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## MISCELLANEOUS WORKERS HOME CARE INDUSTRY (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Liquor, Hospitality and Miscellaneous Union, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 2746 of 2006)

Before Commissioner McLeay

11 August 2006

### VARIATION

1. Delete the first paragraph appearing in clause 5, Wage Rates, of the award published 4 August 2000 (317 I.G. 618), and insert in lieu thereof the following:

The rates of pay in this award include the adjustments payable under the State Wage Case of 2006. These adjustments may be offset against:

- (A) any equivalent overaward payments; and/or
  - (B) award wage increases since 29 May 1991, other than safety net, State Wage Case, and minimum rates adjustments.
2. Delete Part B, Monetary Rates, and insert in lieu thereof the following:

### PART B

#### MONETARY RATES

**Table 1 - Wage Rates**

Classification	Former rate per week \$	SWC June 2006 \$	Total Rate per week \$
Field Staff Grade 1	549.00	20.00	569.00
Field Staff Grade 2	572.00	20.00	592.00
Field Staff Grade 3	608.00	20.00	628.00
Live-in Houseworker Grade 1*	713.70	-	739.70
Live-in Houseworker Grade 2*	800.80	-	828.80
Live-in Houseworker Grade 3*	943.90	-	974.97

\*For part-time and casual rates refer clause 7 (iii) and 8 (ii) of the award. Wage totals for Live-in Houseworker rates include the All Incidents Loading per clause 5 (iv) (d) of the award which is reflected in the total rate. The Live-In Houseworker Grade 3 rate also includes a 3.5% special loading which is also reflected in the wage total.

**Table 2 - Other Wage Rates**

Rate	Field Staff Grade 1 \$	Field Staff Grade 2 \$	Field Staff Grade 3 \$
Part-time minimum daily payment - hourly rate	14.97	15.58	16.53
Casual per hour includes 20% loading	17.97	18.69	19.83
Composite per hour includes 20%	17.97	18.69	19.83
Composite casual per hour includes 20% plus 20%	21.56	22.43	23.80

**Table 3 - Other Rates and Allowances**

Item No.	Clause No.	Brief Description	Amount \$
1	9(ii)	Shift Allowance	6.83 for each break in the shift
2	13(ii)	Sleep Over Allowance	35.87 per night
3	16	Meal Money (overtime)	8.70
4	29(i)(a)	Vehicle Allowance	0.67 per kilometre

3. This variation shall take effect from the beginning of the first full pay period to commence on or after 30 August 2006.

J. McLEAY, Commissioner.

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**AERATED WATERS, &c. (STATE) AWARD**INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Liquor, Hospitality and Miscellaneous Union, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 513 of 2006)

Before The Honourable Justice Walton, Vice-President  
The Honourable Justice Boland  
Commissioner Tabbaa

23 March 2006

**VARIATION**

1. Delete subclause (i) of clause 10, Holidays and Sundays of the award published 22 February 2002 (331 I.G. 498), and insert in lieu thereof the following:
  - (i) For the purpose of this award the days generally observed as the following shall be holidays:  
  
New Year's Day, Anniversary Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Eight Hour Day, the third Monday in February, Sovereign's Birthday, Christmas Day, Boxing Day, and any other day or days proclaimed or gazetted as public holidays for the state.
2. Delete subclause (vii) of clause 10, and insert in lieu thereof the following:
  - (vii) An employer and an employee, or an employer and the majority of employees in an establishment, may agree to observe an alternative day as a holiday, in lieu of the third Monday in February.
3. This variation shall take effect on and from 23 March 2006.

M. J. WALTON *J, Vice-President.*  
R. P. BOLAND *J.*  
I. TABBAA, Commissioner.

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## AGRICULTURAL, PASTORAL OR HORTICULTURAL SOCIETY'S SHOW (STATE) AWARD

### INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Shop, Distributive and Allied Employees' Association, New South Wales, Industrial Organisation of Employees.

(No. IRC 1150 of 2006)

Before The Honourable Justice Schmidt

10 March 2006

### VARIATION

1. Insert in numerical order in clause 1, Arrangement, of the award published 27 October 2000 (319 I.G. 838), the following new clause number and subject matter:

7A. Secure Employment - Occupational Health and Safety

2. Insert after clause 7, Hours, the following new clause:

#### **7A. Secure Employment - Occupational Health and Safety**

- (a) Occupational Health and Safety

- (i) For the purposes of this subclause, the following definitions shall apply:

- (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
- (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.

- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):

- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
- (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.



- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (b) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (c) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from 10 March 2006.

M. SCHMIDT J

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## **AMBULANCE SERVICE OF NEW SOUTH WALES ADMINISTRATIVE AND CLERICAL EMPLOYEES (STATE) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by New South Wales Local Government, Clerical, Administrative, Energy, Airlines & Utilities Union, Industrial Organisation of Employees.

(No. IRC 1306 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

21 March 2006

### **VARIATION**

1. Insert after subclause (c), of clause 18, Flexible Work Practices, of the award published 25 May 2001 (324 I.G. 1210), the following new subclause:

(d) Secure Employment

(i) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

(ii) Casual Conversion

- (a) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (b) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (c) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall

be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (d) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (e) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (f) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (g) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (h) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (iii) Occupational Health and Safety
- (a) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific

outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.

- (b) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
  - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (c) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (iv) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (v) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

3. This variation shall take effect from the 21 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

(010)

**SERIAL C4441**

## **ANIMAL FOOD MAKERS, &c. (STATE) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by National Union of Workers, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 755 of 2006)

Before The Honourable Justice Walton, Vice-President

26 February 2006

### **VARIATION**

1. Delete the words "Union Picnic Day" in subclause (a) of clause 17 Public Holidays, of the award published 1 June 2001 (325 I.G. 112) and insert in lieu thereof the following:  
  
"the Tuesday following Easter Monday"
2. Delete subclause (b) of clause 17 public Holidays, and insert in lieu thereof the following:  
  
(b) In relation to the holiday to be taken on the Tuesday following Easter Monday, the employer and the employees in any establishment may by agreement substitute another day to be taken as a holiday in lieu of this day.
3. This variation shall take effect from 6 March 2006.

M. J. WALTON *J, Vice-President.*

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## **ANIMAL WELFARE, GENERAL (STATE) AWARD**

### INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Australian Liquor, Hospitality and Miscellaneous Workers Union, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 991 of 2006)

Before The Honourable Mr Justice Staff

17 March 2006

### **VARIATION**

1. Delete subclause (i) of clause 8, Holidays of the award published 23 February 2001 (322 I.G. 531) and insert in lieu thereof the following:
  - (i) The days on which New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Eight-hour Day, Christmas Day and Boxing Day are observed, and all other days proclaimed as public holidays throughout the State, and the first Monday in August each year, or another day mutually agreed to between the employer and the employee, shall be holidays and employees not required to work on a holiday shall be paid for the holidays, even though not worked, at the ordinary rates of pay prescribed by clause 6, Wages. An employee required to work on a holiday shall be paid for such work at the rate of double time and one-half, with a minimum payment of four hours at such rate.
2. This variation shall take effect on and from 17 March 2006.

C. G. Staff *J.*

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## **AUSTRALIAN JOCKEY CLUB HOSPITALITY EMPLOYEES AWARD 2004**

### **INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES FULL BENCH**

Application by Liquor, Hospitality and Miscellaneous Union, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 513 of 2006)

Before The Honourable Justice Walton, Vice-President  
The Honourable Justice Boland  
Commissioner Tabbaa

23 March 2006

### **VARIATION**

1. Delete Clause 11, Public Holidays of the award published 8 April 2005 349 (I.G. 1014) and insert in lieu thereof the following:

#### **11. Public Holidays**

- (i) Holidays shall mean New Years Day, Australia Day, the third Monday in February, Good Friday, Easter Saturday, Easter Monday, Queens Birthday, Eight Hour Day, Anzac Day, Christmas Day, Boxing Day, or such other day as is generally observed in the locality as a substitute for any of the said days respectively.
  - (ii) Where an additional public holiday is proclaimed or gazetted by the authority of the State Government and such proclaimed or gazetted holiday is to be observed generally by persons throughout the State, or when such a proclaimed or gazetted day is, by any required judicial or administrative order, to be so observed, then such day shall be deemed to be a holiday for the purposes of the award.
2. This variation shall take effect on and from 23 March 2006.

M. J. WALTON *J, Vice-President.*  
R. P. BOLAND *J.*  
I. TABBAA, Commissioner.

**AUSTRALIAN MUSIC EXAMINATIONS BOARD (NEW SOUTH WALES) EXAMINERS, ASSESSORS AND ADVISERS EMPLOYED BY THE OFFICE OF THE BOARD OF STUDIES AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by New South Wales Teachers Federation, Industrial Organisation of Employees.

(No. IRC 1334 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

21 March 2006

**VARIATION**

1. Insert in numerical order in clause 1, Arrangement of the award published 8 September 2006 (360 I.G. 959) the following new clause 25, and renumber existing clause 25 to read as 26.

25. Secure Employment

2. Insert after clause 24, Termination of Services, the following new clause:

**25. Secure Employment**

- a. Occupational Health and Safety

- i. For the purposes of this subclause, the following definitions shall apply:

1. A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    2. A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.

- ii. If the employer engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises, the employer shall do the following (either directly, or through the agency of the labour hire or contract business):

1. consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
      2. provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;



3. provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  4. ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- iii. Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- b. Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- c. This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. Renumber clause 25 "Area, Incidence and Duration" to read as clause 26 "Area, Incidence and Duration".
  4. This variation shall take effect from the 21 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

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**BARTTER ENTERPRISES STEGGLES FOODS PRODUCTS PTY  
LIMITED BERESFIELD SITE OPERATIONS AMIEU INTEGRATED  
AWARD 2005-2008**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by The Australasian Meat Industry Employees' Union, Newcastle and Northern Branch, Industrial Organisation of Employees.

(No. IRC 1740 of 2006)

Before Commissioner Tabbaa

24 March 2006

**VARIATION**

1. Insert in alphabetical order in the Arrangement of the award published 20 January 2006 (356 I.G. 375) the following new clause number and subject matter:

9A. Secure Employment

2. Insert after clause 9, Contract of Employment -All Employees, the following new clause:

**9A. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 24 March, 2006.

I. TABBAA, Commissioner

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## **BISCUIT AND CAKE MAKERS (STATE) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by National Union of Workers, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 756 of 2006)

Before The Honourable Justice Walton, Vice-President

26 February 2006

### **VARIATION**

1. Delete subclause (iv) of clause 8, Public Holidays of the award published 15 February 2002 (331 I.G. 254) and insert in lieu thereof the following:
  - (iv) Employees shall be entitled to an additional holiday on the first Tuesday following Easter Monday in each year. An employer and an employee, or an employer and the majority of employees in an establishment may agree to observe an alternative day as a holiday in lieu of the first Tuesday following Easter Monday.
2. This variation shall take effect from 6 March 2006.

M. J. WALTON J, *Vice-President*

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## **BOOTMAKERS AND HEEL BAR OPERATIVES, &c. (STATE) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Shop, Distributive and Allied Employees' Association, New South Wales, Industrial Organisation of Employees.

(No. IRC 1034 of 2006)

Before The Honourable Justice Walton, Vice-President  
The Honourable Justice Boland  
Commissioner Tabbaa

21 March 2006

### **VARIATION**

1. Delete clause 19 Public Holidays, of the said award published 31 August 2001 (327 I.G. 428), and insert in lieu thereof the following:

#### **19. Public Holidays**

- (a) All weekly employees shall be entitled to the holidays hereinafter mentioned or any day observed in lieu thereof without deduction of pay:

New Year's Day; Australia Day; Good Friday; Easter Saturday; Easter Monday; Labour Day; Anzac Day; Queen's Birthday; Christmas Day; Boxing Day.

Whenever Christmas Day and Boxing Day or New Year's Day falls on a Saturday or Sunday the working day or days immediately following shall be observed in lieu thereof.

- (b) In addition to the holidays prescribed in (a) above, weekly employees shall be entitled to an additional holiday without loss of pay which shall be the "August Bank Holiday".

Where an establishment remains open on the August Bank Holiday and an employee volunteers to work on that day, such employee shall be given either: an additional day off within 28 days or a day added to Annual Leave, or an additional day's pay to be decided by mutual agreement between the employer and employee.

An employer and an employee, or an employer and the majority of employees in an establishment, may agree to observe an alternative day as a holiday in lieu of the August Bank Holiday.

- (c) An employee absent without leave on the day before or the day after any award holiday, shall be liable to forfeit wages for the day of absence as well as for the holiday, except where an employer is satisfied that the employee's absence was caused through illness, in which case wages shall not be forfeited for the holiday. Provided that an employee absent on one day only, either before or after a group of holidays, shall forfeit wages only for one holiday as well as for the period of absence.
- (d) All work performed on the holidays named in subclause (a) of this clause shall be paid for at the rate of double time and a half.
- (e) In a workshop or factory when an employee's services are terminated by the employer other than for malingering, inefficiency, neglect of duty or misconduct, in a period not exceeding one week before the day the establishment closes down for the Christmas period, the employee shall receive payment for the three public holidays, namely Christmas Day, Boxing Day and New Year's Day, on the same basis as if he/she were still in the employ of the employer.

- (f) In a workshop or factory when an employee's services are terminated by the employer other than for malingering, inefficiency, neglect of duty or misconduct, in a period not exceeding one week before Good Friday, the employee shall receive payment for Good Friday, Easter Saturday and Easter Monday on the same basis as if he/she were still in the employ of the employer.
2. This variation shall take effect from 21 March 2006.

M. J. WALTON *J, Vice-President.*  
R. P. BOLAND *J.*  
I. TABBAA, Commissioner.

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## **BOOTMAKERS AND HEEL BAR OPERATIVES, &c. (STATE) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Shop, Distributive and Allied Employees' Association, New South Wales, Industrial Organisation of Employees.

(No. IRC 1150 of 2006)

Before The Honourable Justice Schmidt

10 March 2006

### **VARIATION**

1. Insert in numerical order in Clause 1 Arrangement of the award published 31 August 2001 (327 I.G. 428), as varied, the following new clause number and subject matter:

#### **4A. Secure Employment**

2. Insert after Clause 4, Monetary Rates, the following new clause:

#### **4A. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.



- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the Industrial Relations Act 1996 (NSW).

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the Occupational Health and Safety Act 2000 or the Workplace Injury Management and Workers Compensation Act 1998.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the Apprenticeship and Traineeship Act 2001 (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This order shall take effect from 10 March 2006.

M. SCHMIDT *J*

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## BRADFIELD COLLEGE (DEPARTMENT OF EDUCATION AND TRAINING) SALARIES AND CONDITIONS AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by New South Wales Teachers Federation, Industrial Organisation of Employees.

(No. IRC 1329 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

21 March 2006

### VARIATION

1. Insert in numerical order in clause 1, Arrangement of the award published 23 December 2005 (355 I.G. 614) the following new clause 25, and renumber existing clause 25 to read as clause 26.

#### 25. Secure Employment

2. Insert after clause 24, Deduction of Union Membership Fees, the following new clause:

#### **25. Secure Employment**

- a. Occupational Health and Safety
  - i. For the purposes of this subclause, the following definitions shall apply:
    1. A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    2. A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - ii. If the employer engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises, the employer shall do the following (either directly, or through the agency of the labour hire or contract business):
    1. consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
    2. provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;

3. provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  4. ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- iii. Nothing in this subclause (a) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- b. Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- c. This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. Renumber existing Clause 25, Area, Incidence and Duration, to read as Clause 26. Area, Incidence and Duration.
  4. This variation shall take effect from the 21 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

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## **BREWERIES (STATE) AWARD**

### INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES FULL BENCH

Application by Liquor, Hospitality and Miscellaneous Union, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 513 of 2006)

Before The Honourable Justice Walton, Vice-President  
The Honourable Justice Boland  
Commissioner Tabbaa

23 March 2006

### **VARIATION**

1. Delete the first paragraph in clause 9, Public Holidays of the award published 30 November 2001 (329 I.G. 1032), and insert in lieu thereof the following:

The days on which the following days are ordinarily observed shall be public holidays: New Year's Day, Australia Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Eight Hour Day, Christmas Day, Boxing Day, the third Monday in February each year shall be a holiday for the purpose of this clause and all other gazetted holidays observed throughout the State.

An employer and an employee, or an employer and the majority of employees in an establishment, may agree to observe an alternative day as a holiday in lieu of the third Monday in February.

2. This variation shall take effect on and from the full pay period on or after 23 March 2006.

M. J. WALTON *J. Vice-President.*  
R. P. BOLAND *J.*  
I. TABBAA, Commissioner.

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(074)

SERIAL C4996

## **BUTCHERS' WHOLESALE (NEWCASTLE AND NORTHERN) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by The Australasian Meat Industry Employees' Union, Newcastle and Northern Branch, Industrial Organisation of Employees.

(No. IRC 1740 of 2006)

Before Commissioner Tabbaa

24 March 2006

### **VARIATION**

1. Insert after paragraph 7.3.3 of clause 7, Employment Categories of the award published 2 March 2001 (322 I.G. 727) the following new paragraph:

#### 7.3.4 Secure Employment

(a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

(b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.

- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.

(c) Occupational Health and Safety

- (i) For the purposes of this subclause, the following definitions shall apply:
  - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
  - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
  - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
  - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;

- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
2. This variation shall take effect from the 24 March, 2006

I. TABBAA, Commissioner

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(075)

SERIAL C4995

## **BUTTER & CHEESE AND OTHER DAIRY PRODUCTS (NEWCASTLE AND NORTHERN) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by The Australasian Meat Industry Employees' Union, Newcastle and Northern Branch, Industrial Organisation of Employees.

(No. IRC 1740 of 2006)

Before Commissioner Tabbaa

24 March 2006

### **VARIATION**

1. Insert in numerical order in clause 1, Arrangement of the award published 26 October 2001 (328 I.G. 1087), the following new clause number and subject matter:

**23A. Secure Employment**

2. Insert after clause 23, Terms of Employment, the following new clause:

**23A. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 24 March, 2006.

I. TABBAA, Commissioner

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(080)

SERIAL C4775

**CANTEEN, &c., WORKERS (STATE) AWARD**INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Liquor, Hospitality and Miscellaneous Union, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 1315 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

14 March 2006

**VARIATION**

1. Insert in alphabetical order in clause 1, Arrangement, of the award published 17 March 2000 (314 I.G. 155), the following new clause and subject matter:

20A. Secure Employment (Occupational Health and Safety)

2. Insert after subclause 10.4, of clause 10, Casual Employees, the following new subclause:

## 10.5 Secure Employment

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of twelve months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of twelve months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee

concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Disputes Regarding the Application of this Clause

Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.

- (d) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

3. Insert after clause 20, Work Clothes and Safety Equipment, the following new clause:

**20A. Secure Employment (Occupational Health and Safety)**

- (i) For the purposes of this subclause, the following definitions shall apply:
- (a) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
- (b) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
- (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
4. This variation shall take effect from the 14 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

(210)

SERIAL C5100

**CASINO CONTROL AUTHORITY - CASINO INSPECTORS  
(TRANSFERRED FROM DEPARTMENT OF GAMING AND RACING)  
AWARD 2004**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales, Industrial Organisation of Employees.

