superannuation) provided each relevant Key Performance Indicator (KPI) listed is met. Both full-time and casual employees will be eligible for the bonus payments.

This system will work as follows:

KPIs will be measured each six (6) months. For every KPI met at the six (6) month period, the applicable bonus will be paid.

KPIs will be measured on a Country fleet basis.

Details of the KPIs are as follows:

- (i) No worsening in the number of medically treated injuries (MTIs) with respect to the 2002/2003 financial year figures. There were two (2) MTIs in the 2002/2003 financial year.

no worsening in MTI injuries in year one, ie two (2) MTIs for the year. This equates to a cumulative average 6 monthly figure of one (1).

no worsening in the number of MTI injuries in year two, ie two (2) MTIs for the year. This equates to a cumulative average 6 monthly figure of one (1).

The aim of this KPI shall be to increase the awareness of each individual with respect to their responsibility for their own safe well being as well as those around them.

Achievement of this target shall result in a one half of one percent 0.50% bonus payment.

- (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 2002/2003 financial year figures. There were five (5) incidents in the 2002/2003 financial year.

a reduction by two (2) incidents in year one, ie three (3) incidents for the year. This equates to a figure of two for the first 6 months, and three for the year.

a further reduction by one (1) incident in year two ie two (2) incidents for the year. This equates to a cumulative average 6 monthly figure of one (1).

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

9. Casual Employees

- (i) Casual employee shall mean an employee engaged from day to day.
- (ii) A casual employee shall be paid a minimum of four hours for each start.
- (iii) The span of ordinary hours of work for a casual employee shall be in accordance with Clause 4 of this Agreement.
- (iv) The wage rate for casual employees is inclusive of annual leave, sick leave, bereavement leave and payment for public holidays.

10. Part-Time Employees

- (i) 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 casual employees.

- (ii) The weekly hours shall be set upon engagement by the company and may be changed by the company.
- (iii) Part-time employees shall be engaged for a minimum of twenty (20) hours per week.
- (iv) Irrespective of hours worked a part-time employee shall be paid a minimum of four hours for each start.
- (v) Other provisions of this Agreement, where applicable, shall apply to part-time employees in the same ratio as ordinary hours of work are to thirty-eight (38) hours per week, except the provisions for rostered days off.
- (vi) Job sharing arrangements may be entered into with part-time employees.

11. Overtime

- (i) Overtime at the rate of time and one-half for the first two hours and double time thereafter shall be paid to all employees as follows:
 - (a) For all time worked in addition to the ordinary hours of employment.
 - (b) For the purpose of the computation of overtime each day shall stand alone.
- (ii) 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.
- (iii) Reasonable overtime shall be worked by employees when required by the company.
- (vi) An employee required to work on Sunday shall be paid at double time with a minimum payment of four hours.

12. Meals and Crib Breaks

- (i) Whenever it suits concrete production requirements there shall be an unpaid lunch break of thirty (30) minutes between the hours of 11.00 am and 2.00 pm.
- (ii) The lunch break when taken shall be taken between loads to suit production requirements advised by the company.
- (iii) When required by the company 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 the time sheet.
- (iv) Paid crib breaks shall be taken between loads to suit production requirements. Crib breaks (or a lunch break) shall be allowed about every three hours and shall be up to ten (10) minutes duration.

13. Payment of Wages

- (i) Wages shall be paid weekly.
- (ii) 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.
- (iii) Payment will normally be by direct payment into a bank account, building society or credit union account nominated by the employee.
- (vi) Unless otherwise agreed, payment for annual leave will be paid in advance, except for the pay week which is only part annual leave where an employee has returned to work before the end of the pay week.

14. Sick Leave

- (i) An employee may be required to furnish a satisfactory Medical Certificate to the employer in respect of any claim for sick leave other than the first five sick leave days in any one year. For any of the first five sick leave days a statutory declaration may be required.
- (ii) An employee will make every effort to inform management, prior to his starting time, of his 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 their intended start time.

