

2 - Arrangement - contd

<u>Clause number</u>	<u>Subject matter</u>
28	Accident make-up payment
29	Bereavement leave
30	Jury service
31	Licences
disputes or claims	32 Settlement of
33	Introduction of change
34	Redundancy
35	Basis of settlement
36	Maternity leave
37	No extra claims
Appendix A	District allowances
Appendix B	Agreements

3 - APPLICATION

This award shall operate fr

6 - Contract of employment (b)(i) - contd

<u>Period of continuous service</u>	<u>Period of notice</u>
1 year or less	1 week
1 year and up to 3 years	2 weeks
3 years and up to 5 years	3 weeks
5 years and over	4 weeks

In addition to the notice specified above the employer shall give employees 45 years of age or older, at the time of giving notice with not less than two years continuous service, an additional week's notice.

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(ii) (1) Termination of employment by an employer shall not be harsh, unjust, or unreasonable and shall include terminations with or without notice.

Without limiting the above, except where a distinction, exclusion or preference is based on the inherent requirements of a particular position, termination on the ground of race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin shall constitute harsh, unjust or unreasonable termination of employment.

(2) Any dispute over whether a termination is harsh, unjust or unreasonable shall, subject to the Industrial Relations Act 1988, be dealt with in accordance with clause 32 of this award.

(c) The employer has the right to dismiss an employee without notice for neglect of duty or misconduct and in such cases wages shall be paid up to the time of dismissal only.

(d) An employee absent from duty, except as in accordance with annual leave, sick leave, bereavement or maternity leave, is not entitled to payment for the period of absence.

(e) It is a term and condition of employment and of rights accruing under this award that an employee shall:

- (iii) On or prior to pay day, the employer shall state to each employee in writing the amount of wages to which he is entitled, the amount of deductions made therefrom, and the net amount being paid to him.
- (iv) Wages shall be paid by electronic transfer into a bank account as nominated by the employee. However, the bank account so nominated must be of a style nominated by the employer and at a banking institution nominated by the employer.

7 - CASUAL EMPLOYEES

- (a) Casual employees shall be paid for not less than four hours in any one day, at an hourly rate of one thirty

8 - Hours (b) - contd

(iv) (1)

9 - Classification - contdGroup 2

(b) A bitumen plant operator - group 2 shall mean an employee classified as such who is engaged on work in the manufacture of bituminous products, their placement or delivery and activities in

9 - Classification (d) - contd

assisting with other maintenance, together with any of the duties listed hereunder, inclusive of trailer operati listed

9 - Classification (g) - contd

~~Other activities undertaken by the bitumen plant operator - group 7 may be required by the employer to perform any general duties including the completion of maintenance reports, minor maintenance of equipment and assisting with other maintenance, together with any of the duties listed herri00008873 0 595.44 841.68 reW* nBT/F1 9.96 Tf1 0 0 1 72.024 724.9 Tm0~~

Other activities undertaken by the bitumen plant operator - group 7 may be required by the employer to perform any general duties including the completion of maintenance reports, minor maintenance of equipment and assisting with other maintenance, together with any of the duties listed herri00008873 0 595.44 841.68 reW* nBT/F1 9.96 Tf1 0 0 1 72.024 724.9 Tm0

12 - SICK LEAVE

(a) An employee, except for a casual employee, who is absent from work on account of personal illness or incapacity is entitled to payment of sick leave in accordance with this clause.

(b) Subject to this clause, an employee is entitled to five days leave in the first year of service and eight days leave in subsequent years of service.

(c) Sick leave not taken in any year may be accumulated from year to year, up to a maximum accumulation of ten years and taken in subsequent years, in addition to whatever sick leave may have accumulated in that year.

(d) The employee shall notify the employer, prior to the commencement of work, of the employee's inability to attend for duty and, as far as practicable, state the nature of the illness and incapacity and estimated duration of the absence. The employer may request the employee to provide proof that the employee was unable on account of illness or incapacity, to attend for duty for the period for which sick leave is claimed and in any event, the employee is not entitled to sick leave for more than two single day absences in any one year of service without the production of a certificate from a qualified medical practitioner.

(e) An employee on annual leave who suffers personal illness or injury may be entitled to additional paid leave for the period of that illness or injury if, within 24 hours of the employee's return to work after annual leave, the employee provides to the employer a certificate from a qualified medical practitioner that denotes that the employee was unfit to perform normal duties for a period of not less than five consecutive days.

(f) The additional annual leave to which an employee may be entitled pursuant to subclause 12(e) hereof, shall not exceed the amount of sick leave due to the employee at the time.