(No. IRC 1431 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

21 March 2006

**VARIATION**

1. Insert in numerical order in the Arrangement of the award published 17 September 2004 (346 I.G. 430), the following clause number and subject matter:

14A. Secure Employment

2. Insert after clause 14, Deduction of Union Membership Fees, the following new clause:

**14A. Secure Employment**

- (a) Occupational Health and Safety

- (i) For the purposes of this subclause, the following definitions shall apply:

- (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
- (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.

- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):

- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;

- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (b) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (c) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 21 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

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**CATERERS EMPLOYEES (STATE) AWARD**INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Liquor, Hospitality and Miscellaneous Union, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 513 of 2006)

Before The Honourable Justice Walton, Vice-President  
The Honourable Justice Boland  
Commissioner Tabbaa

23 March 2006

**VARIATION**

1. Delete subclause 12.1 of clause 12, Public Holidays of the award published 13 July 2001 (326 I.G. 78) and insert in lieu thereof the following:
  - 12.1 Public holidays are New Year's Day, Good Friday, Easter Saturday, Easter Monday, Christmas Day, Boxing Day and the days on which Australia Day, Anzac Day, Queen's Birthday and Labour Day are observed as public holidays. The third Monday in February of each year shall be a holiday for the purpose of this clause.
2. Insert after paragraph 12.1.2 of clause 12, the following new paragraph:
  - 12.1.3 An employer and an employee, or an employer and the majority of employees in an establishment, may agree to observe an alternative day as a holiday in lieu of the third Monday in February.
3. This variation shall take effect on and from the first full pay period on or after 23 March 2006.

M. J. WALTON *J, Vice-President.*  
R. P. BOLAND *J.*  
I. TABBAA, Commissioner.

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**CATERERS EMPLOYEES (STATE) AWARD**INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Liquor, Hospitality and Miscellaneous Union, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 1315 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

14 March 2006

**VARIATION**

1. Insert in alphabetical order in the Arrangement of the award published 13 July 2001 (326 I.G. 784, the following new clause number and subject matter:

22A. Secure Employment (Occupational Health and Safety)

2. Insert after subclause 8.6, of clause 8, Casual Employees, the following new subclause:

8.7 Secure Employment

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of twelve months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of twelve months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee

concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Disputes Regarding the Application of this clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (d) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

3. Insert after clause 22, Work Clothes and Safety Equipment, the following new clause:

**22A. Secure Employment (Occupational Health and Safety)**

Occupational Health and Safety

- (i) For the purposes of this subclause, the following definitions shall apply:
- (a) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
- (b) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
- (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
4. This variation shall take effect from the 14 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

## CATERERS EMPLOYEES (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by NSW Department of Education and Training.

(No. IRC 2404 of 2006)

Before The Honourable Justice Wright, President

30 May 2006

### VARIATION

1. Insert after paragraph 8.7 (d), of clause 8, Casual Employees, of the award published 13 July 2001 (326 I.G. 784, the following new paragraph:
  - (e) Exemption

The abovementioned casual conversion clause will not apply to persons who:

    - (i) perform work pursuant to the *Technical and Further Education Commission Act 1990*.
2. This variation shall take effect from the 14 March 2006.

F. L. WRIGHT J, *President*

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## CLEANING AND BUILDING SERVICES CONTRACTORS (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Summons to show cause - Commission on its own initiative pursuant to Part 3 of Chapter 2 of the *Industrial Relations Act 1996*.

(No. IRC 6779 of 2005)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
Mr Deputy President Sams  
Commissioner Tabbaa

9 March 2006

### VARIATION

1. Delete subclause (v) of clause 12, Part-time Employees of the award published 24 March 2006 (358 I.G. 502), and insert in lieu thereof the following:
  - (v) Second Engagement for Full-time Employees at the Part-time Rate - After the cessation of ordinary hours of work, a full-time employee may be engaged on a second engagement as a part-time employee with the same employer on the following basis:
    - (a) The second engagement as a part-time employee shall be a separate engagement from the employees full-time position and will attract and be paid all award and statutory entitlements.
    - (b) Termination of employment in either engagement shall not prejudice employment in the other engagement.
    - (c) The hours of work in the part-time second engagement shall, as far as possible, be continuous with the cessation of the ordinary hours of work as a full-time employee.
    - (d) The part-time second engagement shall be for a constant number of ordinary hours per week less than the ordinary number of hours prescribed for full-time employees in subclause (ii) of clause 3, Definitions.
    - (e) Full-time employees working extended ordinary hours in accordance with subclause (ii) of clause 5, Hours, shall not be engaged on a second engagement as a part-time employee, and are excluded from the provisions of this subclause.
    - (f) Where a full-time employee is requested by the employer to be engaged on a second engagement under the provisions of this subclause, then that engagement shall be entered into by the employee on a strictly voluntary basis. The hours worked in respect of the second engagement shall be paid at the ordinary rate for a part-time employee, and shall not form part of the ordinary hours of work of a full-time employee.

2. This variation shall take effect from 9 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
P. J. SAMS *D.P.*  
I. TABBAA, Commissioner.

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(116)

SERIAL C4474

## CLEANING AND BUILDING SERVICES CONTRACTORS (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Liquor, Hospitality and Miscellaneous Union, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 1512 of 2006)

Before The Honourable Justice Walton, Vice-President  
The Honourable Justice Boland  
Commissioner Tabbaa

22 March 2006

### VARIATION

1. Delete clause 18, Public Holidays, of the award published 24 March 2006 (358 I.G. 502) and insert in lieu thereof the following:

#### 18. Public Holidays

- (i) The following holidays shall be observed: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Eight Hour Day, Christmas Day and Boxing Day and any day which may hereafter be proclaimed as a public holiday throughout the State, and an additional public holiday, which may be held on the first Monday in August each year, or any other day by agreement between the employer and the majority of employees, or the employer and any individual employee.

Where a substituted day is proclaimed or gazetted to replace any of the above days, the substituted day shall be the public holiday in lieu of the original day.

- (ii) For employees other than those engaged pursuant to the New South Wales Government Sites Cleaning Contracts, the additional public holiday shall be held as follows:
  - (a) An employer may substitute an alternative Monday or Friday within a six-month period of the first Monday in August as an alternative additional holiday, provided that the employees are notified in writing as at the first Monday in August of the date of such alternative day and, provided further, where an employees employment is terminated and the employee has not taken an alternative day, the employee shall be paid an additional day's pay on termination of employment.
  - (b) Where another day is observed as a holiday by the general body of workers in any building or establishment where the employee is usually employed, then such day shall be substituted for the additional public holiday for such employees not required to work in that building or establishment on that day.
- (iii) For employees engaged pursuant to the New South Wales Government Sites Cleaning Contracts the date the additional holiday is to be taken at the various sites shall be agreed between the employer and the majority of employees by December of the year before the additional day is due to be taken.
- (iv) Full-time and part-time employees shall be entitled to the above holidays without loss of pay.
- (v) Employees shall be paid at the rate of double time and one half for all time worked on the above public holidays, with a minimum payment of three hours, except where the provisions of paragraphs (a) or (b)



of subclause (iii) of clause 12, Part-time Employees, applies, in which case a minimum of two hours shall apply.

- (vi) Except where a full-time or part-time employee is dismissed for serious and wilful misconduct, such an employee whose services are terminated by notice given by an employer to expire ten days or less before a public holiday or a group of public holidays, shall be entitled to be paid for such holiday or group of holidays in accordance with subclauses (i) and (ii) of this clause.
- (vii) Seven-day Shift Workers -
  - (a) Where a public holiday occurs on a rostered day off of a seven-day shift worker, other than an RDO given pursuant to the provisions of clause 6, Rostered Days Off (RDO), and:
    - (1) Such employee is not required to work on that day, the employer shall add an additional day's pay to the employees weekly wage in respect of such day.
    - (2) The employer may, in lieu of the payment prescribed in subparagraph (1) of this paragraph, add a day to the employees annual leave.
    - (3) The provisions of this clause shall not apply to a part-time weekend employee as defined in subclause (iii) of clause 3, Definitions.
    - (4) The provisions of subparagraphs (i) and (ii) of this paragraph shall not apply to employees engaged on a non-rotating roster.

2. This variation shall take effect on and from 22 March 2006.

M. J. WALTON *J. Vice-President.*  
R. P. BOLAND *J.*  
I. TABBAA, Commissioner.

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**CLERICAL AND ADMINISTRATIVE EMPLOYEES (STATE) AWARD**INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by New South Wales Local Government, Clerical, Administrative, Energy, Airlines & Utilities Union, Industrial Organisation of Employees.

(No. IRC 1306 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

21 March 2006

**VARIATION**

1. Insert after subclause 4.2 of clause 4, Terms of Engagement, of the award published 17 March 2006 (358 I.G. 69), the following new subclause:

- 4.3 Secure Employment

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
    - (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
    - (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.

- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
  - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

2. This variation shall take effect from the 21 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

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**CLUB EMPLOYEES (STATE) AWARD**INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Liquor, Hospitality and Miscellaneous Union, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 513 of 2006)

Before The Honourable Justice Walton, Vice-President  
The Honourable Justice Boland  
Commissioner Tabbaa

23 March 2006

**VARIATION**

1. Delete paragraph 16.1.1 of subclause 16.1 of clause 16, Public Holidays - All Employees, of the award published 26 November 2004 (347 I.G. 431), and insert in lieu thereof the following:
  - 16.1.1 The day or days upon which the following Holidays fall, or the days on which such Holidays are observed, shall be Holidays for the purpose of this award: New Year's Day, Australia Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Eight Hour Day, Christmas Day, Boxing Day, the third Monday in February of each year shall be a holiday for the purpose of this clause, and any other day or days proclaimed or gazetted as Public Holidays for the State.
2. Insert after paragraph 16.1.7 of clause 16, the following new paragraph:
  - 16.1.8 An employer and an employee, or an employer and the majority of employees in an establishment, may agree to observe an alternative day as a holiday in lieu of the third Monday in February.
3. This variation shall take effect on and from the first full pay period on or after 23 March 2006.

M. J. WALTON *J, Vice-President.*  
R. P. BOLAND *J.*  
I. TABBAA, Commissioner.

## CLUB EMPLOYEES (STATE) AWARD

### INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES FULL BENCH

Application by Liquor, Hospitality and Miscellaneous Union, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 1315 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

14 March 2006

### VARIATION

1. Insert in numerical order in the Table of Provisions of the award published 26 November 2004 (347 I.G. 431), the following new clause and subject matter:

45B. Secure Employment (Occupational Health and Safety)

2. Insert after subclause 9.17, of clause 9, Existing Employees, the following new subclause:

9.18 Secure Employment,

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of twelve months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of twelve months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee

concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Disputes Regarding the Application of this Clause

Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.

- (d) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

3. Insert after subclause 10.3, of clause 10, New Employees, the following new subclause:

10.4 Secure Employment

(a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

(b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of twelve months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of twelve months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
- (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award



pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.

(c) Disputes Regarding the Application of this Clause

Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.

- (d) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

4. Insert after clause 45A, Deduction of Union Membership Fees, the following new clause:

**45B. Secure Employment (OH&S)**

Occupational Health and Safety

- (i) For the purposes of this subclause, the following definitions shall apply:
  - (a) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
  - (b) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
  - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

- (2) provide employees of the labour hire business and/or Contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
5. This variation shall take effect from the 1 June 2006.

The Honourable Justice Wright, President  
M. J. WALTON *J. Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

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## **COLD STORAGE AND ICE EMPLOYEES (NORTHUMBERLAND) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by The Australasian Meat Industry Employees' Union, New South Wales Branch

(No. IRC 1740 of 2006)

Before Commissioner Tabbaa

24 March 2006

### **VARIATION**

1. Insert in numerical order in the Arrangement of the award published 20 July 2001(326 I.G. 216) the following new clause number and subject matter:

#### **21A. Secure Employment**

2. Insert after clause 21, Terms of Employment, the following new clause:

#### **21A. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.

- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
    - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;

- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect on and from the 24 March, 2006.

I. TABBAA, Commissioner

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**COMMERCIAL TRAVELLERS, &c. (STATE) AWARD**INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by National Union of Workers, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 1289 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

14 March 2006

**VARIATION**

1. Insert in numerical order in the Arrangement in Part IV - General, of the award published 9 November 2001 (329 I.G. 329) the following new clause number and subject matter:

28A. Secure Employment

2. Insert after clause 28, Casual Wholesale Merchandisers, the following new clause:

**28A. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 10 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

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**COMMUNITY PHARMACY (STATE) AWARD 2001**INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Shop, Distributive and Allied Employees' Association, New South Wales, Industrial Organisation of Employees.

(No. IRC 1034 of 2006)

Before The Honourable Justice Walton, Vice-President  
The Honourable Justice Boland  
Commissioner Tabbaa

21 March 2006

**VARIATION**

1. Delete clause 31 Public Holidays, of the award published 21 December 2001 (330 I.G. 597), and insert in lieu thereof the following:

**31. Public Holidays****31.1 Public Holidays**

- 31.1.1 Full-time and part-time employees shall be entitled, without loss of pay, to holidays on the following days:
- (a) New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day, Boxing Day; and
  - (b) The first Tuesday in November, or on any other day mutually agreed to between the employer and the employee; and
  - (c) any other day proclaimed as a public holiday for the State shall be holidays provided that any day proclaimed as a holiday for the State for a special purpose but observed throughout the State on different days also shall be a holiday.
- 31.1.2 Any work performed on a day specified in subclause 31.1.1 shall be paid at the Public Holidays rate of pay in accordance with subclause 19.6.
- 31.1.3 When Christmas Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on 27 December.
- 31.1.4 When Boxing Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on 28 December.
- 31.1.5 When New Year's Day or Australia Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on the next Monday.
- 31.1.6 An employer, with the agreement of the Union, may substitute another day for any prescribed in this clause.
- 31.1.7 An employer and his or her employees may agree to substitute another day for any prescribed in this clause. For this purpose, the consent of the majority of affected employees shall constitute agreement.
- 31.1.8 An agreement pursuant to 31.1.6 shall be recorded in writing and be available to every affected employee.

- 31.1.9 The Union shall be informed of an agreement pursuant to 31.1.6 and may within seven days refuse to accept it. The Union will not unreasonably refuse to accept the agreement.
- 31.1.10 If the Union, pursuant to 31.1.9, refuses to accept an agreement, the parties will seek to resolve their differences to the satisfaction of the employer, the employees, and the Union.
- 31.1.11 If no resolution is achieved pursuant to 31.1.10, the employer may apply to the Industrial Relations Commission of New South Wales for approval of the agreement reached with his or her employees. Such an application must be made fourteen or more days before the prescribed holiday. After giving the employer and the Union opportunity to be heard, the said Commission will determine the application.
- 31.2 Full-Time Employees Who Do Not Regularly Work A Five-Day, Monday - Friday Week
- 31.2.1 Such an employee will not be disadvantaged by the fact that a prescribed holiday falls upon a day when the employee would not be working. The appropriate compensation is:
- (a) An alternative "day off"; or
  - (b) An addition of one day to annual leave; or
  - (c) An additional day's wages.
- 31.2.2 Where a full-time employee normally works on Saturdays and/or Sundays and a public holiday falls on the weekend and is the subject of a substitution provision, the employee shall either:
- (a) Have the "actual" day off without loss of pay, with no additional entitlement to the substitute day; or
  - (b) If required to work on the "actual" day, be paid the normal Saturday or Sunday rate and be entitled to the substitute day, or if the substitute day falls on the employee's normal "day off", an alternative day off (as per subclause 30.2.1 above).
  - (c) If required to work on both the "actual" day and the substitute day be paid the normal Saturday or Sunday rate for work on the "actual" day and in recognition of the work performed on the substitute day receive either:
    - (i) An alternative "day off"; or
    - (ii) An addition of one day to annual leave; or
    - (iii) Payment of public holiday rates for the day's work.
- 31.2.3 For the purpose of this subclause "an alternative day off", "an addition of one day to annual leave" or "an additional days' wages" shall mean 7.6 hours.
- 31.2.4 Full-time employees who do not work a five day week should get the hours that they work and 7.6 hours where holidays fall on days they do not work.
- 31.3 Non-Casual Part-Time Employees
- 31.3.1 Where the normal roster of a part-time employee includes a day which is a holiday the employee should either enjoy the holiday without loss of pay or receive the appropriate public holiday rate for working on it.
- 31.3.2 Where a part-time employee normally works on Saturdays and/or Sundays and a public holiday falls on the weekend and is the subject of a substitution provision, the employee shall either:

- (a) Have the "actual" day off without loss of pay, with no additional entitlement to the substitute day; or
- (b) If required to work on the "actual" day, be paid at the normal Saturday or Sunday rate and be entitled to take another day, which may or may not be the prescribed substitute day, as a holiday or receive payment at ordinary-time rates for an additional day of equal length.

31.3.3 A part-time employee who works an average five days per week, but whose roster is not a regular Monday to Friday roster, will not be disadvantaged by the fact that a prescribed holiday falls upon a day when the employee would not be working. The appropriate compensation is:

- (a) An alternative "day off"; or
- (b) An addition of one day to annual leave; or
- (c) An additional day's wages.

For the purposes of this subclause 'day off' shall mean the average number of hours rostered per day by the employee in the four week cycle prior to the public holiday.

#### 31.4 When Christmas Falls On A Saturday Or Sunday

Permanent full-time and part-time employees required to work on 25 December shall receive the Saturday or Sunday rate (as appropriate) plus a loading of 50 per cent (of the ordinary time rate) and be entitled to the benefit of a substitute day.

#### 31.5 Casual Employees

No special provisions apply to substitute days.

#### 31.6 Time Off in Lieu of Payment for Penalty Rates

Where an employer and employee agree time off at the penalty equivalent, or any part of it, may be taken in lieu of penalty payments for Public Holidays only. Provided that such time off is taken within 28 days or is accumulated and added to the period of annual leave.

- 2. This variation shall take effect from 21 March 2006.

M. J. WALTON *J. Vice-President.*  
R. P. BOLAND *J.*  
I. TABBAA, Commissioner.

**COMMUNITY PHARMACY (STATE) AWARD 2001**

## INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Shop, Distributive and Allied Employees' Association, New South Wales, Industrial Organisation of Employees.

(No. IRC 1150 of 2006)

Before The Honourable Justice Schmidt

10 March 2006

**VARIATION**

1. Insert in numerical order in clause 2, Arrangement of the award published 21 December 2001 (330 I.G. 597), the following new clause number and subject matter:

10A. Secure Employment.

2. Insert after clause 10, Terms of Employment the following new clause:

**10A. Secure Employment****10A.1 Objective of this Clause**

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

**10A.2 Casual Conversion**

10A.2.1 A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.

10A.2.2 Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.

10A.2.3 Any casual employee who has a right to elect under paragraph 10A.2.1, upon receiving notice under paragraph 10A.2.2 or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

10A.2.4 Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time

employment or part-time employment will be deemed to have elected against any such conversion.

10A.2.5 Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.

10A.2.6 If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph 10A.2.3, the employer and employee shall, in accordance with this paragraph, and subject to paragraph 10A.2.3, discuss and agree upon:

- (a) whether the employee will convert to full-time or part-time employment; and
- (b) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

10A.2.7 Following an agreement being reached pursuant to paragraph 10A.2.6, the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

10A.2.8 An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.