15. Medical Examinations

- (i) The company will require prospective employees to undertake a medical examination by a qualified and practising medical practitioner (of the company's choice) prior to the company offering employment.
- (ii) Current employees will be required to undertake medical examinations by a qualified and practising medical practitioner at the company's request from time to time.
- (iii) The results of such examinations will be made available to the company by the employee.
- (iv) Persons considered unfit for work within their classification may be reclassified to other duties, provided alternative duties are available or terminated or retired.
- (v) The results of all medical examinations made available to the company are to be treated with strict confidence by the company.
- (vi) The company agrees to reimburse each employee the difference between the rate charged by a practising qualified medical practitioner and the scheduled fee.
- (vii) Where the company nominates the medical practitioner the examinations shall be at the company's expense.

16. Termination of Employment

Notice of Termination by Employer

- (i) The following periods of notice shall be given on termination of employment:
 - (a) Full-time and part-time employees will be given the following period of notice of termination of employment, or compensation instead of notice:

Employees period of continuous Service with the Employer	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 week if the employee is over 45 years old and has completed at least two years continuous service with the employer.

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.

- (b) 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. If appropriate, part of the period may be worked out, and the remainder shall be paid out.

Notice of Termination by Employee

- (a) The notice of termination required to be given by an employee shall be one week.
- (b) Should an employee fail to give the requisite notice to the employer, the company may deduct payment for the corresponding period of notice.

Probation Period

A probation period of three (3) months will apply to newly employed employees.

Last On First Off Practice

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

17. Recall

An employee recalled to work within two 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.

18. Public Holidays

- (i) The provisions of clause 23(i) of the Award shall apply.
- (ii) In addition, employees shall receive one additional day each year as a holiday to be observed on Easter Saturday. A full-time employee not rostered to work on Easter Saturday will be paid an additional day's pay or may agree to take a substitute day on a day mutually agreed.

19. Long Service Leave

- (i) The *Long Service Leave Act, 1955* shall apply.
- (ii) While an employee takes long service leave the employee's entitlement to accrued rostered days off shall cease.

20. Personal Protective Equipment

- (i) The company will establish and update Safety Standards in accordance with the requirements of the *Occupational Health and Safety Act 2000* and the Regulation 2001.
- (ii) The employer shall provide employees with appropriate personal protective equipment (PPE) which includes distinctive uniforms, safety footwear, and various other PPE. The wearing of employer supplied PPE shall be mandatory where deemed necessary by the employer.
- (iii) Employees shall reasonably maintain and keep secure PPE supplied by the employer at all times.
- (vi) Employees shall be entitled to uniform replacement on a fair wear and tear basis with replacement being carried once a year.
- (v) Employees will provide and wear an accurate watch.
- (vi) Employees shall wear clothing which is tidy and neat in appearance

21. 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 after work or on the journey home from work shall be limited so that blood alcohol levels are below the legal limit for the driver of a car.

22. Superannuation

The employer shall contribute to the superannuation fund nominated by employees, namely the Concrete and Quarry Employees Superannuation Fund, in accordance with the Superannuation Guarantee charge 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.

23. Disputes and Grievances

Individual Employee Grievances

An individual employee grievance must initially be dealt with as close to its source as possible.

The employee having a grievance is to notify the immediate supervisor and the supervisor shall attempt to resolve the grievance in the first place.

If the grievance cannot be resolved at this level within 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.

At the conclusion of these discussions the employer 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.

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.

Reasonable time shall be allowed for each part of the procedure.

At all times whilst a grievance is being resolved normal work will continue.

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.

Questions, disputes or difficulties shall be dealt with in accordance with *the Industrial Relations Act, 1996*.

DECLARATION

The parties to this Agreement declare by their signatures below that they have entered into this Agreement of their own volition and without duress.

SI GNED for and on behalf
of CONCRITE PTY LTD

In the presence of:

(name)

(name)

(signature)

(signature)

Date: 1 / 12 / 03

Date: 1 / 12 / 03

SIGNED for and on behalf of
TRANSPORT WORKERS UNION
OF AUSTRALIA (NSW) BRANCH

In the presence of:

(name)

(name)

(signature)

(signature)

Date: 26 / 11 / 03

Date: 26 / 11 / 03

APPENDIX A - APPLICABLE AWARD CONDITIONS

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.

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, sex, 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."

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:

Number of day(s) absent during cycle x 0.4 hours x Weekly Wage Rate

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.

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.

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.

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.

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.

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.

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.

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.