(g) Additional annual leave granted in accordance with [()] 11 72/MCto5(12(e)

13 - Annual leave - contd

(e) The employer may grant the employee annual leave before the right to the leave has accrued. No further annual leave shall then accrue until such time as the annual leave so given has been matched by the appropriate period of further continuous service.

(f) If annual leave is granted before its accrual, as detailed in subclause 13(e), and the employee leaves or is discharged prior to completing the qualifying service to which the leave in advance refers, the value of any outstanding leave in advance may be deducted by the employer from any payment due to the employee upon termination.

(g) An employee shall not accept other employment during annual leave and an employer shall not knowingly engage a worker who is on annual leave nor shall payment be made in lieu of annual leave.

(h) A public holiday, as prescribed by clause 14 of this award, which falls on what would have been an ordinary working day for an employee but for the fact that the employee is on annual leave, shall be added to the period of annual leave.

(i) Where a public holiday falls during a period of annual leave and the employee fails without reasonable cause to attend for work at the employee's ordinary starting time on the working day immediately following the last day of the period of annual leave, the employee shall not be entitled to be paid for such holiday.

(j) Subject to the preceding subclauses hereof, the timing of leave shall be by agreement between the employee and the employer.

14 - HOLIDAYS

(a) Employees other than casual employees are entitled to the following holidays without deduction of pay:

New Year's Day, Australia Day, Good Friday, Easter Monday, Labour Day (or the day observed as such), Anzac Day, the birthday of the Sovereign, Christmas Day, Boxing Day (except in South Australia where Proclamation Day shall apply), Adelaide Cup Day and Year End Holiday in South Australia, Easter Tuesday in Queensland, Melbourne Show Day in Victoria, Perth Show Day and Foundation Day in Western Australia.

(b) When Anzac Day falls on a Saturday or Sunday, the following Monday or the day gazetted by the relevant State Government to be observed as the Anzac Day shall be substituted for Anzac Day.

(c) Where, in a State or Territory or locality within a State or Territory, an additional public holiday is proclaimed or gazetted by the authority of the Commonwealth Government or of a State or Territory Government and such proclaimed or gazetted holiday is to be observed generally by persons throughout that State or Territory or a locality thereof, other than those covered by federal awards, 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 this award, for employees covered by this award who are employed in the State, Territory or locality in respect of which the holiday has been proclaimed or ordered as required. An

16 - OVERTIME

(a) All time of duty in excess of and/or outside of the hours prescribed in clause 8 of this award, shall be paid at the rate of time and a half for the first two and a half hours on any one day and double time thereafter, such double time to continue until the completion of the overtime worked.

16 - Overtime (f) - contd

- (ii) An employee is not entitled to the travelling allowance provided in paragraph (f)(i) of this clause when it is customary for the employee to return to work to perform specific duties outside ordinary working hours.
- (g) (i) Subject to this clause an employee shall be paid:
 - (1) two hours at ordinary time rate for weekday overtime cancellation;
 - (2) four hours at ordinary time rate for Saturday, Sunday

18 - NIGHT WORK

To accommodate the operational demands of difficult work sites, it may be necessary to complete work at nights.

22 - RIGHT OF ENTRY

(a) For the purpose of interviewing employees on legitimate union business, a duly accredited union representative shall have the right to enter an employer's premises during the midday meal break, before the commencement and after the cessation of work each day.

(b) Provided that, where any employees are working at times which preclude a representative from interviewing them during the midday meal break, the representative shall have the right to enter the employer's premises for the purpose of interviewing such employees at such time and under such conditions as may be mutually arranged by the representative and the employer and provided that the union representative first approaches the appropriate company officer before interviewing any such employee.

23 - UNION DELEGATE

(a) An employee appointed as union delegate (or an employee appointed as co-delegate to act in the absence of the delegate) in a yard or depot shall, upon notification thereof to the employer by the branch or sub-branch secretary of the union, be recognised as the accredited representative of the union and shall be allowed the necessary time during working hours to interview the employer or the employer's representative on matters affecting employees in the yard or depot.

(b) A union delegate or, in the delegate's absence the co-delegate may interview a member or members of the union who are shift workers during their working hours, provided that, as a result of such interview, the employer is not required to pay overtime to such delegate, co-delegate or to the employees concerned.

(c) Where the employer is satisfied that a delegate's attendance at an Industrial Commission hearing will contribute to the proper conduct of proceedings involving the employer and the delegate's union, the delegate will be granted the necessary leave without loss of ordinary pay.

24 - AWARD TO BE EXHIBITED

A copy of this award and any variations thereto shall be posted and kept posted in a prominent position in an accessible place in each work location.