### 10A.3 Occupational Health and Safety

10A.3.1 For the purposes of this subclause, the following definitions shall apply:

- (a) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
- (b) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.

10A.3.2 Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):

- (a) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

- (b) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
- (c) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
- (d) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.

10A.3.3 Nothing in this subclause 10A.3 is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.

#### 10A.4 Disputes Regarding the Application of this Clause

Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.

10A.5 This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

3. This variation shall take effect from 10 March 2006.

M. SCHMIDT J

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**CONNEX SYDNEY PTY LTD TRADING AS METRO MONORAIL  
(STATE) ENTERPRISE AWARD 2003**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Liquor, Hospitality and Miscellaneous Union, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 992 of 2006)

Before The Honourable Justice Marks

10 March 2006

**VARIATION**

1. Delete subclause (i) of clause 18, Public Holidays, of the award published 5 September 2003 (341 I.G. 275), and insert in lieu thereof the following:
  - (i) The days on which the following holidays are observed shall be holidays under this award, namely: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day and Boxing Day and any day which may hereafter be proclaimed a public holiday in addition to, or in substitution for, any of the above named holidays throughout the State and the first Monday in August or such other day in lieu of the first Monday in August as may be agreed to annually by the majority of employees and the company.
2. This variation shall take effect on and from 10 March 2006.

F. MARKS *J*

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**COUNTRY ENERGY ENTERPRISE AWARD 2005**INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Electrical Trades Union of Australia, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 1191 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

14 March 2006

**VARIATION**

1. Insert in numerical order in the Arrangement of the award published 17 March 2006 (358 I.G. 104), the following new clause number and subject matter:

5A. Secure Employment

2. Insert after clause 5, Definitions, the following new clause:

**5A. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.



- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW).

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from 1 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

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**CROWN EMPLOYEES (AUDIT OFFICE) 2004 AWARD**INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales, Industrial Organisation of Employees.

(No. IRC 1431 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

21 March 2006

**VARIATION**

1. Insert in numerical order in the Arrangement of the award published 17 June 2005 (351 I.G. 1008), the following clause number and subject matter:

15A. Secure Employment

2. Insert after clause 15, Deduction of Association Membership Fees, the following new clause:

**15A. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 21 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

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## **CROWN EMPLOYEES (EDUCATION EMPLOYEES DEPARTMENT OF CORRECTIVE SERVICES) CONSENT AWARD 2006**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by New South Wales Teachers Federation, Industrial Organisation of Employees.

(No. IRC 1330 of 2006)

Before The Honourable Justice Schmidt

10 March 2006

### **VARIATION**

1. Insert in numerical order in the Arrangement of the award published 28 July 2006 (360 I.G. 371) the following new clause 26 Secure Employment Test Case - OHS Obligations, and renumber existing clause 26 Area, Incidence and Duration to read as clause 27.

26. Secure Employment Test Case - OHS Obligations
27. Area Incidence and Duration

2. Insert after clause 25, No Further Claims, the following new clause:

#### **26. Secure Employment Test Case - OHS Obligations**

- (i) For the purposes of this clause, the following definitions shall apply:

1. A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
2. A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.

- (ii) If the employer engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises, the employer shall do the following (either directly, or through the agency of the labour hire or contract business):

1. consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
2. provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
3. provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
4. ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.

(iii) Nothing in this clause is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.

(iv) Disputes Regarding the Application of this Clause

Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.

(v) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the Apprenticeship and Traineeship Act 2001 (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

3. Renumber existing clause 26. Area, Incidence and Duration to read as clause 27. Area, Incidence and Duration.

4. This variation shall take effect from the 1 March 2006.

M. SCHMIDT J

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## **CROWN EMPLOYEES (HARNESS RACING AUTHORITY) CONDITIONS OF EMPLOYMENT AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales, Industrial Organisation of Employees.

(No. IRC 1431 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

21 March 2006

### **VARIATION**

1. Insert in numerical order in the Arrangement of the award published 27 June 2003 (340 I.G. 108), the following new clause number and subject matter:

37A. Secure Employment

2. Insert after clause 37, Deduction of Union Membership Fees, the following new clause:

#### **37A. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing



contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):

- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
  - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 21 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

## **CROWN EMPLOYEES (INDEPENDENT PRICING AND REGULATORY TRIBUNAL 2004) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales, Industrial Organisation of Employees.

(No. IRC 1431 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

21 March 2006

### **VARIATION**

1. Insert in numerical order in the Arrangement of the award published 18 February 2005 (348 I.G. 573), the following clause number and subject matter:

42A. Secure Employment

2. Insert after clause 42, Anti-Discrimination, the following new clause:

#### **42A. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.

- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.

- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing

contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.

(c) Occupational Health and Safety

- (i) For the purposes of this subclause, the following definitions shall apply:
  - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
  - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
  - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 21 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

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Printed by the authority of the Industrial Registrar.

(1343)

SERIAL C4735

## **CROWN EMPLOYEES (INSTITUTE MANAGERS IN TAFE) SALARIES AND CONDITIONS AWARD 2006**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by New South Wales Teachers Federation, Industrial Organisation of Employees.

(No. IRC 1338 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

14 March 2006

### **VARIATION**

1. Insert in numerical order in clause 1, Arrangement of the award published 28 July 2006 (360 I.G. 384) the following new clause number and subject matter.

24. Secure Employment Test Case - OHS Obligations

2. Renumber in clause 1, clause 24, Area, Incidence and Duration to read as clause 25.
3. Insert after clause 23, Deduction of Union Membership Fees, the following new clause:

#### **24. Secure Employment Test Cases - OHS Obligations**

- (i) For the purposes of this clause, the following definitions shall apply:
  1. A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
  2. A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- (ii) If the employer engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises, the employer shall do the following (either directly, or through the agency of the labour hire or contract business):
  1. consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
  2. provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;

3. provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  4. ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this clause is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (iv) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (v) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
4. Renumber clause 24 "Area, Incidence and Duration" as clause 25 "Area, Incidence and Duration".
  5. This variation shall take effect from the 8 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

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(1337)

SERIAL C5101

## **CROWN EMPLOYEES (LORD HOWE ISLAND BOARD SALARIES AND CONDITIONS 2004) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales, Industrial Organisation of Employees.

(No. IRC 1431 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

21 March 2006

### **VARIATION**

1. Insert in numerical order in the Arrangement of the award published 25 February 2005 (348 I.G. 707), the following clause number and subject matter:

40A. Secure Employment

2. Insert after clause 40, Anti Discrimination, the following new clause:

#### **40A. Secure Employment**

- (a) Occupational Health and Safety

- (i) For the purposes of this subclause, the following definitions shall apply:

- (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
- (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.

- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):

- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;



- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (b) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (c) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 21 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

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## CROWN EMPLOYEES (NSW POLICE COMMUNICATIONS OFFICERS) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales, Industrial Organisation of Employees.

(No. IRC 1431 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

21 March 2006

### VARIATION

1. Insert in numerical order in clause 1, Arrangement, of the award published 21 May 2004 (344 I.G. 537), the following clause number and subject matter:

23A. Secure Employment

2. Insert after clause 23, Anti-Discrimination, the following new clause:

#### 23A. Secure Employment

- (a) Occupational Health and Safety

- (i) For the purposes of this subclause, the following definitions shall apply:

- (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.

- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):

- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
    - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;

- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (b) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (c) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 21 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

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Printed by the authority of the Industrial Registrar.

(1305)

SERIAL C5097

## **CROWN EMPLOYEES (NSW POLICE SPECIAL CONSTABLES (SECURITY)) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales, Industrial Organisation of Employees.

(No. IRC 1431 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

21 March 2006

### **VARIATION**

1. Insert in numerical order in clause 1, Arrangement of the award published 15 April 2005 (350 I.G. 37), the following clause number and subject matter:

31A. Secure Employment

2. Insert after clause 31, Deduction of Union Membership Fees, the following new clause:

#### **31A. Secure Employment**

- (a) Occupational Health and Safety

- (i) For the purposes of this subclause, the following definitions shall apply:

- (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
- (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.

- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):

- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;

- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (b) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (c) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 21 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

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## **CROWN EMPLOYEES (NSW POLICE SPECIAL CONSTABLES) (POLICE BAND) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales, Industrial Organisation of Employees.

(No. IRC 1431 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

21 March 2006

### **VARIATION**

1. Insert in numerical order in the Arrangement of the award published 15 April 2005 (350 I.G. 37), the following clause number and subject matter:

30A. Secure Employment

2. Insert after clause 30, Deduction of Union Membership Fees, the following new clause:

#### **30A. Secure Employment**

- (a) Occupational Health and Safety

- (i) For the purposes of this subclause, the following definitions shall apply:

- (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
- (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.

- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):

- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;

- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (b) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (c) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 21 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

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Printed by the authority of the Industrial Registrar.

**CROWN EMPLOYEES (NSW TAFE COMMISSION -  
ADMINISTRATIVE AND SUPPORT STAFF CONDITIONS OF  
EMPLOYMENT) AWARD 2005**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales, Industrial Organisation of Employees.

(No. IRC 1431 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

21 March 2006

**VARIATION**

1. Insert in numerical order in clause 1, Arrangement, of the award published 27 January 2006 (356 I.G. 896), the following clause number and subject matter:

97A. Secure Employment

2. Insert after clause 97, Anti Discrimination, the following new clause:

**97A. Secure Employment**

- (a) Occupational Health and Safety

- (i) For the purposes of this subclause, the following definitions shall apply:

- (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
- (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.

- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):

- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;



- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (b) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (c) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 21 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

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SERIAL C4974

## **CROWN EMPLOYEES (PARLIAMENT HOUSE CONDITIONS OF EMPLOYMENT 2004) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales, Industrial Organisation of Employees.

(No. IRC 1431 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

21 March 2006

### **VARIATION**

1. Insert in numerical order in the Arrangement of the award published 11 February 2005 (348 I.G. 445), the following clause number and subject matter:

54. Secure Employment

2. Insert after clause 53, Deduction of Union Membership Fees, the following new clause:

#### **54. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.

- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.

- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing

contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.

(c) Occupational Health and Safety

- (i) For the purposes of this subclause, the following definitions shall apply:
  - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
  - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
  - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 21 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

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Printed by the authority of the Industrial Registrar.

## **CROWN EMPLOYEES (PARLIAMENTARY ELECTORATE OFFICERS) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales, Industrial Organisation of Employees.

(No. IRC 1431 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

21 March 2006

### **VARIATION**

1. Insert in numerical order in the Arrangement of the award published 30 July 2004 (345 I.G. 521), the following clause number and subject matter:

21A. Secure Employment

2. Insert after clause 21, Deduction of Union Membership Fees, the following new clause:

#### **21A. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.

- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.

- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing

contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 21 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

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**CROWN EMPLOYEES (ROADS AND TRAFFIC AUTHORITY OF  
NEW SOUTH WALES - SALARIED STAFF CONDITIONS OF  
EMPLOYMENT) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales, Industrial Organisation of Employees.

(No. IRC 1431 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

21 March 2006

**VARIATION**

1. Insert in numerical order in the Arrangement of the award published 20 May 2005 (351 I.G. 1), the following clause number and subject matter:

18A. Secure Employment

2. Insert after clause 18, Deduction of Union Membership Fees, the following new clause:

**18A. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall



be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):

- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
  - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 21 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

## **CROWN EMPLOYEES (ROADS AND TRAFFIC AUTHORITY OF NEW SOUTH WALES - WAGES STAFF) AWARD 2005**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Transport Workers' Union of New South Wales, Industrial Organisation of Employees.

(No. IRC 1721 of 2006)

Before The Honourable Justice Wright, President

23 March 2006

### **VARIATION**

1. Insert in numerical order in the Arrangement of the award published 3 March 2006 (357 I.G. 641) the following new subclause 4.4.

#### **4.4 Secure Employment**

2. Insert after subclause 4.3 Shift work, the following new subclause:

#### **4.4. Secure Employment**

##### **4.4.1 Objective of this Clause**

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

##### **4.4.2 Casual Conversion**

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time

employment or part-time employment will be deemed to have elected against any such conversion.

- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.

#### 4.4.3 Occupational Health and Safety

- (i) For the purposes of this subclause, the following definitions shall apply:
  - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
  - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
  - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.

#### 4.4.5 Disputes Regarding the Application of this Clause

Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.

4.4.6 This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

3. This variation shall take effect from the 23 March 2006.

F. L. WRIGHT J , *President*

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## CROWN EMPLOYEES (ROADS AND TRAFFIC AUTHORITY OF NSW - SCHOOL CROSSING SUPERVISORS) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Roads and Traffic Authority of New South Wales.

(No. IRC 1431 of 2006)

Before The Honourable Justice Walton, Vice-President

4 May 2006

### VARIATION

1. Insert in numerical order in the Arrangement of the award published 9 September 2005 (353 I.G. 787), the following clause number and subject matter:

#### 20A. Secure Employment

2. Delete clause 10, Work Location, and insert in lieu thereof the following new clause:

#### 10. Work Location

- (a) Subject to (c) below, permanent SCS's will be appointed to a designated work school crossing site to which they must report for duty.
- (b) Casual SCS's are not assigned to a specific work location and may be offered work at locations as required by the RTA.
- (c) SCS's who have their employment converted from casual to permanent through the operation of clause 20A, Secure Employment, may not be assigned to a designated work school crossing site and may be required to undertake their contract hours at different locations. The different locations will be within a reasonable boundary and will be agreed at the time of conversion. Such SCS's will not be entitled to reimbursement for additional fares or time spent travelling to these locations as per clause 12 (a) and (b).
- (d) SCS's who elect to convert to permanent status by way of clause 10(c) will be offered the choice to transfer to permanent status as outlined at clause 10(a), upon a SCS's position falling vacant.

3. Insert after clause 20, Union Contributions, the following new clause:

#### 20A. Secure Employment

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.

- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.

- (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
  - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
4. This variation shall take effect from 4 May 2006.

M. J. WALTON J, *Vice-President*

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## **CROWN EMPLOYEES (SATURDAY SCHOOL OF COMMUNITY LANGUAGES) AWARD 2006**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by New South Wales Teachers Federation, Industrial Organisation of Employees.

(No. IRC 1327 of 2006)

Before The Honourable Justice Wright, President

27 July 2006

### **VARIATION**

1. Insert in numerical order in the Arrangement, of the award published 16 June 2006 (359 I.G. 735), the following new clause number and subject matter and renumber the existing clause 17, Area, Incidence and Duration to read as clause 18:

#### 17. Secure Employment

2. Insert in clause 2, Definitions, the following new subclause and renumber the existing subclauses 2.1, and 2.2, to read as subclauses 2.2, and 2.3, respectively.

2.1 "Appointed Saturday School Community Language Teacher" means an employee who has been appointed to an ongoing position at Saturday School of Community Languages.

3. Insert in clause 2, Definitions, the following new subclause and renumber the existing subclauses thereafter accordingly:

2.4 "Casual Saturday School Community Language Teacher" means an employee who is not appointed to an ongoing position at the Saturday School of Community Languages.

4. Delete clause 4, Recruitment and Appointment, and insert in lieu thereof the following:

#### **4. Recruitment and Appointment**

- 4.1 Employees covered by this award are engaged to teach in the Department's Saturday School of Community Languages.

- 4.2 Offers of appointment and continuing employment during periods of appointment shall be conditional on:

4.2.1 the Saturday School of Community Languages' ongoing need for the service provided; and

4.2.2 satisfactory performance of duties.

- 4.3 For appointed employees satisfactory performance of duties shall be appraised by annual review which may, where appropriate, and in paid time, be supported by:

(i) conferences between the employee and principal or nominee;

(ii) observations of educational programs;

(iii) review of documentation such as lesson planning, lesson materials and student work, plans, evaluations and reports.

- 4.4 In implementing the annual review the following shall be taken into account:
- (i) the level of experience of the employee (so that less experienced employees are given greater attention); and
  - (ii) the particular circumstances of the centre.
- 4.5 The annual review shall be supported by way of a new teacher assessment and review schedule which will be negotiated by the parties.
- 4.6 Appointments shall be made on merit and shall be subject to the qualification requirements as specified in subclauses 4.8, 4.9 and 4.10 of this clause.
- 4.7 Persons appointed as Saturday School Community Language Teachers, Conditionally Approved Saturday School Community Language Teachers, Curriculum Co-ordinators, Assistant Supervisors and Supervisors are required to possess appropriate qualifications or experience as determined by the Director-General following consultation with the Teachers Federation.
- 4.8 Saturday School Community Language Teachers are required to possess either a teaching qualification or a language teaching methodology qualification (eg the Saturday School Language Intensive Methodology Course).
- 4.9 Conditionally Approved Saturday School Community Language Teachers are required to complete an appropriate languages methodology course as determined by the Director-General following consultation with the Teachers Federation, during their period of employment. Payment for participation in the course shall be in accordance with subclause 9.4 of clause 9, Training and Development.
5. Renumber clause 17, Area, Incidence and Duration, to read as clause 18 and insert the following new clause 17:

#### **17. Secure Employment**

- 17.1 A Casual Saturday School Community Language Teacher engaged on a regular and systematic basis during two consecutive terms (equivalent to 20 Saturdays) in a calendar year shall thereafter have the right to elect to have his or her ongoing contract of employment converted to Appointed Saturday School Community Language Teacher status if the position is to continue beyond the conversion process prescribed by this clause. Casual engagements which do not give a teacher the right to elect because that would contravene paragraph 17.4 will be identified on engagement.
- 17.2 The Department shall give the Casual Saturday School Community Language Teacher notice in writing of the provisions of this clause within four weeks of the Casual Saturday School Community Language Teacher having attained such period of two consecutive school terms. However, the Casual Saturday School Community Language Teacher retains his or her right of election under this clause if the Department fails to comply with this notice requirement.
- 17.3 Any Casual Saturday School Community Language Teacher who has a right to elect under subclause 17.1, upon receiving notice under subclause 17.2 or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the Department that he or she seeks to elect to be converted to Appointed Saturday School Community Language Teacher status and within four weeks of receiving such notice from the Casual Saturday School Community Language Teacher, the Department shall consent to or refuse the election, but shall not unreasonably so refuse.
- 17.4 When deciding whether to consent or refuse an election made in accordance with paragraph 17.3, the Department will not consent to conversion if conversion would result in the Casual Saturday School Community Language Teacher being appointed to a position which is already occupied by an Appointed Saturday School Community Language Teacher who is on leave or otherwise absent.
- 17.5 Where the Department refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the Casual Saturday School Community Language Teacher concerned, and a genuine

attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- 17.6 Any Casual Saturday School Community Language Teacher who does not, within four weeks of receiving written notice from the Department, elect to convert his or her ongoing contract of employment will be deemed to have elected against any such appointment.
- 17.7 If there is any dispute about the arrangements to apply to a Casual Saturday School Community Language Teacher electing to be appointed, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- 17.8 A Casual Saturday School Community Language Teacher must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this clause.
- 17.9 This clause will take effect for appointments commencing in 2007.
6. This variation shall take effect from the 27 July 2006. With respect to instructions 1 to 5, the variation shall take effect from 1 January 2007.