25 - MEAL BREAK

(a) One hour on Monday to Friday inclusive shall be allowed for a meal between 11.00 a.m. and 2.00 p.m., provided that, by agreement between an employer and the employees, the meal break may be shortened. Provided further that by agreement between an employer and the employees, the meal break may be taken earlier than 11.00 a.m. where the circumstances of the job so require. An employee shall not be required to work more than five hours without a break for a meal.

(b) If, on instructions from his employer, an employee is unable to have a full meal break between 11.00 a.m. and 2.00 p.m., he shall be paid double time from 1.00 p.m. until the full meal break is allowed.

26 - REST BREAK

Subject to the employer's safety regulations, all employees shall be allowed a rest break of ten minutes during each period of at least four hours ordinary working time, and during each continuous period of at least four hours performed on Saturdays, Sundays and holidays.

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27 - TRANSPORT OF EMPLOYEES

(a) When an employee after having worked overtime finishes work at a time when the employee's normal means of transport or reasonable means of public transport are not readily available, the employer shall provide the

employee with a conveyance to such public transport as is available, or to the employee's home, or pay the employee at the ordinary time-rate of the employee's current wage for the time reasonably occupied in reaching the employee's home.

(b) When an employee, not having been notified before leaving the employer's business premises, is called in before the employee's usual commencing time to work overtime for which the employee has not been regularly rostered and at a time when the employee's normal means of transport or reasonable means of transport is not available, the employer shall provide the employee with a conveyance to the employee's place of work or pay the employee at the employee's ordinary rate for the time reasonably occupied in reaching the employee's place of work.

28 - ACCIDENT MAKE-UP PAYMENT

(a) The make-up payment, prescribed in subclause (b)(iii) hereof, shall apply only in respect of an incapacity which results from an injury which is current during the first pay period which commences on or after 8 December 1980 or which occurs subsequent to that pay period.

(b) The circumstances under which an employee shall qualify for accident make-up payment shall be as prescribed hereunder:

(i) An employer shall pay an employee accident make-up payment where the employee receives an injury for which weekly payment or compensation is payable by or on behalf of the employer, pursuant to the provisions of the appropriate Workers' Compensation or such other relevant Act, as amended from time to time.

(ii) "Accident make-up payment" means a weekly payment of an amount being the difference between the weekly amount of compensation paid to the employee pursuant to the said appropriate Act and the employee's appropriate 38 hour award rate, or, where the incapacity is for a lesser period than one week, the difference between the amount of compensation and the said award rate for that period.

(iii)

32 - Settlement of disputes or claims (a) - contd

(v) If the matter is still not settled, it shall be submitted to

34 - REDUNDANCY

Discussions before terminations

- (a) (i) Where an employer has made a definite decision that it no longer wishes the job the employee has been doing performed by anyone and this is not due to the ordinary and customary turnover of labour and that decision may lead to termination of employment, the employer shall hold discussions with the employees directly affected and with their union.
- (ii) The discussions shall take place as soon as is practicable after the employer has made a definite decision which will invoke the provisions of paragraph 34(a)(i) hereof and shall cover, inter alia, any reasons for the proposed terminations, measures to avoid or minimise the terminations and measures to mitigate any adverse effects of any terminations on the employees concerned.
- (iii) During the discussion, the employer shall advise the employees concerned and their union, all relevant information about the proposed terminations, the number and categories of employees likely to be affected, and the number of workers normally employed and the period over which the terminations are likely to be carried out. Provided that any employer shall not be required to disclose confidential information, the disclosure of which would be inimical to the employer's interests.

Transfer to lower paid duties

- (b) Where an employee is transferred to lower paid duties for reasons set out in paragraph 34(a)(i) hereof, the employee shall have the same rights as set out in paragraph 34(a)(i) hereof.

34 - Redundancy (c) - contd

"Week's pay" means the ordinary time rate of a pay for the employee concerned.

Provided that the severance payments shall not exceed the amount which the employee would have earned if employment with the employer had proceeded to the employee's normal retirement date.

Employee leaving during notice

(d) An employee whose employment is terminated for reasons set out in paragraph 34(a)(i) hereof may terminate his or her employment during the

35 - Basis of settlement - contd

(b) Issues of a local nature, not requiring a variation of the award, which relate to the application of the award will be dealt with in accordance with existing procedures including reference to the Commission.

36 - MATERNITY LEAVE

36 - Maternity leave (c) - contd

If the transfer to a safe job is not practicable, the employee may or the employer may require the employee to, take leave for such period as is certified necessary by a duly qualified medical practitioner. Such leave shall be treated as maternity leave for the purposes of subclauses (g) (h), (i) and (j) hereof.