F. L. WRIGHT J , *President*

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## **CROWN EMPLOYEES (SCHOOL ADMINISTRATIVE AND SUPPORT STAFF) AWARD**

### INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales, Industrial Organisation of Employees.

(No. IRC 1431 of 2006)

Before The Honourable Justice Wright, President

5 April 2006

### **VARIATION**

1. Insert in numerical order in clause 1, Arrangement of the award published 27 May 2005 (351 I.G. 374), the following clause number and subject matter:

#### 21A. Secure Employment

2. Insert after clause 21, No Further Claims and No Industrial Action, the following new clause:

#### **21A. Secure Employment**

- (a) Occupational Health and Safety

- (i) For the purposes of this subclause, the following definitions shall apply:

- (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
- (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.

- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):

- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
- (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.

- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (b) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (c) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 5 April 2006.

F. L. WRIGHT J, *President*

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## **CROWN EMPLOYEES (TEACHERS IN TAFE AND RELATED EMPLOYEES) SALARIES AND CONDITIONS AWARD 2006**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by New South Wales Teachers Federation, Industrial Organisation of Employees.

(No. IRC 1335 of 2006)

Before The Honourable Justice Schmidt

10 March 2006

### **VARIATION**

1. Insert in alphabetical order in clause 1, Arrangement of the award published 11 August 2006 (360 I.G. 500) the following new clause number and subject matter:
  46. Secure Employment Test Case - OHS Obligations
2. Renumber in clause 1, clause 46, Area, Incidence and Duration to read as clause 47.
3. Insert in alphabetical order after clause 6, Salary Progression and Maintenance, the following new clause 46.

#### **46. Secure Employment Test Cases - OHS Obligations**

- (i) For the purposes of this clause, the following definitions shall apply:
  1. A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
  2. A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- (ii) If the employer engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises, the employer shall do the following (either directly, or through the agency of the labour hire or contract business):
  1. consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
  2. provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  3. provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  4. ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.

- (iii) Nothing in this clause is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
  - (iv) Disputes Regarding the Application of this Clause  

Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
  - (v) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the Apprenticeship and Traineeship Act 2001 (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
4. This variation shall take effect from the 1 March 2006.

M. SCHMIDT J

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## **CROWN EMPLOYEES (TEACHERS IN TAFE CHILDREN'S CENTRES) SALARIES AND CONDITIONS AWARD 2005**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by New South Wales Teachers Federation, Industrial Organisation of Employees.

(No. IRC 1326 of 2006)

Before The Honourable Justice Schmidt

10 March 2006

### **VARIATION**

1. Insert in alphabetical order in clause 1, Arrangement, of the award published 2 June 2006 (359 I.G. 458), the following new clause and subject matter and renumber the existing clause 17, Area, Incidence and Duration to read as clause 18:

17. Secure Employment Test Case - OHS Obligations
18. Area, Incidence and Duration

2. Insert after clause 16, Deduction of Union Membership Fees, the following new clause and renumber the existing clause 17, Area, Incidence and Duration to read as clause 18:

#### **17. Secure Employment Test Case - OHS Obligations**

- i. For the purposes of this clause, the following definitions shall apply:
  1. A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
  2. A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- ii. If the employer engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises, the employer shall do the following (either directly, or through the agency of the labour hire or contract business):
  1. consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
  2. provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  3. provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  4. ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.



- iii. Nothing in this clause is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
  - iv. Disputes Regarding the Application of this Clause  

Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
  - v. This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 1 March 2006.

M. SCHMIDT J

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**CROWN EMPLOYEES (TIPSTAVES TO JUSTICES) AWARD**INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales, Industrial Organisation of Employees.

(No. IRC 1431 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

21 March 2006

**VARIATION**

1. Insert in numerical order in the Arrangement of the award published 3 December 2004 (347 IG 574), the following clause number and subject matter:

19A. Secure Employment

2. Insert after clause 19, Anti-Discrimination, the following new clause:

**19A. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 21 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner

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**CROWN EMPLOYEES (TRADES ASSISTANTS) AWARD**INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales, Industrial Organisation of Employees.

(No. IRC 1431 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

21 March 2006

**VARIATION**

1. Insert in numerical order in the Arrangement of the award published 15 April 2005 (350 IG 13), the following clause number and subject matter:

**26A. Secure Employment**

2. Insert after clause 26, Deduction of Union Membership Fees, the following new clause:

**26A. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (ix) Exemption

The abovementioned casual conversion clause will not apply to persons who:

- (a) perform work for the Public Service Departments as enumerated in Schedule 1, Part 1 of the *Public Sector Employment and Management Act 2002*; or
  - (b) have their conditions of employment regulated by the:
    - i. *Police Act 1990*;
    - ii. *Technical and Further Education Commission Act 1990*;
    - iii. *Casino Control Act 1992*;
    - iv. *Independent Commission Against Corruption Act 1988*.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to

supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.

- (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
    - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
    - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
    - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
  - (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause

Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
  - (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 21 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

**DENTAL ASSISTANTS AND SECRETARIES (STATE) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by N.S.W. Dental Assistants Association, Industrial Organisation of Employees.

(No. IRC 1318 of 2006)

Before The Honourable Justice Schmidt

10 March 2006

**VARIATION**

1. Insert in numerical order in the Arrangement of the award published 27 February 2004 (343 I.G. 434), the following new clause number and subject matter:

**2A. Secure Employment**

2. Insert after clause 2, Casual and Part-time Employees, the following new clause:

**2A. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.



- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW).

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
    - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;

- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from 10 March 2006.

M. SCHMIDT J

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**DENTAL TECHNICIANS (STATE) AWARD**

## INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Health Services Union, Industrial Organisation of Employees.

(No. IRC 1173 of 2006)

Before The Honourable Justice Schmidt

10 March 2006

**VARIATION**

1. Insert in clause 1, Arrangement, of the award published 28 May 2004 (344 I.G. 630), the following new clause and subject matter and renumber the existing clause 24, Area, Incidence and Duration to read as clause 25:

24. Secure Employment
25. Area, Incidence and Duration

2. Renumber clause 24, Area, Incidence and Duration, to read as clause 25 and insert the following new clause 24:

**24. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from 10 March 2006.

M. SCHMIDT J

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**DRUG FACTORIES (STATE) AWARD**INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Shop, Distributive and Allied Employees' Association, New South Wales, Industrial Organisation of Employees.

(No. IRC 1034 of 2006)

Before The Honourable Justice Walton, Vice-President  
The Honourable Justice Boland  
Commissioner Tabbaa

21 March 2006

**VARIATION**

1. Delete Clause 20 Holidays, of the award published 1 June 2001 (325 IG. 1) and insert in lieu thereof the following:

**20. Holidays**

- (a) The following days or the day upon which they are observed shall be holidays: New Year's Day, Australia Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day, Boxing Day, and all other days proclaimed as public holidays for the State and local gazetted public holidays in the districts to which they apply.
  - (b) In addition to the holidays specified in subclause (a) of this clause one additional holiday shall apply in each calendar year to an employee on weekly hire. Such holiday shall be on the day prescribed in subclause 7.5.1(b)(ii) of clause 7.5, of Public Holidays of the Metal, Engineering and Associated Industries Award 1998 (Federal), as an additional holiday in New South Wales; provided further that where any other working day is observed as an additional day by the general body of employees in any establishment then such day shall be substituted for the additional holiday hereinbefore prescribed. By agreement between any employer and the majority of the employees another day may be substituted for the additional holiday prescribed by this subclause in such employer's undertaking.
  - (c) All award holidays falling on a usual working day shall be counted as time worked and paid for as such.
  - (d) An employee who without reasonable cause absents himself without leave on the working day immediately preceding or the working day immediately following an award holiday shall not be entitled to payment for such holiday.
  - (e) Work done on any award holiday or Easter Saturday shall be paid for at the rate of double time and one-half with a minimum payment of four hours.
2. This variation shall take effect from 21 March 2006.

M. J. WALTON *J, Vice-President.*  
R. P. BOLAND *J.*  
I. TABBAA, Commissioner.

**DRUG FACTORIES (STATE) AWARD**

## INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Shop, Distributive and Allied Employees' Association, New South Wales, Industrial Organisation of Employees.

(No. IRC 1150 of 2006)

Before The Honourable Justice Schmidt

10 March 2006

**VARIATION**

1. Insert in numerical order in the Arrangement of the award published 1 June 2001 (325 I.G. 1), the following new clause number and subject matter:

11A. Secure Employment

2. Insert after clause 11, Part-time and Casual Employees, the following new clause:

**11A. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.

- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.

- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.

- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW).

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
    - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;



- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This order shall take effect from 10 March 2006.

M. SCHMIDT J

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## DRY CLEANING (STATE) AWARD

### INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES FULL BENCH

Application by Transport Workers' Union of New South Wales, Industrial Organisation of Employees.

(No. IRC 1264 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

14 March 2006

### VARIATION

1. Insert in numerical order in clause 2, Arrangement, of the award published 30 November 2001 (329.I.G.1111), the following new clause and subject matter:

8A. Secure Employment

2. Insert after clause 8, Types of Employment, the following new clause:

#### 8A. Secure Employment

##### 8A.1. Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

##### 8A.2. Casual Conversion

8A.2.1. A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.

8A.2.2. Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.

8A.2.3. Any casual employee who has a right to elect under paragraph 8A.2.1, upon receiving notice under paragraph 8A.2.2 or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- 8A.2.4. Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- 8A.2.5. Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- 8A.2.6. If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph 8A.2.3, the employer and employee shall, in accordance with this paragraph, and subject to paragraph 8A.2.3, discuss and agree upon:
- (a) whether the employee will convert to full-time or part-time employment; and
  - (b) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- 8A.2.7. Following an agreement being reached pursuant to paragraph 8A.2.6, the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- 8A.2.8. An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.

### 8A.3. Occupational Health and Safety

- 8A.3.1. For the purposes of this subclause, the following definitions shall apply:
- (a) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
  - (b) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- 8A.3.2. Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
- (a) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

- (b) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
- (c) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
- (d) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.

8A.3.3. Nothing in this subclause 8A.3 is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.

#### 8A.4. Disputes Regarding the Application of this Clause

Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.

8A.5. This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

3. This variation shall take effect from 10 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

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## **ELECTRICAL, ELECTRONIC AND COMMUNICATIONS CONTRACTING INDUSTRY (STATE) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Electrical Trades Union of Australia, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 1190 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

21 March 2006

### **VARIATION**

1. Insert in numerical order in clause 1, Arrangement of the award published 17 March 2006 (358 I.G. 1) the following new clause number and subject matter.

#### **2A. Secure Employment**

2. Insert after clause 2 Definitions, the following new clause:

#### **2A. Secure Employment**

- (a) Occupational Health and Safety

- (i) For the purposes of this subclause, the following definitions shall apply:

- (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
- (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.

- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):

- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;

- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (b) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (c) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the Apprenticeship and Traineeship Act 2001 (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 21 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

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**ENERGY AUSTRALIA AWARD 2004**INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Electrical Trades Union of Australia, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 1191 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

14 March 2006

**VARIATION**

1. Insert in numerical order in the Arrangement of the award published 3 June 2005 (351 I.G. 487), the following new clause number and subject matter:

4A. Secure Employment

2. Insert after clause 4, Definitions, the following new clause:

**4A. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.

- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.

- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW).

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;



- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from 1 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

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**GREYHOUND RACING AUTHORITY (NSW) AWARD**INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales, Industrial Organisation of Employees.

(No. IRC 1431 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

21 March 2006

**VARIATION**

1. Insert in numerical order in the Arrangement of the award published 28 May 2004 (344 I.G. 702), the following new clause number and subject matter:

28A. Secure Employment

2. Insert after clause 28, Anti-Discrimination, the following new clause:

**28A. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 21 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

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**GROCERY PRODUCTS MANUFACTURING (STATE) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by National Union of Workers, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 758 of 2006)

Before The Honourable Justice Walton, Vice-President

26 February 2006

**VARIATION**

1. Delete subclause (i) of clause 13 Sundays and Holidays, of the award published 1 June 2001 (325 I.G. 38) and insert in lieu thereof the following:
  - (i)
    - (a) The days upon which New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day and Boxing Day are observed and an additional holiday being the last Monday in October each year, together with any other days which shall be proclaimed by the Government as public holidays shall be recognised as holidays and no deduction shall be made from the wages of permanent employees for such holidays if not worked,
    - (b) In localities where no Labour Day is observed a day in lieu thereof shall be granted to employees and such day shall be arranged mutually between the employer and the union,
    - (c) An employer and an employee, or an employer and the majority of employees in an establishment, may agree to observe an alternative day as a holiday in lieu of the last Monday in October.
    - (d) An employee required to work on any of the holidays specified in paragraph (a), of this subclause, shall be paid at the rate of double time and a half.
    - (e) An employee required to work on a Sunday shall be paid at the rate of double time.
2. This variation shall take effect from 6 March 2006.

M. J. WALTON *J, Vice-President.*

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## HIGHER SCHOOL CERTIFICATE AND SCHOOL CERTIFICATE MARKING AND RELATED CASUAL EMPLOYEES RATES OF PAY AND CONDITIONS AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by New South Wales Teachers Federation, Industrial Organisation of Employees.

(No. IRC 1339 of 2006)

Before The Honourable Justice Schmidt

10 March 2006

### VARIATION

1. Insert in numerical order in the Arrangement of the award published 23 December 2005 (355 I.G. 539), the following new clause and subject matter and renumber the existing clause 22, Area, Incidence and Duration to read as clause 23:

22. Secure Employment Test Case - OHS Obligations
23. Area, Incidence and Duration

2. Insert after clause 21, Leave Reserved, the following new clause and renumber the existing clause 22, Area, Incidence and Duration to read as clause 23:

#### 22. Secure Employment Test Cases - OHS Obligations

- i. For the purposes of this clause, the following definitions shall apply:
  1. A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
  2. A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- ii. If the employer engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises, the employer shall do the following (either directly, or through the agency of the labour hire or contract business):
  1. consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
  2. provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  3. provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and

4. ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- iii. Nothing in this clause is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the Occupational Health and Safety Act 2000 or the Workplace Injury Management and Workers Compensation Act 1998.
- iv. Disputes Regarding the Application of this Clause  

Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- v. This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the Apprenticeship and Traineeship Act 2001 (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 1 March 2006.

M. SCHMIDT *J*

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## HOTEL EMPLOYEES (STATE) AWARD

### INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES FULL BENCH

Application by Liquor, Hospitality and Miscellaneous Union, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 513 of 2006)

Before The Honourable Justice Walton, Vice-President  
The Honourable Justice Boland  
Commissioner Tabbaa

23 March 2006

### VARIATION

1. Delete subclause (a) of clause 15 Public Holidays, of the award published 10 May 2002 (333 I.G. 317), and insert in lieu thereof the following:
  - (a) The day or days upon which the following holidays fall or the days upon which such holidays are observed shall be holidays for the purposes of this award: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Eight Hour Day, Christmas Day, Boxing Day, the third Monday in February of each year shall be a holiday for the purpose of this clause and any other day or days proclaimed or gazetted as public holidays for the State.
2. Insert after subclause (d) of clause 15, the following new subclause:
  - (e) An employer and a majority of employees in a workplace may agree to substitute another day for any of the above named holidays subject to the following conditions:
    - (i) If an employer intends to substitute a public holiday and the Union has members at the particular workplace and the employer is award of Union membership, the employer must inform the Union of its intention and provide the Union with an opportunity to participate in negotiations to substitute a holiday if requested by member(s).
    - (ii) After an employer and a majority of employees have agreed to substitute a public holiday, the employer must record such agreement in the time and wage records required to be kept in accordance with Section 129 *Industrial Relations Act* 1996.
3. This variation shall take effect on and from the first full pay period on or after 23 March 2006.

M. J. WALTON *J, Vice-President.*  
R. P. BOLAND *J.*  
I. TABBAA, Commissioner.

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## HOTEL EMPLOYEES (STATE) AWARD

### INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES FULL BENCH

Application by Liquor, Hospitality and Miscellaneous Union, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 1315 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

21 March 2006

### VARIATION

1. Insert in numerical order in the Arrangement of the award published 10 May 2002 (333 I.G. 317), the following new clause in numerical order:

31A. Occupational Health and Safety

2. Insert after subclause (f), of clause 7, Casual Work, the following new subclause:

(g) Conversion to full-time or regular part-time employment

(i)

(1) This clause only applies to a regular casual employee.

(2) A regular casual employee means a casual employee who is employed by an employer on a regular and systematic basis for several periods of employment or on a regular and systematic basis for an ongoing period of employment during a period of at least twelve (12) months.

(ii)

(1) A regular casual employee who has been engaged by a particular employer for at least twelve months, may elect (subject to the provisions of this clause) to have his or her contract of employment converted to full-time or regular part-time employment.

(A) An employee who has worked at the rate of an average of 38 or more hours a week in the period of twelve months casual employment may elect to have his or her employment converted to full-time employment.

(B) An employee who has worked at the rate of an average less than 38 hours a week in the period of twelve months casual employment may elect to have his or her employment converted to regular part-time employment.

(2) Where a casual employee seeks to convert to full-time or regular part-time employment, the employer may consent to or refuse the election, but only on reasonable grounds. In considering a request, the employer may have regard to any of the following factors:

the size and needs of the workplace or enterprise;

- the nature of the work the employee has been doing;
- the qualifications, skills, and training of the employee;
- the trading patterns of the workplace or enterprise (including cyclical and seasonal trading demand factors);
- the employee's personal circumstances, including any family responsibilities; and
- any other relevant matter.
- (iii) Where it is agreed that a casual employee will have his or her employment converted to full-time or regular part-time employment as provided for in this clause, the employer and employee must discuss and agree upon:
- (1) to which form of employment the employee will convert - that is, full-time or regular part-time employment; and
  - (2) if it is agreed that the employee will become a regular part-time employee, the matters referred to in this Award.
- (iv) The date from which the conversion will take effect is the commencement of the next pay cycle following such agreement being reached unless otherwise agreed.
- (v) Despite this Award, where a regular casual employee is at [date of variation] engaged for a two-hour minimum shift, the employer and employee may agree that the employee will convert to regular part-time employment as provided for in this clause for a minimum of two consecutive hours on any shift. However, nothing in this clause requires an employer to convert a casual employee working two hour shifts to regular part-time employment
- (vi) Once a casual employee has converted to full-time or regular part-time employment, the employee may only revert to casual employment with the written agreement of the employer.
- (vii) An employee must not be engaged and/or re-engaged (which includes a refusal to re-engage) to avoid any obligation under this Award.
- (viii) Nothing in this clause obliges a casual employee to convert to full-time or regular part-time employment, nor permits an employer to require a casual employee to so convert.
- (ix) Nothing in this clause requires the employer to convert the employment of a regular casual employee to full-time or regular part-time employment if the employee has not worked for 12 months or more in a particular establishment or in a particular classification stream.
- (x) Nothing in this clause requires an employer to increase the hours of a regular casual employee seeking conversion to full-time or regular part-time employment.
- (xi) Any dispute about a refusal of an election to employment or about the matters referred to in 7(g)(ii) must be dealt with in accordance with the provisions of Clause 29A - Grievance Procedure.
- (xii) Eligible employees who convert their employment under the provisions of this clause may do so from [date of variation]. Service with the same employer prior to [date of variation] will be taken into account for the purposes of any such election. Any dispute arising about the application of this subclause between the date of this order and [date of variation] may be referred to the Commission for resolution,

3. Insert after clause 31, Anti-Discrimination, the following new clause:

**31A. Occupational Health and Safety**

- (i) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
  - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (ii) Nothing in this subclause (f) is intended to affect or detract from any obligation or responsibility upon a contract business or labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
4. This variation shall take effect from the 21 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

**INDEPENDENT COMMISSION AGAINST CORRUPTION AWARD**INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales, Industrial Organisation of Employees.

(No. IRC 1431 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

21 March 2006

**VARIATION**

1. Insert in numerical order in the Arrangement of the award published 3 September 2004 (346 I.G. 227), the following clause number and subject matter:

14A. Secure Employment

2. Insert after clause 14, Anti Discrimination, the following new clause:

**14A. Secure Employment**

- (a) Occupational Health and Safety

- (i) For the purposes of this subclause, the following definitions shall apply:

- (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
- (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.

- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):

- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and

- (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (b) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (c) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 21 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

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## INTEGRAL ENERGY CONDITIONS OF EMPLOYMENT AWARD 2005

### INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES FULL BENCH

Application by Electrical Trades Union of Australia, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 1191 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

14 March 2006

### VARIATION

1. Insert in numerical order in the Arrangement of the award published 13 January 2006 (356 I.G. 311), the following new paragraph number and subject matter:

#### 1.6.3. Secure Employment

2. Insert after paragraph 1.6.2, of clause 1, Application And Operation Of The Award, the following new paragraph:

#### 1.6.3 Secure Employment

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the

employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW).

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.

- (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
  - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

3. This variation shall take effect from 1 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.



(1550)

SERIAL C4966

**MAINTENANCE, OUTDOOR AND OTHER STAFF (INDEPENDENT SCHOOLS) (STATE) AWARD 2004**INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by New South Wales Independent Education Union, Industrial Organisation of Employees.

(No. IRC 1661 of 2006)

Before The Honourable Justice Walton, Vice-President  
The Honourable Justice Boland  
Commissioner Tabbaa

23 March 2006

**VARIATION**

1. Delete subclauses (a) and (c) of clause 12 Public Holidays of the award published 11 February 2005 (348 I.G. 406) and insert in lieu thereof the following:
  - (a) Subject to subclauses (b) and (c) of this clause, the days on which the following holidays are observed shall be holidays, namely; New Years Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Eight Hour Day, Christmas Day and Boxing Day, together with any day which may hereafter be proclaimed as a public holiday throughout the whole State of New South Wales. In addition to the holidays specified in subclause (a) of this clause, an employee shall be entitled to one additional day as a holiday in each calendar year. Such additional holiday shall be observed on the day when the majority of employees in an establishment observe a day as an additional holiday or on another day mutually agreed between the employer and employee. The additional holiday is not cumulative and must be taken within each year. Provided that the additional holiday shall not apply to those employees whose rate of pay is averaged over the year in accordance with subclause (c) of clause 6, Payment of Wages.
  - (c) All time worked on a public holiday or additional holiday in subclause (a) of this clause shall be paid for at the rate of double time and one half the ordinary-time rate with a minimum payment of four hours.
2. This variation shall take effect on and from 23 March 2006.

M. J. WALTON *J, Vice-President.*  
R. P. BOLAND *J.*  
I. TABBAA, Commissioner.

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**MALTHOUSES (STATE) AWARD**INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Liquor, Hospitality and Miscellaneous Union, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 513 of 2006)

Before The Honourable Justice Walton, Vice-President  
The Honourable Justice Boland  
Commissioner Tabbaa

23 March 2006

**VARIATION**

1. Delete subclause 8.1 of clause 8, Public Holidays of the award published 7 December 2001 (330 I.G. 25), and insert in lieu thereof the following:
  - 8.1 For the purposes of this award, the days on which the undermentioned days are ordinarily observed shall be public holidays:

New Year's Day, Anniversary Day, Good Friday, Easter Monday, Anzac Day, Sovereign's Birthday, Eight Hour Day, Christmas Day, Boxing Day, the third Monday in February and all other gazetted holidays observed throughout the State.
2. Insert after subclause 8.2 of clause 8, the following new subclause:
  - 8.3 An employer and an employee, or an employer and the majority of employees in an establishment, may agree to observe an alternative day as a holiday in lieu of the third Monday in February.
3. This variation shall take effect on and from the first full pay period on or after 23 March 2006.

M. J. WALTON *J, Vice-President.*  
R. P. BOLAND *J.*  
I. TABBAA, Commissioner.

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## MANNEQUINS AND MODELS (STATE) AWARD

### INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Shop, Distributive and Allied Employees' Association, New South Wales, Industrial Organisation of Employees.

(No. IRC 1150 of 2006)

Before The Honourable Justice Schmidt

10 March 2006

### VARIATION

1. Insert in numerical order in clause 1, Arrangement, of the award published 9 February 2001 (322 I.G. 172), the following new clause number and subject matter:

12A. Secure Employment - Occupational Health and Safety

2. Insert after clause 12, General Conditions, the following new clause:

#### **12A. Secure Employment - Occupational Health and Safety**

- (a) Occupational Health and Safety

- (i) For the purposes of this subclause, the following definitions shall apply:

- (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
- (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.

- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):

- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
- (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.

- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (b) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (c) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from 10 March 2006.

M. SCHMIDT J

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## MARINE CHARTER VESSELS (STATE) AWARD

### INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES FULL BENCH

Application by The Seamen's Union of Australia, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 1255 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

21 March 2006

### VARIATION

1. Insert in numerical order in the Arrangement of the award published 12 April 2002 (332 I.G. 875), the following new clause and subject matter:

#### 3A. Secure Employment

2. Insert after clause 3, Engagement, the following new clause:

#### **3A. Secure Employment**

##### 3A.1. Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

##### 3A.2. Casual Conversion

3A.2.1. A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.

3A.2.2. Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.

3A.2.3. Any casual employee who has a right to elect under paragraph 3A.2.1, upon receiving notice under paragraph 3A.2.2 or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall

be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- 3A.2.4. Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- 3A.2.5. Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- 3A.2.6. If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph 3A.2.3, the employer and employee shall, in accordance with this paragraph, and subject to paragraph 3A.2.3, discuss and agree upon:
- 3A.2.6.1. whether the employee will convert to full-time or part-time employment; and
- 3A.2.6.2. if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- 3A.2.7. Following an agreement being reached pursuant to paragraph 3A.2.6, the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- 3A.2.8. An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.

### 3A.3. Occupational Health and Safety

- 3A.3.1. For the purposes of this subclause, the following definitions shall apply:
- 3A.3.1.1. A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
- 3A.3.1.2. A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.

- 3A.3.2. Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
- 3A.3.2.1. consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
  - 3A.3.2.2. provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - 3A.3.2.3. provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - 3A.3.2.4. ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- 3A.3.3. Nothing in this subclause 3A.3 is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.

#### 3A.4. Disputes Regarding the Application of this Clause

Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.

- 3A.5. This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

3. This variation shall take effect from 21 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
Commissioner Tabbaa

**MILK TREATMENT, &c., AND DISTRIBUTION (STATE) AWARD**INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Transport Workers' Union of New South Wales, Industrial Organisation of Employees.

(No. IRC 1236 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

14 March 2006

**VARIATION**

1. Insert in numerical order in clause 1, Arrangement, of the award published 30 November 2001 (329 I.G. 1084), the following new clause number and subject matter:

31. Secure Employment

2. Insert after clause 30, Area, Incidence and Duration, the following new clause:

**31. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.

- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.

- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.



- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
    - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;

- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 14 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

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## MISCELLANEOUS WORKERS' - KINDERGARTENS AND CHILD CARE CENTRES, &c. (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Liquor, Hospitality and Miscellaneous Union, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 1311 of 2006)

Before The Honourable Justice Walton, Vice-President  
The Honourable Justice Boland  
Commissioner Tabbaa

22 March 2006

### VARIATION

1. Delete subclause (i) of clause 19, Public Holidays of the award published 16 June 2006 (359 I.G. 843) and insert in lieu thereof the following:
  - (i) The days on which the following holidays are observed shall be holidays, namely, New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Eight Hour Day, Christmas Day and Boxing Day and any day which may hereafter be proclaimed as a public holiday throughout the State of New South Wales, and the first Monday in August or such other day as is mutually agreed between the employer and an employee or the employer and the majority of employees. Provided that for pre-schools operating 41 weeks per year only, the first Monday in August may be subsumed into a period of paid stand-down provided in clause 4(ii) of this award.
2. This variation shall take effect on and from 22 March 2006.

M. J. WALTON *J, Vice-President.*  
R. P. BOLAND *J.*  
I. TABBAA, Commissioner.

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## MOTOR VEHICLE SALESPERSON (STATE) AWARD

### INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Shop, Distributive and Allied Employees' Association, New South Wales, Industrial Organisation of Employees.

(No. IRC 1150 of 2006)

Before The Honourable Justice Schmidt

10 March 2006

#### VARIATION

1. Insert in numerical order in Clause 1 - Arrangement of the Award published 3 November 2000 (319 IG 1092) as varied, the following new clause number and subject matter:

#### 8A. Secure Employment

2. Insert after clause 8 - Probationary Salespersons the following new clause:

#### 8A. Secure Employment

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.

- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.

- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.

- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW).

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
    - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;

- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from 10 March 2006.

M. SCHMIDT J

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**NESTLE SMITHTOWN ENTERPRISE AWARD 2004**

## INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by The Australasian Meat Industry Employees' Union, Newcastle and Northern Branch, Industrial Organisation of Employees.

(No. IRC 1740 of 2006)

Before Commissioner Tabbaa

24 March 2006

**VARIATION**

1. Insert after subclause 25.7 of clause 25, Conditions of Employment of the award published 22 April 2005 (350 I.G. 412) the following new subclause:

25.8 Secure Employment

(a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

(b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.

- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.

(c) Occupational Health and Safety

- (i) For the purposes of this subclause, the following definitions shall apply:
  - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
  - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
  - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
  - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;



- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
2. This variation shall take effect from the 24 March 2006.

I. TABBAA, Commissioner

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**NORCO CO-OPERATIVE CONSENT ENTERPRISE AWARD**

## INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by The Australasian Meat Industry Employees' Union, Newcastle and Northern Branch, Industrial Organisation of Employees.

(No. IRC 1740 of 2006)

Before Commissioner Tabbaa

24 March 2006

**VARIATION**

1. Insert in numerical order in clause 1, Arrangement of the award published 17 June 2005 (351 I.G. 1026), the following clause number and subject matter:

4A. Secure Employment

2. Insert after clause 4, Contract of Employment, the following new clause:

**4A. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of nine months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.

- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of nine months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.

- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.

- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
    - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;

- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 24 March, 2006.

I. TABBAA, Commissioner

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## **NURSES, &c., OTHER THAN IN HOSPITALS, &c. (STATE) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by NSW Department of Education and Training.

(No. IRC 2404 of 2006)

Before The Honourable Justice Wright, President

30 May 2006

### **VARIATION**

1. Insert after paragraph (viii), of clause 25, Secure Employment, of the award published 20 August 2004 (346 I.G. 76), the following new paragraph:
  - (ix) Exemption  
  
The abovementioned casual conversion clause will not apply to persons who:
    - (a) perform work pursuant to the *Public Sector Employment and Management Act 2002*.
2. This variation shall take effect from 10 March 2006.

F. L. WRIGHT J , *President*

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**NURSES, &c., OTHER THAN IN HOSPITALS, &c. (STATE) AWARD**INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by New South Wales Nurses' Association, Industrial Organisation of Employees.

(No. IRC 1217 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

14 March 2006

**VARIATION**

1. Insert in numerical order in the Arrangement of the award published 20 August 2004 (346 I.G. 76), the following new clause and subject matter and renumber the existing clause 25, Area, Incidence and Duration to read as clause 26:

25. Secure Employment

2. Insert after clause 24, Consultative Mechanism, the following new clause and renumber the existing clause 25, Area, Incidence and Duration to read as clause 26:

**25. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing

contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW).

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from 10 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

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## OCCUPATIONAL HEALTH NURSES' (STATE) AWARD

### INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES FULL BENCH

Application by New South Wales Nurses' Association, Industrial Organisation of Employees.

(No. IRC 1218 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

14 March 2006

### VARIATION

1. Insert in numerical order in the Arrangement of the award published 16 July 2004 (345 I.G. 306), the following new clause and subject matter and renumber the existing clause 32, Area, Incidence and Duration to read as clause 33:

#### 32. Secure Employment

2. Insert after clause 31, Superannuation, the following new clause and renumber the existing clause 32, Area, Incidence and Duration to read as clause 33:

### 32. Secure Employment

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing

contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW).

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from 1 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

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**PASTRYCOOKS (SPECIFIED WHOLESALERS) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by National Union of Workers, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 1291 of 2006)

Before The Honourable Justice Marks

10 March 2006

**VARIATION**

1. Insert after clause 3, Definitions in the Arrangement of the award published 14 September 2001 (327 I.G. 819), the following new clause and subject matter:

**3A. Secure Employment**

2. Insert after clause 3, Definitions, the following new clause:

**3A. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.

- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
    - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;

- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 10 March 2006.

F. MARKS J

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## PASTRYCOOKS (SPECIFIED WHOLESALERS) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by National Union of Workers, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 753 of 2006)

Before The Honourable Justice Walton, Vice-President

26 February 2006

### VARIATION

1. Delete subclause (iv) of clause 10 Public Holidays, of the award published 14 September 2001 (327 I.G. 819) and insert in lieu thereof the following:
  - (iv) The third Wednesday of February shall be recognised as an additional holiday. An employer and an employee, or an employer and the majority of employees in an establishment, may agree to observe an alternative day as a holiday in lieu of the third Wednesday of February.
2. This variation shall take effect from 13 March 2006.

M. J. WALTON J, *Vice-President*

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(520)

**SERIAL C4438**

## **PASTRYCOOKS, &c. (STATE) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by National Union of Workers, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 752 of 2006)

Before The Honourable Justice Walton, Vice-President

26 February 2006

### **VARIATION**

1. Delete subclause (iv) of clause 11, Public Holidays, of the award published 8 March 2002 (331 I.G. 1307) and insert in lieu thereof the following:
  - (iv) The third Wednesday of February shall be recognised as an additional holiday. An employer and an employee, or an employer and the majority of employees in an establishment, may agree to observe an alternative day as a holiday in lieu of the third Wednesday of February.
2. This variation shall take effect from 6 March 2006.

M. J. WALTON J, *Vice-President*

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**PET FOOD MANUFACTURERS (STATE) AWARD**

## INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by National Union of Workers, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 754 of 2006)

Before The Honourable Justice Walton, Vice-President

26 February 2006

**VARIATION**

1. Delete clause 11, Sundays and Holidays of the award published 24 November 2000 (320 I.G. 563), and insert in lieu thereof the following:

**11. Sundays and Holidays**

- (i) The days on which New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queens Birthday, Labour Day, Christmas Day, and Boxing Day are observed and an additional holiday which shall be held on the last Monday in October, together with all other days proclaimed by the government as public holidays shall be recognised as holidays and no deductions shall be made from the wages of weekly employees for such holidays even though not worked; provided that in the case of shift workers, each such holiday shall be deemed to commence at the usual starting time of the ordinary hours of work of the day shift on the day of the holiday and at the corresponding time of the following day except where the usual starting time of the ordinary hours of a shift commence at or before midnight on a Sunday, in any factory, in which case each such holiday shall be deemed to commence at the same time at or before midnight on the day before such holiday at the usual starting time of the ordinary hours of work of the shift to commence at or before midnight on a Sunday and to end at the corresponding time on the day of the holiday. In a locality where Labour Day and/or the last Monday in October are not observed a day in lieu thereof, to be arranged between the employer and their employees shall be granted.
- (ii) An employer and an employee, or an employer and the majority of employees in an establishment, may agree to observe an alternative day as a holiday in lieu of the last Monday in October.
- (iii) An employer required to work on a Sunday shall be paid at the rate of double time.
- (iv) An employee required to work on any of the holidays specified in subclause (i), of this clause, shall be paid at the rate of double time and one half.
- (v) An employee discharged, except for misconduct, within fourteen days of any of the holidays specified in subclause (i), of this clause, shall be paid for such holidays, specified in subclause (i), of this clause, shall be paid for such holidays; provided that such employee has been employed for a period of not less than fourteen days immediately prior to the date of the employee's discharge.
- (vi) An employee who absents themselves, without leave, on the working day immediately preceding or the working day immediately succeeding any of the holidays specified in subclause (i), of this clause, shall not be entitled to payment for such holidays.
2. This variation shall take effect from 6 March 2006.

M. J. WALTON J, *Vice-President*

**PFD FOOD SERVICES (QLD) PTY LTD SALES AND DISTRIBUTION  
EMPLOYEES ENTERPRISE AWARD 2001**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by The Australasian Meat Industry Employees' Union, Newcastle and Northern Branch, Industrial Organisation of Employees.

(No. IRC 1740 of 2006)

Before Commissioner Tabbaa

24 March 2006

**VARIATION**

1. Insert in alphabetical order in clause 1, Arrangement of the award published 25 January 2002 (330 I.G. 1182), the following new clause number and subject matter:

**4A. Secure Employment**

2. Insert after clause 4., Contract of Employment the following new clause:

**4A. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 24 March, 2006.

I. TABBAA, Commissioner.

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(113)

**SERIAL C5108****PHARMACY ASSISTANTS (STATE) AWARD**INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Shop, Distributive and Allied Employees' Association, New South Wales, Industrial Organisation of Employees.

(No. IRC 1034 of 2006)

Before The Honourable Justice Walton, Vice-President  
The Honourable Justice Boland  
Commissioner Tabbaa

21 March 2006

**VARIATION**

1. Delete Clause 22 Holidays, of the award published 13 October 2000 (319 I.G. 285), and insert in lieu thereof the following:

**22. Holidays**

- (i) The days observed as New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day, Boxing Day and any other day proclaimed as a public holiday for the State shall be holidays provided that any day proclaimed as a holiday for the State for a special purpose but observed throughout the State on different days also shall be a holiday.
- (ii) In the week in which any such holiday falls an employee shall be deemed to have worked the number of ordinary hours which the employee would have worked if the day had not been a holiday and shall be paid accordingly.
- (iii) An employee required to work on a holiday as defined in subclause (i) of this clause shall be reimbursed in one of the following three alternatives at the employer's choice:
  - (a) At the rate of double time and one-half the ordinary rate as prescribed in Clause 13, Wages, of this Award, or
  - (b) At time and one-half the ordinary rate prescribed in Clause 13, Wages, of this Award and in addition the employee shall be allowed one day off work payable at the normal rate, or
  - (c) Time and one-half the ordinary rate of pay as prescribed in Clause 13, Wages, plus one extra day added to the employee's annual holidays.
- (iv) In addition to the holidays prescribed in subclause (i) of this clause, weekly and regular part-time employees shall be entitled to an additional holiday without loss of pay. This day shall be on the first Tuesday of November in any year. An employer and an employee or an employer and the majority of employees in an establishment, may agree to observe an alternative day as a holiday in lieu of the first Tuesday in November in any year. An employer and an employee, or an employer and the majority of employees in an establishment, may agree to observe an alternative day as a holiday in lieu of the first Tuesday in November. Provided that in no circumstances shall an employee forfeit the entitlement to an additional holiday and where an employee's employment terminates prior to the taking of such additional day the employee shall receive an additional day's pay on termination.
- (v) An employee absent without leave on the day before or the day after any Award holiday shall be liable to forfeit wages for the day of absence as well as for the holiday except where an employer is satisfied that the employee's absence was caused through illness in which case wages shall not be forfeited for the holiday.