Variation of period of maternity leave

- (d) (i) Provided the addition does not extend the maternity leave beyond 52 weeks, the period may be lengthened once only, save with the agreement of the employer, by the employee giving not less than fourteen days notice in writing stating the period by which the leave is to be lengthened.
- (ii) The period of leave may, with the consent of the employer, be shortened by the employee giving not less than fourteen days notice in writing stating the period by which the leave is to be shortened.

Cancellation of maternity leave

- (e) (i) Maternity Leave, applied for but not commenced, shall be cancelled when the pregnancy of an employee terminates other than by the birth of a living child.
- (ii) Where the pregnancy of an employee then on maternity leave terminates other than by the birth of a living child, it shall be the right of the employee to resume work at a time nominated by the employer which shall not exceed four weeks from the date of notice in writing by the employee to the employer that the employee desires to resume work.

Special maternity leave and sick leave

- (f) (i) Where the pregnancy of an employee not then on maternity leave terminates after 28 weeks other than by the birth of a living child then:
 - (1) the employee shall be entitled to such period of unpaid leave (to be known as special maternity leave) as a duly qualified medical practitioner certifies as necessary before the employee's return to work, or
 - (2) for illness other than the normal consequences of confinement, the employee shall be entitled, either in lieu of or in addition to special maternity leave, to such paid sick leave as to which the employee is then entitled and which a duly qualified medical practitioner certifies as necessary before the employee's return to work.
- (ii) Where an employee not then on maternity leave suffers illness related to the pregnancy, the employee may take such paid sick leave as to which the employee is then entitled and such further unpaid leave (to be known as special maternity leave) as a duly qualified medical practitioner certifies as necessary before the employee's return to work, provided that the aggregate of paid sick leave, special maternity leave and maternity leave shall not exceed 52 weeks.

36 - Maternity leave (f) - contd

- (iii) For the purposes of subclauses (g), (h) and (i) hereof, maternity leave shall include special maternity leave.
- (iv) An employee returning to work after the completion of a period of leave taken pursuant to this subclause shall be entitled to the position which the employee held immediately before proceeding on such leave or, in the case of an employee who was transferred to a safe job pursuant to subclause (c) hereof, to the position the employee held immediately before such transfer.

Where such position no longer exists but there are other positions available for which the employee is qualified and the duties for which the employee is capable of performing, the employee shall be entitled to a position as nearly comparable in status and salary or wage to that of the employee's former position.

Maternity leave and other leave entitlements

(g) Provided the aggregate of leave including leave taken pursuant to subclause (c) and (f) hereof does not exceed 52 weeks:

- (i) An employee may, in lieu of or in conjunction with maternity leave, take any annual leave or long service leave or any part thereof to which the employee is then entitled.
- (ii) Paid sick leave or other paid authorised award absences (excluding annual leave or long service leave), shall not be available to an employee during the employee's absence on maternity leave.

Effect of maternity leave on employment

(h) Notwithstanding any award or other provisions to the contrary, absence on maternity leave shall not break the continuity of service of an employee but shall not be taken into account in calculating the period of service for any purpose of any relevant award or agreement.

Termination of employment

- (i) (i) An employee on maternity leave may terminate the employment at any time during the period of leave by notice given in accordance with this award.
- (ii) An employer shall not terminate the employment of an employee on the ground of the pregnancy or of the employee's absence on maternity leave but otherwise the rights of an employer in relation to termination of employment are not hereby affected.

Return to work after maternity leave

- (j) (i) An employee shall confirm the intention of returning to the employee's work by notice in writing to the employer given not less than four weeks prior to the expiration of the period of maternity leave.

36 - Maternity leave (j) - contd

- (ii) An employee, upon the expiration of the notice required by paragraph (j)(i) hereof, shall be entitled to the position which the employee held immediately before proceeding on maternity leave or, in the case of an employee who was transferred to a safe job pursuant to subclause (c) hereof, to the position which the employee held immediately before such transfer. Where such position no longer exists but there are other positions available for which the employee is qualified and the duties of which the employee is capable of performing, the employee shall be entitled to a position as nearly comparable in status and salary or wage to that of the employee's former position.

Replacement employees

- (k) (i) A replacement employee is an employee specifically engaged as a result of an employee proceeding on maternity leave.
- (ii) Before an employer engages a replacement employee under this subclause, the employer shall inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.
- (iii) Before an employer engages a person to replace an employee temporarily promoted or transferred in order to replace an employee exercising the employee

APPENDIX B - AGREEMENTS

The following matters which have been agreed between the parties before the Commission, and which have not caused changes to existing award conditions, but rather generate agreed operating conditions, are listed here and should be referred to as though they are part of the award.

Appendix B - contd