Provided that an employee absent on one day only either before or after a group of holidays, shall forfeit wages only for one holiday as well as for the period of absence.

2. This variation shall take effect from 21 March 2006.

M. J. WALTON *J, Vice-President.*

R. P. BOLAND *J.*

I. TABBAA, Commissioner.

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## PHARMACY ASSISTANTS (STATE) AWARD

### INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Shop, Distributive and Allied Employees' Association, New South Wales, Industrial Organisation of Employees.

(No. IRC 1150 of 2006)

Before The Honourable Justice Schmidt

10 March 2006

#### VARIATION

1. Insert in numerical order in clause 1, Arrangement of the award published 13 October 2000 (319 I.G. 285), the following new clause number and subject matter:

#### 4A. Secure Employment

2. Insert after clause 4, Implementation of Thirty-Eight Hour Week, the following new clause:

#### 4A. Secure Employment

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.

- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.

- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.

- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW).

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
    - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;



- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from 10 March 2006.

M. SCHMIDT J

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**PHOTOGRAPHIC INDUSTRY (STATE) AWARD**

## INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Liquor, Hospitality and Miscellaneous Union, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 990 of 2006)

Before The Honourable Justice Marks

10 March 2006

**VARIATION**

1. Delete subclause (i) of clause 13, Public Holidays of award published 25 January 2001 (321 I.G. 1060) and insert in lieu thereof the following:
  - (i)
    - (a) An employee on weekly hiring shall be entitled to the following public holidays without loss of pay: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Eight-hour Day (or Labour Day), Christmas Day, Boxing Day, and all other days proclaimed as public holidays throughout the State and the first Monday in August.
    - (b) Provided that, by agreement between an employer and an employee, or an employer and the majority of employees, other days may be substituted for the said days or any of them at such employers establishment.
    - (c) By mutual agreement between the employer and the employee the employee may work on the first Monday in August or a day substituted for that day in accordance with subclause (b) of this clause and the employee shall be paid at the rate of double the ordinary rate.
    - (d) By mutual agreement between the employer and the employee the employee may work on the first Monday in August or a day substituted for that day in accordance with subclause (b) of this clause and shall, in lieu thereof, have an extra day added to annual leave.
2. This variation shall take effect on and from 10 March 2006.

F. MARKS *J*

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## PORT WARATAH COAL SERVICES CONSENT ENTERPRISE (STATE) AWARD 1995

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by The Seamen's Union of Australia, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 1253 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

14 March 2006

### VARIATION

1. Delete the Arrangement of the award published 6 June 1997 (298 I.G. 1094), and insert in lieu thereof the following:

#### Arrangement

##### SECTION 1

- 1.1 Preliminary
  - 1.1.1 Title
  - 1.1.2 Area, Incidence and Parties Bound
  - 1.1.3 Not to be Used as a Precedent
  - 1.1.4 Supersedes All Previous Industrial Awards

##### SECTION 2

- 2.1 Intent
- 2.2 Objectives of Award
- 2.3 Continuous Improvement/Best Practice
  - 2.3.1 Best Practice
- 2.4 Leadership - Team Based Structures
  - 2.4.1 Management
  - 2.4.2 Work Teams
- 2.5 Benchmarking
- 2.6 Productivity Measurement
- 2.7 Training
  - 2.7.1 Introduction
  - 2.7.2 Principles
  - 2.7.3 Training and Development
  - 2.7.4 Entry Level Training
  - 2.7.5 System of Assessment
  - 2.7.6 Career Paths
  - 2.7.7 Training Committee
  - 2.7.8 Trade Union Training
  - 2.7.9 Apprentice Training
  - 2.7.10 Skills Audit
  - 2.7.11 Work Flexibility
  - 2.7.12 Education Assistance

- 2.7.13 Higher Duties
- 2.8 Environmental

### SECTION 3

- 3.1 Employment Details
  - 3.1.1 Security of Employment
  - 3.1.2 No Extra Claims
  - 3.1.3 Definitions
  - 3.1.4 Qualifications, Duties and Responsibilities
- 3.2 Terms and Conditions of Employment
  - 3.2.1 Terms
  - 3.2.2 Termination
  - 3.2.3 Redundancy
  - 3.2.4 Deduction Of Union Fees
  - 3.2.5 Disputes Settlement Procedure
  - 3.2.6 Anti-Discrimination
  - 3.2.7 Secure Employment
- 3.3 Wages and Allowances
  - 3.3.1 Wage Rates
  - 3.3.2 Allowances
  - 3.3.3 Superannuation
  - 3.3.4 Payment of Wages
- 3.4 Hours of Work, Overtime
  - 3.4.1 Day Work
  - 3.4.2 Shift Work
  - 3.4.3 Swapping Rostered Shifts
  - 3.4.4 Overtime
  - 3.4.5 Excess Hours
  - 3.4.6 10-Hour Break
  - 3.4.7 Callout
  - 3.4.8 Meals
  - 3.4.9 Refreshment Breaks
- 3.5 Statutory Holidays and Leave
  - 3.5.1 Public Holidays
  - 3.5.2 Union Picnic Day
  - 3.5.3 Annual Leave
  - 3.5.4 Long Service Leave
  - 3.5.5 Sick Leave
  - 3.5.6 Bereavement Leave
  - 3.5.7 Jury Service
  - 3.5.8 Parental Leave
  - 3.5.9 State Personal/Carer's Leave Case - August 1996
  - 3.5.10 Military Leave
  - 3.5.11 Leave Without Pay
  - 3.5.12 Emergency Services Leave
- 3.6 Miscellaneous Provisions
  - 3.6.1 Occupational Health and Safety
  - 3.6.2 Medical Examination
  - 3.6.3 Accident Pay
  - 3.6.4 Attendance at Repatriation Centres
  - 3.6.5 First-aid
  - 3.6.6 Safety Aids
  - 3.6.7A Uniforms and Protective Clothing
  - 3.6.7B Occupational Health and Safety
  - 3.6.8 Anti-Discrimination/Equal Employment Opportunities
  - 3.6.9 New Technology and Work Practice Change

- 3.6.10 Amenities
- 3.6.11 Employees' Tools
- 3.6.12 Investigation Teams
- 3.6.13 Internal Facilitators
- 3.6.14 Single Bargaining Unit (SBU)
- 3.6.15 Yard Committees - Union Delegates
- 3.6.16 Right of Entry of Officer of Industrial Organisation of Employees

#### SECTION 4

Table 1 - Allowances

Appendix 1 - Appendix to Award

Appendix 2 - Applicable Site and Side Agreements

2. Renumber the clauses in the body of the award to reflect the new Arrangement.
3. Insert after clause 3.2.6, Anti-discrimination, the following new clause:

#### **3.2.7. Secure Employment**

- (1) Objective of this Clause

The objective of this clause is for PWCS to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in its workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (2) Casual Conversion

- (a) A casual employee engaged by PWCS on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (b) PWCS shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if PWCS fails to comply with this notice requirement.
- (c) Any casual employee who has a right to elect under paragraph 2(a), upon receiving notice under paragraph 2(b) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to PWCS that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, PWCS shall consent to or refuse the election, but shall not unreasonably so refuse. Where PWCS refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (d) Any casual employee who does not, within four weeks of receiving written notice from PWCS, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (e) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with PWCS.

- (f) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (c), PWCS and employee shall, in accordance with this paragraph, and subject to paragraph (c) discuss and agree upon:
- (i) whether the employee will convert to full-time or part-time employment; and
  - (ii) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (g) Following an agreement being reached pursuant to paragraph (f), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (h) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.

4. Insert after clause 3.6.7A, Uniforms and Protective Equipment, the following new clause:

**3.6.7B. Occupational Health and Safety Issues Arising from the Secure Employment Test Case**

- (1) For the purposes of this subclause, the following definitions shall apply:
  - (a) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to PWCS for the purpose of such staff performing work or services for PWCS.
  - (b) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by PWCS to provide a specified service or services or to produce a specific outcome or result for PWCS which might otherwise have been carried out by PWCS' own employees.
- (2) If PWCS engages a labour hire business and/or a contract business to perform work wholly or partially on its premises, it shall do the following (either directly, or through the agency of the labour hire or contract business):
  - (a) consult with employees of the labour hire business and/or contract business regarding its workplace occupational health and safety consultative arrangements;
  - (b) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (c) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that are relevant to the services they provide and that they would otherwise supply to their own employees; and

- (d) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (3) Nothing in this subclause is intended to affect or detract from any obligation or responsibility upon a labour hire business and/or contract business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (4) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (5) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
5. This variation shall take effect from 10 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

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**PUBLIC HEALTH SERVICE EMPLOYEES SKILLED TRADES  
(STATE) AWARD (INCORPORATING THE AMBULANCE SERVICE  
OF NSW SKILLED TRADES)**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Construction, Forestry, Mining and Energy Union (New South Wales Branch) , Industrial Organisation of Employees.

(No. IRC 1448 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

21 March 2006

**VARIATION**

1. Insert in alphabetical order in clause 1, Index, of the award published 21 June 2002 (334 I.G. 557), the following new clause and subject matter:

**4A. Secure Employment Provisions**

2. Insert after clause 4, Hours and Contract of Employment, the following new clause:

**4A. Secure Employment Provisions**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall



be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with the clause 4 Hours and Contact of Employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):

- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
  - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 21 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

## **PUBLIC HEALTH SYSTEM NURSES' & MIDWIVES' (STATE) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by New South Wales Nurses' Association, Industrial Organisation of Employees.

(No. IRC 1220 of 2006)

Before The Honourable Justice Wright, President

5 April 2006

### **VARIATION**

1. Insert in alphabetical order the following new clause and subject matter into clause 1, Arrangement of the award published 24 February 2006 (357 I.G. 345), and renumber existing clause numbers 57, and 58 to read as 58 and 59 respectively:

57. Occupational Health and Safety for Employees of  
Contractors and Labour Hire Businesses

2. Delete Part II, Casual Employees of clause 29, Part-Time, Casual and Temporary Employees, and insert in lieu thereof the following:

### **PART II - CASUAL EMPLOYEES**

#### **A. General Provisions**

- (i) A casual employee is one engaged on an hourly basis otherwise than as a permanent part-time or full-time employee.
- (ii) A casual employee shall be paid an hourly rate calculated on the basis of one thirty-eighth of the appropriate rate, prescribed by clause 9, Salaries, plus 10 per centum thereof, with a minimum payment of 2 hours for each start, and one thirty-eighth of the appropriate allowances prescribed by clause 19, Uniform and Laundry Allowances.
- (iii) With respect to a casual employee the provisions of clause 41, Deputy Directors of Nursing, Assistant Directors of Nursing; clause 7, Hours of Work and Free time of Directors of Nursing and Area Managers, Nurse Education; clause 25, Overtime; clause 30, Annual Leave; clause 16, Fares and Expenses; clause 20, Mobility, Excess Fares and Travelling, Clause 55, Learning and Development Leave and sub-clause (vii) of clause 38, Accommodation and Board, shall not apply.

Further, casual employees shall not be entitled to an additional day off or part thereof as prescribed by subclauses (iii) and (v) of clause 4, Hours of Work and Free Time of Employees Other Than Directors of Nursing and Area Managers, Nurse Education.

- (iv) For the entitlement to payment in respect of annual leave, see *Annual Holidays Act, 1944*.
- (v) A casual employee who is required to and does work on a public holiday as defined in subclauses (iii) and (iv) of clause 30, Annual Leave, shall be paid for the time actually worked at the rate of double time and one-half such payment being in lieu of weekend or shift allowances which would otherwise be payable had the day not been a public holiday; provided that a casual employee shall not be entitled to be paid in addition the allowance of 10 per centum prescribed in subclause (ii) of Part III in respect of such work.

- (vi) Where a casual employee has been notified by an employer of a time to commence an engagement and that engagement is subsequently cancelled by the employer with less than 2 hours notice the casual employee must be paid a minimum payment of 2 hours calculated at the rate which would have applied had the cancellation not occurred.
- (vii) A casual employee must not be required to work more than 12 consecutive hours unless the casual employee consents to do so.

#### B. Casual Conversion

- (i) The objective of this subclause B, Casual Conversion, is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees. These provisions arise from the Secure Employment Test Case 2006.
- (ii) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (iii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iv) Any casual employee who has a right to elect under paragraph (ii), upon receiving notice under paragraph (iii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (v) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (vi) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vii) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (iv), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (iv), discuss and agree upon:
  - (a) whether the employee will convert to full-time or part-time employment; and
  - (b) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual

employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (viii) Following an agreement being reached pursuant to paragraph (vii), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (ix) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
3. Insert after clause 56, Career Break Scheme, the following new clause and renumber the existing clauses 57, Reviews and Commitments during term of this Award and 58, Area, Incidence and Duration, to read as clause 58 and 59 respectively:

### **57. Occupational Health and Safety for Employees of Contractors and Labour Hire Businesses**

- (i) This clause arises from the Secure Employment Test Case 2006. For the purposes of this subclause, the following definitions shall apply:
  - (a) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
  - (b) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
  - (a) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
  - (b) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (c) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (d) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this clause is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (iv) Disputes regarding the application of this clause. Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.

- (v) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
4. This variation shall take effect from 5 April 2006.

F. L. WRIGHT J , *President*

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**RESTAURANT, &c., EMPLOYEES' RETAIL SHOPS (STATE) AWARD**INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Shop, Distributive and Allied Employees' Association, New South Wales, Industrial Organisation of Employees.

(No. IRC 1034 of 2006)

Before The Honourable Justice Walton, Vice-President  
The Honourable Justice Boland  
Commissioner Tabbaa

21 March 2006

**VARIATION**

1. Delete clause 13 Holidays, of the award published 31 August 2001 (327 I.G. 368), and insert in lieu thereof the following:

**13. Holidays**

(i)

- (a) The days observed as New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day, Boxing Day and all days proclaimed as Public holidays for the State for a special purpose but observed throughout the State on different days also shall be a holiday.
- (b) Every full-time or part-time employee allowed a holiday specified herein shall be deemed to have worked in the week in which the holiday falls the number of ordinary working hours that he would have worked had the day not been a holiday.

Provided that any full-time or part-time employee whose roster is changed with the intent of avoiding or reducing payment due or the benefit applicable under this clause and who would, but for the change of roster, have been entitled otherwise to a payment or benefit for a public holiday or holidays shall be paid for such holiday or holidays as if their roster had not been changed.

Provided further that where a full-time or part-time employee is rostered so that they do not work their ordinary hours on the same days each week and the employee's rostered day off falls on a day prescribed as a holiday in paragraph (a) of this subclause the employee shall be paid by mutual agreement between the employer and the employee in one of the following methods:

- (1) payment of an additional day's wages;
- (2) addition of one day to the employee's annual holidays;
- (3) another day may be allowed off with pay to the employee within twenty-eight days after the holiday falls, or during the week prior to the holiday.

For the purpose of this paragraph "day" means the average number of hours in the employee's normal roster cycle worked by the employee prior to the day on which the public holiday falls.

- (ii) An employee absent without leave on the day before or the day after any award holiday shall be liable to forfeit wages for the day of absence as well as for the holiday except where an employer is satisfied that the employee's absence was caused through illness, in which case wages shall not be forfeited for the holiday. Provided that an employee absent on one day only either before or after a group of holidays, shall forfeit wages only for one holiday as well as for the period of absence.

- (iii) Work done on any of the holidays prescribed in subclause (i) hereof shall be paid for at the rate of double time and one-half with a minimum payment of three hours.
- (iv) In addition to the holidays prescribed in subclause (i) of this clause, full-time and part-time employees shall be entitled to an additional holiday without loss of pay.

This day shall be on the first Tuesday of November in any year, or on any other day agreed to by the appropriate union.

Where the establishment of an employer remains open and a full-time or part-time employee volunteers to work on the first Tuesday in November, such employee shall then be given another day off without loss of pay. Such alternate day shall be given and taken not later than 28 days after the nominated day on a day mutually agreed between the employer and the employee.

Provided that an employer and an employee, or an employer and the majority of employees in an establishment, may agree to observe an alternative day as a holiday in lieu of the first Tuesday in November.

Provided that in no circumstances shall an employee forfeit his entitlement to the additional holiday and should such extenuating circumstances arise where the day is not taken as prescribed above it must be given and taken on a day without loss of pay added to the employee's next period of annual leave.

Provided further that where a full-time or part-time employee's employment terminates prior to the taking of such alternate day, the employee shall receive an additional day's pay on termination.

Provided further that employees on annual leave or long service leave on the day referred to in this subclause shall have an additional day added to their next period of annual leave.

- 2. This variation shall take effect from 21 March 2006.

M. J. WALTON *J, Vice-President.*  
R. P. BOLAND *J.*  
I. TABBAA, Commissioner.

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**RESTAURANT, &c., EMPLOYEES' RETAIL SHOPS (STATE) AWARD**

## INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Shop, Distributive and Allied Employees' Association, New South Wales, Industrial Organisation of Employees.

(No. IRC 1150 of 2006)

Before The Honourable Justice Schmidt

10 March 2006

**VARIATION**

1. Insert in numerical order in the Arrangement of the award published 31 August 2001 (327 I.G. 368), the following new clause number and subject matter:

2A. Secure Employment

2. Insert after clause 2, Hours, the following new clause:

**2A. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.

- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.

- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.

- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW).

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
    - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;

- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from 10 March 2006.

M. SCHMIDT J

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## RESTAURANTS, &c., EMPLOYEES (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by NSW Department of Education and Training.

(No. IRC 2404 of 2006)

Before The Honourable Justice Wright, President

30 May 2006

### VARIATION

1. Insert after paragraph 8.5(d), of clause 8, Casual Employees, of the award published 19 January 2001 (321 I.G. 759), the following new paragraph:
  - (e) Exemption

The abovementioned casual conversion clause will not apply to persons who:

    - (a) perform work pursuant to the *Technical and Further Education Commission Act 1990*.
2. This variation shall take effect from the 14 March 2006.

F. L. WRIGHT J , *President*

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**RESTAURANTS, &c., EMPLOYEES (STATE) AWARD**INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Liquor, Hospitality and Miscellaneous Union, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 1315 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

14 March 2006

**VARIATION**

1. Insert in numerical order in clause 1, Arrangement, of the award published 19 January 2001 (321 I.G. 759), the following new clause and subject matter:

22A. Secure Employment (Occupational Health and Safety)

2. Insert after subclause 8.4, of clause 8, Casual Employees, the following subclause:

8.5 Secure Employment

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of twelve months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of twelve months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee

concerned, and a genuine attempt shall be made to reach-agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (d) This clause has no application in respect of organisations which are properly registered as Group Training

Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

3. Insert after clause 22, Work Clothes and Safety Equipment, the following new clause:

**22A. Secure Employment (Occupational Health and Safety)**

Occupational Health and Safety

- (i) For the purposes of this subclause, the following definitions shall apply:
- (a) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
  - (b) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
  - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 9998*.
4. This variation shall take effect from the 14 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

**RETAIL SERVICES EMPLOYEES (STATE) AWARD**INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Shop, Distributive and Allied Employees' Association, New South Wales, Industrial Organisation of Employees.

(No. IRC 1034 of 2006)

Before The Honourable Justice Walton, Vice-President  
The Honourable Justice Boland  
Commissioner Tabbaa

21 March 2006

**VARIATION**

1. Delete clause 14, Holidays of the award published 5 October 2001 (328 I.G. 261, and insert in lieu thereof the following:

**14. Holidays****(A) Public Holidays -**

- (i) Subject to subclause (B), work done on any of the holidays prescribed in paragraph (ii) of this subclause shall be paid for at the rate of double time and one-half, with a minimum payment of three hours.

(ii)

- (a) The days observed as New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, the first Tuesday in November, Christmas Day, Boxing Day and all days proclaimed as public holidays for the State shall be holidays; provided that any day proclaimed as a holiday for the State for a special purpose but observed throughout the State on different days also shall be a holiday.

- (b) For all holidays not including the first Tuesday in November:

Every full-time or part-time employee allowed a holiday specified herein shall be deemed to have worked in the week in which the holiday falls the number of ordinary working hours that he/she would have worked had the day not been a holiday.

Provided that any full-time or part-time employee whose roster is changed with the intent of avoiding or reducing payment due or the benefit applicable under this clause and who would, but for the change of roster, have been entitled otherwise to a payment or benefit for a public holiday or holidays shall be paid for such holiday or holidays as if his/her roster had not been changed.

Provided further that where a full-time or part-time employee working an average of five days per week is rostered so that he/she does not work his/her ordinary hours on the same days each week and the employee's rostered day off falls on a day prescribed as a holiday in subparagraph (a) of this paragraph, the employee shall be paid by mutual agreement between the employer and the employee in one of the following methods:

- (1) payment of an additional day's wages;
- (2) addition of one day to the employee's annual holidays;



- (3) another day may be allowed off with pay to the employee within 28 days after the holiday falls, or during the week prior to the holiday.

For the purposes of this paragraph, "day" means the average number of hours in the employee's normal roster cycle worked by the employee prior to the day on which the public holiday falls.

- (iii) A full-time or part-time employee absent without leave on their last working day before or their first working day after any award holiday shall be liable to forfeit wages for the day of absence as well as for the holiday, except where an employer is satisfied that the employee's absence was caused through illness, in which case wages shall not be forfeited for the holiday; provided that an employee absent on one day only either before or after a group of holidays shall forfeit wages only for one holiday as well as for the period of absence.
- (B) The first Tuesday in November - Full-time and part-time employees rostered to work shall be entitled to a holiday without loss of pay on the first Tuesday of November in any year.

Work on the first Tuesday in November shall not be paid at the rate of double time and a half, but shall be paid as follows:

Where the establishment of an employer remains open and a full-time or part-time employee volunteers to work on the first Tuesday in November, such employee shall then be given another day off without loss of pay. Such alternative day shall be given and taken not later than 28 days after the nominated day on a day mutually agreed between the employer and the employee.

Provided that an employer and an employee, or an employer and the majority of employees in an establishment, may agree to observe an alternative day as a holiday in lieu of the first Tuesday in November.

Provided that in no circumstances shall an employee forfeit entitlement to the additional holiday and should such extenuating circumstances arise where the day is not taken as described above, it must be given and taken on a day without loss of pay added to the employee's next period of annual leave.

Provided further that where an employee's employment terminates prior to the taking of such alternative day, the employee shall receive an additional day's pay on termination.

Provided further that employees on annual leave or long service leave on the day referred to in this subclause shall have an additional day added to their next period of annual leave.

2. This variation shall take effect from 21 March 2006.

M. J. WALTON *J, Vice-President.*  
R. P. BOLAND *J.*  
I. TABBAA, Commissioner.

**RETAIL SERVICES EMPLOYEES (STATE) AWARD**

## INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Shop, Distributive and Allied Employees' Association, New South Wales, Industrial Organisation of Employees.

(No. IRC 1150 of 2006)

Before The Honourable Justice Schmidt

10 March 2006

**VARIATION**

1. Insert in numerical order in clause 1, Arrangement of the award published 5 October 2001 (328 I.G. 261), the following new clause number and subject matter:

**5A. Secure Employment**

2. Insert after clause 5, Wages, the following new clause:

**5A. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of twelve months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of twelve months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.

- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW).

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
    - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;

- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from 10 March 2006.

M. SCHMIDT J

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## RURAL LANDS PROTECTION BOARDS SALARIES AND CONDITIONS AWARD 2004

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales, Industrial Organisation of Employees.

(No. IRC 1431 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

21 March 2006

### VARIATION

1. Insert in numerical order in the Arrangement of the award published 20 May 2005 (351 IG 168), the following clause number and subject matter:

36A. Secure Employment

2. Insert after clause 36, Anti-Discrimination, the following new clause:

#### **36A. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.

- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.

- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing

contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 21 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

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## SHOP EMPLOYEES (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by NSW Department of Education and Training.

(No. IRC 2404 of 2006)

Before The Honourable Justice Wright, President

30 May 2006

### VARIATION

1. Insert after paragraph (viii), of clause 5A, Secure Employment, of the award published 18 May 2001 (324 I.G. 935), the following new paragraph:
  - (ix) Exemption

The abovementioned casual conversion clause will not apply to persons who:

  - (a) perform work pursuant to the *Technical and Further Education Commission Act 1990* and/or the *Public Sector Employment and Management Act 2002*.
2. This variation shall take effect from 10 March 2006.

F. L. WRIGHT J , *President*

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## SHOP EMPLOYEES (STATE) AWARD

### INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Shop, Distributive and Allied Employees' Association, New South Wales, Industrial Organisation of Employees.

(No. IRC 1150 of 2006)

Before The Honourable Justice Schmidt

10 March 2006

#### VARIATION

1. Insert in numerical order in clause 1, Arrangement, of the award published 18 May 2001 (324 I.G. 935), the following new clause number and subject matter:

#### 5A. Secure Employment

2. Insert after clause 5, Casual Employees - All Shops, the following new clause:

#### 5A. Secure Employment

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of twelve months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of twelve months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.

- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW).

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
    - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;

- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from 10 March 2006.

M. SCHMIDT J

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**STARCH MANUFACTURERS, &c. (STATE) AWARD**

## INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by National Union of Workers, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 757 of 2006)

Before The Honourable Justice Walton, Vice-President

26 February 2006

**VARIATION**

1. Delete subclause (i) of clause 21 Sunday and Holiday Rates, of the award published 8 June 2001 (325 I.G. 370) and insert in lieu thereof the following:
  - (i)
    - (a) The days upon which New Years Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day and Boxing Day are observed and an additional holiday, which shall be held on the last Monday in October each year, together with any other days which shall be proclaimed by the Government as public holidays shall be recognised as holidays and no deduction shall be made from the wages of weekly employees for such holidays if not worked; provided that, in the case of shift workers, each such holiday shall be deemed to commence at the usual starting time of the ordinary hours of work of the day shift on the day of the holiday and to end at the corresponding time on the following day except where the usual starting time of the ordinary hours of shift commences at or before midnight on a Sunday, in any factory, in which case each such holiday shall be deemed to commence at the same time at or before midnight on a Sunday and to end at the corresponding time on the day of the holiday.
    - (b) In localities where no Labour Day is observed a day in lieu thereof shall be granted to employees and such day shall be arranged mutually between the employer and the union.
    - (c) An employer and an employee, or an employer and the majority of employees in an establishment, may agree to observe an alternative day as a holiday in lieu of the last Monday in October.
    - (d) Any employee required to work on any of the abovementioned holidays other than on Good Friday or Christmas Day shall be paid at the rate of double time and one half.
    - (e) Any employee required to work on Good Friday or Christmas Day shall be paid at the rate of double time in addition to the ordinary rate of pay.
    - (f) Any employee required to work on a Sunday shall be paid at the rate of double time.
2. This variation shall take effect from 6 March 2006.

M. J. WALTON *J, Vice-President.*

## STOREMEN AND PACKERS BOND AND FREE STORES (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by National Union of Workers, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 750 of 2006)

Before The Honourable Justice Walton, Vice-President

26 February 2006

### VARIATION

1. Delete clause 10 Holidays, of the award published 9 February 2001 (322 I.G. 72) and insert in lieu thereof the following:

#### 10. Holidays

- (i) The following days, or the days upon which they are observed shall be holidays. New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day, Boxing Day and additional holiday for the purposes of this clause, which shall be held on the first working day after Boxing Day each year and any day which may hereafter be proclaimed a public holiday for the district in which the employee is employed.

In the case of weekly employees, the above days shall be paid even though not worked.

- (ii) An employer and an employee, or an employer and the majority of employees in an establishment may agree to observe an alternative day as a holiday in lieu of the first working day after Boxing Day.
- (iii) In the case of an employee whose ordinary hours of work are arranged in accordance with paragraph (c) or (d) of subclause (ii) of clause 3, Hours, of this award, the week day to be taken off shall not coincide with any holiday fixed in accordance with subclause (i) of this clause; Provided that in the event that a holiday is prescribed after an employee has been given notice of his week day off in accordance with subclause (vi) of the said clause 3 and the holiday falls on the week day the employee is to take off, the employer shall allow the employee to take the day off on an alternative week day.
- (iv) Where an employee is absent from his or her employment on the working day before or the working day after a public holiday without reasonable excuse or without the consent of the employer, the employee shall not be entitled to payment for such holiday. Reasonable excuse shall be satisfied by a certificate from a duly qualified medical practitioner or statutory declaration.

2. This variation shall take effect from 13 March 2006.

M. J. WALTON *J, Vice-President.*

## STOREMEN AND PACKERS BOND AND FREE STORES (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Unions NSW, Industrial Organisation of Employees and State Peak Council.

(No. IRC 4330 of 2003)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

28 February 2003

### VARIATION

1. Insert in numerical order in clause 1, Arrangement, of the award published 9 February 2001 (322 I.G. 72), the following clause number and subject matter:

**2A. Secure Employment**

2. Insert after clause 2, Definitions, the following new clause:

**2A. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.

- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.

- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing

contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 1 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

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## STOREMEN AND PACKERS, GENERAL (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by National Union of Workers, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 749 of 2006)

Before The Honourable Justice Walton, Vice-President

26 February 2006

### VARIATION

1. Delete subclause (ii) of clause 24 Holidays of the award published 18 August 2000 (317 I.G. 1097) and insert in lieu thereof the following:

- (ii) In addition to the holidays specified in subclause (i), of this clause, one additional paid holiday shall apply in each calendar year to an employee on weekly hire. Unless agreed otherwise, the first Tuesday following Easter Monday shall be the additional holiday.

An employer and an employee, or an employer and the majority of employees in an establishment, may agree to observe an alternative day as a holiday in lieu of the first Tuesday following Easter Monday.

2. This variation shall take effect from 13 March 2006.

M. J. WALTON J, *Vice-President*

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**STOREMEN AND PACKERS, GENERAL (STATE) AWARD**INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Unions NSW, Industrial Organisation of Employees and State Peak Council.

(No. IRC 4330 of 2003)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

28 February 2006

**VARIATION**

1. Insert in numerical order in clause 1, Arrangement, of the award published 18 August 2000 (317 I.G. 1097), the following clause number and subject matter:

2B. Secure Employment

2. Insert after clause 2A, Classifications, the following new clause:

**2B. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 1 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

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**STOREMEN AND PACKERS, WHOLESALE DRUG STORES (STATE)  
AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by National Union of Workers, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 751 of 2006)

Before The Honourable Justice Walton, Vice-President

26 February 2006

**VARIATION**

1. Delete subclause (ii) of clause 15 Holidays, of the award published 23 April 1999 (309 I.G. 13) and insert in lieu thereof the following:

(ii) In addition to the holidays specified in subclause (i), of this clause, one additional paid holiday shall apply in each calendar year to an employee on weekly hire. The Tuesday following Easter Monday shall be an additional holiday for the purposes of this clause.

An employer and an employee, or an employer and the majority of employees in an establishment, may agree to observe an alternative day as a holiday in lieu of the first Tuesday following Easter Monday.

2. This variation shall take effect from 6 March 2006.

M. J. WALTON J, *Vice-President*

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## STOREMEN AND PACKERS, WHOLESALE DRUG STORES (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Unions NSW, Industrial Organisation of Employees and State Peak Council.

(No. IRC 4330 of 2003)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

28 February 2006

### VARIATION

1. Insert in numerical order in clause 1, Arrangement, of the award published 23 April 1999 (309 I.G. 13), the following clause number and subject matter:

2A. Secure Employment

2. Insert after clause 2, Definitions, the following new clause:

#### **2A. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.

- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.

- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing

contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 1 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

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## STOREMEN AND PACKERS, WHOLESALE PAINT, VARNISH AND COLOUR STORES (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by National Union of Workers, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 762 of 2006)

Before The Honourable Justice Walton, Vice-President

6 March 2006

### VARIATION

1. Delete subclause (i) of clause 8 Holidays, of the award published 14 December 2001 (330 I.G. 327) and insert in lieu thereof the following:
  - (i) The following days shall be recognised as holidays: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day, and Boxing Day,  
  
or any other day on which the foregoing holidays are observed or any day gazetted or proclaimed as a public holiday for the districts in which the employee is employed and an additional holiday to be held on the first Monday in August each year - provided that the employees in the industry governed by the paint and Varnish Makers &c. (State) Award and the Transport Industry (State) Award, do not observe any other working day as an additional holiday.
  - (ii) An employer and an employee, or an employer and the majority of the employees in an establishment may agree to observe an alternative day as a holiday in lieu of the additional holiday to be held on the first Monday in August.
  - (iii) No deduction shall be made from the wages of a weekly hand for holidays not worked and if work is done on a holiday, the employee shall be paid at the rate of double-time and a half for the time worked - provided that in no case, shall the extra allowance be less than four hour's pay.
2. This variation shall take effect from 6 March 2006.

M. J. WALTON J, *Vice-President*

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## **TANNING INDUSTRY (STATE) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Liquor, Hospitality and Miscellaneous Union, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 1307 of 2006)

Before The Honourable Justice Walton, Vice-President  
The Honourable Justice Boland  
Commissioner Tabbaa

22 March 2006

### **VARIATION**

1. Delete sub paragraph (a) of clause 18 Holidays, of the award published 8 February 2002 (331 I.G. 157) and insert in lieu thereof the following:
  - (a) New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day, Boxing Day, together with any other holiday proclaimed for the district where the employee is employed, and the first Monday in August of each year, or as shall be mutually agreed between a group of employees and the employer.

Anzac Day, when falling on a non-working day, shall be observed as a paid holiday for the purposes of this award on the first following Monday.
2. This variation shall take effect on and from 21 March 2006.

M. J. WALTON *J. Vice-President.*  
R. P. BOLAND *J.*  
I. TABBAA, Commissioner.

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**TENNIS STRINGS AND SUTURES INDUSTRY (STATE) AWARD**INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Shop, Distributive and Allied Employees' Association, New South Wales, Industrial Organisation of Employees.

(No. IRC 1034 of 2006)

Before The Honourable Justice Walton, Vice-President  
The Honourable Justice Boland  
Commissioner Tabbaa

21 March 2006

**VARIATION**

1. Delete Clause 20 Holidays, of the said award published 3 August 2001 (326 I.G. 684), and insert in lieu thereof the following:

**20. Holidays**

- (a) The following days or day upon which they are observed shall be holidays: New Year's Day, Australia Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Eight Hour Day, Christmas Day, Boxing Day and all other days proclaimed as public holidays for the State.
  - (b) In addition to the holidays specified in subclause (a) of this clause one additional holiday shall apply in each calendar year to an employee on weekly hire. Such holiday shall be on the day prescribed in subclause 7.5.1(b)(ii) of clause 7.5, of Public Holidays of the Metal, Engineering and Associated Industries Award 1998 (Federal), as an additional holiday in New South Wales, provided that, in 1976 only, the additional holiday shall be observed on Monday, 6 September, provided further that where any other working day is observed as an additional day by the general body of employees in any establishment then such day shall be substituted for the additional holiday hereinbefore prescribed. By agreement between any employer and the majority of his employees another day may be substituted for the additional holiday prescribed by this subclause in such employer's undertaking.
  - (c) All award holidays falling on a usual working day shall be counted as time worked and paid for as such.
  - (d) An employee who without reasonable cause absents himself without leave on the working day immediately preceding or the working day immediately following an award holiday shall not be entitled to payment for such holiday.
  - (e) Work done on an award holiday or Easter Saturday shall be paid for at the rate of double time and one-half with a minimum payment of four hours.
2. This variation shall take effect from 21 March 2006.

M. J. WALTON *J, Vice-President.*  
R. P. BOLAND *J.*  
I. TABBAA, Commissioner.

**TENNIS STRINGS AND SUTURES INDUSTRY (STATE) AWARD**

## INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Shop, Distributive and Allied Employees' Association, New South Wales, Industrial Organisation of Employees.

(No. IRC 1150 of 2006)

Before The Honourable Justice Schmidt

10 March 2006

**VARIATION**

1. Insert in numerical order in clause 1, Arrangement, of the award published 3 August 2001 (326 I.G. 684), the following new clause number and subject matter:

12A. Secure Employment

2. Insert after clause 12, Part-time and Casual Employees, the following new clause:

**12A. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.

- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.

- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.

- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW).

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
    - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;

- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from 10 March 2006.

M. SCHMIDT J

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## TRANSPORT INDUSTRY - MOTOR BUS DRIVERS AND CONDUCTORS (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Transport Workers' Union of New South Wales, Industrial Organisation of Employees.

(No. IRC 1235 of 2006)

Before The Honourable Justice Wright, President

23 March 2006

### VARIATION

1. Insert in numerical order in clause 1, Arrangement of the award published 9 September 2005 (353 I.G. 760) the following new clause number and subject matter.

#### 45. Secure Employment

2. Insert after clause 44, Area Incidence and Duration the following new clause.

#### **45. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.

- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with the part-time employment provisions of this award (subject to sub-clause (vii)) or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW):

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Any agreement with respect to conversion to part-time employment under the part-time provisions of this award must be in accordance with clause 7, Part-Time Employees, except that:
  - (1) in the case of conversion of a casual employee who has predominantly been performing school run work, his or her hours of work as a part-time employee may be averaged over 52 weeks if it is envisaged that the employee will continue to perform predominantly school run work and provided that a minimum of three hours is worked on each rostered working day during school term;
  - (2) sub-clause (iii) (d) of Clause 8, Hours of Employment, shall not be applicable;
  - (3) any hours worked in addition to the base number of agreed hours shall:
    - be worked only by mutual agreement between the employer and the employee, and there shall be no circumstances in which the employer can require the employee to work additional hours.
    - shall, except in the case of special hirings (to which clause 15 applies), be paid at the ordinary-time rate of this award for up to 10 hours per day or 38 hours per week for all work performed (including base hours), and thereafter shall be paid at overtime penalty rates.
    - be taken into account in the calculation of pro-rata leave entitlements (except where paid at overtime penalty rates).
- (viii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (ix) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.



## (e) Occupational Health and Safety

(i) For the purposes of this subclause, the following definitions shall apply:

- (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
- (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.

(ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):

- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
- (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.

(iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.

## (d) Disputes Regarding the Application of this Clause

Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.

(e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

3. This variation shall take effect from 23rd March 2006.

F. L. WRIGHT J , *President*

(679)

SERIAL C4747

## TRANSPORT INDUSTRY - TOURIST AND SERVICE COACH DRIVERS (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Transport Workers' Union of New South Wales, Industrial Organisation of Employees.

(No. IRC 1237 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

21 March 2006

### VARIATION

1. Insert in Part F - General, of clause 1, Arrangement, of the award published 18 August 2000 (317 I.G. 1079), the following new clause number and subject matter:

36. Secure Employment

2. Insert after clause 35, Leave Reserved, the following new clause:

#### **36. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.

- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.

- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing

contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 21 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

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## TRANSPORT INDUSTRY - WHOLESALE BUTCHERS (STATE) AWARD 2000

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Transport Workers' Union of New South Wales, Industrial Organisation of Employees.

(No. IRC 1238 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

14 March 2006

### VARIATION

1. Insert in numerical order in clause 2, Arrangement, of the award published 11 May 2001 (324 I.G. 722), the following new clause and subject matter:

38. Secure Employment

2. Insert after clause 37, Union Membership, the following new clause:

#### **38. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.

- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.

- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing

contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from the 14 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

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**UNIVERSITY OF NEWCASTLE UNION FOOD AND BEVERAGE  
STAFF (STATE) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Liquor, Hospitality and Miscellaneous Union, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 513 of 2006)

Before The Honourable Justice Walton, Vice-President  
The Honourable Justice Boland  
Commissioner Tabbaa

23 March 2006

**VARIATION**

1. Delete subclause 21.1 of clause 21 Public Holidays, of the award published 28 September 2001 (328 I.G. 160), and insert in lieu thereof the following:
  - 21.1 Public holidays which shall be observed under this award are: New Years Day, Good Friday, Easter Saturday, Easter Monday, Newcastle University Union Picnic Day (recognised as the Tuesday immediately following Easter Monday, Christmas Day, Boxing Day and the days proclaimed as public holidays for Australia Day, Anzac Day, Queens Birthday and Labour Day or any other day duly proclaimed as a public holiday in the State of New South Wales.
2. This variation shall take effect on and from the first full pay period on or after 23 March 2006.

M. J. WALTON *J, Vice-President.*  
R. P. BOLAND *J.*  
I. TABBAA, Commissioner.

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## UNIVERSITY OF NEWCASTLE UNION FOOD AND BEVERAGE STAFF (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Liquor, Hospitality and Miscellaneous Union, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 1315 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

14 March 2006

### VARIATION

1. Insert in numerical order in clause 1, Arrangement, of the award published 28 September 2001 (328 I.G. 160), the following new clause and subject matter:

32A. Occupational Health and Safety

2. Insert after subclause 5.8, of clause 5, Casual Employees, the following new subclause:

5.9 Secure Employment

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of twelve months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of twelve months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not

unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Disputes Regarding the Application of this Clause

Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.

- (d) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

3. Insert after clause 32, Occupational Health and Safety, the following new clause:

**32A. Occupational Health and Safety**

- (i) For the purposes of this subclause, the following definitions shall apply:
- (a) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
- (b) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
- (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
4. This variation shall take effect from the 14 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

**UNIVERSITY UNIONS (STATE) AWARD**INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Liquor, Hospitality and Miscellaneous Union, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 513 of 2006)

Before The Honourable Justice Walton, Vice-President  
The Honourable Justice Boland  
Commissioner Tabbaa

23 March 2006

**VARIATION**

1. Delete subclause 13.1 of clause 13, Public Holidays of the award published 22 August 2003 (341 I.G. 100), and insert in lieu thereof the following:
  - 13.1 The days on which the following holidays are observed shall be holidays under this award, namely New years Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queens Birthday, Labour Day, Christmas Day and Boxing Day and any day which may hereafter be proclaimed a public holiday throughout the State, and a University Union Day, which shall be held on a day to be determined each year by agreement between the employer and the employees.

Provide that where a day is observed as University Union Day or as an additional day by the general body of employees in any establishment, then such day may be substituted for the University Union Day of the University Union, as a holiday for any employees in that establishment entitled to such a University Union Day, or additional day as a holiday under this award.

2. This variation shall take effect on and from the first full pay period on or after 23 March 2006.

M. J. WALTON *J, Vice-President.*  
R. P. BOLAND *J.*  
I. TABBAA, Commissioner.

## UNIVERSITY UNIONS (STATE) AWARD

### INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES FULL BENCH

Application by Liquor, Hospitality and Miscellaneous Union, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 1150 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

21 March 2006

### VARIATION

1. Insert in numerical order in clause 1, Arrangement, of the award published 22 August 2003 (341 I.G. 100), the following new clause and subject matter:

24A. Secure Employment (Occupational Health and Safety)

2. Insert after subclause 6.2, of clause 6, Casual Employees, of the following new subclause:

6.3. Secure Employment

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of twelve months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee

concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW).

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Disputes Regarding the Application of this clause

Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.

- (d) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

3. Insert after clause 24, Work Clothes and Safety Equipment, the following new clause:

**24A. Secure Employment (Occupational Health and Safety)**

Occupational Health and Safety

(i) For the purposes of this subclause, the following definitions shall apply:

- (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
- (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.

(ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):

- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
- (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
- (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.

(iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.

4. This variation shall take effect from the 21 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

**VAN SALES EMPLOYEES' (STATE) AWARD**

## INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Shop, Distributive and Allied Employees' Association, New South Wales, Industrial Organisation of Employees.

(No. IRC 1150 of 2006)

Before The Honourable Justice Schmidt

10 March 2006

**VARIATION**

1. Insert in numerical order in clause 1, Arrangement, of the award published 7 September 2001 (327 I.G. 529), the following new clause number and subject matter:

4A. Secure Employment

2. Insert after clause 4, Wages, the following new clause:

**4A. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.

- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.

- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.



- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW).

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
    - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;

- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from 10 March 2006.

M. SCHMIDT J

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## VEHICLE INDUSTRY - REPAIR SERVICES AND RETAIL (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Shop, Distributive and Allied Employees' Association, New South Wales, Industrial Organisation of Employees.

(No. IRC 1200 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

21 March 2006

### VARIATION

1. Insert in numerical order in clause 1, Arrangement, of the award published 22 November 2002 (337 I.G. 65), the following new clause number and subject matter:

4A. Secure Employment

2. Insert after clause 4, Part Time Employment, the following new clause:

#### 4A. Secure Employment

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing

contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW).

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
  - (ix) The provisions of subclause (b) shall not apply in respect of casual employees to whom an entitlement under clause 3(i) of this Award applies.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.

- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
  - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from 21 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

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**WAREHOUSE EMPLOYEES' - GENERAL (STATE) AWARD**INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Shop, Distributive and Allied Employees' Association, New South Wales, Industrial Organisation of Employees.

(No. IRC 1034 of 2006)

Before The Honourable Justice Walton, Vice-President  
The Honourable Justice Boland  
Commissioner Tabbaa

21 March 2006

**VARIATION**

1. Delete clause 11 Holidays and Sundays, of the award published 23 November 2001 (329 I.G. 860), and insert in lieu thereof the following:

**11. Holidays and Sundays**

- (i) The following day or days observed as such shall be holidays: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day, Boxing Day or any other day gazetted as a public holiday within the area covered by this award; provided that any day proclaimed as a holiday for the State for a special purpose but observed throughout the State on different days, also shall be a holiday.
- (ii) In addition to the holidays prescribed in subclause (i) of this clause employees shall be entitled to an additional public holiday.

The date of such additional public holiday shall be set by agreement between an employer and an employee or an employer and the majority of employees in an establishment, having taken into consideration the operation of the particular establishment; provided that where an additional holiday is observed as a holiday by the general body of employees in an establishment then such day shall be substituted and observed as the additional award holiday under this award.

- (iii) Every employee allowed a holiday specified herein shall be deemed to have worked in that week in which the holiday falls the number of ordinary working hours that he would have worked had the day not been a holiday.
- (iv) For all work done on Sunday double time shall be paid with a minimum payment of four hours; for all work done on holidays, double time and one-half shall be paid with a minimum payment of four hours.
- (v) An employee absent without leave on the day before or the day after any award holiday shall be liable to forfeit wages for the day of absence as well as for the holiday, except where an employer is satisfied that the employee's absence was caused through illness, in which case wages shall not be forfeited for the holiday: Provided that an employee absent on one day only either before or after a group of holidays, shall forfeit wages only for one holiday as well as for the period of absence.

2. This variation shall take effect from 21 March 2006.

M. J. WALTON *J, Vice-President.*  
R. P. BOLAND *J.*  
I. TABBAA, Commissioner.

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**WAREHOUSE EMPLOYEES' - GENERAL (STATE) AWARD**

## INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Shop, Distributive and Allied Employees' Association, New South Wales, Industrial Organisation of Employees.

(No. IRC 1150 of 2006)

Before The Honourable Justice Schmidt

10 March 2006

**VARIATION**

1. Insert in numerical order in clause 1 Arrangement of the award published 23 November 2001 (329 I.G. 860), as varied, the following new clause number and subject matter:

**2A. Secure Employment**

2. Insert after clause 2, Hours, the following new clause:

**2A. Secure Employment**

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.



- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW).

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
    - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;

- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from 10 March 2006.

M. SCHMIDT J

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## WAREHOUSE EMPLOYEES DRUG (STATE) AWARD

### INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES FULL BENCH

Application by Shop, Distributive and Allied Employees' Association, New South Wales, Industrial Organisation of Employees.

(No. IRC 1034 of 2006)

Before The Honourable Justice Walton, Vice-President  
The Honourable Justice Boland  
Commissioner Tabbaa

21 March 2006

### VARIATION

1. Delete clause 20 Holidays, of the award published 25 May 2001 (324 I.G. 1181), and insert in lieu thereof the following:

#### 20. Holidays

- (a) The days observed as New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day, Boxing Day and all days proclaimed as public holidays for the State shall be holidays, provided that any day proclaimed as a holiday for the State for a special purpose but observed throughout the State on different days shall also be a holiday. Employees within a radius of 32.18 kilometres of the Newcastle Post Office shall be allowed off at 12 noon on the day on which the official opening of the Newcastle Show takes place.
  - (b) In addition to the holiday specified in subclause (a) of this clause, one additional holiday shall apply in each calendar year to an employee on weekly hire. Such holiday shall be on the day prescribed in subclause 7.5.1(b), Public Holidays, of the Metal, Engineering and Associated Industries Award 1998 - Part I, as an additional holiday in New South Wales; provided where any other working day is observed as an additional day by the general body of employees in any establishment, then such day shall be substituted for the additional holiday hereinbefore prescribed. By agreement between an employer and an employee, or an employer and the majority of his or her employees another day may be substituted for the additional holiday prescribed by this subclause in such employer's undertaking.
  - (c) No deduction shall be made from the wages of weekly employees for a week in which any of such holidays fall.
  - (d) Every employee allowed a holiday specified herein shall be deemed to have worked in the week in which the holiday falls the number of ordinary working hours that he or she would have worked had the day not been a holiday. Provided that if an employee is absent on the working day before or the working day after a public holiday, without permission from the employer or without reasonable cause for such absence, he or she shall not be entitled to payment for such holiday; Provided that an employee absent on one day only, either before or after a group of holidays, shall forfeit wages only for one holiday as well as for the period of absence.
2. This variation shall take effect from 21 March 2006.

M. J. WALTON *J, Vice-President.*  
R. P. BOLAND *J.*  
I. TABBAA, Commissioner.

## WAREHOUSE EMPLOYEES DRUG (STATE) AWARD

### INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Shop, Distributive and Allied Employees' Association, New South Wales, Industrial Organisation of Employees.

(No. IRC 1150 of 2006)

Before The Honourable Justice Schmidt

10 March 2006

#### VARIATION

1. Insert in numerical order in the Arrangement of the award published 25 May 2001 (324 I.G. 1181), the following new clause number and subject matter:

#### 7A. Secure Employment

2. Insert after clause 7, Part-time and Casual Employees, the following new clause:

#### 7A. Secure Employment

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.

- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW).

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
    - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
    - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;

- (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause
- Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.
3. This variation shall take effect from 10 March 2006.

M. SCHMIDT J

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(1045)

SERIAL C4782

## WOOLWORTHS SUPERMARKETS AND WAREHOUSE ADMINISTRATION (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by New South Wales Local Government, Clerical, Administrative, Energy, Airlines & Utilities Union, Industrial Organisation of Employees.

(No. IRC 1306 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

14 March 2006

### VARIATION

1. Insert in numerical order in the Arrangement of the award published 29 July 2005 (352 I.G. 871), the following new clause and subject matter:

#### 3A. Secure Employment

2. Insert after clause 3, Definitions, the following new clause:

#### 3A. Secure Employment

- (i) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (ii) Casual Conversion

- (a) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (b) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (c) Any casual employee who has a right to elect under paragraph 3A(ii)(a) upon receiving notice under paragraph 3A(ii)(b), or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing

contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (d) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (e) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (f) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph 3A(ii)(b), the employer and employee shall, in accordance with this paragraph, and subject to paragraph 3A(ii)(c), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award or pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (g) Following an agreement being reached pursuant to paragraph 3A(ii)(f), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (h) An employee must be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (iii) Occupational Health and Safety
- (a) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business, enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
  - (b) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):



- (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
  - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (c) Nothing in subclause 3A (iii) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.

(iv) Disputes Regarding the Application of this Clause

Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this Award.

(v) Application

This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

3. This variation shall take effect from the 14 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

## ZOOLOGICAL PARKS BOARD OF NEW SOUTH WALES WAGES EMPLOYEES' AWARD, 2006

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Liquor, Hospitality and Miscellaneous Union, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 1509 of 2006)

Before The Honourable Justice Walton, Vice-President  
The Honourable Justice Boland  
Commissioner Tabbaa

23 March 2006

### VARIATION

1. Delete subclauses 31.1 to 31.3 of clause 31, Public Holidays and Picnic Days, of the award published 28 April 2006 (358 I.G. 1092) and insert in lieu thereof the following:
  - 31.1 Public Holidays are: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Christmas Day, Boxing Day, Labour Day and any such other holiday that may be proclaimed as a Public Holiday applicable to the operation of the Award.
  - 31.2 For WPZ and TZ Capital Works and Infrastructure employees, the first Monday in December each year will be treated as a Public Holiday.
  - 31.3 For TZ Guest Services and Commercial Operations employees, the first Monday in August each year will be treated as a Public Holiday.
2. This variation shall take effect from the first full pay period to commence on or after 23 March 2006.

M. J. WALTON *J, Vice-President.*  
R. P. BOLAND *J.*  
I. TABBAA, Commissioner.

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## ZOOLOGICAL PARKS BOARD OF NEW SOUTH WALES WAGES EMPLOYEES' AWARD, 2006

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES  
FULL BENCH

Application by Liquor, Hospitality and Miscellaneous Union, New South Wales Branch, Industrial Organisation of Employees.

(No. IRC 1407 of 2006)

Before The Honourable Justice Wright, President  
The Honourable Justice Walton, Vice-President  
The Honourable Mr Deputy President Harrison  
The Honourable Justice Haylen  
Commissioner Tabbaa

21 March 2006

### VARIATION

1. Delete subclauses 10.21, 10.22 and 10.23, of clause 10, Types of Employment, of the award published 28 April 2006 (358 I.G. 1092), and insert in lieu thereof the following:

#### 10.21 Secure Employment

- (a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

- (b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall

be dealt with as far as practicable and with expedition through the disputes settlement procedure.

- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
  - (1) whether the employee will convert to full-time or part-time employment; and
  - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
  - (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (c) Occupational Health and Safety
- (i) For the purposes of this subclause, the following definitions shall apply:
    - (1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
    - (2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific

outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.

- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
  - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
  - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
  - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
  - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (d) Disputes Regarding the Application of this Clause

Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.
- (e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

## Apprentices

- 10.22 The Vocational Training Order made under the *Apprenticeship and Traineeship Act 2001* will override any conditions of employment for an Apprentice otherwise prescribed in the Award.
- 10.23 An apprentice will be paid in accordance with Schedule 1 of the Award.
- 10.24 Progression within the rates prescribed for the years of service for Apprentices will be in accordance with the Vocational Training Order made under the *Apprenticeship and Traineeship Act 2001*.

2. This variation shall take effect from the 21 March 2006.

F. L. WRIGHT *J, President.*  
M. J. WALTON *J, Vice-President.*  
R. W. HARRISON *D.P.*  
W. R. HAYLEN *J.*  
I. TABBAA, Commissioner.

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**CROWN EMPLOYEES (SATURDAY SCHOOL OF COMMUNITY  
LANGUAGES) AWARD**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Erratum to Serial C4878 published 25 August 2006

(360 I.G. 929)

(No. IRC 330 of 2006)

**ERRATUM**

1. Delete 2, 3, 4, 5, and 6 of subclause (v) and substitute the following:
  3. Renumber existing clauses 12 to 17 accordingly.
  4. This variation shall take effect from 19 December 2005.

G. M. GRIMSON *Industrial Registrar.*

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## ENTERPRISE AGREEMENTS APPROVED BY THE INDUSTRIAL RELATIONS COMMISSION

(Published pursuant to s.45(2) of the *Industrial Relations Act 1996*)

### **EA06/297 - Corporate Express Australia Limited Enterprise Partnership Agreement (Warehouse Staff Rosebery) April 2005 - March 2007**

**Made Between:** Corporate Express Australia Limited -&- the National Union of Workers, New South Wales Branch.

**New/Variation:** Replaces ea03/162.

**Approval and Commencement Date:** Approved 16 August 2005 and commenced 1 April 2005.

**Description of Employees:** The agreement applies to all warehouse employees employed by Corporate Express Australia Limited located at 67-77 Epsom Road, ROSEBERY NSW 2018, who are engaged within the suburb of Rosebery as defined in clause 1.3 of this agreement, who fall within the coverage of the Storemen and Packers, General (State) Award.

**Nominal Term:** 24 Months.

### **EA06/298 - Nurses, Preterm Foundation Enterprise Agreement 2006**

**Made Between:** Preterm Foundation Limited -&- the New South Wales Nurses' Association.

**New/Variation:** Replaces EA03/36.

**Approval and Commencement Date:** Approved and commenced 21 September 2006.

**Description of Employees:** The agreement applies to all nurses employed by the Preterm Foundation located at 1-5 Randle Street, Surry Hills NSW 2010, who fall within the coverage of the Nurses, &c., Other Than in Hospitals, &c. (State) Award.

**Nominal Term:** 21 Months.